

MEDINA CITY COUNCIL MEETING MINUTES OF JUNE 6, 2006

The City Council of Medina, Minnesota met in regular session on June 6, 2006 at 7:02 p.m. in the City Hall Chambers. Mayor Workman presided.

I. ROLL CALL

Members present: Brinkman, Smith, and Workman.

Members absent: Cavanaugh and Weir.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Police Chief Ed Belland, City Planner Rose Lorsung, City Planner Consultant Sarah Schield, City Administrator Chad Adams, Public Works Superintendent Joe Paumen, and Recording Secretary Allison Burr.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

There were none.

IV. APPROVAL OF MINUTES

A. Approval of the May 16, 2006 Regular City Council Meeting Minutes

Smith noted on page 11, the third paragraph under Appoint Open Space Consultant should end with "so the Council can see the homework done."

Smith noted on page 17, Jim Renier is the correct spelling in the first paragraph.

*Moved by Brinkman, seconded by Smith, to approve the May 16, 2006 regular City Council meeting minutes as amended. **Motion passed unanimously.***

B. Approval of the May 17, 2006 Special Joint-Session Meeting Minutes

*Moved by Smith, seconded by Brinkman, to approve the May 17, 2006 special Joint-Session meeting minutes. **Motion passed unanimously.***

V. CONSENT AGENDA

- A. Approve Raffle Permit for Washburn Child Guidance at Medina Golf & Country Club on June 26, 2006**
- B. Approve Raffle and Bingo Permit for Holy Name of Jesus at Holy Name of Jesus on September 16 and 17, 2006**
- C. Approve Temporary 3.2 Malt Liquor License to Holy Name of Jesus for September 16 and 17, 2006**
- D. Release the Remaining Financial Guarantee for Arrowhead Drive/Hackamore Road Improvements Phase I**
- E. Accept Arrowhead Drive/Hackamore Road Improvements Phase I as a Capital Asset in the Approximate Amount of \$196,772.00**
- F. Reschedule August 1, 2006 Special Council Meeting to August 2, 2006 at 6:00 p.m. at City Hall**

G. Reschedule August 1, 2006 Regular Council Meeting to August 2, 2006 at 7:00 p.m. at City Hall

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

VI. COMMENTS

A. Comments from Citizens on Items not on the Agenda

Steve Theesfeld, 600 Shawnee Woods Road, stated he would like to speak in support of the tree preservation ordinance under consideration by the Council.

Theesfeld handed out a map showing his property to the Council Members. He explained he has watched the area being developed over time, and he believes one of the wonderful things about Wild Meadows is the preservation of the trees. He was told as a resident not to worry about Wild Meadows going in because it meant Shawnee Woods Road would not continue on to the east, thereby preserving the woods.

Theesfeld stated two months ago, a survey crew was in his yard that indicated there is a developer interested in putting in townhomes on the south side of Shawnee Woods Road. He indicated the City has a right-of-way that is still there, and the developer will want the City to extend the road and put the buildings there. He pointed out on the map the trees that would be cut down.

Theesfeld continued explaining there is no formal application proposed to the City, so he does not know anything other than what the survey crew told him. His only recourse is to tell the Council that the tree preservation ordinance would be very important to his family in trying to preserve their little section of woods.

Smith suggested it is important for Theesfeld to follow the various meetings that will be going on in the City, and advised he contact Planner Lorsung. Smith suggested Theesfeld would be a good voice to attend those meetings.

Workman asked about the right-of-way and how the tree ordinance may affect trees in a right-of-way.

Lorsung responded it depends on whether there is any development there. She indicated she is unsure if the City has plans to improve that area.

Lorsung added there are not provisions in the ordinance that discuss taking down trees in a City right-of-way.

Smith asked about the possibility of removing that right-of-way.

Brinkman stated he recalls discussions about that road. Theesfeld indicated he has the Planning Commission minutes that indicate the road will not go through.

Brinkman stated he wonders if it was not the City's intent at the time to vacate that easement since the road was not going to go through.

Lorsung added the City does not generally vacate easements unless there is absolute certainty that it will not be needed in the future.

Smith suggested this be a topic for a future Council meeting. She suggested perhaps removing it from the books for the Comp Plan.

Theesfeld stated he initially contacted the City about a motion to have that right-of-way taken off his property. He was told there is developer interest in that area, so the Council will look to staff and the Planning Commission to determine what to do. However, because there is this developer interest, it may not be very successful. He indicated he is trying to oppose something that is not yet formally before the City, but yet decisions are being made by the City.

Workman stated the only thing that has happened at this point is the developer has asked questions about the right-of-way.

Smith stated all informal and formal discussions regarding this issue should be made known to the entire Council.

Lorsung stated in 2000/2001, there was discussion about developing some part of the golf course, and there was a Comp Plan amendment. She added she is not sure if that was rezoned. Smith noted that was on the south side and has nothing to do with this situation.

Lorsung stated Theesfeld was informed that the City is going through Comprehensive Planning, and once that was done, it would be a time for the City to make a decision concerning interests in that right-of-way.

Adams stated there will be a civil defense siren put at that location, so there may be an interest in not giving up the right-of-way.

Workman asked about the developer's interest in the area. Lorsung responded there is a snag in the developer's application because he has encountered poor soils around the golf course. That is holding up the application; she has not heard anything in three months.

Workman stated he does not want to affect things on Theesfeld's side of the road at all, so this will be looked at.

Smith stated any change there will have to be a Comp Plan change.

Theesfeld stated he is concerned that residents see the surveyors on site, but residents do not have any information about the plans.

Smith suggested property owners need to be notified when concept plans are being submitted that could be potential Comp Plan changes.

Adams stated one of the reasons why public notices are not sent out is there is no public input at the concept plan level. He added the fee schedule would have to be modified if a change in process was made.

Smith asked that this discussion item be placed on the agenda. Workman asked staff to work on the issue and bring back a recommendation.

Batty noted a change would require an amendment to the modification of the ordinance. Additionally, staff has always been very conservative about vacations of public interests in property, because once it is given back to private interests it will likely not be gotten back again.

Brinkman stated he believes it was the intent of the City at that time to vacate the easement.

Workman noted there is no current proposal for that road to go through.

Brinkman added there are plenty of ways to handle that traffic with the new collector strip.

Smith stated the developer is looking at the golf course, not Wild Meadows, as a potential building site, and that is the concern of the residents.

B. Park Commission

Adams stated the annual park tour is tomorrow night, and it will likely last about three hours. On June 21 the Park Commission will hold a meeting to talk about the County Road 19 trail, and staff is getting an update on that tomorrow as well.

Workman asked if the County has preliminary plan on the trail. Adams responded affirmatively and noted staff will find out about that tomorrow. He noted the trail will be one stop of the tour.

Lorsung added Friends of Elm Creek will give a presentation at June 21st Park Commission meeting as well. Additionally, the Willow Hill Preserve Subdivision will be on the agenda.

C. Planning Commission

Lorsung indicated a Conditional Use Permit for the Evanson residence, the Willow Hill Preserve Preliminary Plat, and the sign ordinance will be on the Planning Commission's next agenda.

Lorsung listed a number of items Planning staff will be discussing at the June 20th Council meeting.

Smith asked about mandatory reporting for the septic ordinance. Lorsung explained the three-rule year. A property owner who receives a letter from the City indicating his septic system is not in compliance has three years to replace the septic system.

Workman clarified the resident would not get three years to replace it if the system is failing. Lorsung responded that is correct.

Workman clarified the resident has three years to update the system, but in the interim, it would not pose a health hazard. Lorsung responded affirmatively.

Smith stated a past mayor felt residents could be trusted to monitor septic systems, which is why the three-year rule is in place.

Lorsung added there is very specific paperwork the resident has to fill out.

Smith suggested there needs to be discussion about who monitors that process. Adams responded that is a good budget discussion item.

Brinkman stated the licensed pumpers throughout the State of Minnesota have to report to the governing body if there is something not right.

Batty indicated there was some tension between what the Met Council wanted the City to do and what the Council wanted to do about this, so there was a go-easy attitude about it when previously discussed.

Workman concurred this issue should be discussed during budget discussion.

VII. OLD BUSINESS

A. Appointment of Citizen Volunteer to Serve on Facilities Master Plan Committee

Adams stated the Council wants to appoint one more person to the Facilities Master Plan Committee tonight. He explained there are six RFPs for the Facilities Master Plan, and staff will be meeting with the committee Friday to go over the scoring and review process. The expected appointment of the consultant will occur on July 5.

Diane Rouillard, 1355 Hamel Road, volunteered to serve on the committee.

*Moved by Brinkman, seconded by Smith, to approve Diane Rouillard as the fifth member of the facilities master plan committee. **Motion passed unanimously.***

VIII. NEW BUSINESS

A. Appoint Charmane Domino to the Position of Patrol Officer

Belland explained the hiring process began after Officer Thul left. The applications, written tests, and interview process were completed, and Domino was the top candidate throughout the entire process. She will be starting in the position tomorrow if approved by the Council.

Belland noted Domino returned to school, finished her law enforcement degree last December, and took her post-test in February. He noted a number of other police departments were interested in hiring her as well.

*Moved by Smith, seconded by Brinkman, to approve the hiring of Charmane Domino to the Position of Patrol Officer, as requested. **Motion passed unanimously.***

B. Preliminary Plat, Site Plan, and Conditional Use Permit – 922 State Highway 55 (Adam's Pest Control)

Schild stated neighboring property owner Peggy Rasmussen of the Country Side Café was present at the Planning Commission meeting and spoke favorably of the request by Adams Pest Control.

Schild explained two items came up at the Planning Commission in relation to the wetland and the requested right-of-way for a future backage road and cul-de-sac on the northeast portion of the property. She noted the applicant owns property at both 872 and 922 Highway 55.

Schild displayed an aerial site of the property and explained the applicant negotiated with Mn-DOT to close off the access points along 55. The City expected that one of the access points would be closed, and upon initial discussion the truck maneuvering on this site did not allow for that.

Schild continued that the applicant contacted the local area representative at Mn-DOT, and they negotiated to close the west access at the 872 location instead. Mn-DOT was pleased with

this because that access point is closer to the intersection and is of a higher importance. As part of this application, the only access that will remain is the east access for the current 872 site and no access closures at the 955 redeveloped site.

Smith asked whether Hennepin County's work on 116 was considered when Mn-DOT looked at this. Schield responded affirmatively.

Schild displayed the site plan on the overhead and explained the City's discretion in reviewing all three items is limited to whether the items meet the standards in the ordinance. The property is located in the urban/commercial zoning district and is guided urban/commercial. In reviewing the preliminary plat, staff had six findings. All of the findings were met, keeping in mind the staff reviewed this with the idea of the backage road being implemented.

Schild stated staff talked to the applicant about the access point so in the future when 116 is redeveloped, there will be access off 116 and not 55. The applicant is not interested in dedicating this right-of-way to the City. The discussion that occurred at the Planning Commission meeting was in relation to the City's right to require the right-of-way. After discussion with legal counsel, it was determined that it is within the City's right to do so, as was stated to the applicant. She explained further that when adjacent properties come in for development, the site plan will show a backage road.

Schild discussed the issue related to the wetland edge and the fact that it was recently redefined. The newly defined edge does not allow for the 10-foot setback requirement to be met. Staff feels that by filling in a small portion of the wetland area, the site can be designed in such a way so a variance is not needed. If that is not done, then a variance will have to be applied for.

Workman asked for clarification about the wetland issue.

Schild explained the applicant does not feel it will be an issue; currently it is a condition of approval.

Workman asked Kellogg if there is a problem with soil conditions as well. Kellogg explained there will likely be some poor soils there, but soil corrections could be done. The City would have someone stop out there to be sure the subgrade is what is expected.

Schild stated if the Council authorizes staff to draft resolutions for approval, once the preliminary plat is approved, the applicant will have to come back for a final plat.

Todd Leye, Adams Pest Control, stated this is a minor change and will not affect the size of the building.

Smith stated what might be approved is a redesign of the driveway. Schild stated the driveway width may be revised. It will not be encroaching as much as it is now.

Lorsung explained a de minimus exemption, noting the applicant can fill up to 400 cubic square feet of any kind of wetland. The applicant is aware of that.

Schild displayed a Comp Plan map, showing a concept road coming from 116 West. On the concept plan in the Comp Plan, it shows a connection onto 55. Going further west of this

property, it is wet. Staff therefore felt that might not be the best use of that road, which is why it was decided a cul-de-sac terminating in the northeast corner would be the best solution.

Schild displayed elevations of the buildings. She noted there will be two aesthetically pleasing sides to the building, so the building looks good from 55 as well as the backage road.

Schild summarized the site plan and conditional use permit. She noted a CUP is required because it is a pest control business. Staff has found hazardous materials will be handled and stored in the proper manner.

Schild noted there are 24 conditions in the report.

Smith asked about the storage of the chemicals.

Leyse responded the only requirements for storage of chemicals is that they are not near a floor drain. He added there will not be 55-gallon containers. There will be small, ready-to-use containers in the size of a pint or a quart. He added the whole building will be sprinkled.

Leyse stated his parents own the properties, and his family owns Adams Pest Control. Originally when the City requested right-of-way access be provided, he did not think it could be required, but only requested. He and his family do not feel they should be under an obligation to give that piece of land. It was included on the drawing because there was discussion about what the City was requesting. He stated there were a number of changes requested from staff, so there was some miscommunication about the right-of-way because it was included on the plan.

Leyse stated it seems opportunistic to require this right-of-way. He stated the City needs to decide if it has the legal right to do so, and even if it does, whether it really has to be done. He stated it has been hard to prove a negative, that the City does not have the right to do so.

Leyse stated at the Planning Commission meeting, staff indicated this is not in the City's transportation plan. He stated they already have access so they do not need access through the backage road.

Workman stated the applicant has to sign something in case that access is ultimately closed off from 55. The City is doing it to be prudent for future planning. This road may stay like this for the next 20 years, but it is not known. If this is not done now, and the State wants to close access, then the applicant may come back and ask for millions of dollars in compensation because the business may suffer. He stated this will protect the applicant's future interest in the building so there will always be access to it. He stated he will not approve this unless that easement is given to the City.

Smith stated this is the opportunity to protect the future right-of-way for this particular property in case access is closed.

Workman agreed the City is being opportunistic, and noted there are not many new plats that the City does not place easements on. When staff reviews things, they plan easements before the applicants come in. This is all part of the planning process.

Brinkman stated this plan maxes out the site. If the applicant had to live within the boundaries of the current zoning, it would likely have to be smaller. The applicant still has enough here to be able to plan for the future.

Workman stated the City took an easement from McDonald's for that same road. If the next property does anything, the City will take another easement.

Leyse stated the City may be discouraging development. He stated the site plan is well within the Code, but he is not asking for special considerations anywhere along the line.

Smith stated in this particular area, to safeguard the applicant, this easement is needed.

Moved by Smith, seconded by Brinkman, to approve the preliminary plat, site plan, and conditional use permit – 922 State Highway 55 (Adam's Pest Control), with the 24 conditions as outlined by staff, authorizing staff to prepare three resolutions for the preliminary plat, site plan, and CUP, as requested.

Brinkman asked if two fire hydrants are still planned. Leyse responded affirmatively.

Brinkman asked about the maintenance of the pond. Kellogg responded that pond handles this site only.

Leyse noted the pond addresses the needs of the property.

Brinkman asked if there has been any contact with West Side Petroleum concerning their interest in doing anything with their property.

Lecy responded they own another property somewhere, and perhaps they will move at some point. However, that discussion was held a while back.

Batty indicated there was a staff meeting about this issue a couple weeks ago, and Leyse and his attorney were present. He stated Workman is correct about being opportunistic. The City has requested easements in the past with site plans, but this happens to be the case of an appropriate land use tool. This is also not the standard park dedication requirement. It is not on the City's transportation plan, but it is in the land use plan and has been talked about for a long time and has been planned for.

Batty continued Leyse noted the alignment in the plan goes along the back of the property and goes west. He explained that would involve a lot more taking than what is being proposed now, through a cul-de-sac and pulling it to the east, so it is only the circle of the cul-de-sac that touches the applicant's property.

Batty continued the applicant is combining several nonconforming parcels they could do little with and create a much bigger parcel and could do more with. He stated there is sufficient legal basis for requiring the right-of-way.

Motion passed unanimously.

C. Community Survey – Selection of Firm

Adams presented a scoring sheet, showing the National Research Center as the top scoring applicant. He asked for Council discussion and approval to select National Research Center to

conduct the community survey. He noted National Research Center is an out-of-state firm. Staff conducted a phone interview with them, and issues about communications were satisfied.

Adams noted it will cost about \$15,000 to conduct the survey. The survey involves a combination of public services, but will probably be more heavily reliant on vital issues facing the community.

Smith stated the Council needs to be aware that National Research Center proposes three mailings to residents: a postcard, a survey, followed by another survey. She indicated she did not like that plan very much, but she is willing to go along with it.

Smith explained it will be difficult to target those residents who did not mail in the first survey to ensure no duplication. The firm indicated they will explain this process in a letter to the residents.

Smith noted the other firm interviewed included in their proposal a test of their survey with people other than Medina staff. National Research Center did not include that in their proposal, but she believes it should be required to ensure the questions are worded well. Smith noted the other firm also guaranteed 400 returns, and if insufficient numbers were received, a phone survey would follow.

Brinkman asked about the price difference between the two top firms. Adams responded the price difference is minimal.

Adams stated the two mailings are a way to ensure statistical validity. If enough responses are received from the first survey, the firm will not send out the second set. He expressed agreement that a sample survey is a good idea. He does not believe it will be a cost issue, but it may present a challenge with the timeline since this is an out-of-state firm.

Smith asked if other Council Members are concerned about the multiple mailings. She noted they will be sent two weeks apart.

Workman indicated he hopes one mailing will be adequate, but some people require multiple mailings to issue a response.

Adams stated the firm indicated this was their proven technique; they do these surveys nationally.

Workman stated he likes the fact that nothing is being spared to get the results.

Adams noted the survey will be divided geographically by Zip Code.

*Moved by Brinkman, seconded by Smith, to appoint National Research Center, with the condition of the sample survey, to conduct the community survey, as requested. **Motion passed unanimously.***

IX. CITY ADMINISTRATOR REPORT

A. Wireless Internet Feasibility Study

Adams explained the Lake Minnetonka Cable Commission is requesting \$1,000 to \$3,000 for a wireless internet feasibility study.

Moved by Smith, seconded by Brinkman, to approve \$3,000 for LMCC to conduct a wireless internet feasibility study. **Motion passed unanimously.**

B. Engineering Report

There was none.

X. MAYOR & CITY COUNCIL REPORTS

There were none.

XI. APPROVAL TO PAY THE BILLS

Moved by Smith, seconded by Brinkman, to approve the bills, order check numbers 29460 – 29529 for \$213,148.46, and payroll check numbers 19907 – 19912 and direct deposits for \$31,012.10. **Motion passed unanimously.**

XII. ADJOURN

Moved by Brinkman, seconded by Smith, to adjourn the meeting at 8:25 p.m. **Motion passed unanimously.**

Bruce Workman, Mayor

Attest:

Chad M. Adams, City Administrator