

**MEDINA CITY COUNCIL MEETING MINUTES OF FEBRUARY 2, 2021**

The City Council of Medina, Minnesota met in regular session on February 2, 2021 at 7:00 p.m. in the City Hall Chambers. Mayor Martin presided.

Martin read aloud a statement explaining that meetings continue to be held in a virtual format due to the ongoing pandemic and provided instructions on how members of the public can participate.

**I. ROLL CALL**

**Members present:** Albers, Cavanaugh, DesLauriers, Martin, and Reid.

**Members absent:** None.

**Also present:** City Administrator Scott Johnson, Assistant City Administrator Jodi Gallup, City Attorney Ron Batty, Finance Director Erin Barnhart, City Engineer Jim Stremel, City Planning Director Dusty Finke, Public Works Director Steve Scherer, and Chief of Police Jason Nelson.

**II. PLEDGE OF ALLEGIANCE (7:04 p.m.)**

**III. ADDITIONS TO THE AGENDA (7:04 p.m.)**

Johnson requested to add an item to the agenda as 9B titled Fire Services Update.

*Moved by DesLauriers, seconded by Martin, to approve the agenda as amended.*

*A roll call vote was performed:*

*Reid            aye  
Cavanaugh   aye  
Albers         aye  
DesLauriers   aye  
Martin         aye*

***Motion passed unanimously.***

**IV. APPROVAL OF MINUTES (7:06 p.m.)**

**A. Approval of the January 19, 2021 Work Session City Council Meeting Minutes**

*Moved by Albers, seconded by DesLauriers, to approve the January 19, 2021 work session City Council meeting minutes as presented.*

*A roll call vote was performed:*

*Albers            aye  
DesLauriers   aye  
Reid             aye  
Cavanaugh   aye  
Martin         aye*

***Motion passed unanimously.***

**B. Approval of the January 19, 2021 Regular City Council Meeting Minutes**

Martin noted that prior to tonight's meeting Johnson distributed proposed corrections to the minutes as submitted by Martin, Cavanaugh and DesLauriers.

*Moved by Martin, seconded by Cavanaugh, to approve the January 19, 2021 regular City Council meeting minutes as amended.*

*A roll call vote was performed:*

Martin            aye  
Cavanaugh      aye  
Reid              aye  
DesLauriers     aye  
Albers            aye

***Motion passed unanimously.***

**V. CONSENT AGENDA (7:08 p.m.)**

**A. Approve 2021 Work Plan Goals**

**B. Approve SCADA Software Upgrade Agreement with Total Control Systems Inc**

**C. Approve Public Works Maintenance Worker Joe Ende Wage Adjustment**

**D. Approve Renewal of Consumption and Display Permit for American Legion Post 394 at 75 Hamel Road**

**E. Resolution No. 2021-07 Accepting Donation from Memorial for Ruth Ostrem**

*Moved by Cavanaugh, seconded by Reid, to approve the consent agenda.*

*A roll call vote was performed:*

DesLauriers    aye  
Albers           aye  
Cavanaugh     aye  
Reid             aye  
Martin          aye

***Motion passed unanimously.***

**VI. COMMENTS (7:10 p.m.)**

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

There were none.

**B. Park Commission**

Scherer reported that the Park Commission met in February to discuss the 2021 goals including the trail near Loram and the extension to the north that will be part of the Arrowhead intersection improvements. He noted that the Commission would also like to begin phasing improvements for Hunter Park, noting that perhaps the tennis courts could

move forward without removing the ballfield section. He stated that there is an upcoming joint worksession with the Commission and Council to discuss the Diamond Lake Regional Trail on February 16<sup>th</sup>.

**C. Planning Commission**

Finke reported that the Planning Commission will meet the following week to hold public hearings to consider a Planned Unit Development Concept Plan for a 24-unit townhome development and to continue a discussion related to the Stormwater Management Ordinance that began at the January meeting.

**VII. PRESENTATIONS**

**A. Resolution No. 2021-08 Approving Amendments to the Educational Facilities Revenue Note (Yeshiva of Minneapolis Project), Series 2018, and Authorizing Execution and Delivery of Documents Related Thereto – Public Hearing (7:14 p.m.)**

Johnson stated that in December of 2018 the City of Medina issued conduit bonds in the aggregate amount of \$7,000,000 and loaned the proceeds to Yeshiva of Minneapolis. He stated that the proceeds were used to expand and improve the school facilities located in St. Louis Park. He stated that Yeshiva now has the opportunity to lower the interest rate on the bonds, which requires the City of Medina to hold a public hearing and adopt a resolution approving the request for refinancing.

Martin commented that the memorandum from legal counsel was fairly straightforward and welcomed any additional questions from the Council and/or staff.

There were no additional comments from staff or the Council.

Martin opened the public hearing.

No comments.

Martin closed the public hearing.

*Moved by DesLauriers, seconded by Cavanaugh, to adopt Resolution No. 2021-08 Approving Amendments to the Educational Facilities Revenue Note (Yeshiva of Minneapolis Project), Series 2018, and Authorizing the Execution and Delivery of Documents Related Thereto.*

*A roll call vote was performed:*

<i>Reid</i>	<i>aye</i>
<i>Cavanaugh</i>	<i>aye</i>
<i>Martin</i>	<i>aye</i>
<i>DesLauriers</i>	<i>aye</i>
<i>Albers</i>	<i>aye</i>

***Motion passed unanimously.***

**VIII. NEW BUSINESS**

**A. Lothar and Mona Krinke – 2905 Willowood Farm Road – Conditional Use Permit for Addition to Accessory Structure (7:20 p.m.)**

Finke presented a request for a Conditional Use Permit to construct an addition of a riding arena onto an existing barn. He noted that accessory structures in excess of 5,000 square feet require a CUP. He displayed a sketch of the proposed arena with the proposed building elevations. He stated that the CUP includes specific standards to larger accessory structures and general standards for all CUP's noting that the detailed review was included in the staff report. He noted that the applicant is proposing a filtration basin to meet the stormwater requirement and in terms of architecture the applicant proposes to mimic some of the existing features of the barn along with additional elements such as shutters and two-tone color for the siding. He stated that the Planning Commission held a public hearing in January and received two comments from the public in support of the request. He stated that the Commission recommended architectural elements which have been incorporated by the applicant, and the Commission unanimously recommended approval.

Martin welcomed any questions from the Council.

Reid commented that the suggestions by the Planning Commission and incorporated by the applicant make a great improvement to the proposed building.

Martin also thanked the Planning Commission for its recommendations and the applicant for responding to those recommendations. She stated that it is nice to have that care for design infused into these projects.

*Moved by DesLauriers, seconded by Reid, to direct staff to prepare a resolution granting Conditional Use Permit approval subject to the conditions noted in the staff report.*

*A roll call vote was performed:*

<i>Albers</i>	<i>aye</i>
<i>Martin</i>	<i>aye</i>
<i>Reid</i>	<i>aye</i>
<i>Cavanaugh</i>	<i>aye</i>
<i>DesLauriers</i>	<i>aye</i>

***Motion passed unanimously.***

**B. Addison and Cynthia Piper – 1745 Hunter Drive – Lot Combination (7:28 p.m.)**

Johnson stated that the applicants are requesting approval to combine two lots into a single lot. He noted that the combination would not bring the parcels into compliance but would improve the situation.

Finke commented that generally the City has supported combinations of lots that fall short of the minimum requirements within this district even though the resulting lot may not come into full compliance. He stated that because of the City's suitable soil requirement of five acres, compliance would not be met, but this will result in one home on one noncompliant lot rather than two noncompliant lots.

1. **Resolution No. 2021-09 Approving a Lot Combination of Lots 2 and 3, Block 1, Tally Ho Farms**

*Moved by Reid, seconded by Albers, to adopt Resolution No. 2021-09 Approving a Lot Combination of Lots 2 and 3, Block 1, Tally Ho Farms.*

*A roll call vote was performed:*

Albers            aye  
DesLauriers    aye  
Reid             aye  
Cavanaugh    aye  
Martin          aye

***Motion passed unanimously.***

**IX. OLD BUSINESS**

**A. Ordinance No. 668 Amending Chapters 1 and 3 of the City Code of Ordinances Pertaining to Penalties and Targeted Residential Picketing (7:32 p.m.)**

Johnson stated that the draft ordinance was brought forward at the January 19<sup>th</sup> Council meeting with direction for staff to bring this forward for formal adoption with no revisions. He stated that other communities have adopted similar ordinances recently. He noted that one resident submitted a request to speak on this topic.

Martin asked if Batty had additional comments to add.

Batty commented that as Johnson indicated a number of other cities have recently adopted similar ordinances. He stated that this is patterned after an ordinance adopted in a Wisconsin city 30 years ago which dealt with targeted residential picketing, specifically picketing in front of an individual house. He stated that the ordinance was appealed and upheld by the United States Supreme Court in 1988. He stated that the court found the ordinance to be content neutral and narrowly tailored to serve a government interest as it did not prohibit picketing but merely prohibited that from occurring in front of an individual residential property. He stated that the Court found that this left open other avenues for people to express their views while protecting persons' right for privacy in their own homes. He stated that the other changes proposed were cleanup matters related to penalties for misdemeanors and petty misdemeanors as identified under State law.

Martin thanked Batty for that additional explanation. She welcomed the resident that would like to speak tonight.

Chris Hillberg, 4559 Trillium Drive, noted that he finds residential picketing objectional and does not like the idea. He stated that based on the last meeting of the Council it appears the Council holds the same viewpoint. He stated that the question is not whether the Council likes the concept but whether it supports free speech and whether this would abridge that right for free speech. He stated that Minnesota State law allows a person to obtain a restraining order if they feel that is necessary. He stated that the Medina ordinance adds "or other similar activities", which is vague compared to the other

ordinances. He also explained concern with language in section C, which is also very broad and could prohibit someone from standing in front of another person's home.

Martin thanked Mr. Hilberg for his input.

DesLauriers referenced section C and stated that his interpretation would be that if roads are public property and if a person is picketing on the street and does not violate A or B, he would not have an issue with persons picketing on a sidewalk in front of his home. He was unsure that C should be included.

Batty replied that C does broaden the ordinance and the Council would be within its right to eliminate that, but A and B would still prohibit the situation described by DesLauriers if the activity is targeted at a house and within the right-of-way. He stated that if adopted the ordinance would include a ban on picketing in front of a specific house.

Martin commented that she interpreted the comments of DesLauriers to be that A and B could provide the intended desire without including C. She clarified that C could be covered by trespass laws.

DesLauriers commented that he does not believe C should be included without additional language.

Martin asked if the additional language of "on private residential property without the consent of the occupants of the dwelling" would be acceptable to DesLauriers for C, but then noted that would seem to be covered under trespass laws.

Batty agreed that language would cover much of the same territory covered by trespassing. He clarified that for trespassing one would have to assert that the unwanted person leaves, whereas if the language of C were modified, it would not require that confrontation.

Martin commented that she would not want to require someone that feels threatened to come outside of his or her home to tell others to leave, and therefore, would support adding the additional language to C.

Albers commented that he is fine with how C is written. He stated that if the requirement is for the resident to come outside and confront those picketing that would create a potential flashpoint, which would not be desired. He commented that residents have the right to peace and quiet on their own property and should not be required to confront others. He commented that this ordinance has been upheld by the Supreme Court and he has no issue with how the ordinance is drafted as it is meant to protect residents of Medina.

Martin commented that further modifying C would not advance the argument, as A or B could trigger this whether on private property or within right-of-way.

Reid commented that if protesters are in the public right-of-way but stationary in front of someone's house that is virtually the same thing as being on someone's property.

Cavanaugh commented that developments have private roads and asked if those developments could then state that they do not want picketing on those roads.

Batty commented that most of the roads in Medina are public roads and that is what this language is focused on. He stated that in the case of private roads, the owners of those roads could determine the allowed activity.

Cavanaugh commented that as a public figure he accepts that people can critique but recognizes that his neighbors do not sign up for that. He commented that there are other areas where people can picket and does not believe that activity belongs within the residential areas. He commented that he could support the language as drafted.

Martin asked if C is included in the language upheld by the Supreme Court.

Batty was unsure if C was included in that language. He stated that the Court did look at how narrowly tailored the ordinance was and noted that this language focuses on targeted residential picketing and does not prohibit picketing that goes through a neighborhood. He clarified that this is meant to prohibit picketing of a specific residential property and does not prohibit a demonstration from walking through a residential area.

Martin noted that the memorandum from Batty states that similar ordinances have been deemed constitutional by the Supreme Court and that the author believes this language to be consistent with the language upheld by the Supreme Court.

*Moved by Albers, seconded by Cavanaugh, to Adopt Ordinance No. 668 Amending Chapters 1 and 3 of the City Code of Ordinances Pertaining to Penalties and Targeted Residential Picketing.*

*A roll call vote was performed:*

*DesLauriers    nay  
Albers            aye  
Cavanaugh    aye  
Reid              aye  
Martin          aye*

***Motion passed.***

**1. Resolution No. 2021-10 Authorizing Publication of Ordinance No. 668 by Title and Summary**

*Moved by Albers, seconded by Cavanaugh, to adopt Resolution No. 2021-10 Authorizing Publication of Ordinance No. 668 by Title and Summary.*

*A roll call vote was performed:*

*DesLauriers    nay  
Albers            aye  
Cavanaugh    aye  
Reid              aye  
Martin          aye*

***Motion passed.***

**B. Fire Services Update (7:58 p.m.)**

Johnson commented that the Fire Service District meetings occurred in October, November, and January with the next meeting scheduled for February 11<sup>th</sup>. He stated that representatives from the State Fire Marshal's office began facilitating the meetings in January and have agreed to continue to do so. He stated that the timeline for the process has been estimated at five to seven years, explaining that it is complex to merge multiple government services entities. He stated that the group will work to form teams to continue to work on the matter. He thanked all the Fire Chiefs/Representatives that have participated and continue to provide input as well as representatives from the neighboring communities. He also expressed appreciation to Martin and DesLauriers for all their efforts.

Martin commented that the Council previously evaluated this topic and believed the process would take less time. She stated that she has spoken to each of the Mayors serviced by the Fire Departments involved and they are all intrigued by these discussions. She commented that there is momentum from the Fire Chiefs and with the support of the Mayors, she would like permission from the Council to move away from the concept of nonrenewal of the contracts and move forward with continuation of the fire service contracts as they would normally renew.

DesLauriers commented that they have learned from the termination notices and they would prefer that the Fire Departments continue to focus on the goal for the future.

Reid asked if the Council was previously working on contracts that were not automatically renewable and provided the opportunity to change the contract dependent upon the situation. She asked if the intent was then to remove that restriction and reinstate automatic renewals.

Martin commented that the Maple Plain contract was set to expire without renewal terms available and therefore the City would typically enter into a new contract with the typical terms and fees. She stated that there is a clause within the Long Lake contract that states either of the parties could terminate the contract if they choose to move to a Fire District. She stated that Loretto and Hamel had automatic renewal terms within the contracts but still included a right for early termination if that was desired. She stated that she would ask that the Fire Departments continue to be allowed to provide service under the existing contract relations and focus additional energies on attending the Fire District meetings to determine if that option could come to fruition.

Cavanaugh thanked Martin and DesLauriers for their work on this topic.

Albers echoed thanks to Martin and DesLauriers for their leadership and work on this topic. He recognized the time and commitment it takes to lead this effort. He also thanked staff.

Martin agreed that it has been a team effort between herself, DesLauriers, Barnhart, Johnson, and Nelson.

*Moved by Martin, seconded by DesLauriers, to direct staff, Martin and DesLauriers to reinstate or permit the contracts with Loretto, and Hamel to continue to renew in their typical manner and negotiate an extension of the contract with Maple Plain.*

*A roll call vote was performed:*

*Cavanaugh aye  
Albers aye  
Reid aye  
DesLauriers aye  
Martin aye*

***Motion passed unanimously.***

**X. CITY ADMINISTRATOR REPORT (8:11 p.m.)**

Johnson had nothing further to report.

**XI. MAYOR & CITY COUNCIL REPORTS (8:12 p.m.)**

Martin commented that she, Cavanaugh, Finke, Gallup, Scherer, and Johnson attended a presentation by the Three Rivers Park District related to the deliberations and public process in coming to a proposed route for the leg of the trail that will go through Medina which will be discussed at the February 16<sup>th</sup> Council worksession.

**XII. APPROVAL TO PAY THE BILLS (8:13 p.m.)**

*Moved by DesLauriers, seconded by Martin, to approve the bills, EFT 005800E-005818E for \$57,934.87, order check numbers 051211-051253 for \$181,716.88, and payroll EFT 0510772-0510799 for \$54,030.73 and payroll check 020477 for \$2,283.37.*

*A roll call vote was performed:*

*Reid aye  
Cavanaugh aye  
DesLauriers aye  
Albers aye  
Martin aye*

***Motion passed unanimously.***

**XIII. ADJOURN**

*Moved by Reid, seconded by Cavanaugh, to adjourn the meeting at 8:15 p.m.*

*A roll call vote was performed:*

*Martin            aye*  
*Reid              aye*  
*Cavanaugh    aye*  
*Albers           aye*  
*DesLauriers   abstained (left meeting)*

***Motion passed.***

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Kathleen Martin, Mayor

Attest:

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Jodi M. Gallup, City Clerk