

## MEDINA CITY COUNCIL MEETING MINUTES OF NOVEMBER 1, 2011

The City Council of Medina, Minnesota met in regular session on November 1, 2011 at 7:00 p.m. in the City Hall Chambers. Acting Mayor Weir presided.

### I. ROLL CALL

**Members present:** Pederson, Martinson, Siitari, and Weir.

**Members absent:** Crosby.

**Also present:** City Attorney Ron Batty, City Engineer Darren Amundsen, Planner Dusty Finke, Public Works Superintendent Steve Scherer, City Administrator Scott Johnson, Chief of Police Ed Belland, and Recording Secretary Amanda Staple.

### II. PLEDGE OF ALLEGIANCE

### III. ADDITIONS TO THE AGENDA

*The agenda was accepted as presented.*

### IV. APPROVAL OF MINUTES

#### A. Approval of the October 18, 2011 Special City Council Meeting Minutes

*Moved by Pederson, seconded by Siitari, to approve the October 18, 2011 special City Council meeting minutes as presented. **Motion passed unanimously.***

#### B. Approval of the October 18, 2011 Regular City Council Meeting Minutes

It was noted on page three, line two, it should state, "...and remain net ~~negative~~ neutral." On page five, line 35, it should state, "...Lorette Hamel fire..."

*Moved by Pederson, seconded by Siitari, to approve the October 18, 2011 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### V. CONSENT AGENDA

#### A. ~~Accept Janet White's Resignation from the Park Commission~~

#### B. ~~Call for Highway 55/County Road 116 Intersection Open House on November 14, 2011 at 5:00 p.m.~~

#### C. ~~Call for Council Gathering for the 2011 Medina Business Forum on November 16, 2011 at 7:30 a.m. at the Hamel Community Building~~

#### D. 2011-95 Resolution Reversing Past Certified Delinquent Stormwater Utility Charges to the Hennepin County Auditor for Collection in 2010

*Moved by Siitari, seconded by Martinson, to approve the consent agenda. **Motion passed unanimously.***

#### A. Accept Janet White's Resignation from the Park Commission

Weir suggested that a Resolution be drafted thanking Janet White for her services on the Park Commission.

*Moved by Martinson, seconded by Pederson, to direct staff to draft a Resolution recognizing Janet White for her services on the Park Commission. **Motion passed unanimously.***

**B. Call for Highway 55/County Road 116 Intersection Open House on November 14, 2011 at 5:00 p.m.**

Johnson stated that he spoke with Batty and has been advised that if a quorum of the Council would be present a Special Council meeting would need to be called.

*Moved by Martinson, seconded by Pederson, to call for the Highway 55/County Road 116 Intersection Open House on November 14, 2011 at 5:00 p.m. as a special Council meeting. **Motion passed unanimously.***

**C. Call for Council Gathering for the 2011 Medina Business Forum on November 16, 2011 at 7:30 a.m. at the Hamel Community Building**

*Moved by Martinson, seconded by Pederson, to call for a special Council meeting for the 2011 Medina Business Forum on November 16, 2011 at 7:30 a.m. at the Hamel Community Building. **Motion passed unanimously.***

**VI. COMMENTS**

**A. Comments from Citizens on Items not on the Agenda**

Jacob Hallen, 4650 Fern Street, spoke to the Council regarding a significant elevation drop on the roadway which is causing drivers to have high speeds in an area which has pets and young children. He believed this to be a safety issue and requested a speed limit sign be posted as well as a watch for children sign. He also asked that a speed bump be placed on the roadway to help control speeds.

Belland explained that speed bumps are avoided because of issues with plowing but believed that signs could be posted. He believed that there may be an option to lower the speed to 25 mph on the roadway as well. He confirmed that an officer could be posted on the roadway at certain times to target speeders.

Jude Stephenson, 4605 Fern Street, also expressed concern with the high speeds of drivers on the roadway. She asked if the neighborhood could post signs on their property which state slow for children.

Belland believed that could be an option but advised that issue should be confirmed with Finke in regard to the sign ordinance.

Weir confirmed that staff would follow up on the request and follow up with the residents.

Michael Fine, 550 Navajo Road, thanked the Council for their efforts with Lennar and the completion of the berm rather than phasing that landscaping feature in. He expressed concern with the fact that Lennar appears to be building their homes on a higher level and the berm will not screen that area.

Finke explained that the vegetation would break up the façade of the development but noted that the berm height would not compare to the height of a three story home. He confirmed that Lennar met the specifications of the City regulations for berms.

**B. Park Commission**

Park Commissioner Linck provided an update on the October meeting of the Park Commission and noted that the Chair and Vice-Chair were not able to attend the meeting. She advised that the Chair of the Commission had to resign due to health reasons. She stated that the Commission heard a presentation regarding tobacco-free parks and recommended approval of a tobacco-free city owned outdoor recreation facilities policy. She advised that the Commission also began discussions regarding a park and trail comprehensive plan.

Johnson confirmed that openings on the Park Commission would be filled in January to bring the Commission back to full strength.

**C. Planning Commission**

Finke noted that the November meeting of the Planning Commission has been canceled and advised of items which may be discussed at the December meeting, including the sign ordinance.

**VII. NEW BUSINESS**

**A. Private Kennel License: Neumann at 25 Hamel Road**

Finke stated that the applicant requests to house 12 Chihuahuas at the home located at 25 Hamel Road, and provided background information regarding the ordinance regulations for private kennel licensing. He noted that the Police expressed concern with this number of dogs on an urban/suburban sized lot.

Jean Neumann, 25 Hamel Road, addressed the Council with one of her dogs, and stated that five of her dogs never leave the house. She explained that eight of their dogs have been kenneled while this process has gone on but noted that she cannot afford to kennel the dogs any longer. She stated that the dogs are their family and once those dogs die, she and her husband will not be replacing the dogs. She advised that all of the dogs are female and they will not be breeding the dogs any further. She stated that all of the dogs are paper trained and the few that do go outside are only outside for about five minutes three to five times per day.

Siitari confirmed that the Neumanns were breeding the dogs at one time but are no longer continuing that practice. He also confirmed that the Neumanns did not have a license to breed the dogs.

Martinson confirmed that the yard is fenced in. She questioned the lifespan of the dogs.

Jean Neumann was unsure of the lifespan of the dogs but advised that some of the dogs are eight years old.

Belland noted that there have not been complaints on this property and confirmed that the Neumanns have reduced the number of dogs to four, as requested, for the past year. He expressed concern that allowing this high number of dogs could set a precedent.

Batty confirmed that precedent is always something that the Council should consider but noted that there are almost always factual distinctions between requests. He noted that the Council spent a long time discussing the dog ordinance, including the size of dogs. He suggested that the Council not be afraid of precedent as long as the reasoning is

articulated and conditions or standards are placed on the approval, such as no replacement of dogs.

Johnson reviewed the possible conditions which had been drafted by staff, if the Council chooses to allow the dogs to be housed at the property.

Pederson stated that he researched the issue and had assisted in drafting further conditions. He felt that the absences of complaints from neighbors spoke highly to the owners. He believed that all 12 dogs should be allowed at the property with the noted conditions, and stressed that the dogs should not be replaced. He confirmed that the home is located in a mixed-use district.

Martinson confirmed that a condition is included which addresses noise and odor.

Weir stated that although the dogs are small, well cared for, and loved she felt that this could set a precedent. She advised that there were two other kennel licenses coming forward in the near future.

Siitari stated that the owners were breeding dogs without a license and stated that the medical information lists a number of health problems. He stated that he does have concerns and believes that this property could fall into the hoarder mentality. He believed that the dogs could be adopted by other families as he saw too many red flags with the request.

Weir stated that the dogs are small and believed that the number could be raised to six.

Siitari stated that he would allow up to six dogs.

Jean Neumann recognized that they did not have a license for breeding and noted that when they did apply for a license it was denied. She referenced the dog daycare which was recently allowed.

Weir explained that the dog daycare is a commercial facility which is totally different than this request.

Jean Neumann stated that they have severely reduced the number of dogs and are now requesting 12 dogs.

Weir stated that she would allow up to six dogs.

Martinson stated that she has mixed feelings and was unsure which side of the issue she agreed with.

Pederson stated that he would not be in agreement with allowing six dogs, with the conditions drafted by staff.

Martinson stated that she would also be in agreement with six dogs, although she could possibly allow more.

Weir again referenced other requests in the City and stressed that allowing 12 dogs would be a precedent that she would not like to set. She noted that the microchips, spaying, and fencing be removed from the noted conditions.

*Moved by Siitari, seconded by Martinson, to approve the private kennel license at 25 Hamel Road, limiting the number of dogs to six, subject to the conditions recommended by staff. **Motion passed 3-1. (Pederson opposed)***

**B. Tobacco-Free City Owned Outdoor Recreation Facilities Policy**

Johnson advised that a group of students from Orono High School has partnered with Tobacco-Free Youth and are in attendance tonight to make a presentation to the Council regarding tobacco-free parks.

Emily Anderson, Tobacco-Free Youth Recreation, stated that her organization has been working with this group of students for over one year. She noted that this group has made this presentation to four neighboring communities, which then passed policies in favor of tobacco-free parks.

Elizabeth Fosen, 155 Hackberry Hill, Orono, stated that the goal is for the City of Medina to make all City parks tobacco-free. She stated that the group of students has been working hard on this project for the past year to provide clean and tobacco-free parks in the area. She noted that the request would make all city owned outdoor recreation facilities tobacco-free.

Ashley Malcom, 191 Orchard Circle, Long Lake, provided a map of the State and noted 144 communities have adopted tobacco-free park policies. She highlighted the Metro area and listed cities in the area which have similar policies. She noted that cities with this type of policy highly recommend the policy to other communities.

Grace Lynch, 2350 Shaddowood Drive, Orono, provided information regarding secondhand smoke and the effects on health.

Jack Ellis, 2460 Keller Road, Medina, stated that cigarettes are the most littered item in the world and provided additional information regarding litter from tobacco use. He noted that when children view adults smoking they often believe that smoking is okay.

Laudie James, 148 Glenbrook Road, Wayzata, provided information regarding enforcement of tobacco-free parks including methods of enforcement. She noted that Tobacco-Free Youth supplies signs, at no charge, which specify that the area is tobacco-free.

Jack Ellis thanked the Council for listening to the presentation and reinforced the reasons for this request.

Martinson questioned why a policy would be better than an ordinance.

Belland stated that he has no objection to the policy but noted that there could be problems with enforcement of a policy without an ordinance in place. He stated that a smoker could be asked to put their cigarette out or leave the park.

Commissioner Linck stated that the City does not have the personnel to enforce an ordinance of this type. She noted that a policy would set the example and if major complaints are reported the issue could be revisited.

Belland believed that the policy would be the better method to begin with as there have not been any complaints regarding tobacco use in the parks.

Batty confirmed that there have not been complaints. He noted that this could move forward on the policy level and could be increased to an ordinance if that is felt necessary in the future.

Weir confirmed that the tobacco-free signs would be free. She thanked the group for making the presentation to the Council.

*Moved by Pederson, seconded by Siitari, to adopt the Tobacco-Free City owned outdoor recreational facilities policy, as amended by staff. **Motion passed unanimously.***

### **C. Lake Independence Outlet and Marsh Survey**

Weir stated that she attended the last meeting of the Pioneer-Sarah Creek Watershed meeting regarding the level of Lake Independence. She stated that a motion was passed at the meeting to pay up to \$6,000 for a water specialist to survey the outlet to determine what blockages are present. She advised that the Watershed believes that the \$6,000 should be split between the four organizations which border Lake Independence, which would equal up to \$1,500 for the City of Medina.

Johnson stated that he spoke with Crosby, whom suggested that budget reserves be used for this item at the end of the year. He felt that there would be sufficient funds.

Scherer questioned where the funding would come from for the project itself if there are no funds for the survey.

Weir stated that has not yet been determined, and believed grant funding may be an option. She believed that the problem must be identified before a solution could be found.

*Moved by Siitari, seconded by Martinson, to approve the use of budget reserves to contribute up to \$1,500 for a survey of the Lake Independence outlet and the marsh to establish what blockages are present. **Motion passed unanimously.***

## **VIII. OLD BUSINESS**

### **A. Ordinance Pertaining to the Management of Stormwater Adding Section 828.33 to the Medina Zoning Ordinance**

Weir noted that this item has been reviewed by the Planning Commission twice, and has also been before the Council twice. She reminded the Council that this is a water quality ordinance and noted that prevention is much cheaper than reaction to a problem.

Finke advised that additional information from other communities was included in the Council packet, as requested, as well as the amended ordinance. He explained that the Surface Water Management Plan (SWMP) is a portion of the Comprehensive Plan and referenced portions of the SWMP including volume control, water quality and rate

control. He reviewed policy questions on which staff requested direction from the Council. He referenced redevelopment and improvement to developed sites, providing the current standards which apply and requested further direction.

Dan Edgerton, Stantec, provided examples regarding water quality and volume control related to redevelopment and improvement to developed sites.

Amundsen provided an example of a development which utilized pervious pavement. He confirmed that while the option is more expensive, often there are times when other options are not possible.

Finke confirmed that the Council would be in agreement with triggering the water quality requirements on a redevelopment or improvement of a developed area. He questioned if that requirement should apply to the City when completing road construction projects.

Amundsen confirmed that there are options other than raingardens and pervious pavement which could be utilized for road construction projects.

Pederson stated that he would like to see the requirements apply to new development but not to existing. He was unsure that the City could afford the extra expense.

Martinson commented that she believed that the benefit gained would be worth the extra cost.

Scherer stated that he would not be opposed to applying the requirements to a new construction or reconstruction of a roadway, but was opposed to applying the requirements to reclaiming, or completing a mill and overlay, of the roadway.

It was the consensus of the Council to apply the water quality requirements to new construction and reconstruction and exempt reclaims.

Weir briefly recessed the meeting at 9:00 p.m.

Weir reconvened the meeting at 9:07 p.m.

Finke moved onto the next discussion point regarding new development disturbing less than one acre and explained that even if less than one acre will be disturbed some best management practices (BMPs) will be required. The Council was in agreement. He advised that disturbance under one acre is split between minor and major expansion projects and explained the difference between the two categories as proposed. He also reviewed the water quality triggers for a single family residential lot as proposed. The Council was in agreement. He explained that the ordinance, as proposed, uses subdivision as a trigger for water quality as well. He addressed the definition of volume control and specified the definition which is provided in the proposed ordinance. He confirmed that the standard rate of rainfall volume control, whether approved at a rate of 1.1 or one, would be included in the design manual not the ordinance, which would make amendments much easier.

Weir stated that she would prefer to use a rate of one, which would match the requirements of the Minnehaha Creek Watershed District. The Council was in agreement.

Siitari questioned why the requirements proposed for Medina differed from the four “informed communities” that were referenced in the report.

Finke stated that the City has requirements from the MET Council and Watersheds in regard to phosphorus reduction and water quality. He stated that staff from other cities which he spoke with have made, or will in the near future be making amendments to their requirements.

Finke confirmed that staff would make the changes as directed and bring the ordinance back under the Consent Agenda at the next meeting.

*Moved by Siitari, seconded by Pederson, to table the ordinance pertaining to the management of stormwater adding section 828.33 to the Medina Zoning Ordinance and direct staff to make the requested changes and bring the item back for approval under the Consent Agenda at the next meeting. **Motion passed unanimously.***

4- **Resolution Authorizing Publication of Ordinance by Title and Summary**

**IX. CITY ADMINISTRATOR REPORT**

Johnson reported that the addresses of the Council members have been removed from the City website, but the information is still considered public. He stated that Engineer interviews are scheduled for November 15<sup>th</sup> at 4:00 p.m. and noted that the candidates have been narrowed down to three.

**X. MAYOR & CITY COUNCIL REPORTS**

There were none.

**XI. APPROVAL TO PAY THE BILLS**

Pederson noted that one check was missing.

Johnson provided further clarification regarding that payment.

*Moved by Pederson, seconded by Martinson, to approve the bills, EFT 001357E-001377E for \$60,786.78 and order check numbers 037538-037580 for \$341,699.91, and payroll EFT 503848-503873 for \$44,467.29. **Motion passed unanimously.***

**XII. ADJOURN**

*Moved by Siitari, seconded by Pederson, to adjourn the meeting at 9:40 p.m. **Motion passed unanimously.***

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Elizabeth Weir, Acting Mayor

Attest:

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Scott Johnson, City Administrator