

MEDINA CITY COUNCIL MEETING MINUTES OF AUGUST 16, 2005

The City Council of Medina, Minnesota met in regular session on August 16, 2005 at 7:04 p.m. in the City Hall Chambers. Mayor Workman presided.

I. ROLL CALL

Members present: Brinkman, Cavanaugh, Smith, and Workman.

Members absent: Weir

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Public Works Director Jim Dillman, Police Chief Ed Belland, City Planner Consultant Sarah Schield, City Administrator Chad Adams and Recording Secretary Cheryl Felix.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

Smith asked about the Sunday Metro-State article regarding water challenges. Adams stated the issue would be covered in the City Administrator Report.

IV. APPROVAL

A. Approval of the August 2, 2005 Regular City Council Meeting Minutes

It was noted on page 4, the 4th paragraph, it should state: "Cavanaugh asked what the inflation rate is."

*Moved by Brinkman, seconded by Smith, to approve the August 2, 2005 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

A. ~~Resolution Reaffirming Final Plat Approval for JJZ Addition~~

B. Table Business Subsidy Policy Public Hearing for Ryan Companies (Target) to September 6, 2005

C. Approve Lease Agreement with Konica Minolta Business Solutions

D. Approve Contract for Assessing Services

Adams asked to remove Item A from the consent agenda.

*Moved by Smith, seconded by Brinkman, to approve the consent agenda as amended. **Motion passed unanimously.***

Adams requested to include the old Resolution No. 03-34 and address of Navajo Road to Item A Resolution Reaffirming Final Plat Approval for JJZ Addition.

*Moved by Smith, seconded by Brinkman, to approve Resolution No. 03-34, Reaffirming Final Plat Approval for JJZ Addition on Navajo Road. **Motion passed unanimously.***

VI. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Adams noted the August 17, 2005 meeting has been cancelled. The September meeting will be held at the Hamel Community Building.

C. Planning Commission

Schild stated the Commission is working on ordinance updates as well as other issues. Items at the next City Council meeting include the Ryan final plat and related items.

VII. OLD BUSINESS

A. Suitable Soils Ordinance Amendment

Smith stated she is uncomfortable discussing this issue tonight because she has several questions for Lorsung who is not present. She noted she would not vote for an ordinance change without a public hearing because she wants residents to feel this is an open process. Adams stated Lorsung has explained the issues to him and other staff and recommended Council should discuss this issue regardless of Lorsung's presence.

Workman asked about the ordinance change. Batty stated a zoning ordinance change requires a public hearing and it was held before the Planning Commission. Septic system and subdivision ordinances do not require public hearings.

Smith stated subdividing land is critical in many areas; the heart of Medina must stay rural. She added she would make motions to deny requests until there is a clear understanding of the ordinance. Adams stated staff is delaying applications as best they can until the ordinance is cleared up. He noted Council is not approving the ordinance tonight, but on September 6th. He added there is time for a public hearing if Council chooses to do so. Workman advised to schedule a public hearing for September 6th.

Schild stated the issue is incompatibility with the ordinance and comprehensive plan. The document presented has been drafted with legal counsel review. She stated the question is the type of soil, including slopes. Flood plains, hardcovers, and wetlands, should be removed from the equation for now and will come back as future ordinance amendments. The attached soils list has been followed since 1999, which indicates many soils are acceptable with slopes greater than 6 percent although previous direction from Council indicated they do not want slopes greater than 6 percent. Staff feels strongly the City should operate in the same fashion as in the past.

Brinkman asked how steep 6 percent is. He added he thought 6 percent was put into the code early on for run-off and oxygenation of the septic systems. Kellogg stated it is a 6-foot rise in 100 feet.

Adams stated the comprehensive plan has been followed in the past, which is 6-12 percent. Schild stated Chapter 7, Section 720, Subd. 4 which speaks to land slopes not greater than 12 percent has been repealed but people are still utilizing it while others are using the soils list.

Brinkman stated with hardcover, a 5 contiguous acre lot split by a driveway would not be considering contiguous. He added a 10-acre lot would be hard to divide. Schield asked what minimum sized lots Council wants to see developed in residential districts. Schield stated hardcover has not been subtracted in the past.

Smith recommended reducing the 50 percent maximum for hardcover, which is excessive, to 25 percent. She added 25 percent might still be too much. Schield stated hardcover could be utilized as a tool to determine minimize lot size. A hardcover ordinance could be implemented with certain percentages so it is more pertinent to each district / development.

Workman stated for a house 25 percent is fine but if the property has animals the percentage will be close.

Smith stated the slopes issue is not important because the soils list is not changing. She asked for assurance the list that the City has been using will not change. She indicated the language of slopes should be taken out because it is confusing. Schield replied the list would not change.

Smith stated she has concerns regarding Page 3, Subd. 3 regarding 2 acres. Schield replied this area needs to be amended or removed.

Cavanaugh asked if the percentage applies only to pre-existing lots or lots being split. He added if someone buys a lot they may tear up the hardcover, i.e. driveway. Schield replied Council needs to specify.

Smith stated if the hardcover is torn up it is disturbed soil and cannot be counted.

Workman asked Staff to prepare a draft of the ordinance and bring back to Council for discussion. He indicated currently, it is hard to define what is being proposed.

Martha Van Deven, 1765 Medina Road, stated she is concerned with this issue and feels a public hearing would be appropriate. She believes there should be consistency in interpretation and does not want the City less rural than it is. Workman stated the comprehensive plan protects the core of the City but the north and south transportation corridors do not have the same restrictions.

Smith stated 826.26.1, Subd. 2(c) needs clarification regarding not exceeding 40 percent and 10 percent of a lot area. She suggested it just say 50 percent.

*Moved by Brinkman, seconded by Cavanaugh, to direct Staff to prepare a draft of the ordinance. **Motion passed unanimously.***

Smith requested Staff provide supplemental material referenced such as Rule 7080 at the next meeting.

Lenny Leuer, 3625 Chippewa Road, asked for clarification of the material requested. Smith stated the entire ordinance and supplemental material should be provided, otherwise something might be taken out of context.

Schild stated she is unsure Staff will be able to complete this by September 6th. Batty stated Staff could exercise judgment on what is relevant, suggesting Subdivision 820. He noted it is always a judgment call how big of a snapshot to review but it should be enough to understand what is changing. He added more could be brought to Council if initially not enough.

B. Final Plat to Create One New Lot – Ron Musich, 2715 Pioneer Trail

*Moved by Smith, seconded by Brinkman, to table the final plat to create one new lot – Ron Musich, 2715 Pioneer Trail. **Motion passed unanimously.***

VIII. NEW BUSINESS

A. Uptown Hamel Public Improvements

1. Award Contract for Uptown Hamel Street and Utility Improvements

Adams stated research has been done and the service line connections to the underground electric burial is not included in the cost and is very expensive. He added awarding the contract does not directly include underground burial costs or hook-ups. Adams stated staff continues to review the parameters of the connections, and if TIF or other public funding can be used.

Workman stated he believes the City can use TIF for the service connections. He added the connection to the house would be included but nothing inside the house. He noted the City couldn't do unless they receive more development there because there would not be enough money to pay back the bond. If the project moves ahead and bonds are issued but there is no development, the City would need to assess more or residents would pay for the bonds. He noted it is not fair for the City's taxpayers to pay when they do not get any benefit. He added the residents want the project to move forward.

Dave Callister, Ehler & Associates, presented several different development scenarios. He stated there would be structured bond payments with a 15 year term, with interest due starting in February 2006. The total includes approximately \$900,000 for soft costs, i.e. construction, etc. and \$50,000 for Xcel Energy improvements. The total bond issue would be \$1,045,000. The interest rate would be 2 percent above the bond rate. At the end of 15 years the City should have received over \$1 million in increments.

Cavanaugh asked if there is any way to structure transactions so TIF could pay back debt service. Workman stated there would be no debt service because a larger bond than necessary would be issued.

Workman indicated the City is looking for \$34 million in development. He added the district runs out in a few years. He questioned there being one district on both sides of the road and asked if one side is short money can it be moved from the other side. Batty replied that is correct. He added it is clear that before the City could sell a second bond they would have to have a lot more projects on hand.

Smith stated the area must be promoted better. She asked about capitalized interest.

Workman stated there are currently two projects estimated at \$2 million total. One project is storm water and road improvements but there has been nothing done for the

second Hamel Road project. He asked if the estimated \$1 million for the second project was a guess. Kellogg replied it is a best guess at this point.

Workman asked what the investors are looking at. Callister stated 105 percent coverage. In other words, the City has to prove they have 105 percent coming in every year. If approved, the bond sale would be on September 20th.

Cavanaugh asked if the interest rates were anticipated to go up. Callister stated they have been edging up.

Cavanaugh asked about being an owner in the district – conflict of interest. Batty stated he has none for this decision.

Workman asked about trucks on roads needing to follow the designated truck paths. Kellogg stated this would be part of the discussion with contractors.

*Moved by Smith, seconded by Cavanaugh, to award the contract for Uptown Hamel street and utility improvements to G. L. Contracting, Inc. on the Base Bid Amount of \$743,260.31. **Motion passed unanimously.***

2. Resolution Providing for the Sale of \$990,000 Tax Increment Finance Bonds

Adams clarified the sale is for \$1,045,000 in general obligation tax increment bonds.

*Moved by Smith, seconded by Cavanaugh, to adopt the resolution providing for the sale of \$1,045,000 tax increment finance bonds. **Motion passed unanimously.***

3. Resolution Declaring the Official Intent of the City of Medina to Reimburse Certain Expenditures from the Proceeds

Adams clarified the maximum principal amount is \$950,000, and noted the resolution will allow the City to temporarily use other funds which will be reimbursed from the proceeds of the bonds.

*Moved by Smith, seconded by Brinkman, to adopt the resolution declaring the official intent of the City of Medina to reimburse certain expenditures from the proceeds. **Motion passed unanimously.***

B. Resolution Approving Plans and Specifications for City Hall Improvements and Advertisement for Bids

Adams stated the plans / specifications are 90 to 95 percent complete; however, before approval he would like the condition added that final changes be approved by Staff.

Adams briefly reviewed the proposed changes, noting the upstairs entrances have changed and there will be a wall in the Council chambers which will create an additional conference room. He noted the doorways have been changed per building inspector code. The bathrooms have been redesigned and will have only one stall each. The lighting will be changed without changing the ceilings. Downstairs, the future lockers have been moved through the officer's room and the original proposed locker area has been changed to a storage area. He also noted the City would be moving towards digitizing older documents that are no longer referenced. He noted the timeline for bids with the award set for October 4, 2005, and construction starting the week of October

11, 2005 and lasting approximately eight weeks. He added the City has sufficient funds with a targeted cost of \$225,000 to \$235,000 which includes all equipment and furnishings.

Workman stated Dillman would be supervising the project. In the meantime, future Council meetings will be at the Hamel Community Building.

*Moved by Smith, seconded by Cavanaugh, to adopt the resolution approving plans and specifications for City Hall improvements and advertisement for bids with the condition Staff approves final changes. **Motion passed unanimously.***

C. Ordinance Amending Section 315.03 of Code of Ordinances – Lawful Gambling Licenses

*Moved by Cavanaugh, seconded by Brinkman, to approve the ordinance amending Section 315.03 of Code of Ordinances – Lawful Gambling Licenses. **Motion passed unanimously.***

D. Ordinance Amending Section 640.11 of Code of Ordinances – Licenses for Peddlers, Solicitors, and Transient Merchants

Cavanaugh asked the effects of this amended ordinance on the Hamel flea market. Belland stated they have a separate permit.

*Moved by Cavanaugh, seconded by Brinkman, to approve the ordinance amending Section 640.11 of Code of Ordinances – Licenses for Peddlers, Solicitors, and Transient Merchants. **Motion passed unanimously.***

E. Ordinance Amending Section 400 of Code of Ordinances – Driveways

Dillman stated the main amendment change is that a second curb cut would need to have some sort of additional stormwater treatment.

Smith stated previously, pervious payment was discussed; would there be a variance granted. Dillman stated yes or some other method of treating stormwater.

Cavanaugh asked where in the ordinance it is ensured that with a second curb cut the applicant is required to do some type of water treatment. Batty stated having some kind of covenant against the property was discussed, which Council could direct Staff to add.

Brinkman asked what the Commission is doing with the ones that already exist.

Workman stated applicants must pay added costs.

*Moved by Smith, seconded by Cavanaugh, to direct Staff to revise the ordinance amending Section 400 of Code of Ordinances – Driveways to include a covenant against property and that applicants are responsible for all costs. **Motion passed unanimously.***

F. Discussion of Diseased Tree Removal

Workman stated he received a resident call last week asking what to do with a diseased tree. He suggested the resident cut it down.

Smith stated it would be nice to have a tree inspector designated for the City. Workman stated the City does not have anyone that can do it but it could possibly be contracted out.

Smith stated she received information regarding removing dead trees on City property. She added on Hunter Road there are several dead trees which reflect badly on the City. She suggested a forester advise Council what other cities are doing. Workman stated dead trees on City property are the City's responsibility. He suggested Council direct Staff to research further.

Dillman stated the Hunter Road trees might not be the City's because it is not certain they are on the right-of-way. Smith stated owners should be encouraged to remove them at their expense.

Brinkman stated a tree company could identify dead trees in City and provide a price.

Dillman stated residents could cut down diseased trees and bring them in the summer months, which would then be chipped; however, if this were constant it would cost a fair amount of money. Smith stated there should be a stipulation that residents cannot dispose of dead trees here or that they are accepted at certain times and chipped.

IX. CITY ADMINISTRATOR REPORT

A. Appointment of Part-Time Community Service Officer

Belland stated the background check has been completed and is clean on Nicholas Marohnic. Due to less experience, he recommended a starting wage of \$11.50 which would then increase within 6 months.

*Moved by Smith, seconded by Cavanaugh, to appoint a part-time community service officer. **Motion passed unanimously.***

B. Hamel Community Building – Facility Improvements

Adams stated improvements include acoustical – installing foam padding, which should solve about 90 percent of echoing and would be placed on the upper walls. Regarding the vent, heating / cooling problem, the City should receive quotes in the future.

Adams added they are also looking at a portable PA system, outside recycle bins, and outside storage of garbage.

Smith asked what the total cost is. Adams stated currently they are about \$25,000 over budget due to previous approvals, so they are looking at \$35,000 from the park dedication fee fund to balance the budget and pay for these improvements. He suggested the \$7,500 unrestricted donation from Hamel Lions Club be allocated to offset some of these costs.

*Moved by Smith, seconded by Cavanaugh, to approve \$27,500 from park dedication fees and allocate the \$7,500 donation from Hamel Lions Club to balance the budget and pay for Hamel Community Building facility improvements. **Motion passed unanimously.***

C. Donations from Hamel Lions Club

Adams stated the City received a donation of \$1,100, which has been directed to be spent on a park bench with a private memorial. He noted he spoke with the Club regarding the donation of \$1,100 and the restriction. There was a concern with this because it is not in the capital improvement plan and the bench would memorialize a private individual.

Smith stated it would be nice to have more benches in the park. Workman stated the bench is no problem; the concern is creating a memorial in a public park with public funds.

Batty stated legal issues include a statute that states a restrictive gift requires a 4/5 Council vote to approve, and a question whether it violates charitable gambling issues.

Cavanaugh stated it could be opened up to the public if they choose to donate dollars for a memorial. Workman questioned who is making the memorial – the Club on public property or the City. He questioned who draws the conclusions on who should be memorialized in the park with public funds. He suggested the \$1,100 be sent back to the Club noting the dollars cannot have restrictions.

Dillman stated there are two benches with memorials in the park already.

Adams stated the Club couldn't buy the bench with charitable gambling money; it has to go through the City. Workman stated the subject be tabled in order to do more research.

Cavanaugh asked what if the dollars were accepted contingent upon the Park Commission determining if the person is worthy.

Dillman handed out a parks donation program to Council. He stated the Commission always assumed the person being memorialized would be legitimate. Workman stated he is glad there is a policy; however, it dictates an individual's money not charitable money donated which become public funds.

Cavanaugh stated the Club has put time into raising that money and they give the City a lot of dollars; they are not asking for much. Workman stated it would be setting precedent. He added he wants to accommodate the Club but it needs to be fair.

Cavanaugh asked if accepting the dollars would put the City at risk. Workman stated he did not think so but, again, it may be setting precedent.

Adams stated the Lions Club is interested in giving up reservations control for the Hamel Community Building to the City. Adams added the City could not assume any operational control until at earliest February. He stated the Club is not maintaining pre-established office hours any longer and the City Office has received complaints and concerns on the amount of time to get responses, etc. for reservations. Workman stated the City has to take more physical control over the building and reservations.

Workman asked about other changes in the Hamel Building, i.e. storage of alcohol. Adams stated he has repeatedly requested alcohol to be removed and in recent conversations with the Club it was agreed the alcohol would be removed tonight.

*Moved by Smith, seconded by Cavanaugh, to table the donation from Hamel Lions Club until next Council meeting. **Motion passed unanimously.***

D. Water Treatment Plant – Change Order No. 1

Adams stated the change order reduces the cost at the Medina water treatment plant, per previous requests by Council at time of awarding the contract.

Cavanaugh asked about the liability of not having a temporary fence. Dillman replied most construction sites do not have one.

*Moved by Smith, seconded by Cavanaugh, to accept the change order. **Motion passed unanimously.***

Adams stated the September 6, 2005 Council meeting would include an update of the Ryan project regarding land use approval but not likely development agreement approval. He added the statutory deadline for review is September 7th.

Batty stated he is leaving town tomorrow and will not be back until September 6th. Workman noted there would be additional costs to bring another attorney up to speed because this project has been ongoing for about two years and is not a simple agreement.

Brinkman asked when Ryan's paperwork deadline is; suggesting Council could convene in special meeting for this. Workman stated Ryan's deadline for bid work on the project is September 15th; however, does not think Council should convene in a separate meeting.

Batty stated the development agreement is tracked with the land use approval; therefore, Council could load up conditions in the land use approval. He noted there is no deadline on the tax increment approval. Ryan does not want to move ahead with the land use approval without the increment approval. Council could approve the land use on September 6, 2005 and comply with the statute but not give Ryan the tax increment approval until the September 20th meeting. He added he will have a draft of the development agreement ready but it will not be finalized.

Smith asked what Batty would advise. Batty stated it is preferable to do all together, which would be ready by September 20th. If Ryan will not give the City an extension then Council could approve the project and load it with conditions.

Adams stated regarding the business subsidy policy the last provision has been defined per a City of Minneapolis policy.

Batty stated the policy was adopted on June 7th. He noted most of the discussion at that time was regarding the full time living wage. The living wage needed to be defined so several cities were looked at and the Minneapolis policy of a living wage job at 110 percent in 2004, which equals \$9.00 plus, was adopted.

Smith stated retention of jobs is not the goal. Batty stated businesses must have a business subsidy policy. The policy was amended a few years ago and if the business is not about wages and jobs then it does not have to apply the wages and jobs. Ryan does not fall within the wages and jobs.

Adams noted the intent was to provide Council with the policy for review before the public hearing on September 6, 2005.

Adams stated Ryan is not comfortable with the park dedication fees. He noted Ryan received a trail construction cost credit of \$68,800, which does not include a credit for the land that was given to the City. He added the fee total to Ryan is \$526,784. There are also deferred fees to the other parcel owners, making the total fee \$918,000.

Adams stated regarding the water challenges article in the Sunday Metro-State section, the 2006 budget has dollars allocated to the sewer fund to identify these challenges and there already is a study planned.

X. MAYOR & CITY COUNCIL REPORTS

Brinkman stated acreage to the east side of Holy Name was wetland before it was drained and farmed; now it fills up with water. He suggested it be turned into a park or a lake. Adams asked Dillman to add this site to the list for Commission discussion.

XI. APPROVAL TO PAY THE BILLS

Adams requested Check No. 028286 to Canadian Pacific in the amount of \$10,849.80 be removed.

*Moved by Smith, seconded by Cavanaugh, to approve the bills, order check numbers 028274-028285, 028287-028338 for \$334,307.44, and payroll check numbers 019408-019429 for \$26,890.61. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Smith, seconded by Cavanaugh, to adjourn the meeting at 9:38 p.m. **Motion passed unanimously.***

Bruce D. Workman, Mayor

Attest:

Chad M. Adams, City Administrator-Clerk