

MEDINA CITY COUNCIL MEETING MINUTES OF SEPTEMBER 2, 2008

The City Council of Medina, Minnesota met in regular session on September 2, 2008 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

Members present: Crosby, Cavanaugh, Weir, and Smith (arrived at 7:02 p.m.).

Members absent: Johnson.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Planning Director Tim Benetti, Public Works Superintendent Steve Scherer, Finance Director Jeanne Day, City Administrator Chad Adams, and Recording Secretary Carol Hamer

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

The agenda was accepted as presented.

Smith arrived at 7:02 p.m.

IV. APPROVAL OF MINUTES

A. Approval of the August 6, 2008 Special City Council Meeting Minutes

*Moved by Weir, seconded by Cavanaugh, to approve the August 6, 2008 Special City Council meeting minutes as submitted. **Motion passed unanimously.***

B. Approval of the August 14, 2008 Special City Council Meeting Minutes

*Moved by Weir, seconded by Cavanaugh, to approve the August 14, 2008 Special City Council meeting minutes as submitted. **Motion passed unanimously.***

C. Approval of the August 19, 2008 Special City Council Meeting Minutes

It was noted on page 1, the third paragraph under Item 2, it should state: "...generate more revenue for future road improvements..."

*Moved by Weir, seconded by Smith, to approve the August 19, 2008 Special City Council meeting minutes as amended. **Motion passed unanimously.***

D. Approval of the August 19, 2008 Regular City Council Meeting Minutes

It was noted that council members arriving late should be listed last under Roll Call.

It was noted on page 2, line 40, it should state: "...The fallout area will be ~~racked~~ raked..."

It was noted on page 3, line 42, it should state "Adams stated that included..."

It was noted on page 4, line 31, it should state "done by proxy, which ~~includes~~ is permitted by regulations."

It was noted on page 5, line 41, in relation to the statement that the commercialization of the cemetery in the mid 1990's was not a well-advised business model, a supplement should be added at the end of the minutes clarifying whether there was actually anything done by the City in this regard.

It was noted on page 6, line 45, it should state "...and ~~the~~ they see a time in the not ~~to~~ too distant future..."

It was noted on page 7, line 6, it should state "...such as ~~if the cemetery could~~ the cemetery state that..."

It was noted on page 7, lines 34 & 35, it should state "...one of the ~~critierion~~ criteria the City has set for cemeteries. It is incomprehensible...is not ~~such that they would allow it to exist today in compliance with the existing ordinance~~ and let it ~~go on~~ continue operating."

It was noted on page 8, line 13, it should state "for the City to take it over and continue to operate it."

It was noted on page 8, line 32, it should state "...obtain information ~~about prior to~~ without paying..."

It was noted on page 8, line 35, it should state "...for the German Liberal Cemetery and get governing documents of the cemetery as well as contracts with the owners of the lots."

It was noted on page 9, line 30, it should state "...way on Pioneer Road for the extension..."

It was noted on page 16, line 9, it should state "...look at options for an ~~LID ordinance~~ implementation of LID practices in the City's ordinances to be presented..."

*Moved by Weir, seconded by Smith, to approve the August 19, 2008 Regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

- A. Resolution Granting Approval of an Amended Conditional Use Permit to Three Rivers Park District for the Construction of Two Golf Cart Storage Buildings and Operation of Baker National Golf Course at 2935 Parkview Drive
- B. Resolution Granting Preliminary Plat Approval for High Pointe Ridge 2nd Addition Located at 2920 Parkview Drive and 2930 Parkview Drive

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

VI. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Galen Bruer, Park Commission Member, reported that the primary focus of the Park Commission meeting this month was with relation to the proposed concession building at the Hamel Legion Park Ball Field Complex. This was preceded by a public hearing where the public was given a chance to provide input. The size of the building and storage will be an issue, and there was discussion on looking at a second story. One key issue that will have to be dealt with is how the concession stand will be staffed for non-Hamel athletic events.

Crosby asked if it is foreseen that the Park Commission will be making a recommendation on the building. Bruer replied he believes that the Commission will make a recommendation. He understands that a certain amount of money is set aside, and one issue to deal with is whether that is enough money to build the kind of structure that some members of the Athletic Club or citizens would like to see built. If they can come to an agreement on how big of a structure can be built with the money they have, they can then discuss managing and operating costs.

Smith stated the subcommittee is meeting prior to the next Park Commission meeting and a recommendation will be made.

Bruer stated the Park Commission meeting also included a discussion on the need for a planting plan at Hamel Legion Park, especially for trees, in order to move forward with additional plantings. In addition, Scherer provided an update that the rain garden is complete at Holy Name Park and dog signs have been installed at the Hamel Legion Park.

C. Planning Commission

Jeff Pederson, Planning Commission Chair, reported on the three public hearings included on the agenda of the August 12, 2008 Planning Commission meeting:

- Hennepin County Public Works - 1600 Prairie Drive: The Planning Commission recommended denial of the PUD amendment request allowing a wind turbine and civil defense siren tower.
- Baker National Golf Course - 2935 Parkview: The Planning Commission recommended approval of the amended CUP to the Three Rivers Park District for the construction of two structures for two 22 x 80 accessory structures.
- Ordinance amendment to Chapter 8 of the City's zoning ordinance to create a Private Recreation Zoning District. The Planning Commission recommended approval with a few changes. The Commission recommended an increase from 15% to go to 20% of the property to be allowed for development, two sided architectural requirements, and that staff work on the graph for the hard surface.

VII. OLD BUSINESS

A. Resolution Awarding the Sale of \$415,000 General Obligation Equipment Certificates, Series 2008B; Fixing Their Form and Specifications; Directing Their Execution and Delivery; and Providing for Their Payment

Crosby stated last year during the Truth in Taxation Hearing, the citizens urged that there be consideration of ways to deal with City expenses without direct hits to the annual budget. One of the areas was bonding. This is being considered in three contexts. 1) Equipment bonds, which will be discussed tonight. 2) Road assessments for the anticipated life of the roads, and where one thing being discussed is having residents on the city streets pay a portion of that. 3) Bonds for known needed improvements in the City, for example a new public works facility. Crosby stated all three of these methods are in the planning process. He explained the purpose of the proposed resolution awarding the sale of \$415,000 General Obligation Equipment Certificates. He explained the bonds are being issued for the purchase of the following 1) police cars; 2) tandem truck; 3) mower/tractor; 4) black top roller; 5) water & sewer GPS. Crosby stated by putting the bonds on a three year payback, they are in effect determining now what the capital expenditures will be for 2008 and 2009. One reason the bonds are being considered at this time is due to the low interest rates.

Shelly Eldridge, Ehlers & Associates, explained there was a competitive market and presented bids and rates for the acquisition.

Eldridge presented the bids and rates for the acquisition of equipment in 2008 and 2009 as follows:

- United Bankers' Bank, Bloomington, MN / Farmers State Bank of Hamel at a price of \$412,510.00; net interest cost of \$18,474.38; true interest rate of 3.143%
- Wells Fargo Brokerage Services, LLC, Minneapolis, MN at a price of \$415,000.00; net interest cost of \$21,681.68; true interest rate of 3.8729%.

Eldridge recommended awarding the sale of \$415,000 General Obligation Equipment Certificates, Series 2008B to the low bidder: United Bankers Bank, Bloomington, MN (Farmers State Bank of Hamel, Medina, MN) at a rate of 3.143%.

Crosby asked if the bonds will be sold tomorrow if they are authorized tonight. Eldridge replied yes; once the sale is authorized by the City Council the underwriters are authorized to go out and market the bonds.

*Moved by Smith, seconded by Weir, to approve Resolution Awarding the Sale of \$415,000 General Obligation Equipment Certificates, Series 2008B; Fixing Their Form and Specifications; Directing Their Execution and Delivery; and Providing for Their Payment. **Motion passed unanimously.***

VIII. NEW BUSINESS

A. Hennepin County Public Works Facility – 1600 Prairie Drive – Amendment to Planned Unit Development General Plan for the Construction of a Wind Turbine Tower and Civil Defense Siren Tower

Benetti provided a brief staff report on the request by Hennepin County for approval to amend a previously approved PUD to allow the construction of a new 1.5 or 2.1 megawatt wind turbine, and a new civil defense siren on the HC Public works campus. The subject site is located at 1600 Prairie Drive.

There was discussion on the approximate distances from properties surrounding the subject site. Benetti noted that the trees in this area would be a good buffer and they are protected under the tree preservation ordinance.

Benetti presented information on wind analysis, code compliance, and consideration of the City's Comprehensive Plan. He presented pictures and video clips of wind turbines located at St. Olaf and Carlton College.

Tony Hainault, Hennepin County Environmental Services stated that the County has a strong interest in stabilizing electricity costs over time and sees this project as an opportunity to provide for that. When this public works facility located in Medina was built in the mid 1990's the County developed green building standards, which are now used by the State of Minnesota as a benchmark. He noted the question has been raised about the benefits of this project to the City of Medina and reviewed the following benefits to the City of Medina:

- The County's effort is an intended to begin to stabilize the cost of electricity and create a model for local governments. The County will fully share the information from the project, and the City will be able to learn from the County's experience at no cost to the City.
- The County will partner with local school districts to use the project in science classes or physics curriculum information.
- As a public a facility this is public infrastructure and it will be available for public education and outreach.

Hainault stated questions have been raised regarding property values. Smith pointed out that a \$1.2 million house was being built on the parcel across the road from one of the wind turbines visited on the tour of the wind turbines at St. Olaf College and Carlton College in Northfield. Hainault explained the house being referred to by Smith was located about 8/10 of a mile from the Carlton College wind turbine. It was sold to a local physician after the wind turbine was built. There is also a large suburban complex located within one mile of the wind turbine. He stated the day before the tour he went in advance and asked people about their experience with the turbines; at both places and no one spoke ill of it.

In relation to property taxes, Hainault provided an overview of the following four reports: 1) Renewable Energy Policy Project (May 2003); 2) Impacts of Windmill Visibility on Property Values in Madison County New York (April 2006); 3) Appraisal Consulting Report Addressing the Kenyon Wind Farm Project in Cherry Grove Township in Minnesota; 4) Turbines in Illinois over a period of 1998 to 2006. Hainault stated the reports referenced will be provided to staff.

Smith stated there is history in the City about concerns of landfills devaluing property, and in fact that has not occurred.

Hainault stated there were questions raised about how much energy is consumed on the Medina site. Approximately 2.6 megawatt hours of electricity is used over the course of one year, and there is a maximum electrical demand of 675 kilowatts. The turbine the County is proposing would produce 4 to 6 megawatt hours of electricity annually on the site. Hainault provided information regarding the expectation for a power purchase agreement, with the energy that is produced to be sold into the grid, rather than being consumed on site. He explained the production curve on the turbine is not likely to coincide with the demand curve for the facility. He stated it is in the County's interest to come up with a contract that will be in the best interest of the taxpayers in the County.

Hainault stated the question was raised on whether this is a particularly good site for the proposed project. He provided an overview of the following reasons to locate the turbine at the subject price:

- There is minimal line loss at this site.

Crosby questioned who will pay for the transmission cost. Hainault replied it could be said that it is paid by the Utility; the cost is embedded in the power purchase agreement.

Weir asked whether negotiations are conducted with the Utility, or whether there is a set rate. Hainault replied that negotiations are required with the Utility for the purchase price of the electricity generated. The negotiations are considered trade secret information at this time.

- There are no transmission constraints at this site.
- It does not compete with private development for access to transmission or land.
- The site has good capacity factor.
- The State of Minnesota conducted a wind interaction study to identify areas for meeting renewable energy standards. It was found that the best strategy to ensure that the amount of electricity will provide adequate base level capacity in the State is to have a geographically diverse location of turbines throughout the State. This site would contribute to that.
- The Governor has set a goal of 800 megawatt of community based energy development; this would contribute to that goal.

Hainault stated a report was brought forward by Mr. Hogan at the last Planning Commission meeting addressing wind turbine noise. The report states that they went out into a field to measure the decibel noise level from a 1.8 megawatt turbine, which is the next generation of turbine. They state in the article that the noise level was measured at 58 to 60 decibels at the base of the turbine. However, the turbine stands in a corn field, and depending on their position relative to the turbines, it was very difficult to distinguish the sound of the turbine from the rustling of the corn stalks.

Weir stated in relation to a question about bird deaths, it has been verified that there will not be any overhead lines, which is the real impact to birds. Also, a single turbine has virtually no impact on migrating birds. Hainault stated the American Wind Energy Association is working with the National Audubon Society, as well as with Bat Conservation International, to mitigate some of these problems. In the early days of putting up pilot projects they were built in telescopic structures, had shelves that were perfect nesting locations, and the blades spun at a faster rate and were difficult to see. One resident near a turbine in Northfield said that he never hears the turbine, except when the air is heavy and he hears it slicing through the air.

Regarding the concern expressed by Hogan at the Planning Commission meeting about low frequency sound and resonate vibration, Weir stated that is unlikely to happen. However, if it does, it is easy to remedy by altering the mass and natural frequency of the building. She suggested including a condition that the County would address issues of vibration in adjacent buildings. Hainault replied that the County would accept this condition. He stated he investigated the concern over horses and found information that there is a slight difference in hearing among horses, but that horses hear similarly to humans and there would be no impact. He also tried to contact the landowner directly adjacent to the turbine, but was only able to speak to a woman that boards horses there. It has never been an issue for the horses as far as she could tell.

Crosby stated he met last week with Mr. Hainault and Hennepin County Commissioner McLaughlin at their request. He stated his main concern on this is still unresolved; it is the economics of this project. He does not want this to be a public relations effort or a feel good project. In addition, he does not take a unanimous vote of the Planning Commission lightly. He pointed out that page 6 of 13 of the staff report states "The turbine will hopefully "cash flow" after 7-10 years and the longevity of the turbine is approximately 20 years, which includes insurance costs to guarantee cash flow. The years that the turbine has cash flow the county will allocate for replacement of the turbine." Crosby stated for the years the County is paying for the turbine there will not be positive cash flow, and if they are simply paying off the next one they will not be getting ahead. He stressed the need to know that there is some actual economic benefit. He stated he would also feel better if there was someone in a review capacity to look over the technical information that has been furnished to the City. He stated he toured the Northfield wind turbine about three years ago and was excited at that time, but he then read materials that said there was not enough wind in Hennepin County to justify the turbine. He was told by the County Commissioner that technology has improved, but it would be helpful to have someone look at the materials that have been furnished and provide an opinion. Finally, in relation to the noise issue, they need to think about what the background noises are in the area, which include Highway 55 and industrial land. He stated this is a complicated issue and he needs more information. If he were one of the citizens questioning this, there are still some unanswered questions that need to be looked into.

Smith stated she has no problem with the suggestion that someone else look at the numbers to see if the County's decision is a wise one to go forward with. She is proud of Hennepin County, which has done a lot to further sustainable design. At this particular site the County went to great lengths to minimize the impact to the surrounding area when they built the public works facility. She is not concerned with noise, and thinks it is a non-issue. She stated her position that the problem is that there are residents that are scared of change. She stated she believes the property value is also a non-issue. The issue is whether the County can make this work financially. They need to go forward with this, even if it is more of a break-even project. They cannot continue depending on coal for energy needs. They need alternatives. There is a wind farm in southwest Minnesota and one on Highway 35 going south. Some people do not think it's beautiful, but this is a public works site; there is already a tower there and there will be a civil defense siren. She stated she also applauds the County for wanting to put up solar panels. People need to stop saying "I don't want it in my back yard" and "I don't want any change." She understands the fear, but they will not be burning coal for the amount of energy produced, and every little thing they can do like this helps give them cleaner energy. She is hoping the numbers work because she supports this and likes staff's recommendation for Site 2.

Cavanaugh disclosed that his family owns property near this site. He stated in principal he is okay with this. Crosby has a good point, but he is comfortable going forward if the numbers are close.

Weir stated she is very interested in this. She would like to know the economics of it; there is a good chance that it will at least break even. The height of the turbine and the hub is what is perceived as height, not the blades. This will have visual impact. She finds these beautiful in a sculptural way and thinks it could add character to the City. Also,

these are typically located in rural areas. She stated she will be supportive of having an outside person look at the figures and all the information that has been provided to the City. Noise is less of a problem with a single turbine versus wind farm data that was presented by some concerned citizens, but she thinks they need to be sure about this.

There was discussion on the suggestion for a review of the materials that have been presented to the City. Crosby stated his position that an opinion would be provided on whether the materials presented accurately reflect this type of project.

Weir questioned whether WindLogics has an interest in the outcome of this project. Hainault replied absolutely not. WindLogics is an international, reputable company. The company is based in St. Paul, which only represents the fact that Minnesota really started to push wind energy in the 90's and resources like WindLogics developed here in Minnesota.

Cavanaugh questioned the information that would be included in the financial analysis to be completed on the project. Hainault provided an overview of the information typically included in the proforma for a wind turbine project.

Crosby stated the economics make a difference, because it may be that Hennepin County should wait for the next generation of wind turbines to make something like this. He questioned why the County is not putting this into the system in southern Minnesota. Hainault provided background information regarding the Metro Energy Policy Coalition. He stated the Coalition is working on a project with a group of 17 rural counties in the southwest portion of the state. He explained that there are significant statutory barriers for counties to pursue this type of project. The Metropolitan Council and the University of Minnesota are also looking at how they could do something like this, but for them to generate electricity in western Minnesota and ship to themselves would involve wheeling charges, which would be so significant that it would not be feasible.

Smith requested clarification as to why the County thinks this is a good project for the Medina location. Hainault replied that the County would not be considering this project if it were not in the best interest of the County and the taxpayer. The County owns the land, which reduces the cost of the project, the site is adjacent to significant load which gives them room for negotiation, and there is significant wind resource; they could come out ahead on the power purchase agreement. This is a good site and a great opportunity for the County, City and taxpayer.

Weir asked whether it weakens the County's case for negotiating with a utility not to have a clear answer from the City at this point. Hainault replied he cannot answer this question at this time.

Smith stated she hopes they are not just stalling because this is a tough decision when there are adjacent residents that are concerned. The valid concern they have is that it will be seen, but the beauty is in the eye of the beholder. She would like to make a decision. She suggested making a list of what needs to be known and having the information in a couple weeks in order to make a decision up or down.

Cavanaugh stated his understanding is that this whole site is a Hennepin County site, so the City does not receive any property tax. He pointed out that this is a little bit of a commercial venture, and that the County is actually selling this to the state.

Smith stated her position that this would be a wonderful place for the City's public works facility. Crosby replied he is uncomfortable negotiating until it is determined that this is the right thing for the community. He stressed his position on the importance of determining that this makes economic sense, and is not simply a "feel good" project.

The meeting was recessed at 8:53 p.m. and reconvened at 9:00 p.m.

Crosby invited comments from the public.

Tom Sicheneder, 2185 Hamel Road stated he is speaking on behalf of himself, his wife, and his father who owns property next to the facility. He stated he participated in the bus trip to Northfield with members of the Planning Commission and City Council present. The bus trip was very positive and the St. Olaf turbine was very similar to Hennepin County's site. There was a lot of traffic noise and railroad traffic noise. The feeling from the Planning Commission and members of the audience was that everyone seemed positive about finding alternative energy, but that this is the wrong place for it. He stated some of the residents spoke and voiced their disapproval. He is against this.

Lesley Borg, 1400 Hamel Road, stated she is a resident that is not afraid of change. She was at the meeting on Tuesday, August 12th and was very pleased that it was rejected 5-0 against the wind turbine. She has been a resident of Medina for 34 years. If this was a benefit to the Medina residents, a lot of consideration would need to be put into it, but Hennepin County just wants to trim energy from their operation and from Xcel and buy it back. They could put it in Buffalo and buy it back there, rather than in Medina. A gentleman at the last meeting said if the County were to put one solar panel in, that it would be 10% of their energy. She stated they could put 10 solar panels in without having the ugly eyesore of the wind turbine. She questioned if the studies about the states of Vermont and Illinois referred to by Tony Hainault related to resident or County use. She stated she is strongly opposed to the wind turbine that is approximately 4,100 feet from her property, and to the devaluation of her property.

Sara Hogan, 1982 Hamel Road, stated she is building a new arena and horse barn. The City has received her letter and she has tried to address some of her concerns. She stated that Councilmember Weir had suggested it would be an easy fix if there were to be a problem with vibration. She questioned how this is known and how a problem would be addressed after the fact. Weir explained according to her source, it could be adding a beam or screwing a large piece of wood onto an already existing support, or something of that nature that shifts the natural frequency. She stated she is not an expert, but she spoke to someone who was. She was reassuring the residents that the County would address these issues in an adjacent structure if it were to arise, and apparently it is unlikely to arise with a single turbine.

Crosby clarified with Hogan that she is referring to building vibrations. Hogan responded in the affirmative. She stated a horse may perceive this in a different way than a human does.

Weir stated when horseless carriages came into England it was said they could not share roads with the horses, but horses are adaptive animals like humans. They observe, learn, and adapt. They have learned to live with trains, train whistles, and highway noises. She does not think this is something that cannot be overcome. Hogan

replied horses do adapt, but if they see something again it may spook them. She stated that a horse under a saddle is different than a horse grazing. Another concern is that she has heard mention that shadows from the spinning of the blade can cause a problem.

Smith stated she stood under two wind turbines that are similar to what is being proposed. She questioned there being an issue with a horse hearing the turbine 1,000 feet away, as it was very difficult to hear it right under the turbine. She stated she has had horses also. She suggested that it would be interesting for Hogan to talk with the owner of the hobby farm that had at least two horses about their experience with horses being right next to the turbine.

Hogan expressed concern that the noise from the turbine gets greater as you are downwind. Weir replied that their experience was that they could not really hear it underneath the turbine, about 300 feet out there was a swooshing sound, and about 600 feet out you could not hear it at all. She pointed out that this would not require a variance, which was mentioned by Mr. Hogan.

Hogan stated she is not opposed to change, but hopes the Council considers all the questions they raised.

Smith requested that Tony Hainault connect Hogan with the owner of the hobby farm.

Galen Bruer, Park Commission Member, suggested there should be consideration of setback issues and the impact on adjacent properties if they were to want to construct a turbine. He stated one of the things that must be dealt with when going to the PUC is the 3 by 5 rule; which requires a spacing distance between turbines of at least 5 rotor-diameters measured along the predominant north-south wind axis, and 3 rotor-diameters measured along the east-west axis. The reason is because of area losses of wind production where the turbine in front steals your wind. He stated he is supportive of wind turbines but there is the question of the impact on your neighbor's property. A turbine of this size would basically steal the wind for about 1,500 feet to the southeast. Anything to the northwest of it would steal the wind from this turbine. He stated assuming a 300 foot diameter blade, another turbine should be at least 1,500 feet away. This factoring is done to determine whether wind farms can be approved. The purpose is to protect neighbors from area losses if they want to construct a wind turbine.

Adams noted that an ordinance related to wind turbines in the City is on the list of land use controls to be considered later this year or next year.

Crosby stated that these wind turbines are not independently, economically viable without a grant like the one Hennepin County has.

Bruer stated there is over 30,000 megawatt of applications into MPUC; last fall alone there were 12,000 to 15,000 megawatt applied for. The economics will be an issue. He has been working with a developer and it has become very challenging to put anything up besides large wind farms. He stated the noise will not be a big issue, and aesthetically these will be like cell phone towers. It will be realized this is all part of green energy and it is a matter of getting used to them.

Weir asked if it would matter to the County if this were to be delayed in order to look at the facts longer. Hainault replied it depends on how long the delay would be. He clarified

that the grant referred to by Crosby earlier is actually a loan. This project has been approved by the Hennepin County Board of Commissioners.

Smith stated her position that this should not be dragged out and that a decision should be made within a couple of weeks.

Cavanaugh requested further information regarding the school participation that was mentioned by Hainault. Hainault replied he cannot describe a specific program, but there is a model for projects the County has with schools. It is a matter of providing the data from the turbine to the school district and working with the faculties of the schools that want to be involved. There is curriculum out there that can be tailored for this purpose. The County has already approached the science museum and asked if they would be interested in the project as a public education tool and they found it very interesting.

Cavanaugh verified with Hainault that the children in Medina's school system will be able to get involved with the project. He inquired about the timeline to have a negotiated rate from the power company. Hainault replied he would anticipate that there would be a negotiated rate at some point after the Council has made their decision, but this should not interfere with providing financial information to the City.

Smith asked what the message was when the County Board approved this project. She noted there seems to be concern that this really is not a project that makes economic sense or saves the County money, but that it is more or less a demonstration or "look good" type of project. Hainault replied his sense was that the County Board saw this as a viable project in the best interest of the County. There is a great diversity of opinion on the Hennepin County Board, but they managed to find agreement in a unanimous decision for the project.

There was discussion on the request for a review of the information on the wind turbine project. Crosby clarified that he would like a review of the economics on the project and a review of the packet of information to ensure that the wind projections, etc. make sense to someone knowledgeable in the industry.

Smith stressed that the County should not incur costs due to the review.

Adams noted that the September 16th City Council meeting would be the last meeting to adopt a resolution for the September 19th deadline, unless an extension is granted from the County.

Hainault indicated that the County would be willing to give a limited extension.

Adams stated if the extension is not received by Friday, September 5th, staff would need authorization to prepare dual resolutions for approval and denial. Based on the discussion, direction should also be given for a consultant to provide a broad review of the project.

There was discussion on the financials to be reviewed. Crosby indicated that the County should provide the proforma on the project, which would be a publicly negotiated contract. The proforma would include everything except for the revenue that has not yet been negotiated. The revenue from a previous publicly negotiated project of this type

would be plugged into the proforma for this project in order to provide the economic analysis being requested.

Smith expressed concern with the County's negotiations on this project becoming public due to the review being requested. It was suggested that the economic review be conducted by a couple staff members and city council members.

Moved by Weir, seconded by Cavanaugh to direct staff to negotiate an extension on the wind turbine project by September 5, 2008, and that barring such a successful negotiation that staff be authorized to prepare dual resolutions for the September 16, 2008 City Council meeting. **Motion passed unanimously.**

Smith reiterated her concern with the County's negotiations on this project becoming public due to the review being requested.

There was discussion on the economic analysis of the project. There was also discussion on the actual vote of the Hennepin County Board on this project. It was questioned whether the motion of the County Board was to approve the project or approve that the project be investigated and negotiated.

Batty provided an overview of the following information included in the Council packet:

- Attachment 7: Public Utilities Commission (PUC) Order Establishing General Wind Permit Standards
- Attachment 8: Example of an actual site permit based on the above standards

Batty advised that the above two documents provide good background information on the kind of issues the PUC considers with wind farms and the criteria that is used.

Consensus of the Council was that the economic analysis on the project be conducted by Adams and Crosby through discussions with the County and that the technical review of the project be completed by staff based on the above documents referred to by Batty. The project will be included on the agenda of the September 16, 2008 City Council meeting. A copy of the Hennepin County Board resolution of approval is to be provided.

C. Ordinance Creating the Private Recreation-Urban Zoning District and Private Recreation-Rural Zoning District; Adding New Sections 837.1 and 837.2

Benetti stated Council has been provided with a draft of the ordinance creating the Private Recreation-Urban Zoning District and Private Recreation-Rural Zoning District. The Planning Commission recommended approval of the ordinance with a few minor modifications. Benetti provided background information on the proposed ordinance. He stated the 2010-2030 Comprehensive Plan Update identifies three different land uses in place of the previous Public/Semi-Public: 1) a "Parks and Recreation" use; 2) a "Public/Semi-Public" use (churches, cemeteries, government buildings); 3) a "Private Recreation" use (golf courses, camp area). Benetti reviewed the "Private Recreation" parcels. He provided an overview of the following Comprehensive Plan discussions:

- To recognize the private (as opposed to public) ownership of the property
- A proposal to develop residential units along the perimeter of the Medina Golf and Country Club

Benetti advised that the Implementation Chapter of the Comprehensive Plan describes the need for at least two PREC zoning districts, one district for the rural area and one for the portion of the City where sewer and water are available. The draft ordinance includes these two districts. Benetti provided an overview of the following information:

- General lot/development standards within the draft ordinance in comparison to the existing Public/Semi-Public zoning district.
- Residential development regulations within PREC-U

Cavanaugh questioned what the developer is proposing for density at this time. Benetti replied that 3-5 units/net acre is within the developer's preferred range at this point.

Cavanaugh questioned if the Planning Commission has directed that a density of 5 units/net acre is acceptable. Benetti responded in the affirmative. He stated the Medina Country Club area is sandwiched between low density residential to the north and mixed use residential below; they are looking for a happy medium.

Benetti advised that the Planning Commission recommended approval of the draft ordinance with the following changes:

- Increasing the percentage of the recreational property which could be developed. Commissioners believed this would allow a developer to preserve more trees and wetlands.
- Addition of a requirement that residential structures include two-sided architecture

Crosby suggested consideration of three-sided, rather than two-sided architecture.

Weir suggested consideration of drafting language to state a strong preference for side-loaded garages.

Cavanaugh questioned if reducing the minimum density from 3.5 to 3 will hurt the City's calculations for the Metropolitan Council. Benetti replied no, the goal is to stay above 3 units per acre in this urbanized area. The impact is negligible on this site.

Crosby requested clarification that the ordinance will not become effective until the Comprehensive Plan is approved. Benetti stated the ordinance will not become official until the zoning map is adopted and the Comprehensive Plan is approved.

Weir noted Section 837.1.05, Subd. 7 states that impervious surface coverage shall not exceed 25%. She pointed out that the lot containing the club house is 40% in impervious surface. She asked whether preexisting parcels can be exempted, as they do not want to create a nonconforming parcel with this ordinance. Batty replied this could be done, but he is generally skeptical of that approach. It has been done in limited circumstances with regard to lot size. He advised that the Council should be careful about taking that approach, generally because there will be sub classifications in almost every district. He is not certain if that would be a problem in this case or not. The question is what property would be within the district.

Benetti stated the lot that contains the club house is just over 40% in impervious coverage; the 25% calculation would basically put them into nonconforming status. There are actually four lots shown; the southeast corner is split, but it is shown as one

parcel on the tax identification. If there were to be a request for an addition to the club house or a parking lot addition a variance would be needed under the 25% threshold.

Weir noted that a storage building will be needed on the site.

Crosby suggested staff run the ratios on the entire property. He stated he believes the only issue is that the owner had wanted to hold out the parcel in the southeast corner for future commercial development and the Council had said no, it will be going into this zoning district. He noted the intention is that it would not be nonconforming; however, the question is the language.

Batty stated this illustrates an issue that will need to be resolved before this ordinance goes into effect, which may mean that some or all of these parcels may need to be combined into a single parcel so that the calculation runs over the entire area. The intent is that the parcel would not be made nonconforming.

Cavanaugh questioned what will prevent the landowner from coming in with a different plan once this is completed. Crosby stated a site plan is not being approved at this time; the approval would simply be the density that would be allowed.

Cavanaugh pointed out that the City currently holds the cards, and once this is approved the landowner will have an ordinance giving them authorization. Batty explained there will be two actions to occur; one is to adopt this text and then to map it into a particular piece of property. It will not have effect until it is mapped. Secondly, according to the way this is structured, any residential development requires a PUD, so there is a second step involved.

Benetti advised that the City holds a lot of discretion with the PUD. The PUD process gives flexibility to the developer, but gives the City discretion on design, layout, etc., so there are safeguards.

Weir questioned if the Council as a group is supportive of the Planning Commission recommendation that 20% of the gross average of the property be allowed for development. She noted that the concept plan included 12.5% and staff recommended 15% for flexibility. The site is very tight with the wetland setbacks.

Crosby asked if the percentages relate to the entire combined parcel, as opposed to the existing four sub-parcels. Benetti replied he believes it represents the entire parcel. If someone were to come in and carve out a 10 acre parcel they would be allowed to develop 20% of that site under this PUD process.

Batty stated the way it is written, it is 20% of the entire property, which he does not think is what was intended.

Cavanaugh questioned what would prevent carving out a piece at the top and at the bottom. Batty replied he does not think the language reflects what was intended. It is correct that the 20% applies to everything, and that would be a tremendous amount given the size of the parcel and the openness of it. The language will need to be tweaked if that is not what is wanted.

Cavanaugh suggested rezoning the portion of the property the landowner wants to develop and leaving that residential component out of the PREC-U. Crosby pointed out that this would be spot zoning.

It was noted that the intent was to keep this parcel intact as much as possible, keeping the recreational land use in place, but allowing for residential in this area. This was part of the Comprehensive Plan goal.

Smith suggested going back to the staff recommendation of 15%.

Weir stated her preference that Section 837.1.08, Subd. 3. include language stating a strong preference for side-loading garages.

There was discussion regarding Crosby's earlier suggestion for consideration of three-sided architecture on end structures. Crosby suggested staff draft language requiring two-sided architecture, but that the other sides are not left stark.

Cavanaugh stressed that once this development is done it should be understood that pieces will not be broken away with the same thing done. He stated he does not want to keep making adjustments; everything should be factored into this as one parcel.

Steve Theesfeld, 600 Shawnee Woods Road, stated he is speaking on behalf of himself and his wife. It seems like the approval of this ordinance is a foregone conclusion, but he would like the Council to think of two things before making the final decision. He requested that the Council please remember that the area north of Shawnee Woods Road is zoned for 5 acre large lots. He stated in the 1990's the Shawnee Woods residents came to this board with failing septic systems. They asked if they could subdivide and were told no. They then had to decide whether to invest money in the property or sell it at a loss. They put more money into the property. They did their due diligence and they were told by the Planning Commission and the City Council that the golf course would remain private, park zoned land, and that it would not be allowed to be developed. Theesfeld stated in the last two years, suddenly the golf course is experiencing financial difficulty and asking the City to help them. He sees a very slippery slope. This is not a development being called out for by the public; it is a private company. There is no public benefit to the City Council breaching their promise to the residents of Shawnee Woods, and no public benefit to the City Council giving up their beliefs that they will protect open land or wetlands and the woodlands. To do so for a private golf course, where he as a Medina resident is not allowed to play golf, drive his car, or walk; for the City to act on behalf of a private entity is flabbergasting to him. The Planning Director and City Council are sitting down with a developer and working to ensure that Mr. Hendry can make his profit on this land and the golf course will be preserved. He does not think that is the private trust for which the City Council is directed. Theesfeld stated nevertheless, if the Council has still decided they will do this, they need to think about what will happen the next time a business comes to them and says they have a financial situation; how will the Council say no when they bend over backwards to help the golf course here? He stated when the residents wanted this they were told no, the City is going to stick to their guns and maintain the wetlands and trees. Now, for this private corporation, they will throw all of that out the window and breach their promise to the people of the Shawnee Woods area. If the Council decides to do this, please remember that the last thing the neighborhood wants to see is tiny townhomes shoved across the street from them. He stated he spoke to three real estate

agents, who said this will definitely affect the property values. People who are looking for large lot sizes in Medina do not want to buy lots with townhomes directly across from them. These townhomes are being jammed up right up against them. If this is going to be approved, at the minimum please allow the maximum amount of land to be developed and take the stuff on the north end and put it on the west and the south side of this land, or at a minimum let them pull it back from the northern border further down south. Theesfeld stated there are 100 year old elms and oak trees, and native, wild owls that nest there. He does not understand why they would want to force the housing project to be jammed into that one small area when there are other areas they could use that would not destroy the trees and wetlands. He understands the City now has a tree preservation ordinance and a wetland ordinance, but they cannot replace 70 to 100 year old oaks and maples with two or three small saplings. He requested that the Council think about two things. First, think about whether they are doing this for the residents or to protect a private company that does not benefit the residents. Second, consider the impact they will make to the neighborhood. It is not just that their property values will drop; it will change their neighborhood from a few houses to several tens of people coming through. He understands that the developer said it will be sold to elderly people or young couples without children, so there will not be as much traffic, but that will not be put into the ordinance. He requested that the Council consider the residents first and the private business second.

Crosby asked how the property to the north of Shawnee Woods is guided. Benetti replied the properties from the midline between Shawnee Woods Road and over is guided low density residential, which is 2 to 3.49 units per acre.

Crosby stated he was not involved in city government when these earlier transactions took place. He explained as a result of directives from the Metropolitan Council, the City determined where density had to go in the City. It was determined to be north of Highway 55.

Theesfeld stated he understands that situations change and that for certain reasons the density needs to increase and their area was targeted. If these townhomes go in across the street and it affects the property values, they will need to look at whether they can afford the mortgage on their property, at which point they may want to sell to a developer. Then the question is if he comes to the City Council and says he would like the same deal the golf course has, will the citizens be able to get that. He stated he is very concerned that the golf course seems to be getting something with the full backing of the City. Without even having a plan before them it will be rezoned for the golf course so they can pay off Mr. Hendry. It is a little troubling.

Cavanaugh stated Theesfeld will have the right to develop to that density, but will need to figure out how to get the infrastructure back there, as does the golf course.

Crosby stated the Council needs to take at face value what they are being told by the country club, which is that in order to preserve the green space Mr. Hendry has to get paid off. This is more of a country club / landowner driven circumstance than developers looking for land upon which to make money.

Theesfeld questioned if the next person will be given the same benefits the golf course is being given. He stated the City is changing their policies to benefit one particular entity. Crosby replied he would not agree with that; they have tried to figure out where

density best fits in the community, and where they can put it in without adversely affecting the golf course.

Theesfeld stated it is a misnomer to say they will preserve the open space by allowing them to develop the north area where they will tear down most of the old growth trees. Yes, they can plant new saplings, but they will be preserving a manufactured environment of clipped lawns and destroying the natural environment to preserve the artificial. It seems like the Council should be telling them to preserve as much of the natural forest as they can and reconfigure a small putting green or something else so that they destroy the fewest trees. It should also be remembered that the water table in that area is very high so the trees will die by equipment driving over the roots. He stated he really sees a bit of a conflict here.

Crosby commented that it is phenomenal what has happened along the Spring Hill Golf Course in Orono; the golf course cannot even be seen.

Theesfeld requested that the 20% be allowed for development, with it pushed away from their homes.

Smith noted that there will be rear and side setbacks of 50 feet, not 10 feet as was mentioned earlier.

Eric Voltin, 630 Shawnee Woods Road, stated he is also in opposition to putting townhomes down the road if they are going to discuss a development of some sort. He is in agreement that there is no way a 100 year tree can be replaced with saplings. He is proud that the City said they need a tree ordinance and a wetland ordinance, but it is a little light when it is not taken into consideration what the tree is doing so that there is an actual replacement value when they are considering butchering a forest. Second, there is the low density residential area, which is about 2 to 3.5 units, and for the townhome they are talking about 3-5 units. But there will still be the buffer of 5 acre houses that will be sitting there for the next ten years. In his perspective, he thinks other things could have been done on the country club side to bail themselves out of their own problem; they do not need to have a city bail out a private enterprise. He questioned why it needs to be townhomes if the Council is going to consider allowing the building to be done, and pointed out it will be across the street from 5 acre lots. He asked why it would not be more accustomed to what their neighborhood is. He questioned the idea of putting townhomes on the north side of this golf course down a desolate area with no walking paths to get anywhere. Seniors would be targeted to buy these townhomes; they should be near the places where they would have the most benefits, which would be on the south side. There does not need to be development on the north side of this. He understands that they are not considering a plan now, but they are opening up the ability for the landowner to come in and develop, which is not there now. If the Council is going to seriously consider allowing them to develop something, they should develop something that makes sense.

Jeff Pederson, Planning Commission Chair, requested clarification that his neighborhood will not be required to hook up to city sewer if their current system works. Crosby replied often they would be given a three year period for which to hook up if city sewer is put down their road. He noted that the sewer may go down the road to serve the units on the south.

Pederson stated his understanding is that Shawnee Woods Road would be one of the roads for sewer, and that in 2006 the developer agreed to put sewer and water in without paying for the hookups.

Crosby noted if the City is not putting the sewer in there is less onus for a requirement that adjacent landowners hook up.

Batty indicated that hook up is generally required within two years of the sewer being installed, but he is not certain that it would be considered available to the neighborhood in this situation.

Pederson requested verification that the land could become all houses if the golf course were to fail. Batty advised if there is not any sort of relief, and the owners decide that the golf course is not an economically viable use any longer, the worst situation would be for the entire thing to be developed.

Crosby noted with the proposed ordinance, if the Comprehensive Plan and the zoning go through, this property will be in the PREC zoning where they are limited to the percentage of developable land that is determined. Council has been discussing 15%.

Pederson explained that the tree ordinance and the wetland ordinance are the reason the Planning Commission wanted to allow the extra room with the 20% ratio. He stated he disclosed to the Planning Commission that he lives on Shawnee Woods Road and he does not have an agreement with any developers. He verified with staff and one council member that he does not have a conflict of interest. He has been a resident of Shawnee Woods Road for 22 years and has no intentions of moving, no matter what happens. He realizes when the Comprehensive Plan comes out changes will occur.

Crosby stated he would like to compliment the Shawnee Woods residents on very articulate comments. The larger issue is that the community has to deal with so many changes and each of them in the community is dealing with things they did not think they would have to deal with. He clearly acknowledges the potential dislocation of 5 acre lots, yet they will probably not suffer an economic loss. The other thing is that it should be assumed that there will be a relatively high quality development on the golf course, and the City Council will be tough on the development.

John Swierzewski, current president of Medina Golf and Country Club, stated his concern is with the requirements in relation to the impermeable surface and the nonconforming use of one of their parcels that makes up the golf course. He clarified that the ownership of the parcels that make up the golf course is complicated; the club owns one parcel and the partnership owns the rest. Mr. Hendry has an option on all the land they do not own. The reason Mr. Hendry is proposing to develop the north and west is because that is the parcel he can exercise his option on. This is not an economic development by the club; they receive no economic benefit from that development. Mr. Hendry has an option and can do what he wants with his plan.

Crosby inquired about the ownership of the land. Swierzewski stated they will have to buy the remaining option from Mr. Hendry.

Crosby stated it was represented to the City before that, but for this transaction, they could not continue as a country club. Swierzewski replied he was not here then and would not make that statement.

The meeting recessed at 10:54 p.m. and reconvened at 11:00 p.m.

Swierzewski stated with the multiple parcels of land and the impervious surface, as was acknowledged before, if this development goes through they will lose the barn which is used as a maintenance facility in part, and they will need to rebuild one on their land. His understanding is that the parcel they have that on is already nonconforming so they would be in a position where they could possibly be grandfathered in. This is a big concern for them.

There was discussion on what had been represented as the position of the country club during previous discussions on this topic. Crosby stated the understanding had been that once the transaction being contemplated goes forward the country club will end up with one entire tract of land. He stated they are hearing something different tonight than what was heard previously, which was if this property were developed the country club would be assured of its own destiny.

Weir stated her recollection is that the five acre parcel was represented as being very important to the country club. Swierzewski stated his opinion that this would be a fair assessment.

Crosby stated it may well be that even with disparate ownership, the land will need to be brought together. He stated Swierzewski's current comments are not consistent with previous representations and they will need to go back to the drawing board. From what Swierzewski is currently saying, the whole property cannot be viewed as one. It seems that they are missing one essential party at this meeting, i.e. the owner, and he will need to get into the mix before they can go further.

Batty advised on the need to reinvestigate the facts and determine whether the ordinance that was drafted based on the facts as they were understood by staff will work with the present information.

Weir noted there are many things that need to be reconsidered, such as the issue of the 20% impervious surface.

Crosby stated he would ask that the owner of the property, or a representative needs to be at the table. Secondly, they need to know the actual separate ownerships of the four parcels involved.

Cavanaugh stressed the importance of open space preservation being a critical piece of this process.

Crosby, Smith and Cavanaugh stated their position that the previous representation had been that this would secure the open space. Weir stated her position that the previous representation had been that this would help secure the open space, and that the open space would almost certainly go if this was not done.

Moved by Weir, seconded by Smith, to table an Ordinance Creating the Private Recreation Urban Zoning District and Private-Rural Zoning District, with staff to research the facts on the property based on the above discussion.

Cavanaugh inquired about the current zoning of the property. Benetti replied it is currently zoned Public/Semi Public.

Cavanaugh commented that if the majority of this land is zoned Public/Semi Public and the country club were to move out, all that could be done with the land is to operate it as vacant land or a golf course. Any changes to this would need to come to the City Council. Batty advised that the facts need to be reinvestigated. There is a difference of opinion and recollection. The issue previously was that a safety valve issue was being introduced. There has been litigation with individuals saying that it is a taking if the only allowable use of their property is as a golf course, and that they have demonstrated it cannot make it as a golf course. The road that was started down two years ago was to provide flexibility to help, but also to get out of the legal box where there really was no other use. They are now questioning some of those facts and need to relook at this.

Cavanaugh questioned if any of this litigation has been successful. Batty responded in the affirmative.

Motion passed unanimously.

B. 2009 Budget

1. Street Assessment Policy

Adams requested discussion from the Council on the Road Improvement Program/Street Assessment Policy.

Adams stated a policy will be drafted, but there will likely be more discussion. The more critical discussion for tonight is the special assessment policy. Also, the Council is scheduled to discuss the take-back of Homestead Trail and Parkview Drive on September 16th as promoted in the July City newsletter. As direction has not been received on a special assessment policy, staff is not yet able to complete this analysis. He suggested sending a letter to these residents stating that there will be a discussion on the turn-back issue.

There was discussion on the Road Improvement Program/Street Assessment Policy.

Consensus was reached to draft an assessment policy that would require an assessment for mill and overlay projects and reconstruction/rehabilitation projects, noting the different factors that apply to projects. Collector roads would be assessed at 25% and neighborhood roads assessed at 50%. Assessments will be apportioned to properties based on a per lot basis for half of the assessment and then using the example "C3 modified" that was prepared for Willow Drive on the other half of the assessment. Staff will send a letter to the Homestead Trail and Parkview Drive parcels incorporating this proposed method.

2. Resolution Approving Preliminary Tax Levy

Adams stated since there is not consensus on the street assessment policy at this time, staff recommends adding \$75,000 to the property tax levy and general fund budget. He provided an overview of the impact of the proposed tax levy on a \$500,000 home. He

explained this is based on assumptions, since the City will not be provided the net tax capacity used to establish the local rate until September 15, 2008. The additional debt service amount will result in a total tax levy increase to \$2,724,719 or 12.42%. The General Fund Budget would increase to \$4,047,949, which would represent a 2.67% decrease from last year's budget. Staff recommends adopting the proposed resolution approving the proposed tax levy of \$2,724,719 for 2009.

*Moved by Cavanaugh, seconded by Smith, to approve Resolution Approving 2009 Preliminary Tax Levy at \$2,724,719. **Motion passed unanimously.***

3. Resolution Approving Preliminary General Fund Budget

Adams stated staff recommends adopting the proposed resolution approving the proposed General Fund Budget to be set at \$4,047,949 for 2009.

*Moved by Smith, seconded by Cavanaugh, to approve Resolution Approving 2009 Preliminary General Fund Budget at \$4,047,949. **Motion passed unanimously.***

4. Approve Truth-in-Taxation (TNT) Dates

Adams reviewed the possible meeting dates for the initial and continuation Truth-in-Taxation Hearings.

*Moved by Smith, seconded by Cavanaugh, to approve the TNT hearing dates as follows: Initial TNT Hearing for Monday, December 8, 2008 at 6:30 p.m. and Continuation Hearing for Monday, December 15, 2008 at 6:30 p.m. **Motion passed unanimously.***

C. Ordinance Creating the Private Recreation-Urban Zoning District and Private Recreation-Rural Zoning District; Adding New Sections 837.1 and 837.2

Moved up in the agenda to Agenda Item 8A.

IX. CITY ADMINISTRATOR REPORT

Adams stated the Three Rivers Park District barn will be coming down in a couple of weeks. A demolition permit will be granted in the next few days.

X. MAYOR & CITY COUNCIL REPORTS

There were none.

XI. APPROVAL TO PAY THE BILLS

*Moved by Smith, seconded by Weir, to approve the bills, EFT 000290-000303 for \$29,240.71 and order check numbers 032868-032919 for \$399,602.89 and payroll check 020186-020188 for \$2,278.03 and EFT 501470-501498 for \$41,328.76. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Smith, seconded by Weir, to adjourn the meeting at 11:56 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Chad M. Adams, City Administrator-Clerk