

**MEDINA CITY COUNCIL MEETING MINUTES OF MAY 18, 2021**

The City Council of Medina, Minnesota met in regular session on May 18, 2021 at 7:00 p.m. in the City Hall Chambers. Mayor Martin presided.

Martin read a statement explaining that the meeting continues to be held in a virtual format because of the ongoing pandemic and provided instructions on how members of the public can participate.

**I. ROLL CALL**

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

**Members absent:** Albers.

**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 (7:03 p.m.)**

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

The agenda was approved as presented.

**IV. APPROVAL OF MINUTES (7:04 p.m.)**

**A. Approval of the May 4, 2021 Regular City Council Meeting Minutes**

*Moved by Martin, seconded by DesLauriers, to approve the May 4, 2021 regular City Council meeting minutes as presented.*

*A roll call vote was performed:*

*DesLauriers    aye  
Cavanaugh    aye  
Reid            aye  
Martin         aye*

***Motion passed unanimously.***

**V. CONSENT AGENDA (7:05 p.m.)**

**A. Approve Ball Field Lighting Installation Agreement with Killmer Electric Co. Inc.**

**B. Approve the 75 Percent Design for the Hackamore Road Improvement Project**

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

*A roll call vote was performed:*

*Reid            aye*

Cavanaugh aye  
DesLauriers aye  
Martin aye

***Motion passed unanimously.***

**VI. COMMENTS (7:06 p.m.)**

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

There were none.

**B. Park Commission**

Scherer reported that the Commission will meet the following night to discuss the Diamond Lake Regional Trail Master Plan and review park dedication for 2325 Pioneer Trail. He provided an update on the trail project along Arrowhead Drive near Loram.

**C. Planning Commission**

Finke reported that the Commission met the previous week to hold a public hearing related to the Pioneer Trail subdivision request. The Commission recommended approval of the three-lot rural subdivision. The Commission also reviewed a Site Plan for a detached accessory building and recommended approval. Both items are scheduled to be presented to the City Council at the June 1<sup>st</sup> meeting.

**VII. PRESENTATIONS**

**A. Abdo, Eick, and Meyers – 2020 Annual Financial Report (7:10 p.m.)**

Barnhart stated that in the beginning of March field work was completed for the 2020 annual audit, noting that this is the second year in which the audit was completed remotely. She reported that things ran smoothly.

Steve McDonald, Abdo, Eick and Meyers, reviewed the process that is followed in order to issue an opinion. He reported that a clean opinion with no issues of legal compliance was issued. He stated that related to internal control, there were two findings. He stated that the first was related to preparation of financial statements as the City has one person involved in completing the majority of duties in preparation of the financial documents. He stated that this finding is common in smaller cities. He stated that the second finding was related to the COVID relief funds, noting that a few transactions were paid following the cutoff date. He stated that it was explained that because the Council did not meet until that date, the payments could not be issued. He stated that the finding will be reworded as some of the expenses were paid with a credit card prior to the cutoff date, while \$3,000 was paid in checks after the cutoff date. He reviewed how the finding would be modified, reducing the amount to \$3,000 and stated that he would work with staff on how to modify the management response.

Martin stated she reviewed the finding related to the preparation of financial statements and read aloud different statements within the report. She stated that the language seems inconsistent and does not provide an accurate description. She commented that this information would be made available on the City website and she wanted to ensure the messaging is accurate and clear to residents. She also asked for clarification on the finding related to the use of the COVID relief funds. She stated that from reading the

language she could not determine what occurred and believed that the language should be made clearer.

McDonald agreed that the language was inconsistent related to the first internal control finding and reviewed the language he could use to clarify that item. He stated that while the State may have accepted the reimbursement request from the City, the City was still out of compliance in issuing payment after the deadline in the amount of \$3,000. He stated that while the State made the decision to accept the request, the issue of noncompliance with the program is still a finding.

Barnhart provided clarification in the management response. She noted that she submitted an amended report to the State removing the election expenses and transferred that amount to the eligible line item through public safety expenditures. She stated that the State has accepted the amended report based on this finding. She confirmed that the error was corrected but the error still existed during the field work of the auditor and therefore would remain as a finding.

Martin stated that hearing this explanation does not cause any concern for herself, but she would like additional explanation provided so that residents can easily understand that as well.

McDonald agreed that modification would make sense. He stated that the important thing with the finding is that if this were not tested, the City would have remained out of compliance but instead was provided the opportunity to correct it. He stated that the City was responsive and completed the correction. He stated that the Council could delay its approval and the letter could be corrected and reissued for consideration at the next meeting.

Martin confirmed that sounds like a good process.

DesLauriers agreed that it is important that the language is rewritten as discussed and agreed with the path forward suggested by the auditor.

Martin confirmed the consensus of the Council with the suggested process.

McDonald stated that there was a finding the previous year related to an audit adjustment and noted that there were no necessary corrections and that finding has been closed.

Justin Neilson, Abdo, Eick and Meyers, continued to review the results of the audit including details related to the general fund, special revenue funds, debt service funds, and enterprise funds. He continued to review the other portions of the audit including comparison to other communities and debt ratios and expenditures per capita.

DesLauriers referenced the water and sewer slides and stated that while it was commented as a good year, he views it as an opportunity not to increase the water and sewer fees. He noted that perhaps that discussion could occur when the Council begins to plan the budget for the following year.

Martin commented that another suggestion would be to discuss whether some of those accumulated funds could be tapped for economic development type uses. She

commented that while there was a \$380,000 increase in the fund balances, the expenses were higher than anticipated as well. She asked if that is due to the receipt of the COVID relief funds and related expenses.

Barnhart commented that the City was over budget in expenses by \$491,000 noting that of that, \$139,000 was directly related to COVID expenditures and \$376,000 was related to the quiet zone which was cash flowed out of the general fund and was reimbursed by the State in 2021. She stated that the City was therefore not overbudget for expenditures with the exception of the COVID expenditures which were reimbursed. She commented that the funds accumulated in the water and sewer funds accounts for depreciation of the current infrastructure and planned future improvements. She noted that she will bring additional details to that future discussion.

Martin commented staff did an excellent job maneuvering through the layers of regulation and programs available because of COVID and without adding new staff persons. She applauded the efforts of staff.

Martin noted that the Council is not accepting the 2020 audit statement and management communication until such time it can be updated by the auditor in respect to the issues discussed by the Council tonight. She stated that the remainder of the report is well written and well done.

Johnson stated that staff will work with the auditor and bring back the redlined management letter on the Consent Agenda for formal approval by the Council.

## **VIII. NEW BUSINESS**

### **A. Chippewa Road – Arrowhead Drive to Mohawk Drive – Wetland Replacement Plan (7:51 p.m.)**

Johnson stated that the transportation plan identifies the need for construction of Chippewa Road between Arrowhead and Mohawk drives which impacts 2.81 acres of wetland which will require replacement.

Finke stated that the construction of the roadway was discussed in connection with the Weston Woods development and the cost of the wetland replacement and permitting was identified by the City as a cost the City would contribute to prepare for that construction. He stated that the City is the local government unit (LGU) in terms of enforcing and approving wetland replacement plan applications but is also the applicant in this instance. He stated that the City would effectively be approving its own application. He noted that staff used two different employees in order to serve in both capacities. He stated that this situation is not unique as the City often has to approve this type of activity for different projects it completes. He stated that the impacted wetlands have various jurisdictions and noted that this action would be one of the various permits/approvals required. He stated that staff recommends approval as presented. He stated that the wetland replacement costs are projected to be \$615,000. He stated that the wetland credits proposed to be purchased are included in the report. He stated that the purchase of the credits would not occur until such time the project is more imminent.

Martin commented that the payment authorization is requested but yet the source of funding is not yet specified. She asked if the Council would have the opportunity to discuss how the funding would be made when the time for the payment comes.

Finke confirmed that to be the process.

Barnhart stated that she would like to have the cost incorporated into the upcoming CIP to ensure appropriate funding is in place. She agreed that there is some flexibility in when that decision needs to be made.

Finke reviewed some of the sources that could be considered.

Barnhart stated that based on what has been previously approved in the CIP but is no longer needed, additional options can be discussed as to how those credits could be used. She stated that the year-end balance was actually higher than reported within the audit as additional reimbursement funds were received. She stated that the fund balance is lower than typical and therefore a combination of sources will most likely be required for this funding.

Cavanaugh asked for additional input on the third funding option.

Barnhart commented that essentially because there are restrictions on the different City funds, there are options to receive a contribution in return for a water connection credit which provides additional flexibility as to how funds can be used.

Finke stated that would apply to the Weston Woods project as a slate of improvements that will occur with the project. He explained that there is the street project and watermain construction, noting that both have been identified as future City improvements but are being expedited to support the development and Comprehensive Plan amendment. He provided additional details on how the watermain construction by the developer can result in credits that could be used as that would no longer be a future City expense. He stated that the details could be negotiated within the Development Agreement as that is drafted.

Reid asked if the timeframe for the Army Corps of Engineers review would impact this process and/or the Weston Woods development.

Finke replied that the longer review period would only impact the construction of the Chippewa Road extension. He confirmed that the purchase of the credits would be contingent upon the approval of the project plans. He confirmed that the City would not move forward with the purchase until all approvals and permitting are received. He stated that authorization is being sought at this time to ensure the support of the Council prior to spending the additional time on the permitting and approval process.

DesLauriers referenced the funding options, excluding the second option, and asked if there is a preferred funding method for the City and whether there is a preferred funding method for the developer.

Barnhart stated that the preferred funding method would obviously be to have the funds on hand, but she would prefer not to deplete. She stated that she also tends to be careful when bonds are issued and the amounts they are issued for, which impacts

timing. She stated that sometimes for that reasoning bonding with a combination of funds on hand may be the best choice.

DesLauriers referenced the \$614,000 in cost for the credits that the City would pay and asked where those funds would actually go.

Finke replied that there are wetland banks established by property owners throughout the County and State which are monetized to be used for this type of purpose. He explained that parties can then purchase those credits when they impact wetlands for a project and onsite mitigation cannot be completed.

Martin commented that there are then wetlands preserved in exchange for those that will be impacted by the project.

Finke clarified that the wetlands would either be created or restored in other locations.

Martin asked if staff would like clarification on the method of funding.

Johnson confirmed that staff would like that direction.

Martin asked if it would be appropriate to authorize the execution of an agreement for the purchase of wetland replacement costs related to the Chippewa Road Extension project if the agreement could be made in a manner which could be canceled or contingent upon the approval of the road project and provided that funding is either from the road improvement fund and/or use of the fund along with developer contribution in exchange for water fee reduction; if bonds need to be issued that shall come back to the Council for consideration.

Barnhart noted that if staff felt that the issuance of bonds was needed, that request would come back to the Council for formal consideration.

Scherer stated that he would support looking at all funding options as staff will also need to review the projects planned for the next few years and bonding may then make sense.

Cavanaugh asked for clarification on the third funding option. He stated that he understands there is \$400,000 in watermain funding. The City would need to add onto the agreement that the developer is completing the watermain improvements.

Finke replied that is correct.

Cavanaugh asked if the contribution in exchange for water credits would equate to the \$400,000.

Finke confirmed that the water connection fees would be adjusted accordingly and placed towards the street costs in that funding option.

Cavanaugh commented that makes sense and the \$400,000 should be applied to this cost which leaves an amount of \$214,000 and would not seem like a huge bite out of the road improvement fund.

Barnhart agreed that if that route is chosen it would not make sense to bond for \$214,000. She stated that there are funding options available, and staff would need the authorization to move forward and negotiate those details.

Cavanaugh asked if there is still negotiation that would be needed related to those water connection credits as it would seem to be the same contribution from the developer and would simply seem to be how the City uses those funds.

Finke stated that generally speaking water connection fees are paid on building permits over a number of years for a development rather than upfront. He stated that he cannot speak for the position of the developer and there are some practical differences.

Martin asked if there is some concern that the purchase of wetland credits would need to move forward in a certain timeframe because of the availability of the credits. She asked why authorization would be asked at this time when the funding source is not nailed down, and the project is not yet fully approved.

Finke stated that this is a strange situation in which the City is the applicant and LGU reviewing the plan. He stated that in the normal case of development, a developer would find the credits and enter into a purchase agreement to purchase the credits before submitting the wetland replacement plan application. He stated that it is not uncommon that some amount of time passes between when the credits are found and the closing on those credits occurs.

Martin stated that perhaps there are more pauses because the City is not typically in the position to purchase the credits as the developer typically does such. She stated if the authorization should be made contingent upon approval of the permitting and approval of the road project.

Stremel commented that this is an unusual situation. He stated that he is unsure whether the wetland credits could be authorized contingent upon the approval of the project.

Martin asked whether there is urgency in moving forward tonight, or whether this could be delayed to the June 1<sup>st</sup> meeting.

Johnson stated that this can be used as an information gathering discussion and staff could bring this back to the June 1<sup>st</sup> meeting.

Mark Smith, Mark of Excellence, stated that he needed wetland credits for the development project itself and he had to commit to that purchase as the purchase agreement ties up those wetland credits. He stated that there are not a lot of wetland credits available on the market and the cost is always increasing. He stated that while he is not obligated to buy the credits at this time, he was told that the purchase could not be made contingent.

Stremel agreed that the price for credits is set at this time and it could increase if the decision is delayed.

Martin commented that if the price increased, she would believe the Council could either make the decision not to purchase at a later time or resell the credits if they were not needed.

Finke commented that the direction staff was looking for would be to proceed with securing the credits. He stated that the credits would not be closed upon at this time. He stated that if the Council wants more time, there is additional time available during the 60-day review period.

DesLauriers asked if delaying an additional two weeks would impact the timeline of the Weston Woods development.

Finke commented that he does not believe it would impact the timeline as the letter of intent was signed to move ahead.

DesLauriers stated that he would prefer to move forward tonight but would also be fine waiting two weeks.

Reid commented that she agreed that either option would seem fine.

Cavanaugh commented that if the purchase agreement could be crafted in a manner that could be made contingent or cancelable, he would be fine moving forward. He stated that perhaps if that could not be done, staff would then bring this back in two weeks.

*Moved by Cavanaugh, seconded by DesLauriers, to authorize staff to enter into a purchase agreement that (a) is contingent on the project approval or the option for the purchase agreement to be canceled, and (b) is funded either from the road improvement fund and/or use of the fund along with developer contribution in exchange for water fee reduction; if that cannot be done (or if bonds need to be issued to consummate the purchase), staff shall bring the matter back to the Council for consideration.*

*A roll call vote was performed:*

*DesLauriers    aye  
Cavanaugh    aye  
Reid            aye  
Martin         aye*

***Motion passed unanimously.***

*Moved by Cavanaugh, seconded by Martin, to approve the Wetland Conservation Act Replacement Plan application for the Chippewa Road Extension Project.*

*A roll call vote was performed:*

*Reid            aye  
DesLauriers   aye  
Cavanaugh    aye  
Martin         aye*

***Motion passed unanimously.***

**IX. CITY ADMINISTRATOR REPORT (8:34 p.m.)**

**A. Update on Terminating Local Emergency and Returning to In-Person Meetings**

Johnson commented that the Governor updated the emergency executive order the previous week and Batty has updated his memorandum to provide updated information to the Council.

Batty commented that this has been discussed on a number of occasions. He stated that the update to the executive order ten days ago repealed a number of sections of previous orders and spread out over a number of days. He stated that while the new executive order does not change anything dramatically related to the requirement to hold in person meetings, it does lay the path for when the City should plan to return to in person meetings. He stated that the City should most likely plan to return to in person meetings beginning in July. He stated that the City's ability to meet virtually is based on the declaration of local emergency by the Mayor and approved by the Council. He stated that it would be the decision of the Council as to when that declaration of local emergency is lifted. He stated that the ability to meet virtually has been provided because all three criteria have been met. He stated that ability to meet virtually is based on the decision of the Mayor but when the criteria are no longer valid, the ability to meet virtually would no longer exist legally. He provided additional detail to the three criteria: existence of a pandemic, State declaration of emergency, and local declaration of emergency. He stated that once the State emergency is lifted, the City would most likely need to follow and lift its declaration of emergency unless the conditions of Medina are unique. He stated that Medina could choose to lift its local declaration of emergency at this time or wait to make that decision at a later date. He stated that while action does not need to occur tonight, he believed that this update was appropriate, and that the Council should begin to think about returning to in person meetings within the next few months.

Martin referenced the concept of a hybrid meeting. She stated that once the Council returns to meeting at City Hall, the public would be allowed to attend. She noted that her concern would be that the space inside City Hall is small and her concern would be with the number of people that may choose to attend. She asked if the hybrid model would allow for the Council to meet in person and the public to attend virtually.

Batty commented that when a decision was made to go to something other than in person meetings there were two options and Medina chose to move to fully virtual meetings with no one attending at City Hall. He stated that there was an interim step available where at least one member of the Council would attend at City Hall whereas other members would attend remotely. He stated that under the open meeting law, once the Council abandons the full-fledged remote option, public would need to be allowed to attend in person as well. He stated that the City could not have the Council and staff attend in person but not allow the public to attend as well. He stated that the public could still be allowed to participate remotely, but they would have to have the option to attend in person as well.

Martin stated that there are still persons at risk even though much of the population has been vaccinated. She asked if the City would have the ability to ask members of the

public questions related to their COVID exposure and vaccination status prior to allowing entrance to City Hall.

Batty commented that the City Council chambers at City Hall are relatively small and therefore the concern was that if only Council and staff attended in person and socially distanced that would occupy the entire chambers which would not allow for members of the public. He stated that other cities have asked that people stay in the hall or remain outside until their agenda item came forward in order to limit the number of participants within the chambers. He stated that given the most recent guidance stating that fully vaccinated people no longer need to wear masks or socially distance, there will need to be additional research on what people could be asked to do in order to enter City Hall.

Martin commented that her initial thought was that the Council would consider terminating the local emergency when the State emergency is terminated but she struggles because of the small size of the meeting space at City Hall. She stated that virtual attendance could be encouraged for members of the public but acknowledged that could not be mandated. She stated that most people would wonder why Medina's local emergency would extend past the State emergency but noted that her thought in support would be because of the constrained meeting space.

DesLauriers stated that he does share some of the concerns of Martin. He noted that additional meeting locations had been considered in the past and perhaps if there is a topic where additional members of the public may attend, an alternate site could be planned. He stated that he would support returning to in person meetings sooner rather than later. He agreed that the local emergency should cease when the State emergency ends.

Cavanaugh commented that he would also support ending the local emergency when the State emergency ends and return to in person meetings. He stated that as a new Council member he has struggled at times with the virtual format. He stated that he can recall other locations where City meetings have been held in the past and asked if that would be a challenge for staff. He stated that the community center would have additional room to spread people out and asked if that would be a feasible location.

Johnson stated that there are problems with echoes in the community center, along with getting the equipment to that location. He stated that staff is vaccinated, and four out of the five members of the Council have been fully vaccinated. He believed everyone on the Council and staff would be fully vaccinated prior to the first meeting in July. He stated that typically there are only a few members of the public that attend a meeting and therefore City Hall should accommodate those that choose to attend.

Reid agreed that the Council should return to in person meetings as soon as possible. She also agreed that the local emergency should end when the State declaration of emergency ends. She stated that if the staff and Council have been vaccinated and everyone else has had the opportunity, it would then be the decision of the member of the public whether they would like to attend in person or participate virtually.

Martin commented that she would prefer to meet at City Hall because that is where the equipment is located, and the doors and windows could be opened. She stated that it would make sense to target for a return to in person meetings at the July 6<sup>th</sup> meeting.

She stated that perhaps the Council think about the discussion tonight and prepare to make that decision in a formal manner at the next meeting.

Reid agreed that she would like to see definite dates and agrees with that path forward.

Martin noted that she would also support staff determining if the community center could support a meeting but acknowledged the challenge that would provide in transporting the recording equipment.

Johnson commented that there are concerns with moving between locations. He stated that everything is in place to record meetings at City Hall. He agreed that doors and windows could be opened, and the Hamel community building could be utilized if larger crowds are anticipated.

Martin noted that larger crowds could also be encouraged to participate virtually. She stated that this should return to the agenda at the June 1<sup>st</sup> meeting with formal consideration to end the local declaration of emergency in coordination with the State and that in person meetings will commence as of the July 6<sup>th</sup> meeting of the Council.

**X. MAYOR & CITY COUNCIL REPORTS (8:58 p.m.)**

DesLauriers commented that baseball is in full force at Hamel Park, and it is exciting to see everyone playing again.

Reid commented that the lunch today was worthwhile and hoped to make additional contacts with the Hamel business community.

Martin commented that she liked the idea Reid suggested earlier today to have a brand or logo for the Uptown Hamel area. She stated that she and Cavanaugh attended a meeting the previous week with Uptown Hamel property owners, which was very interesting. She stated that there seems to be a true love for what Uptown Hamel is and there seems to be support for a cohesive plan between the property owners in terms of development for the area. She recognized the efforts that each member of the Council has put forth. She advised of the upcoming Spring into Hamel event that will take place this weekend.

**XI. APPROVAL TO PAY THE BILLS (9:03 p.m.)**

*Moved by DesLauriers, seconded by Cavanaugh, to approve the bills, EFT 005925E-005945E for \$61,665.26, order check numbers 051512-051567 for \$299,124.75, and payroll EFT 0511011-0511045 for \$56,304.01 and payroll check 020448 for \$193.62.*

*A roll call vote was performed:*

*DesLauriers aye  
Cavanaugh aye  
Reid aye  
Martin aye*

***Motion passed unanimously.***

**XII. ADJOURN**

*Moved by Cavanaugh, seconded by Reid, to adjourn the meeting at 9:05 p.m.*

*A roll call vote was performed:*

*DesLauriers aye*

*Cavanaugh aye*

*Reid aye*

*Martin aye*

***Motion passed unanimously.***

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Kathleen Martin, Mayor

Attest:

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Jodi M. Gallup, City Clerk