

MEDINA CITY COUNCIL MEETING MINUTES OF NOVEMBER 8, 2017

The City Council of Medina, Minnesota met in regular session on November 8, 2017 at 7:00 p.m. in the City Hall Chambers. Mayor Mitchell presided.

I. ROLL CALL

Members present: Anderson, Cousineau, Pederson, Martin, and Mitchell.

Members absent: None.

Also present: City Administrator Scott Johnson, City Attorney Dave Anderson, City Engineer Jim Stremel, City Planner Dusty Finke, Public Works Director Steve Scherer, and Police Sergeant Jason Nelson.

II. PLEDGE OF ALLEGIANCE (7:00 p.m.)

III. ADDITIONS TO THE AGENDA (7:00 p.m.)

The agenda was approved as presented.

IV. APPROVAL OF MINUTES (7:01 p.m.)

A. Approval of the October 17, 2017 Special City Council Meeting Minutes

*Moved by Pederson, seconded by Cousineau, to approve the October 17, 2017 special City Council meeting minutes as presented. **Motion passed unanimously.***

B. Approval of the October 17, 2017 Regular City Council Meeting Minutes

It was noted on page ten, line 32, it should state, "Martin stated that the City was not asked by the Metropolitan Council to add significant residential development to the City and therefore ~~there is a thought that this is an~~ the City has an opportunity to keep the residential development low." On page ten, line 45, it should state, "...plan ~~they are~~ currently being reviewed reviewing by the Metropolitan Council." On page 11, line 10, it should state, "...ensured endeavored to stage development so that..." On page 11, line 6, it should state, "...not everyone wants that this type of development to occur, noting that the residents are not ~~all sad~~ disappointed that..." On page 11, line 8, it should state, "...staging and we speak for them. Representation is our obligation."

*Moved by Cousineau, seconded by Anderson, to approve the October 17, 2017 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA (7:06 p.m.)

A. Approve Final Pay Voucher No. 9 for Tower Drive Improvement Project

B. Approve 2018 Prosecution Legal Rates with Tallen and Baertschi

C. Reschedule November 21, 2017 City Council Meeting to November 16, 2017 at 7 p.m.

D. Resolution No. 2017-89 A Resolution of Local Government Unit Authorizing Filing of Application and Execution of Grant Agreement to Complete Ball Field Improvements Under the Provisions of the Hennepin County Youth Baseball and Softball Facility Grant Program

E. Resolution No. 2017-90 Appointing Todd A. Geske as the City of Medina Building Official

Johnson recognized Loren Kohnen for his 38 years of service, noting that he would be semi-retired.

Mitchell suggested that the City express appreciation to Kohnen for his years of service with a letter.

*Moved by Martin, seconded by Anderson, to approve the consent agenda. **Motion passed unanimously.***

VI. COMMENTS (7:08 p.m.)

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Scherer reported that the Park Commission will not meet in November. He stated that the grant is moving forward and the volleyball court at the Fields of Medina will be constructed the following day.

C. Planning Commission

Finke reported that the Planning Commission will meet the following week to conduct two hearings and consider finalization of the Comprehensive Plan.

VII. NEW BUSINESS

A. Hamel Fire Department Contract Update Request (7:09 p.m.)

Johnson reported that the Hamel Fire Department is requesting a five-year extension of their contract.

Martin stated that the department is looking to achieve durability and longevity to negotiate with providers for financing of equipment. She stated a longer life contract is more financially viable. She stated that there are also benefits for recruitment. She believed that this would be a good compromise and noted that the department has done a wonderful job in its recruiting efforts. She stated that all is going well and therefore she has no reservations on the proposal. She stated that sometimes the paperwork is the greatest headache in administrative work and this longer contract would allow the organization to focus on the task at hand of providing fire protection services. She stated that the City is very proud of the department and appreciates the benefit they provide to the City.

Pederson stated that he can fully understand the need for a longer contract. He also expressed appreciation for what the department provides to the City of Medina and thanked the department for their service.

Anderson concurred with the previous statements.

Cousineau thanked the department for the service they provide.

Anderson stated that in August there was a brief presentation from the Long Lake Fire Department on the purchase of their new truck. He stated that it was a good presentation and asked if the other Councilmembers felt the same way. He stated that he was struck by the process and transparency. He asked if the Council felt that it would be appropriate to include this process with Exhibit E of the Contract.

Mitchell stated that Hamel provided a presentation to the Council in the past few months.

Anderson noted that the language would then not be needed.

Martin stated that in an effort to preserve administrative time she would not want to require that additional step since she was comfortable with the presentation that was provided.

Mitchell stated that when he joined the Council in 2014, he was surprised to see the differences in the fire protection contracts. He stated that it was his interpretation that there was a change in control in 2013 for Hamel Fire that caused the shorter contract and therefore believed that it would be beneficial to extend that contract period at this time.

*Moved by Martin, seconded by Pederson, to approve the modified Contract for Fire Protection Services with the Hamel Fire Department effective January 1, 2018. **Motion passed unanimously.***

B. Closed Landfill-Restricted District – Ordinance Amendment and Zoning Amendment (7:20 p.m.)

Finke stated that this ordinance relates to the Woodlake Landfill which stopped accepting waste in 1993 and has since become part of the closed landfill program run by the MPCA. He stated that the MPCA owns the land and has released a closed landfill use plan. He stated that State law requires the City to include information within the City's controls to address the closed landfill. He noted that this ordinance is an attempt to meet those requirements. He stated that the closed landfill plan includes potential uses for the property and potential areas of concern. He stated that the main portion of the ordinance relates to the use on the landfill property, but the plan includes information that extends past the landfill onto adjoining properties. He stated that the existing regulations would be deleted and replaced with the closed landfill language consistent with the language from the MPCA. He noted that the subsequent ordinance would rezone the landfill property into the new zoning designation. He identified the two areas of concern, ground water and methane gas, surrounding the landfill property. He noted that this information is provided from the MPCA. He stated that all zoning districts regulate the uses that can occur within the zoning district. He stated that the MPCA identifies two uses, the management of the closed landfill and the possibility of solar equipment on the waste site, and therefore the ordinance would identify those potential uses. He stated that setbacks are modeled after the rural/public/semi-public district. He stated that the MPCA asked the City to consider a setback, off the landfill property, that would prevent the construction of structures within the methane area of concern. He stated that the Planning Commission had a fair amount of discussion on that point and ultimately with a 3-2 vote the Commission recommended the ordinance as proposed without the setback. He stated that the Planning Commission held three hearings on this matter and heard comments from the adjoining property owners regarding their concern with their property values. He stated that ultimately the majority of the Planning

Commission recommended that the City adopt an ordinance that would have the minimum impact on adjacent property owners and meet the minimum requirements of the State. He stated that the City Attorney has reviewed the language and agrees that this would meet the minimum requirements. He noted that a letter was submitted late this afternoon from an adjoining property owner that was provided to the Council.

Paul Chamberlain, representing Richard Burke, stated that the concern of the adjoining landowners should be similar to the concern of the City as this could place stigma onto properties within the areas of concern without objective evidence to back that up. He stated that the final use report shows the opposite of the areas of concern, noting that the contamination is minimal and contained within the landfill property. He stated that this all shows that the MPCA has done a great job since they took control 17 years ago. He stated that there has been extensive work to prevent methane gas from traveling off the site. He stated that the MPCA does suggest the possibility that in bitter cold and electrical shut off, methane gas could travel. He noted that is an extreme circumstance and therefore properties should not be stigmatized. He stated that the statute should only describe the landfill and not adjacent properties. He noted that there are 517 acres in the area of concern for the groundwater while the landfill is only 67 acres in size. He noted that groundwater travels in the opposite area of his client's property, but the area of concern does not follow that pattern. He stated that it would be difficult to sell property in an area of concern. He stated that the Department of Health would already regulate the drilling of a well. He stated that the City would impact the value of personal property and decrease the tax capacity of the City. He noted that anyone moving forward with construction would conduct a phase one environmental assessment. He stated that the practical concern of the Council should be as to what they should do to meet the minimum requirements of only the land management property and not the adjacent personal property. He stated that the unanimous concern of the Commission was that the City is being forced to do this. He stated that this is a solution in search of a problem that would make it difficult for residents to sell their property and a deep drop in the property values. He suggested removing subdivision eight from the ordinance that addresses the adjoining landowners. He believed that even after removing that subdivision, the ordinance would still meet the minimum requirements.

City Attorney Anderson replied that Mr. Burke's concerns relate not to the City's ordinance but the determinations and boundaries made by the MPCA. He stated that subdivision eight, only memorializes what is already the City's obligation to provide information to landowners that are interested in land that is included in the area of concern. He stated that it is important to include that land to protect against future noncompliance of what the City is required to do by State law.

Finke noted that two representatives are present from the MPCA tonight.

City Attorney Anderson stated that subdivision eight reiterates what the statute makes clear, that the City has an obligation to notify landowners that wish to develop within the area of concern. He noted that this language safeguards the City.

Mitchell stated that there was a big fight over the burn plant but noted that continuing to bury the waste was not working.

Leonard Leuer, 3625 Chippewa Road, stated that his land has been in his family for years before the landfill existed. He stated that there are 15 parcels of land impacted by

the groundwater of concern, noting that 13 of those parcels are privately owned. He stated that the groundwater area of concern has a footprint 2.7 times the size of the landfill property and at the expense of the private land owners. He stated that there is a record of testing on the private Woodlake wells. He stated that there are two private wells on the edge of the groundwater area of concern. He stated that the report from the MPCA states that they may consider testing the private wells. He asked that the MPCA test the first ring of private wells and groundwater sampling. He stated that several areas ago the MPCA put in an aeration to allow the VOCs to enter the atmosphere. He stated that over the years, the State, County, and City have received fees from the landfill while the private property owners received nothing. He noted that now the private properties are being requested to absorb the property devaluation. He stated that the three agencies that benefited from the landfill should pay the devaluation of the land to the private property owners.

Mitchell asked staff to follow up to determine if the pumping is still occurring.

Pederson stated that he would be interested to know what happened with the fees from the landfill.

Scherer replied that there were some funds placed into the upgrading of Chippewa Road. He noted that some of the funds may have also been used for Hamel Road.

Mitchell stated that the allocation of land for a landfill and closing the landfill caused problems. He stated that the issue tonight is to comply with the State requirements for closing a landfill. He stated that the City is not being asked to allocate any additional land other than the landfill and is not adopting the setback. He stated that the City is doing the legal minimum of what they are required to do. He stated that the MPCA should follow up to determine if the pond is still being pumped to eliminate the VOCs and to follow up with the public regarding the status of the landfill and alleviate concerns that residents may have. He stated that the City is rezoning the property already owned by the landfill and although the City is sympathetic to the situation, the City is doing the minimum to meet the requirements.

Anderson agreed. He stated that it seems that this discussion is between the landowners and MPCA and this is simply a conduit of the statute put down by the MPCA.

Martin stated that she believes that the MPCA took over the issue and did not create the issue. She stated that there was a private company that had the landfill prior to the regulations that exist now. She stated that technology improves over time and the MPCA was not the operator but simply took on the issues that existed. She asked if there is ever any use to which this land would be used from a science standpoint, specifically whether the methane will stop being produced or whether it would remain a closed landfill.

Anderson stated that he would expand on the question asked by Council Member Martin to include the issue of ground water contamination.

Mark Umholtz, MPCA, stated that there are 650,000,000 cubic yards of waste that were put onto this property. He stated that as science progresses people realize more things that could be dangerous, using the example of smoking. He stated that in 2013 there

were two additional compounds found to be dangerous in drinking water. He stated that there is no magical place called “away” and therefore the contamination will remain, and the site will be managed for a long time. He stated that it would be many, many years before the methane degrades. He stated that they are expanding their groundwater monitoring and finding more compounds that are dangerous rather than the opposite.

Pederson asked if there has been consideration of generating energy.

Umholtz replied that because of the contamination, the energy generated would be very dirty and therefore not recommended. He stated that there is thought of solar energy to offset the electrical costs generated from managing the landfill.

1. Ordinance No. 620 Regarding Regulations of the Closed Landfill-Restricted Zoning District and Sanitary Landfill Zoning District; Amending Chapter 8 of the City Code

*Moved by Anderson, seconded by Martin, to adopt Ordinance No. 620 Regarding Regulations of the Closed Landfill-Restricted Zoning District and the Sanitary Landfill Zoning District; Amending Chapter 8 of the City Code. **Motion passed unanimously.***

A. Resolution No. 2017-91 Authorizing Publication of Ordinance No. 620 by Title and Summary

*Moved by Anderson, seconded by Cousineau, to adopt resolution no. 2017-91 authorizing publication of ordinance no. 620 by title and summary. **Motion passed unanimously.***

2. Ordinance No. 621 Amending the Official Zoning Map to Rezone Woodlake Landfill to Closed Landfill-Restricted

*Moved by Martin, seconded by Pederson, to adopt Ordinance No. 621 Amending the Official Zoning Map to Rezone Woodlake Landfill to Closed Landfill-Restricted. **Motion passed unanimously.***

B. Resolution No. 2017-92 Authorizing Publication of Ordinance No. 621 by Title and Summary

*Moved by Anderson, seconded by Martin, to adopt resolution no. 2017-92 authorizing publication of ordinance no. 621 by title and summary. **Motion passed unanimously.***

C. Lunski Nelson Addition Storm Sewer Improvement Tax District – Public Hearing (7:56 p.m.)

Johnson stated that this is a housekeeping item. He stated that it is the practice to develop a stormwater improvement tax district over new developments.

*Moved by Cousineau, seconded by Anderson, to open the public hearing at 7:56 p.m. **Motion passed unanimously.***

No comments made.

*Moved by Pederson, seconded by Cousineau, to close the public hearing at 7:56 p.m. **Motion passed unanimously.***

1. Ordinance Establishing the Lunski Nelson Addition Storm Sewer Improvement Tax District

Finke noted that staff recommends that the City take action on this item following the adoption of the Final Plat and therefore would recommend tabling this item at this time.

*Moved by Cousineau, seconded by Pederson, to table the Ordinance establishing the Lunski Nelson Addition Storm Sewer Improvement Tax District. **Motion passed unanimously.***

VIII. CITY ADMINISTRATOR REPORT (7:58 p.m.)

Johnson reported that the Council packets for the November 16th meeting would be delivered the Monday prior to the meeting.

Martin stated that the notebook would not be needed in the packet.

Johnson referenced the new quiet zone at Highway 55 and CR 116 currently under construction, noting that the improvements will not be in place because of the delays from the weather and therefore the quiet zone will most likely not be enacted until spring when all the improvements are in place.

IX. MAYOR & CITY COUNCIL REPORTS (8:00 p.m.)

Anderson noted that he attended a meeting of the Long Lake Waters Association. He advised that there were representatives from the Minnehaha Creek Watershed District also present at the meeting. He noted that there was a lot of interesting information provided at the meeting.

Mitchell stated that Anderson lives on the north side while he lives in the southwest with different water bodies in the subwatershed. He stated that he and adjacent property owners are attempting to make improvements on their site to make improvements to the water flow with the assistance of staff.

He asked for an update from Nelson regarding the letter that was received from Sherriff Stanek.

Nelson stated that Sherriff Stanek is concerned that Medina and two other agencies are not using Narcan. He stated that Fentanyl is a rising concern and Medina will start training their officers on the use of Narcan. He noted that hopefully the element will provide assistance with heroin overdoses as well.

Anderson asked how Narcan would be administered.

Nelson replied there is now a nasal application.

X. APPROVAL TO PAY THE BILLS (8:04 p.m.)

*Moved by Anderson, seconded by Pederson, to approve the bills, EFT 004350E-004378E for \$113,334.09, order check numbers 046497-046589 for \$356,366.99, and payroll EFT 508221-508278 for \$97,327.07. **Motion passed unanimously.***

XI. ADJOURN

*Moved by Anderson, seconded by Pederson, to adjourn the meeting at 8:05 p.m. **Motion passed unanimously.***

Bob Mitchell, Mayor

Attest:

Jodi M. Gallup, City Clerk