

**MEDINA CITY COUNCIL MEETING MINUTES OF MAY 4, 2004**

The City Council of Medina, Minnesota met in regular session on May 4, 2004 at 7:33 p.m. in the City Hall Chambers. Mayor Zietlow presided.

**I. ROLL CALL**

**Members present:** Workman, Lane, Zietlow, and Smith.

**Members absent:** Brinkman.

**Also present:** City Attorney Ron Batty, Public Works Director Jim Dillman, City Engineer Tom Kellogg, City Administrator Chad Adams, City Planner Josh Doty, and Recording Secretary Liza Weniger.

**II. PLEDGE OF ALLEGIANCE**

**III. ADDITIONS TO THE AGENDA**

*Moved by Lane, seconded by Workman, to approve the agenda as presented. **Motion passed unanimously.***

**IV. APPROVAL**

**A. Approval of the April 20, 2004 Regular Council Meeting Minutes**

It was noted on page 8, the fifth paragraph, the last line should state: "...has done everything except mowing the field."

*Moved by Smith, seconded by Lane, to approve the April 20, 2004 regular City Council Meeting minutes as amended. **Motion passed unanimously.***

**V. CONSENT AGENDA**

- A. Reschedule Wednesday, May 19<sup>th</sup> Special Meeting from 7:00 p.m. to 5:30 p.m. – Park Tour**
- B. Schedule Special Meeting to Discuss Highway 55 Corridor for Tuesday, June 1 at 6:30 p.m.**
- C. Approve Capital Purchase of Police Squad Car**
- D. Approve Hamel Well No. 4 First and Final Pay Request**
- F. Resolution Granting Final Approval to the Plat of Weber Heights**

Zietlow asked to remove Items E and G from the consent agenda.

*Moved by Smith, seconded by Workman, to approve the consent agenda. **Motion passed unanimously.***

**E. Approve Construction Cooperative Agreement with Metropolitan Council – Elm Creek Interceptor**

Adams stated that the consent agenda item is to nominate himself and Batty in the execution of the contract with the Metropolitan Council.

*Moved by Smith, seconded by Workman, to authorize Chad Adams and City Attorney Ron Batty to execute the Construction Cooperative Agreement with Metropolitan Council-Elm Creek Interceptor. **Motion passed unanimously.***

**G. Resolution Recognizing Volunteers for Medina’s Annual Clean-Up Day**

Zietlow stated that he would like Council to highlight the consent agenda item in order to recognize the volunteers of the annual Medina Clean-Up Day. Zietlow stated that a Scout group cleaned up twenty miles of Medina’s roads in which most of the volunteers were from the City of Plymouth. Smith stated that she thought it was fantastic that children from Plymouth helped clean the City of Medina.

*Moved by Smith, seconded by Lane, to recognize the Volunteers of Medina’s Annual Clean-Up Day. **Motion passed unanimously.***

**VI. COMMENTS**

**A. From Citizens on Items Not on the Agenda**

There were none.

**B. Park Commission**

Doty noted that the date of Wednesday, May 19, 2004 is scheduled for the annual Park Tour. A bus has been reserved for the tour. The tour begins at 5:30 p.m. at City Hall.

Adams stated that in addition to taking a tour of the parks, staff would attempt to document the comments from the park members for the purpose of creating a capital improvement plan for parks.

**C. Planning Commission**

Doty noted that there are four items on the Planning Commission’s Meeting agenda: Keller Subdivision request, uptown Hamel ordinance changes, Salt Storage CUP, and a discussion on whether the TIF plan is in compliance with the land use policy of the City.

**VII. OLD BUSINESS**

**A. Construction Consulting Services for Hamel Community Building**

Adams reviewed his memo which recommends Bonestroo, Rosene, Anderlik & Associates (BRAA) for the construction consulting and architect services for the Hamel Community Building as outlined in the Bonestroo RFP scope of services. Staff recommends that the hourly rates proposed to be executed as part of the services to be provided and that the services not exceed \$16,000. Staff acknowledges that if reasonable unforeseen circumstances occur through the construction phase, that additional compensation may be warranted. Staff is requesting that compensation for any additional services be presented to, and approved by the City Council.

Adams provided a copy of the most recent proposal from Bonestroo to Council members, which Adams stated he had received May 3, 2004. Adams stated that the proposal incorporates the architectural and the construction services noting that the cost and the number of hours had been reduced. The services will begin with the pre-construction meeting and continue until the occupancy stage.

Lane stated that he does not doubt the abilities of Bonestroo, but wanted his concerns noted on two issues. Lane stated that he was concerned that if the City engineering firm is going to perform the services, then the services could be folded into the scope of services that Bonestroo has proposed. Lane clarified that a separate fee schedule isn't necessary. Lane stated that his second concern was in regard to whom Bonestroo would side with (as the architect for the Lions, or as the consultant for the City) if a dispute should arise with respect to the interpretation of the plans and specs.

Lane stated that he simply wanted his concern to be noted as staff and Council had already recommended Bonestroo as the construction consultant.

Lane asked Kellogg if he knew how a conflict between his firm and Bonestroo would be handled if there was a major conflict with the interpretation of the plans and specs. Lane stated that he was concerned that the contractor may try to sue the City due to plans or specs discrepancies.

Kellogg stated that if the Council decides to move forward with the proposal, the City would remain as his client. Kellogg stated that he understood Lane's concerns, and will reassure Council that the City of Medina is the client.

Smith asked Batty for clarification on the current contract with Bonestroo with regard to whether a separate or amended contract would be necessary for the specific project.

Batty stated although he had not read the contract, he didn't feel as if there was a need for a separate contract, nor a reason to amend the contract. He stated that the new Hamel Community Building project is simply an add-on to existing contractual services. The City would not have to modify the contract. He recommended that City indicate a cap fee of \$16,000 and continue to receive/pay bills from Bonestroo as normal.

*Moved by Workman, seconded by Smith, to approve the Scope of Services agreement with Bonestroo, Rosene, Anderlik and Associates at an hourly rate, not to exceed \$16,000. **Motion passed unanimously.***

Zietlow noted that he is trying to make a point of eliminating any potential change orders. Zietlow stated that all change orders would come before the Council so as to minimize the amount of change orders. Zietlow expressed that he hopes that there won't be any change orders, especially on a project this small.

Lane agreed with Zietlow stating that Bonestroo should be all right with Council's change order decision.

**B. Resolution Approving CSAH 29/Highway 12 Concept Plan**

Adams stated that the Council asked that this item be tabled until the Park Commission and Planning Commission had an opportunity to comment. The Planning Commission

approved the plan while supporting staff comments regarding the preservation of trees and limitation on widening the Right-Of-Way on Medina's border. The Planning Commission also desired more research on the option of moving the trail behind the Dairy Queen and connecting to the Baker Park Trail instead of in front of the Medina residents' properties along CSAH 29, particularly if any trees were to be removed along CSAH 29 Right-Of-Way. The Park Commission approved the concept plan, while recognizing that the trees along CSAH 29 ROW on Medina side should be preserved as much as possible from the proposed trail construction.

Adams stated Dick Krier, representing Maple Plain, is not present to talk about request.

Lane asked Dillman if he knew whether Hennepin County or Three Rivers Park would have the final decision on the location of the trail.

Dillman stated that both parties, and City, would together decide upon the trail location.

Lane stated that upon his own research, he walked the trail and found that just outside of the asphalt hiking trail, there is a riding trail for horses. And offset by fifty yards, there is a small deer or horse trail that goes up behind three residences of Medina. The trail travels behind Dairy Queen just as the Planning Commission would like to see. Lane stated that the plan seems possible and appears to be more pleasant. He recommended that it would be an appropriate time to discuss the trail alternative as the design plans come forward.

Smith asked if the County is subject to Medina's tree ordinance. Zietlow clarified that Medina doesn't have a tree ordinance, only a policy.

Smith expressed concern for the potential removal of the trees. Zietlow stated that the number one objective is to save the trees.

*Moved by Smith, seconded by Workman, to adopt Resolution No. 04-28 approving Concept Plan for County State Aid Highway 29.*

Zietlow stated that he wanted to make sure that the comments in regard to saving the trees were a part of the resolution. Adams clarified that it is in the resolution.

Smith asked to withdraw her motion in order to include verbiage that would amend the words "as possible" from the resolution.

*Moved by Smith, seconded by Workman, to adopt Resolution No. 04-28 approving Concept Plan for County State Aid Highway 29 with changes. The resolution would strike the words "as possible" from the third line of the third paragraph, and the third line of the fifth paragraph in the Concept Plan for County State Aid Highway 29.*

***Motion passed unanimously.***

### **C. Wetland Mitigation Policy**

Adams reviewed a memo from Jim Dillman and the draft Wetland Mitigation policy that Council requested staff to prepare. Staff will create a more formal brochure/handout that is more user friendly than the policy. Staff is seeking approval of the policy and authorization to commit to the two projects as Jim Dillman referenced in his memo.

Dillman stated that since the last Council meetings, Doty, John Smyth from Bonestroo, Dave Thill and Jim Kujawa from Hennepin County Environmental Services and himself reviewed four separate wetlands where the property owner has requested to participate in the City's program. Of the four, two had potential with one being an outstanding project. There is also a hold over project from 2003 that needs completion. The 2003 project is on the north side of Pioneer Trail adjacent to another mitigation project.

*Moved by Smith, seconded by Lane, to approve the Wetland Mitigation Policy.*

Lane asked Dillman if restoration falls within mitigation or if the subjects are two separate issues. Dillman stated that it was his understanding that if the City restores a degraded wetland, the City would receive a 25% mitigation credit.

Lane stated that Council would need to continually fine-tune the policy. The policy is to inform and educate residents, as well as provide credit to mitigate. The policy will continue to be a work in progress.

Dillman stated that the City staff has gone out and met with City residents to illustrate support for habitat and natural wetlands, not even to offer credit. The idea behind the policy is to provide technical contacts and support.

Adams suggested that the Council consider that instead of handing out the policy in its current form, that it would be distributed via brochure format, and perhaps placing the information on the City's website, or provide information at the Cabin Social.

Smith suggested providing pictures as a way to clearly illustrate the positive aspects of preserving/creating a wetland.

Lane stated that the Eisinger project would be a large and dramatic example for the City of what could be accomplished through the wetland mitigation policy. The project would be a super opportunity to preserve the area, preserve wetlands, natural area, and provide wetland mitigation to the landowner. Lane proposed that the City involve the best technical support in order to get the project properly underway. The project would be a golden opportunity to demonstrate how to keep the City green.

***Motion passed unanimously.***

*Moved by Lane, seconded by Smith, to approve expenditure of money to complete the Pioneer project and start Eisinger project upon execution of proper legal agreements for re-imbursement. **Motion passed unanimously.***

## **VIII. NEW BUSINESS**

### **A. Variances to Front and Side Yard to Allow Construction of Two-Car Attached Garage Addition at 3055 Lakeshore Avenue**

Doty reviewed his memo pertaining to the variance requests at 3055 Lakeshore Avenue. The applicants are requesting approval of two variances to allow 1) a 3.14 foot front-yard setback where 30 feet is required by the Zoning Ordinance, and 2) a 4.11 foot side-yard setback variance where 10 feet is required by the Zoning Ordinance. The variances would allow construction of an attached two-car garage in front of the existing two-car garage. The applicants would convert their existing garage into living space.

Doty summarized that at the March 9, 2004 meeting, the Planning Commission had reviewed and approved the variances upon a public hearing. In addition to the applicant, Bruce Whitehead, a property owner who lives south of the applicant spoke in support of the variance request. Staff is seeking Council approval of the variances.

Doty presented, via overhead, the site map of the zoned UR area, stating that along the Lake Independence area, there are a lot of garages that are not in compliance with current zoning. Doty stated that staff would like to point out that applicants request is not out of character, nor excessive, for the area; and that there is a City owned forty-foot wide path along the south right-of-way, which isn't currently being used. The request does meet the six requirements; therefore staff recommends approval of the variance.

*Moved by Workman, seconded by Lane, to approve the variances for Martha and Dick Wilkes and direct staff to prepare the final resolution.*

Smith stated that she drove by the proposed site and assumed that the garage door/garage would be along the street side.

Doty clarified that the edge of the road is set far enough back from the garage to allow room to park a car.

Smith asked if the Wilkes driveway would be on City property. Doty stated yes.

Doty stated that Wilkes' neighbors would mirror what Wilkes are proposing to do.

Smith stated that she was concerned that Wilkes would not have enough room to park a car. Doty stated that there is a distance of twenty-nine feet 29' from street to garage.

***Motion passed unanimously.***

#### **B. Liquor License Fees**

Adams stated that in January, the Council appeared interested in revising the Liquor License Fees. Adams informed Council that the City is required to give notice to the affected establishments of any fee increase proposals, at least thirty days prior to a decision/public hearing. Adams proposed the public hearing be set for the June 15, 2004 meeting, which is prior to the July 1, 2004 effective date of the new licenses for each establishment. Adams reviewed a previous memo from Ron Batty which outlines the licenses and fees, as well as a fee survey and police call report which was prepared a few months ago.

Adams stated that staff requests a proposed \$100 fee for the annual Off-Sale License, which is an decrease from \$150, as required by statute. Staff is seeking Council direction on proposed changes to the existing On-Sale Fee Schedule which includes:

- Class A: Greater than 9000 sq. ft. = \$6,000/yr.
- Class B: 3000 sq. ft. to 9000 sq. ft. = \$5,000/yr.
- Class C: Less than 3000 sq. ft. = \$4,000/yr.

Adams informed Council that Medina Entertainment Center and Rolling Green Country Club apply to Class A fee; Inn Kahoots and Big Woods Saloon apply to Class B fee.

Adams stated the most prominent discussion should be fee for on-sale liquor license.

Smith asked how square footages were figured in relation to figuring the appropriate license fee. Belland stated that square footages were based on footprint of the building.

Batty clarified that when the City grants a license, there is a license preference, and the establishment designates where they will sell liquor. The square footage is determined based on the amount of square footage the establishment designates for the use of selling and drinking alcohol.

Smith stated that she didn't think it was fair to charge fees based on a square footage fee schedule.

Zietlow stated that the fee schedule was based on a fairness issue. The square footage quotient was a simple, legal way to assess fees.

Smith initiated a discussion based on her proposal for a user-fee permit in regard to best determining the fee policy of a liquor license. Discussion between Smith, Lane, and Zietlow ensued on whether the determination of the Liquor License Fee should be based on recovering the costs for safety/police service calls. Alternate forms of license fee were discussed which included charging a license fee based on the dollar value of liquor sales, adding an additional tier to the current fee schedule, and issuing an extra fee to the establishments who wish to remain open until 2:00 a.m.

Workman stated that he felt it would be counterproductive to charge a license fee based on the amount of police calls, via a "user-fee", as the establishments would perhaps deter employees from making calls in order to prevent a high license fee. Belland agreed with Workman.

Workman stated that if the City of Medina doesn't have enough revenue, then the license fees should be raised.

Smith stated that it was her concern that the City of Medina recover what the City expends on police and safety calls.

Zietlow stated that the businesses don't seem to have a problem with the fee schedule, clarifying that the establishments are given the option to reduce their square footage in order to lower their amount of the license fee.

Zietlow asked Belland if any of current businesses have requested to remain open until 2:00 a.m. Belland stated Medina Ballroom and Inn Kahoots have made the request.

Workman stated that he is interested in looking at changing the policy, but wants to discuss something fair.

Zietlow asked for Batty's knowledge on how other cities determine their rate. Batty stated that he wasn't aware of how other cities have come to determine fee schedule.

Workman stated that since none of the local establishments have complained about the liquor license fees, perhaps the Council's discussion isn't relevant.

Smith asked for square footages of each establishment. Belland stated that the square footage numbers for each of the establishments were available on their applications.

Adams stated that regardless of what the Council Members decided to do tonight, staff recommends Council to schedule a Public Hearing for Tuesday, June 15, 2004, and accept the proposal.

Adams stated staff will send notices of public hearing to affected establishments.

*Moved by Lane, seconded by Workman, to proceed to a Public Hearing on the proposed fee schedule for June 15, 2004. **Motion passed unanimously.***

## **IX. REPORTS**

### **A. City Administrator Report**

#### **1. Hamel Water System Treatment – Public Meeting Feedback**

Adams reviewed his report to the Council pertaining to the two water public meetings that were held in past few days. The April 29, 2004 meeting, held at the Rolling Green Country Club, had approximately fifteen residents in attendance, and the May 4, 2004 Public Meeting had twenty in attendance. The public meetings provided feedback in regard to health, radium, and financial issues. Staff noted that citizens wanted more information on financial proposals.

Adams provided a brief presentation via overhead of the proposed Hamel Water System Treatment Options. Water treatment options include: Pressure Filters capable of removing/reducing the gross alpha and radium from the system, a conventional iron and manganese removal Treatment Plant capable of removing radium and gross alpha, and Blending Water to reduce the amounts of radium.

The presentation included Financing Options: revenue bonds, existing fund reserves both from operating fund and/or trunk fund, existing user rate increases each year, trunk connection fee increase each year (new development), Drinking Water Revolving Fund (through MN Public Facilities Authority), and Grants. Staff recommends a discussion in regard to the philosophy of who should pay for the water treatment (today's users vs. tomorrow's users) be initiated.

Staff is looking for direction from Council on the next steps.

Workman asked Adams if conventional treatment plant would deliver a better product. Adams stated that the plant would be removing radium and gross alpha particles, as well as iron and manganese.

Workman clarified that the City would save money by installing the treatment plant. Adams stated that residents of Medina clarified as a benefit that they would not have to replace their fixtures as often.

Workman asked if the water system would strictly service the Hamel area. Adams stated that water treatment also might possibly include the Lake Independence Beach area, Loretto and southwest corner of Corcoran.

Workman asked if the Lake Independence Beach area had more water. Dillman stated that there is a higher iron content in the water at the Lake Independence Beach area.

Zietlow asked Adams as to the length of time being proposed for raising the user rates. Adams stated that the suggested rates of increase would occur for approximately seventeen to eighteen years.

Workman asked for clarification on whether the City currently applies an annual increase to the price of the water. Dillman stated that the increase has been between 1.95% and 2.35% each year.

Adams stated that Ehlers had proposed that the City of Medina should have been raising the rate at about 3% every year. Adams informed Council that Medina is the third from the highest city amongst 10 cities surveyed in relation to the cost of its water. Carver is almost two times as high as Medina due to connecting and user costs.

Workman stated that it was his opinion, based upon the feasibility of removing radium, that it would be most sensible to have Medina build a water treatment plant.

Workman stated that he felt it was important for Council to keep moving forward with the discussion. Council is initiating a long-term development plan for the City.

Adams stated staff is looking for action to set up a public hearing on June 15, 2004 which would allow time to advertise, research options and work with consultants.

Zietlow asked Adams if the estimated cost of the Water Treatment Plant was a firm 2.8 million dollar cost. Adams stated that the \$2.8 million figure came from Bonestroo and may be a little low based on existing design. Adams stated City would additionally need to look at how much of City-wide area the proposed water treatment plant would cover.

Zietlow stated that he felt uncomfortable calling a public hearing in which the discussion of financing would be ventured without having a firm construction cost determined.

Adams stated that Public Hearing would not be advertised until the end of May or beginning of June 2004.

Dillman clarified that cost and the size of the plan depends on the growth of the City and staff is trying to anticipate what the City will be doing in ten years. The current water system was originally built for Loretto and new water tower is located closer to Loretto.

Adams stated staff would be meeting with Corcoran regarding their desires to continue working with the City of Medina on future water and sewer service. Adams clarified that the timing for the discussion of the Hamel Water System Treatment is relevant.

*Moved by Smith, seconded by Workman, to proceed to a Public Hearing on June 15, 2004 for the discussion of Hamel Water System Treatment. **Motion passed unanimously.***

**2. Water Main Extension from Hamel Legion Park in Coordination with the Elm Creek Interceptor Project.**

Adams stated that staff would also like to address an opportunity for a water main extension from Hamel Legion Park as part of the existing work being conducted with the Elm Creek Interceptor project on Hamel Road.

Adams presented as part of the Hamel Water Treatment Supply discussion, the City of Medina Water Plan via overhead. Adams stated that a proposed 12 " raw water line would be placed in addition to the upgrade of the 8" water main that was just approved at the April 20, 2004 City Council Meeting. Adams stated that an answer from Council is needed by May 18, 2004 as the road project would begin soon. If Council was to approve funding, City could possibly save up to \$100,000 to perform the improvements.

Smith asked for clarification as to the timing of the proposed water line upgrade. Adams stated that if the City would wait eight to ten years in order to make the necessary extension, the upgrade would cost the City potentially \$150,000. The City would be saving money by performing the upgrade during the May 2004 road project, as the road will already be torn up

Dillman clarified that a proposal of \$40,000 has been provided to staff, further explaining that the pipe is expensive. Dillman informed Council that the contractor is not proposing to perform the water main extension as a favor for the City.

Workman asked if proposed upgrade would come from water fund. Adams stated yes.

Workman asked for clarification from Dillman on whether Council only needed to approve an additional \$20,000 in order to have both the water main extension and the Elm Creek Interceptor Project completed at the same time. Dillman stated yes.

*Moved by Workman, seconded by Smith, to approve additional funding of \$20,000 to complete the Water Main Extension project from Hamel Legion Park in Coordination with the Elm Creek Interceptor Project.*

Adams discovered that Council should not make a decision on the project until staff is able to get another quote.

Batty stated that the City does not have to bid any project under \$50,000 and could potentially move forward with the project based on at least two quotes received.

Zietlow asked Dillman if the discussion and approval could be tabled for the May 18, 2004 City Council Meeting.

Dillman stated that by tabling the approval to the following City Council Meeting, Council would be cutting the timing quite close to the time of the construction project, where the contractor would do both the dig and bury at the same time.

Lane stated that it was his opinion that Council should consider putting off making the decision as it isn't good business to jump into a decision with so little information. Lane informed Council that staff had only just brought the proposal forward. Dillman clarified that staff had informed Council of the impending project three months prior.

Workman withdrew motion.

Zietlow stated motion would be withdrawn in order to get more information and quotes.

### **3. Miscellaneous**

Adams stated that staff had received a letter from the Hamel Lions stating that they would not be able to consider making the donation for the 2004 Cabin Social fireworks.

### **X. APPROVAL TO PAY THE BILLS**

*Moved by Smith to approve the bills, order check numbers 26459-26522 for \$214,611.22, and payroll check numbers 18636-18659 for \$24,880.75. **Motion passed unanimously.***

### **XI. ADJOURN**

*Moved by Workman, seconded by Lane, to adjourn the meeting at 9:08 p.m. **Motion passed unanimously.***

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Philip K. Zietlow, Mayor

Attest:

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Chad M. Adams, City Administrator