

## MEDINA CITY COUNCIL MEETING MINUTES OF AUGUST 8, 2018

The City Council of Medina, Minnesota met in regular session on August 8, 2018 at 7:00 p.m. in the City Hall Chambers. Acting Mayor Martin presided.

### **I. ROLL CALL**

**Members present:** Anderson, Cousineau, Pederson, Martin and DesLauriers.

**Members absent:** None.

**Also present:** City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Jim Stremel, City Planning Director Dusty Finke, Public Works Director Steve Scherer, and Chief of Police Ed Belland.

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

### **III. MOMENT OF SILENCE FOR MAYOR BOB MITCHELL (7:00 p.m.)**

Martin introduced the members of Mayor Mitchell's family that were present at the meeting. She stated that he was a consummate Mayor that pushed the Council to think critically and had an eye for detail. She stated that Mayor Mitchell was proud to be a Medina resident and an American and his best trait was as an ambassador for the community and for good government. She stated that his absence is a void for the Council and thanked his family for sharing him with the City.

Anderson echoed the comments of Martin.

Pederson stated that Mitchell made things fun when they were not always fun. He stated that Mitchell was very passionate and did a great job involving the Council and sharing his knowledge and abilities.

Cousineau stated that when she started on the Council she was able to experience the great leadership that Mitchell brought to the Council.

Anderson agreed that Mitchell will be sorely missed by the Council, staff, and the citizens of Medina as he was a great person.

Martin and the Council took a moment of silence to honor Mayor Mitchell.

Martin stated that an official resolution was prepared honoring Mayor Mitchell for his service. She asked for a motion to add that action item to the agenda.

*Moved by Anderson, seconded by Cousineau, to amend the agenda to include item 3A, Resolution Recognizing Robert Mitchell. **Motion passed unanimously.***

Martin read aloud the resolution.

*Moved by Anderson, seconded by Pederson, to adopt resolution no. 2018-45 recognizing and honoring Mayor Robert Mitchell for his dedicated service to the City of Medina. **Motion passed unanimously.***

**IV. ADDITIONS TO THE AGENDA (7:10 p.m.)**

The agenda was approved as presented.

**V. APPROVAL OF MINUTES (7:10 p.m.)**

**A. Approval of the July 17, 2018 Special City Council Meeting Minutes**

It was noted that Finke's title should be updated to Planning Director.

*Moved by Anderson, seconded by Pederson, to approve the July 17, 2018 special City Council meeting minutes as amended. **Motion passed unanimously.***

**B. Approval of the July 17, 2018 Regular City Council Meeting Minutes**

It was noted on page two, line 19, it should state, "...forth in the Resolution approving the Preliminary Plat." On line 21, it should state, "He stated that the ~~lot~~ property is heavily..." On page three, line 19, it should state, "Belland reviewed some of the areas that volunteers are needed for Medina Celebration Days ~~being solicited for...~~" On page three, line 29, it should state, "~~...first thought~~ initial goal..." On page three, line 31, it should state, "...first meeting..." On page three, line 42, it should state, "~~...changes to the recyclable plastic...~~" On page three, line 44, it should state, "...impact to Randy's Sanitation or the City."

*Moved by Anderson, seconded by Pederson, to approve the July 17, 2018 regular City Council meeting minutes as amended. **Motion passed unanimously.***

**VI. CONSENT AGENDA (7:13 p.m.)**

**A. Resolution No. 2018-46 Declaring Vacancy in the Office of Mayor**

**B. Resolution No. 2018-47 Accepting Resignation of the Administrative Assistant Cec Vieau**

**C. Resolution No. 2018-48 Accepting Donation from Mike Scherer**

**D. Resolution No. 2018-49 Accepting Donation from Joyce Ebert**

**E. Appoint Katrina Jones to the Position of Administrative Assistant to Planning and Public Works**

**F. Approve Trail Sealcoating Services Agreement with Gopher State Sealcoat, Inc.**

**G. Approve Joint Powers Agreement between the City of Plymouth and the City of Medina for the Reconstruction of Brockton Lane from Medina Road to Hamel Road**

**H. Approve Amended Development Agreement by and Between the City of Medina and Toll MN, L.P. for Reserve of Medina Second Addition**

Johnson reviewed the items included on the Consent Agenda and recognized Cec Vieau for her years of service to the City.

Anderson commended Scherer for his work on the Joint Powers Agreement.

Martin commended the Police Department for the respect that it has garnered in obtaining donations of this size.

*Moved by Pederson, seconded by Cousineau, to approve the consent agenda. **Motion passed unanimously.***

## VII. COMMENTS (7:16 p.m.)

### A. Comments from Citizens on Items not on the Agenda

There were none.

### B. Park Commission

Scherer reported that the Park Commission has been evaluating assets and working to create a spreadsheet as directed by the City Council.

Martin stated that Scherer and his department do an excellent job maintaining the assets to extend the lifespan of the equipment.

### C. Planning Commission

Finke reported that the Planning Commission will meet the following week to hold a public hearing on the mixed residential land use resolutions, which continues the work of preparing the official controls of the City to match the draft Comprehensive Plan. He stated that he did receive communication from the Metropolitan Council that the City's draft plan should be in Committee review the following week with potential action by the Met Council on August 22<sup>nd</sup>.

## VIII. NEW BUSINESS

### A. Rick and Karen Sampson – Lot Combination – 3132 Lakeshore Avenue (7:18 p.m.)

Finke stated that this is a straightforward request, noting that there are two historical parcels from the 1920's vintage Independence Beach plat that have effectively been operating as one parcel. He stated that the combination would bring the lot closer towards compliance, which the City would like to encourage.

Pederson asked the intent after the garage was put on the lot.

Finke stated that the property owner was interested in the lot combination because of the construction of a garage. He stated that this would be a single lot going forward and would be subject to all applicable requirements going forward.

Martin stated that the City Council reduced the fee for these lot combinations in an effort to encourage this activity.

#### 1. Resolution No. 2018-50 Granting Lot Combination Approval to Richard and Karen Sampson for PID #18-118-23-22-0040 and #18-118-23-22-0064

*Moved by Anderson, seconded by Cousineau, to adopt resolution no. 2018-50 granting lot combination approval to Richard and Karen Sampson for PID #18-118-23-22-0040 and #18-118-23-22-0064. Motion passed unanimously.*

### B. Woods of Medina Storm Water Taxing District – Public Hearing (7:21 p.m.)

Pederson recused himself from this discussion.

Johnson stated that it the City's practice to require homeowners' associations to maintain stormwater improvements within their developments. He stated that the City

establishes a storm water taxing district as a backup plan in the case that maintenance does not occur.

Martin opened the public hearing at 7:22 p.m.

No comments.

Martin closed the public hearing at 7:22 p.m.

1. **Ordinance No. 636 Establishing the Woods of Medina Storm Sewer Improvement Tax District**

*Moved by Anderson, seconded by Cousineau, to adopt ordinance no. 636 establishing the Woods of Medina Storm Sewer Improvement Tax District. **Motion passed unanimously.***

2. **Resolution No. 2018-51 Authorizing Publication of Ordinance No. 636 by Title and Summary**

*Moved by Anderson, seconded by Cousineau, to adopt Resolution No. 2018-51 Authorizing Publication of Ordinance No. 636 by Title and Summary. **Motion passed unanimously.***

Pederson rejoined the Council.

**C. Stormwater Management Ordinance and Design Guide (7:23 p.m.)**

Finke stated that the primary reason this is being discussed is because the Surface Water Management Plan has been updated in coordination with the plans of the local watershed districts and the updating of the Comprehensive Plan. He noted that stormwater practices have evolved quite a bit since the last update to the Local Water Management Plan and therefore those new practices have been incorporated into the design guide. He noted that the design guide would be much easier to update as practices continue to evolve. He noted that the Planning Commission held a public hearing and recommended approval. He stated that the requirements will be in place through these changes and staff is still working on the design guide, to determine the best calculations for reaching the requirements. He stated that the City was ahead of the curve in the past and therefore even though updates were made to the local watershed districts, the City already had most of those requirements in place. He stated that the City requirements regarding the thresholds of improvements that would lead to the requirement to implement stormwater BMPs has been historically lower than the threshold of the local watershed districts. He stated that the ordinance would continue the more stringent threshold but would also add some exceptions. He provided an example of a case that even when adding a fair amount of hardcover added to the site, the hardcover still remains a low percentage of the overall site. He welcomed input on the ordinance and design guide.

Cousineau asked if the design guide would be approved at the same time as the ordinance.

Finke explained that the ordinance can be adopted tonight and noted that there is an existing design guide that would be used until the time when the new design guide updates are adopted.

Martin provided some grammatical and language suggestion changes. She asked for additional input on the proposed deletion of specific language.

Finke provided additional information on the more complex triggers in the current ordinance that require BMPs. He stated that with the intent of implementing more options for meeting the stormwater guidelines, there are more tools available and therefore the language deletion removes the complexity of the triggers and identifies the additional tools available.

Martin stated that these changes to the ordinance and the design guide will make it easier for applicants to identify what will be required.

1. **Ordinance No. 637 Regarding Stormwater Management; Amending Chapter 8 of the City Code**

*Moved by Anderson, seconded by Cousineau, to adopt ordinance no. 637 regarding stormwater management; amending Chapter 8 of the City Code. **Motion passed unanimously.***

2. **Resolution No. 2018-52 Authorizing Publication of Ordinance No. 637 by Title and Summary**

*Moved by Cousineau, seconded by Anderson, to adopt Resolution No. 2018-52 Authorizing Publication of Ordinance no. 637 by Title and Summary. **Motion passed unanimously.***

**D. Mayoral Vacancy Discussion (7:36 p.m.)**

Johnson stated that a memorandum dated August 2<sup>nd</sup> from Batty was included in the packet which identified the process for filling a mayoral vacancy. He also referenced an email he received and distributed to the Council from Batty, dated August 3<sup>rd</sup>, which provides additional information on filling the vacancy.

Batty stated that he sent out information about this process. He stated that the Council took the first step tonight by declaring a vacancy in the position of Mayor. He noted that the next step would be for the Council to fill that vacancy and noted that it would be the decision of the Council on how to fill that vacancy. He explained that the Council could appoint an existing member of the Council or a new person that is not on the Council. He stated that because there is less than two years remaining on the term of Mayor, a special election is not needed, and the person appointed would serve until the term expires. He stated that if the appointment comes from the City Council, that person cannot vote for himself or herself. He suggested allowing the Council to make nominations.

Martin asked the Council for input on the process the Council would like to follow.

Anderson stated that he is going to run for Mayor and he knows that Martin is also going to run for Mayor. He stated therefore he would not accept a nomination for this position and believes that Martin should not accept that position either. He stated that if, either, Martin or himself was appointed as Mayor, that person would then be perceived as being the incumbent and noted that he would prefer to have an even playfield in the election in November. He therefore believed that one of the other two Council members should be appointed Mayor for the next few months until someone is elected and takes the office in that manner.

Cousineau stated that it is an interesting point. She stated that she was previously thinking that Martin was already appointed as the Acting Mayor for this year and should continue to finish that term but agreed that Anderson had an interesting perspective.

Pederson stated that he agrees with Anderson's comments to a certain extent but also acknowledged that Mitchell slated Martin as the Acting Mayor for this year.

Ned Mitchell, 1745 N Willow Drive, thanked the Council for the honor that bestowed upon his father. He stated that Mitchell enjoyed his time on the Council and that is how he chose to fill his retirement. He asked when and how the Council found out about his father's illness.

Johnson stated that when he came to work on that Monday morning, he was told by Finke, who had heard from David Crosby.

Martin stated that she received a call from Johnson and passed the word to the rest of the Council, noting that some of the Council members were already aware.

Pederson stated that he was aware because he had seen an email from Johnson.

Johnson confirmed that he sent the email out after speaking with Belland that morning.

Anderson stated that his wife was playing tennis with Ned Mitchell's mother that Saturday morning and that is when he was made aware of an issue.

Ned Mitchell asked if anyone from the Council performed any campaign activities between the time of Mitchell's death and his burial.

Anderson confirmed that he filed for Mayor on Tuesday, July 31<sup>st</sup>.

Martin stated that she was asked if she intended to run for the position and she confirmed that she did intend to run. She noted that she filed for Mayor on Tuesday, August 7<sup>th</sup>.

Ned Mitchell shared his concerns with the City Council about the notification of his father's illness, unexpected passing and timing of filing for office.

Martin asked the Council to continue the discussion of how to approach the vacancy of Mayor. She stated that it was her pleasure to serve with Mitchell. She noted that Mitchell encouraged her to run for Mayor in 2018 but she had asked Mitchell to continue because his leadership was so good. She stated that she planned to run in 2020 but that has been accelerated to 2018. She stated that she would feel badly if she were not allowed to continue to do her work on behalf of Mitchell. She stated that she has learned a lot from Mitchell and would like to continue. She stated that others have served as Acting Mayor and have done so for a full 12-month period, not a seven or eight-month period. She stated that she would like to continue to serve.

Anderson asked if Martin felt that being Acting Mayor comes with a sense of incumbency and favors her campaign for the general election.

Martin stated that she did not perceive that at all. She stated that both Anderson and Pederson have served as Acting Mayor for a full 12 month periods and she should be allowed to continue.

Anderson asked again if Martin sees any sense of incumbency or advantage.

Martin stated that she had not thought of it in that way at all and actually believed that it would be a slight to her if the Council were to say that they did not want her to continue to be Acting Mayor as Mitchell had appointed her for this year. She stated that she would simply be continuing to do what she was asked to do for this year.

Cousineau stated that Anderson has stated that he is not comfortable holding the position and Martin is comfortable continuing in the roll. She stated that she would not want the position of Mayor.

Pederson confirmed that he also would not be interested in the position. He stated that he would be happy to hold the position if that is the decision made because of the election but noted that it is not his objective.

Cousineau stated that Martin is comfortable holding the position while Anderson is not.

Pederson stated that when he held the position of Acting Mayor, he had felt that if something happened to the Mayor, that he would hold the position of Mayor. He stated that is always the way he has seen the position and yet he understands the argument of the public perception of incumbency.

Cousineau stated that she understands that it is Martin's term to finish and Anderson stated that he would not be comfortable holding the position.

Martin stated that it was her understanding that Anderson had previously said that he would be interested in becoming Acting Mayor.

Anderson clarified that he had previously said that he would be interested in becoming Acting Mayor, before he was made aware that Martin was going to run for the position in the election as well. He stated that now that Martin is going to run he does not believe it would be fair to either campaign. He stated that if Martin was not going to run for Mayor, he would have held the position of Acting Mayor as it would have given him an opportunity to serve and build experience.

Martin stated that Anderson had the position and opportunity in the past for a full year and she should be allowed to continue her appointed year.

Anderson noted that he held the position of Acting Mayor for more than one year.

Martin stated that it is a training tool to hold the position of Acting Mayor and she feels that it is important for her to complete Mitchell's term. She stated that Anderson has stated that he has served as Acting Mayor for more than one year, Pederson has served as Acting Mayor for a full year, and Cousineau is the newest member of the Council who has not had the opportunity. She did not see why she would not be allowed to continue to finish Mitchell's term as the Acting Mayor, as she had been appointed at the beginning of the year, simply because she has chosen to run against Anderson for the position of

Mayor in Mitchell's absence. She stated that when Crosby passed, Weir honored the place she held as Acting Mayor and that was a nice succession that kept City Hall moving smoothly. She was unsure why the process would be different in this instance.

Cousineau recognized the points made by Anderson but stated that she also would like to recognize the wishes that Mitchell had made for the year appointing Martin to the position of Acting Mayor and therefore believes that she should continue as she is willing to serve, and Anderson has stated that he is not willing to hold the position.

Pederson stated that when he held the position of Acting Mayor it was his understanding that if something happened to the Mayor, he would become Mayor and therefore is going to honor the wishes of Mitchell. He recognized the comments made by Anderson about the upcoming election but stated that this is the right decision for this time as Martin had been slated as Acting Mayor for this year. He stated that this is what Mitchell would have wanted.

Cousineau agreed that Mitchell would have followed this path and that is the intent of Acting Mayor and therefore she wants to honor that.

*Moved by Cousineau, seconded by Pederson, to appoint Kathy Martin for the position of Mayor.*

*Further discussion: Batty noted that a motion has now been made and Martin would be unable to vote in this decision.*

***Motion passed 2-1-1 (Anderson opposed) (Martin abstained).***

Batty noted that Martin is now the Mayor.

Martin thanked the Council for allowing her to complete her appointment.

Johnson administered the Oath of Office to newly appointed Mayor Kathy Martin.

Batty stated that now that Martin has become Mayor, there is a vacancy on the Council. He stated that an appointment can be made, and that person would then serve until the term expires at the end of this year. He stated that the Council position has already been published for the general election as the term was expiring.

Johnson stated that two requests from Planning Commissioners were received for the vacant Council position, Dino DesLauriers and Todd Albers.

Batty stated that all four members of the City Council would be able to vote in the appointment and if there is a tie, the Mayor would break that tie.

Martin stated that the Council is blessed with two great volunteers who have been great contributors to the City. She recognized the service the DesLauriers has provided to the community throughout the years. She confirmed that DesLauriers has filed for a position on the Council. She stated that it was her understanding that Albers also intended to file.

Johnson noted that Albers has not yet filed.



Pederson stated that he spoke with the Albers and noted that Albers was interested in the roles and duties of the Council and the time commitment.

Cousineau stated that she had a similar conversation with Albers and congratulated DesLauriers for his filing for the position as well.

Batty stated that the procedure is up to the Council, noting that a decision could be made tonight from people that have volunteered or it is permissible for the Council to go through another process. He stated that some cities publicize the opening and conduct interviews.

Anderson stated that it is in the interest of the Council to have a full membership as there are many issues that will continue to come forward and having five members will prevent a tie vote.

Cousineau stated that she is not interested in solicitation of a large amount of people as there are two interested candidates already.

Martin noted that she was the last person appointed to the Council in this manner when Weir became Mayor and then Martin was selected by vote of the Council to fill the vacancy on the Council. She believed that the Council should continue in that manner to fill the position.

Pederson stated that it would be appropriate that the candidate come from one of the Commissions because they would be up to speed on matters of the City. He stated that DesLauriers has lived in the community for his entire life, has contributed time on both the Planning and Park Commissions and through other community organizations, and therefore believed he would be a good fit for the Council.

*Moved by Pederson, seconded by Anderson, to nominate Dino DesLauriers to fill the vacant Council position.*

*Moved by Anderson, seconded by Pederson, to appoint Dino DesLauriers to fill the remaining term of the vacant City Council position. **Motion passed unanimously.***

Johnson administered the oath of office to newly appointed City Council member Dino DesLauriers.

DesLauriers joined the Council.

#### **IX. CITY ADMINISTRATOR REPORT (8:10 p.m.)**

Belland reported on Celebration Day. He stated that the City has not yet obtained the same amount of donations that the City has received in the past. He stated that in the past Mayor Crosby was donating \$3,000 for the fireworks and they have not been able to obtain that amount in donations. He stated that the Committee is looking for direction from the City Council on whether to move forward on the fireworks. He estimated that of the \$5,000 needed for fireworks, there is still \$3,500 needed to cover that cost.

Johnson noted that all the marketing materials used for the event list fireworks as one of the activities.

Martin noted another \$500 contribution that will be received.

Cousineau noted that the fireworks are one of the pinnacle activities of the event. She stated that perhaps the show could be cut down but would advocate for doing something.

It was the consensus of the Council to direct staff to attempt to find funding within current City funding for the cost of a fireworks display at Medina Celebration Days.

Johnson stated that he will work with finance to determine if there are available funds.

Belland stated that the Committee will continue to attempt to gain donations as well.

Martin asked if Council members could ask local businesses for donations. She stated that it is her understanding that herself and Anderson could not personally donate because they are running for the position of Mayor.

Anderson asked if their companies could donate if they could not donate personally.

Batty stated that he would research that question. He stated that Council members cannot solicit donations themselves.

Johnson stated that he can also work with the local newspaper and other local groups in an attempt to gather additional donations. He confirmed that the information can be placed on the City website as well.

#### **X. MAYOR & CITY COUNCIL REPORTS (8:16 p.m.)**

Anderson commented on the wonderful experience he had the previous night visiting the Night to Unite parties throughout the community.

Pederson stated that he also enjoyed visiting the parties the previous night. He stated that it is fun to see people in the community getting together. He stated that he received a call the previous night from Bruno Silikowski at the AutoMotorPlex who would like to honor Mitchell this coming weekend with a Corvette Rally from 9:00 a.m. to Noon on Saturday. He stated that perhaps staff could reach out to the family to attend, noting that perhaps Ned Mitchell could drive Mitchell's Corvette in the rally.

Pederson stated that while it is short notice, Bruno was hoping that members of the Council would be able to attend.

Anderson asked if a special events permit would be needed.

Belland commented that the event would be under 200 people and therefore would not require a permit.

Johnson noted that DesLauriers will need to resign from the Planning Commission. He confirmed that DesLauriers could submit a letter and that it can be placed on the Consent Agenda for the next meeting.

**XI. APPROVAL TO PAY THE BILLS (8:20 p.m.)**

*Moved by Anderson, seconded by Cousineau, to approve the bills, EFT 004707E-004723E for \$50,642.32 and order check numbers 047614-047708 for \$504,862.02 and payroll EFT 0508808-0508834 for \$51,812.88. **Motion passed unanimously.***

**XII. ADJOURN**

*Moved by Anderson, seconded by Pederson, to adjourn the meeting at 8:20 p.m. **Motion passed unanimously.***

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Kathleen Martin, Mayor

Attest:

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Jodi M. Gallup, City Clerk