

## **MEDINA CITY COUNCIL MEETING MINUTES OF OCTOBER 19, 2021**

The City Council of Medina, Minnesota met in regular session on October 19, 2021 at 7:00 p.m. in the City Hall Chambers. Mayor Martin presided.

Martin read a statement explaining that the meeting is being held virtually due to the ongoing pandemic and reviewed instructions for public participation.

### **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 (7:03 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 October 5, 2021 Regular City Council Meeting Minutes**

Johnson stated that prior to the meeting Johnson distributed proposed changes to the minutes that she submitted.

*Moved by Martin, seconded by DesLauriers, to approve the October 5, 2021 regular City Council meeting minutes as amended.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

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

#### **A. Resolution No. 2021-69 Certifying Delinquent Utility Charges to the Hennepin County Auditor for Collection in 2022**

#### **B. Resolution No. 2021-70 Certifying Delinquent Storm Water Utility Charges to the Hennepin County Auditor for Collection in 2022**

- C. **Approve Joint Power Agreement Between Hennepin County and Cities of Corcoran, Deephaven, Medina, Minnetrista, Orono, South Lake Minnetonka, and Wayzata**
- D. **Approve Proposal for Feasibility Study for Water Treatment Plant Improvements**
- E. **Approve Work Completion and Escrow Agreement for Property located at 4650 Maple Street**

*Moved by Cavanaugh, seconded by DesLauriers, 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 (7:07 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 meet the following night to discuss the Lifestyle Auto Condos regarding park dedication and continue the Lakeshore Park concept plan review.

**C. Planning Commission**

Finke reported that the Planning Commission met the previous week to hold three public hearings. He stated that the Commission considered the Lifestyle Auto Condo PUD Concept Plan noting that the Commission questioned whether that type of development would align with the future vision of the area. He stated that the Commission also considered the sign ordinance amendments which are on the Council agenda tonight, recommending approval of the amendments with the noted changes. He noted that the Commission also reviewed the ordinance amendment related to the swimming pool setback from utilities and recommended approval.

**VII. PRESENTATIONS**

**A. Resolution No. 2021-71 Recognizing Public Works Operator Greg Leuer for 15 Years of Service to the City of Medina (7:11 p.m.)**

Martin read aloud the draft resolution recognizing Public Works Operator Greg Leuer for 15 years of service to the City of Medina. She thanked him for his service and for the great work that he does. She commented that residents have commented on what a pleasure it is to work with Leuer when they experience a problem with water.

Scherer stated that he has worked with Leuer since he joined Medina and recognizes the importance of Leuer's job. He stated that Leuer does a great job promoting the quality of the water he delivers and addressing any problems that arise. He stated that

Leuer always conducts himself well and assists in snowplowing and with road projects when needed. He stated that he appreciates having Leuer on the team, noting that Leuer answers his phone at all times of the day and night to provide assistance.

Leuer thanked Martin and Scherer for the kind words. He stated that he truly enjoys the work that he does.

Martin stated that Leuer will be presented with a formal copy of the resolution along with a token of appreciation.

*Moved by DesLauriers, seconded by Martin, to adopt resolution no. 2021-71 recognizing Public Works Water Operator Greg Leuer for 15 years of service to the City of Medina.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

**B. Long Lake Waters Association – Carp Removal Project Update (7:18 p.m.)**

Johnson stated that the Long Lake Water Association has been working with the neighboring cities to remove carp from Long Lake.

Ann Marie Grewal thanked Medina for partnering with the Long Lake Waters Association and the cities of Orono and Long Lake in attempting to address water quality issues. She stated that this past year they have focused on carp, which has an impact on water quality. She invited anyone interested to attend a virtual annual meeting of the Association on November 11<sup>th</sup>, where a more formal presentation will be provided. She explained that the process began in 2018 with a survey to count fish around the perimeter of the lake, which estimated 18,000 carp. She reported that level is five times above the threshold at which water quality is impacted. She stated that the Minnehaha Creek Watershed District initiated a tagging and monitoring program in 2019 in an attempt to determine movement of the carp. She stated that they found that the fish in Long Lake tend to stay in Long Lake. She stated that in 2020 they engaged with Carp Solutions to review the movement and for the organization to make recommendations on how to best reduce the carp population. She stated that they again engaged Carp Solutions in 2021 and the box netting removal process was proposed. She stated that two nets were installed in June on the east and west sides of the lake and provided an update on that process. She stated that three hauls were completed on both nets resulting in a total of 1,100 carp were removed. She summarized the results of the carp removal that was completed through box netting. She advised that through this process they were able to refine the original estimate to a much lower number of about 6,000. She explained that the carp in Long Lake congregate around the perimeter and not the middle, therefore the original method of calculating the total number of fish was incorrect. She stated that it is encouraging that the work they are doing to remove carp will provide a material difference and the population can continue to be reduced to a point where the carp are not impacting water quality.

Martin thanked Grewal for the presentation.

Albers asked the long-term solution. He stated that while it is great to reduce the number of adult carp, he would be interested in whether there are recommendations to address spawning.

Grewal stated that it is her understanding that there are very few juvenile carp coming back into Long Lake. She commented that the weir has been successful in preventing the carp from coming into Long Lake to spawn. She noted that the carp will be tracked in their spawning area near County Road 6 and will plan to address that spawning area as well.

## VIII. OLD BUSINESS

### A. **BAPS Minneapolis LLC – 1400 Hamel Road – Site Plan Review for Approximately 46,000 Square Foot Building including Assembly, Classrooms, and Ancillary Spaces (7:37 p.m.)**

Johnson stated that this item was tabled from the October 5<sup>th</sup> meeting where the application was reviewed and direction was provided for staff to work with the applicant to provide additional details related to landscaping, details about the spires, and how those elements related to the City's building height regulation.

Finke displayed the updated landscaping plan, noting that 13 additional trees were added to the western property line. He stated that the plan does meet and exceed the requirements of the business park zoning district. He stated that if additional landscaping is desired for the west, they could be relocated from other areas of the site, but staff would not recommend additional landscaping be added. He stated that additional renderings were provided of the spires and included in the staff report. He provided details on the maximum building heights within the zoning district and how that is calculated pertaining to the roof structure. He stated that the report includes potential interpretations of how the spires could be treated and considered. He stated that staff felt it would be reasonable to conclude that the spires are not specifically addressed within the definition of building height as they are not a functional part of the roof but instead an architectural element. He stated that if there is no allowance for architectural elements to exceed the building height, perhaps the City not allow for those elements to exceed the building height. He explained that interpretation would not follow past practices and provided examples. He stated that it would be fair to say that these elements exceed further past the roof line than other architectural elements and may be larger than other elements with the exception of the bell tower and steeples are two churches noting that those elements predate that height requirements of the City. He stated that the Council could determine that a review and update of the zoning code would be necessary in order to address architectural elements and advised that a moratorium could be enacted to allow time to address the issue along with an interim ordinance. He stated that if the current regulations are used, staff would recommend approval of the request. He stated that if the Council feels that additional study is needed, staff would suggest an interim ordinance.

Steven Graffunder, attorney representing applicant, stated that he has been working with BAPS for the past few years in their search for a site to be a potential new home for them. He stated that the organization has been located in a one level building in

Brooklyn Park that was previously a Salvation Army, so not the ideal religious institution site. He recognized that there has been a lot of discussion about the spires, noting that the proposal calls for three spires. He stated that only the middle spire would be at the height of 50 feet, while the other two would be of lesser height. He stated that the spires have religious significance to BAPS and are not just decorative. He stated that updated renderings were provided along with photographs of similarly designed facilities in other locations. He stated that he agrees that there is no specific permission or prohibition within the City Code of Medina. He stated that he looked at the zoning ordinances of neighboring communities. He reviewed details of a similar temple in Maple Grove and noted that the code for that City exempts church spires from the height calculation. He stated that Corcoran and Wayzata would also allow spires of that height. He stated that the staff report mentioned flags, noting that the flags also have religious significance to BAPS. He stated that if the flags are moved, they lose that religious significance. He stated that the flags are not located on freestanding poles and are instead located on the top of the spires. He stated that they are seeking approval tonight from the Council. He stated that they would not want a moratorium or for the request to continue to be tabled. He stated that the landscaping was discussed at the last meeting and additional trees were added along the western boundary. He stated that it is Hindu heritage month in the State of Minnesota, and this would be the perfect time for Medina to reaffirm its commitment to diversity and inclusivity by approving this Hindu temple and providing a permanent home for BAPS.

Martin commented that in her opinion, this is not an issue of diversity or inclusion. She stated that the members of the Council are very inclusive and have an appreciation for diversity and religious expression. She stated that this is an issue of the building code and what is permitted in the business park zoning district.

Albers echoed the comments of Martin. He stated that he did not appreciate the comment included in the narrative from the applicant, as it seemed to imply that the City was not committed to diversity and inclusion.

Martin commented that it was helpful to have staff's deep dive into the zoning code. She stated that the applicant stated that these are not just architectural features but intrical to dedicating the building as a place of worship. She stated therefore perhaps these are a part of the building and subject to the height requirement.

Graffunder replied that when reviewing other communities, church spires are not included in building height calculations. He stated that steeples and bell towers are just as important for Christian churches as the spires are for a Hindu temple.

Martin clarified that the Medina code does not speak directly to that issue and therefore what other communities consider is not germane to this situation.

Graffunder stated that when studying an issue, should staff review the ordinances of other cities.

Martin stated that if the Council adopted a moratorium, it would review the ordinances of other cities, not just those mentioned by the applicant. She stated that she was also struck by the signage discussion in the staff report. She stated that the applicant stated at the last meeting that certain features are used to identify the structure as a place of

worship. She stated that she was then struck by the definition of a roof sign and perhaps the spires are more like signs than part of the building.

Graffunder stated that is an overly broad interpretation of the sign ordinance to say the spires are signs. He stated that the average person would not consider a spire to be a sign.

Martin stated that if the issue were to be studied further, she would want additional information on when elements are allowed and when they are not.

Batty stated that whether the spires or flags have religious significance is irrelevant. He stated that when dealing with religious institutions there is federal law, RLUIPA, that the City also must be cognizant of, which is intended to prevent discrimination against religious institutions. He stated that while that law is meant to ensure religious institutions are not treated unfairly, it also means that those institutions must be treated the same as other applicants. He believed that the spires and flags should be treated as architectural elements, which is not currently defined in the City Code. He stated that while many communities have exemptions for spires, steeples and other church features, the Medina Code currently does not have that exemption. He stated that a lot of time and effort has been put into this review by staff. It was determined that the spires would not be considered to be part of the roof and there is no provision in the Code that currently deals with these features. He stated that the Council must determine how it would handle this decision. He stated that the decision could be made to state that there is no prohibition against the features at this time. He stated that the Council could also direct staff to prepare a moratorium in order to study these issues and determine whether the ordinance should be revised. He stated that action would then be taken on the application after the study process is completed.

Martin stated that even if the Council moves forward with approval, the Council could still begin working on addressing how architectural features should be restricted, approved, or considered in various zoning districts. She commented that there have been significant additions to the landscaping plan and asked for comments from the Council as to whether the landscaping is acceptable.

Albers agreed and applauded the applicant for adding those elements.

Cavanaugh agreed with the comments of Albers.

Reid stated that she was also happy with the additions.

DesLauriers commented that he appreciates that the applicant added the 13 trees and went above the requirements on landscaping.

Martin agreed. She stated that she would conclude that the spires are not specifically addressed with the Code and confirmed the agreement of the other members of the Council. She reviewed the three possible actions the Council could choose. She asked if any members of the Council agreed with the possible finding that the spires could not exceed the building height of 35 feet.

Albers commented that he did not agree with that.

DesLauriers commented that he would also not agree, as there are architectural elements that exceed allowed building height throughout the City. He stated that in the previous review most of the discussion of the spires was related to height and the conclusion that they did meet City Code. He stated that in the new renderings the flags have been added and asked the height of those flags.

Graffunder replied that he understands the flags to be an additional three feet above the spires.

Martin commented that the flags were shown on previous renderings but confirmed that the discussion focused on the height of the spires. She noted that the City also has a flagpole ordinance and as she understands it, a flagpole cannot exceed 50 feet in height.

Finke commented that the ordinance actually has a maximum height of 40 feet and no more than three flags. He stated that condition has been added to the recommended conditions.

DesLauriers asked if the flag, as shown, would be 50 feet or 53 feet.

Finke stated that as shown the height would be 53 feet. He stated that the applicant has since lowered the two side spires but was unsure of the height. He stated that the staff recommendation would require the flags to be no taller than 40 feet.

Reid commented that she does not believe the City needs to apply the first option, requiring the spires to be no taller than the allowed building height. She commented that this is an unusual situation, and the City has other unusual situations, such as church steeples.

Cavanaugh agreed that the application requiring a height of no taller than 35 feet for spires would be appropriate in this situation.

Martin reviewed the other two options the Council could proceed with, to enact a moratorium and study how these building elements would be regulated, applying the conclusions to this application or to approve the site plan as presented subject to the 18 conditions within the staff report. She noted that if approved, the Council could still choose to study the topic further. She asked the preference of the Council.

Cavanaugh stated that he would tend to approve the request tonight and then take a deeper look into the topic.

Albers commented that he would lean more towards the moratorium to study the issue further and find conclusions prior to consideration of this application. He stated that if approved, this would set precedent.

DesLauriers agreed with the comments of Albers and supported that position as well.

Reid stated that she would be comfortable approving the request tonight. She did not believe this was a big enough issue on future or past projects that a moratorium would be needed. She believed that the City should look into this matter later but would be comfortable approving the request.

Martin asked if Albers and DesLauriers would be comfortable approving the request if there is a commitment to review the matter further.

Albers stated that he would still lean towards a moratorium.

DesLauriers stated that he would also lean towards a moratorium as he does not have knowledge that states there are no other applications under review that could impact the building code related to architectural elements.

Cavanaugh asked if staff could comment on that.

Finke replied that as far as he knows there are no pending land use applications that would have this issue. He stated that there are permits that have been previously approved with similar elements, such as the AutoMotorPlex next door that has architectural elements exceeding the roofline.

DesLauriers commented that in the near future there would be another Autoplex constructed that would most likely desire similar heights, and therefore that could be a consideration.

Finke stated that is at concept level at this time and shows flat roofs. He stated that the maximum height in that zoning district is 30 feet, and that request is a fair distance away from a formal review. He stated that an interim ordinance could be enacted at any point in the future.

Martin asked if that other proposed development would be a PUD.

Finke confirmed that would be a PUD and therefore flexibility could be addressed in that manner.

Martin asked how long staff believes it would take to study the matter and present a proposed ordinance for the Planning Commission and Council to review.

Finke stated that it would depend on the priority given versus the other things staff is working on. He stated that it would be fair to say it would take more than a couple months to get through that process.

Johnson commented that Finke has a lot on his plate already and therefore bringing something back to the Council in December would be tight. He stated that January might be more accurate.

Finke agreed that January would probably be the earliest they would be back to the Council if that is the direction.

Martin again asked the Council for input with that additional information.

Reid stated that she is still comfortable approving this tonight and examining this issue later. She stated that this is an unusual situation and staff has reviewed the issue of height from every angle.

Cavanaugh stated that he is also comfortable moving forward.

Albers stated that his concern would be ensuring that the City has the standards from a building perspective in the ordinance, and a moratorium would allow for that. He noted that a few churches were built before the ordinance was enacted which created this hole in the ordinance. He stated that if the process follows that path, the applicant would then conform to the standard set. He stated that perhaps the decision is to be more or less restrictive and believed that the standard should be set before completing the review.

DesLauriers stated that he is struggling with this decision. He stated that while he agrees with the comments of Albers, the first bullet states that the moratorium would protect the planning process. He stated that the plan brought before the Council looks great, but there is one issue that needs to be resolved. He stated that he continues to lean towards the moratorium, but it is a tough choice.

Martin agreed that it is a difficult decision. She stated that other landowners have objected to the height of the spires and therefore the City could be exposed to claims that the City permitted something that was not permitted by Code. She stated that as much as she would hate to do so, she would support the moratorium, wanting to move as quickly as possible through that process to prevent the applicant from being further delayed.

Graffunder stated that this property is under a purchase agreement that has contingencies and a due diligence period that will expire if this review is postponed for three to six months, and therefore it would be likely that this project would not go forward if a moratorium were enacted.

Martin appreciated those comments.

Batty provided the actions the Council could choose to take tonight. He stated that if the moratorium is chosen, the City could issue an extension for the 60-day review period and the applicant could then either choose to provide an extension until the moratorium is completed, the application could be withdrawn, or the application could be denied at that time because it is in conflict with the moratorium.

*Moved by Reid, seconded by Cavanaugh, direct staff to prepare a resolution granting approval of the site plan review subject to the conditions noted in the staff report.*

*Further discussion: Cavanaugh noted that while he seconded the motion, he also recognizes that three members of the Council would prefer the moratorium.*

*A roll call vote was performed:*

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

***The motion failed.***

*Moved by Albers, seconded by DesLauriers, to direct staff to prepare a moratorium in respect to architectural features as related to building height to be brought back at the next meeting.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

Martin invited the applicant to share any information it had gathered from other communities to help expedite the study process.

Martin briefly recessed the meeting at 8:42 p.m.

Martin reconvened the meeting.

## **IX. NEW BUSINESS**

### **A. Ditter Cooling, Heating and Electric – Sign Ordinance Regulations – Text Amendment (8:53 p.m.)**

Johnson stated that the applicant is requesting various amendments to the sign ordinances as they believe the existing regulations would impact the effectiveness of the dynamic display sign they would like to install.

Finke stated that there are a series of changes proposed, noting that a number of the changes apply specifically to dynamic display signs. He reviewed the proposed change to allow a larger size and increased height for freestanding signs. He stated that the proposed changes would match what is allowed in the commercial highway district, noting that the Planning Commission suggested applying the change for properties adjacent a principal arterial roadway. He stated that the Council could also choose to apply the change to properties adjacent to all arterial roadways rather than only principal arterial roadways.

Martin asked for the input of the Council on this proposed change.

Albers stated that he has no issue with the changes and would agree to apply the change to all arterial roadways.

Reid commented that she would prefer to limit the changes to principal arterials.

DesLauriers stated that he agrees to only apply the change to principal arterials.

Cavanaugh also agreed that the change should only apply to principal arterials. He believed that properties along CR 116 should have different requirements than properties along Hwy 55, referencing a business park on CR 116.

Finke clarified that the business park on CR 116 is a PUD and therefore has its own regulations related to signage.

Martin also agreed that the change should only apply to principal arterials.

Albers stated that with the additional information provided through discussion, he would also support the change only applying to principal arterials.

Finke stated that the next proposed changes would apply specifically to dynamic display signs. He reviewed the existing regulations related to the allowed percentage of the sign which can be dynamic display and the change proposed by the applicant relating the percentage to the speed of the roadway. He stated that the applicant is aware that some cities are considering amendments to their codes as well and provided information on regulations from other communities. He stated that for dynamic display the applicant is proposing to increase the allowed size of dynamic display portion of a sign and to remove the height limitation specific to dynamic display which would then leave the height of the sign to fall under the limitation for signs under the zoning district. He stated that while staff did not oppose the change to the allowed height, the Planning Commission suggested a maximum height of 15 feet for dynamic display signs. He stated that the applicant proposes to change the duration of messages from 60 seconds to 30 seconds, although noting that this was the lowest priority change from the applicant. He stated that the Planning Commission recommended an increase in size for the dynamic display portion of the sign from 32 square feet to 40 square feet.

Martin stated that she agrees with the Planning Commission almost completely on all the recommendations within the report. She confirmed agreement of the Council with all the recommended changes.

Finke stated that the change to V signs is a more technical change and provided additional description on the proposed change which would improve the viewing angle to the roadway. He stated that the change to residential entry signs is not related to the current applicant, but was proposed by the applicant's consultant, recommending that those signs be increased from 30 square feet to 32 square feet as it allows for easier construction with an increase from six feet to eight feet in height to ensure visibility when there is snow or landscaping. He stated that the last change was a typo which had sunrise and sunset in the wrong positions within the existing ordinance.

Martin stated that she found all the recommended changes to be acceptable. She confirmed that all members of the Council agree with the proposed changes as described.

Finke provided details on the changes requested by the applicant compared to the recommendations of the Planning Commission. He stated that representatives from Ditter were not available tonight but have stated that they would not move forward with the sign they proposed if the changes from the Planning Commission were recommended rather than what they had proposed. He stated that the Council can provide their direction to staff and Ditter could speak at the next meeting when the resolution is presented for consideration. He noted that the consultant that worked with Ditter is present on the call and could provide input.

Cavanaugh stated that the whole process has been driven by the applicant and it sounds like the limitation on square footage would prohibit them from installing their desired sign. He stated that perhaps it would make sense to delay until the applicant could be heard from, as there is nothing else driving this request.

Martin invited the applicant's consultant to speak.

Mike Casbalm, consultant representing the applicant, stated that he agrees that it would make sense to allow Ditter to provide input before making a decision. He stated that he appreciated the ability to speak openly with Finke throughout the process of drafting these proposals, as that is not always the case. He stated that the 55 square foot size proposed by Ditter is the smallest size they would like in order to effectively communicate their message. He stated that as a sign consultant he does support the other changes but specific to Ditter, he can understand why the business would not have interest in installing a sign that would be more of a distraction versus an effective method of communicating their message.

Martin commented that it seems like the Ditter property is uniquely challenged given the location and topography. She stated that the Council is concerned with having Highway 55 and CR 12 lit up with large display signs. She asked if there would be a possibility that the Ditter property could seek a variance to the sign code, once enacted, given the configuration of the property.

Finke stated that may be an option. He stated that the applicant probably started on that path and was directed to this path to address the matter more broadly because the property is not unique and would apply to all the properties west of 101 to Willow Drive because of the location of the railroad tracks. He stated that perhaps there could be for a provision for a larger sign for properties separated from Highway 55 by a railway, therefore a variance would not be necessary and would apply to the properties along the corridor.

Reid stated that she would agree with that method.

DesLauriers stated that he does not have an appetite for that allowance. He stated that there are enough distractions along Highway 55, and he is not interested in larger signs.

Cavanaugh commented that he did not see a big difference between 40 feet and 55 feet. He commented that he does not see the Medina Entertainment sign as a big distraction and would support the additional allowance.

Albers commented that he agrees with the comments of Reid and Cavanaugh and did not see a problem increasing the allowed size for the properties south of 55 that involve the railroad tracks.

Martin commented that there is a majority of the Council that would allow for a larger sign size for the commercial properties south of Highway 55 and south of the railroad tracks.

Finke stated that staff can provide more specific analysis about that distance and allowed size.

Cavanaugh commented that signage is an important element of a business and if a business is stating that 50 or 55 square feet would help them be successful, he is willing to listen unless there is a strong safety reason behind not allowing the change.

Finke commented that the ordinance is not prepared for action tonight and staff can use the feedback gathered to draft proposed language.

**1. Ordinance Amending Regulations Pertaining to Signs; Amending Chapter 8 of the City Code**

*Moved by Cavanaugh, seconded by Albers, to direct staff to update the ordinance pertaining to signs as recommended by the Planning Commission with the change to allow more dynamic sign area for commercial properties located south of Highway 55 and abutting the railroad right-of-way.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

**B. Ordinance No. 676 Amending Required Swimming Pool Setbacks from Utilities; Amending Chapter 8 of the City Code (9:29 p.m.)**

Martin stated that the Council has read the memorandum from staff included in the Council packet. She noted that it seems like this is a request to differentiate between the setbacks for underground utility lines and overhead utility lines. She stated that the proposal would be that swimming pools must be a minimum of 18 feet from the overhead utility line and must be located a minimum of five feet from underground utility lines. She stated that staff and the Planning Commission recommend approval of the revised ordinance to differentiate between the overhead and underground lines.

*Moved by Reid, seconded by DesLauriers, to adopt ordinance no. 676 amending required swimming pool setbacks from utilities; amending Chapter 8 of the City Code.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

**1. Resolution No. 2021-72 Authorizing Publication of Ordinance No. 676 by Title and Summary**

*Moved by Reid, seconded by DesLauriers, to adopt resolution no. 2021-72 authorizing publication of ordinance by title and summary.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

**C. Mark of Excellence Homes – Weston Woods of Medina – Final Plat – North of Highway 55 and East of Mohawk Drive (9:32 p.m.)**

Johnson stated that the applicant is requesting final plat approval for Weston Woods of Medina.

Finke presented the final plat request and potential adoption of the Comprehensive Plan amendment. He noted that the preliminary plat was adopted in January of 2021 and reviewed the details of the mix of housing units and preserved wooded area. He stated that the Comprehensive Plan amendment was conditionally approved 18 months prior, contingent upon final plat approval and a development agreement that specified the public improvements. He provided details on the public improvements which include the construction of the Chippewa Road extension and construction of a watermain. He stated that the purpose of the final plat review is to review the final plat against the preliminary plat for consistency and to ensure the conditions of preliminary plat have been, or will be, met. He displayed the layout of the plat, reviewed the landscaping plan, and preserved wooded area. He stated that the lot layout is essentially the same with the addition of easements and other necessary items. He referenced the conditions which are reviewed in detail in the staff report. He noted that a number of those conditions would be recommended to continue forward as part of the final plat and/or development agreement. He provided a brief review of the conditions that would be applied to the different housing products, wetland buffers, and tree replacement. He stated that if the Council finds that the final plat is consistent with the preliminary plat, and that the conditions have or will be met, there are three actions before the Council. He stated that if the Council supported the waiver for tree replacement, the development agreement would need to be amended to reflect that action. He provided additional details on the proposed construction of the Chippewa Road extension and related wetland impacts, noting that the Council has already reserved the wetland credits. He stated that the development agreement states that the City would fund the wetland credits while the applicant would fund the construction of the roadway; therefore, the final action would be to authorize the purchase of those wetland credits.

Martin suggested that the Council review each of the topics mentioned for discussion.

Cavanaugh asked if the design presented in preliminary plat would be locked into the final plat through ghost platting or whether the townhome portion would come in from scratch when that comes forward for development.

Finke replied that the general lot alignment was approved as a piece of the preliminary plat, therefore the expectation would be that the layout would continue to be similar. He stated that there were a number of conditions upon preliminary plat that would suggest

some changes to the layout to improve circulation and provide a potential connection to Chippewa Drive. He stated that there were general architectural renderings at preliminary plat which were subject to additional conditions created by the Council.

Martin confirmed consensus of the Council to allow the delay as requested on the townhome development.

Finke stated that the next issue would be the minimum architectural standards for the twinhome and single-family home products. The Council confirmed consensus in support as presented.

Martin moved to the alternative wetland buffers as proposed for certain areas and confirmed that the Council did not have concerns with what was proposed. She moved to tree replacement, noting the large amount of tree removal. She asked for clarification on what would be required if the tree removal required for the Chippewa Road extension is excluded.

Finke stated that the replacement is by inches, but if they want to use round numbers for the sake of discussion, the Chippewa trees would equal about 12.5 percent.

Martin stated that she appreciates why boxelders are not considered a prized tree but is finding it hard to say that ash trees would fall into the same category. She commented that she thought the City was light on the tree replacement or requirement for contribution into the tree fund.

Albers agreed, noting that there are a lot of trees that will be removed on the site, which was a bit shocking. He asked if boxelders are being removed because of Chippewa Road or whether they are spread around the site.

Finke clarified that the boxelders were not differentiated but staff could do so. He stated that there probably were boxelders along Chippewa but there are boxelders throughout the site.

DesLauriers asked if there is a revised number based on that information. He stated that the report mentions replacement of 1,350 2.5-inch trees and asked if there is a reduced number removing the Chippewa trees.

Finke provided clarification on the reduced number that would be required using that formula.

Martin asked the total number of lots.

Finke replied 150 lots.

Martin asked if the City requires a minimum of one front yard and one backyard tree.

Finke confirmed that two trees are required per lot, although townhomes have a different requirement.

Martin asked the number of twin and single lots.

Finke replied that there would be a total of 118.

Martin noted that the applicant would then be planting 236 trees for those lots.

Finke stated that the applicant's narrative describes their planting plan.

Bill Griffith, representing the applicant, stated that 1,144 total trees would be preserved, and 493 trees would be planted. He noted that 75 of those trees are above the minimum landscaping requirements. He provided comments on the tree replacement waiver requirements, noting that all of the best management practices mentioned were employed in this development request. He stated that the context of this development is related to the significant benefits that would be provided to the public including the construction of the Chippewa Road extension, construction of the watermain, and the preservation of the wooded area as open space for the public. He stated that all of those things are above what would be required. He noted that imposing additional tree replacement upon this development would be burdensome. He stated that they also have an arborist designing a management plan for the preserved trees to ensure their health and survival.

Martin stated that the ordinance does provide an option for a waiver if the applicant has exhausted all alternatives for the development site and follows all best management practices. She stated that staff did find that the applicant implemented the design practices on the site and the request of the applicant is therefore reasonable.

Reid stated that the applicant has gone above and beyond requirements in so many areas and therefore she would support the waiver request.

DesLauriers commented that with the additional background provided by Griffith, he would support the waiver.

Cavanaugh commented that he has been on Chippewa many times over the years and there are a lot of pioneer trees. He stated that there are a large number of trees and asked if there have been any previous projects that removed a significant number of trees and whether a contribution was required in return.

Finke stated that there was a partial waiver issued in that other development request. He stated that even with all the design elements taken into account, tree removal may still be necessary. He stated that if the design attempts to save as many trees as practical and the property is designated for development at that density, the waiver is a tool to fill that gap.

Cavanaugh asked if the property developed along 116 provided a contribution for nonreplaced trees.

Finke replied that property did make a financial contribution.

Cavanaugh stated that if there is a precedent that has been set, he would favor continuing to follow that precedent.

Martin stated that she would counter that statement noting that the 116 project did not provide the additional public benefits that this development will provide in terms of

infrastructure development and additional management of the trees preserved in the public open space.

Cavanaugh commented that those are valid points. He noted that the difference is that this property received changes in zoning and staging period.

Mark Smith, applicant, stated that one third of the caliper inches being removed on the site are a result of Chippewa Road, noting that the width of Chippewa will increase through this project. He stated that in essence the waiver would apply to only about 400 trees. He stated that they have implemented a number of design changes in order to save funds on the wetland credits that are necessary for the road project. He stated that staff has been great to work with throughout the past four years on this process.

Reid stated that she supports the final plat.

DesLauriers commented that he supports the waiver for tree replacement.

Albers stated that he also supports the tree replacement waiver.

Martin commented that she also supports the waiver as requested.

Cavanaugh stated that if there is a strong inclination to approve the waiver without compensation, he can support that but would be hesitant to deviate from past precedent.

**1. Resolution No. 2021-73 Adopting the Weston Woods of Medina Comprehensive Plan Amendment**

*Moved by DesLauriers, seconded by Albers, to adopt resolution no 2021-73 adopting the Weston Woods of Medina Comprehensive Plan Amendment.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

**2. Resolution No. 2021-74 Granting Final Plat Approval for Weston Woods of Medina**

*Moved by DesLauriers, seconded by Reid, to adopt resolution no. 2021-74 granting final plat approval for Weston Woods of Medina.*

*A roll call vote was performed:*

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

**Motion passed unanimously.**

**3. Planned Unit Development Agreement by and between the City of Medina and Mark R. Smith and Kathleen R. Smith for Weston Woods of Medina**

*Moved by DesLauriers, seconded by Reid, to approve the Planned Unit Development Agreement by and between the City of Medina and Mark R. Smith and Kathleen R. Smith for Weston Woods of Medina, modifying the tree preservation requirements to reflect waiver requested by the applicant and as approved by the Council.*

*A roll call vote was performed:*

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

**Motion passed unanimously.**

*Moved by DesLauriers, seconded by Cavanaugh, to authorize the payment of the wetland credit purchase for the Chippewa Road construction as specified in the staff report.*

*A roll call vote was performed:*

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

**Motion passed unanimously.**

**X. CITY ADMINISTRATOR REPORT (10:20 p.m.)**

Johnson stated that staff is requesting the Council call for a special meeting with OSI on October 26<sup>th</sup> at 9 a.m.

*Moved by Martin, seconded by Cavanaugh, to call for a special meeting with OSI on October 26, 2021 at 9:00 a.m.*

*A roll call vote was performed:*

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

**Motion passed unanimously.**

**XI. MAYOR & CITY COUNCIL REPORTS (10:21 p.m.)**

Martin stated that she attended the west metro mayors meeting recently and encouraged other members of the Council to rotate in attendance. She stated that there was a presentation from Hennepin County Commissioner Anderson on the plans for the County to spend its allocated ARPA funding. She stated that Marge Beard also spoke in representation of Three Rivers Park District on the District's initiatives and grant opportunities. She also provided an update on the most recent meeting related to a potential fire district.

**XII. APPROVAL TO PAY THE BILLS (10:26 p.m.)**

*Moved by DesLauriers, seconded by Cavanaugh, to approve the bills, EFT 006109E-006116E for \$16,490.11, order check numbers 052088-052122 for \$112,645.71, and payroll EFT 0511362-0511396 for \$54,930.58.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

**XIII. ADJOURN**

*Moved by Cavanaugh, seconded by Reid, to adjourn the meeting at 10:28 p.m.*

*A roll call vote was performed:*

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

***Motion passed unanimously.***

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Kathleen Martin, Mayor

Attest:

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Scott T. Johnson, City Administrator