

MEDINA CITY COUNCIL MEETING MINUTES OF JANUARY 5, 1999

The City Council of Medina, Minnesota met in regular session on January 5, 1999 at 7:30 p.m. in the City Hall Chambers. Mayor John Ferris presided.

Members present: Ferris, Hamilton, Johnson, Smith, Thies, and Zietlow (Thies through approval of the December 15, 1998 minutes)

Members absent: None.

Also present: Police Chief Ed Belland, Attorney Ron Batty, Public Works Director Jim Dillman, City Engineer Glenn Cook, Planning and Zoning Administrator Loren Kohnen, and City Clerk-Treasurer Paul Robinson.

1. Additions to the Agenda

A. Wessin Property Land Exchange.

*Moved by Jim Johnson, seconded by Ann Thies, to approve the agenda as amended. **Motion passed unanimously.***

2. Approval of the Minutes from November 17, 1998 Regular City Council Meeting

*Moved by Ann Thies, seconded by John Hamilton to approve the minutes as presented. **Motion passed unanimously.***

3. Approval of the Minutes from December 15, 1998

There were three corrections.

- 1- Change references to Willow Road to Willow Drive
- 2- Page 4, item 9 it should be northeast instead of northwest
- 3- Page 5, the motion should state "alternate minimum lot size".

*Moved by Ann Thies, seconded by Jim Johnson, to approve the minutes as presented. **Motion passed unanimously.***

4. Ceremonial Matters

Oath of office was given to council members Carolyn Smith and to Philip Zietlow, as well as to the mayor, John Ferris.

John Ferris said he enjoyed the job and said it was a privilege to work with all the residents and staff.

5. Additional Ceremonial Matters – Recognition of Ann Thies

John Ferris said that Ann Thies has been a council member for eight years and that she has been a great companion on the council and thanked her for her time.

Ann Thies said that she has had a very interesting time on the city council and she has had fun working with staff and council and thanked everybody for the recognition – the plaque and the cake.

Carolyn Smith took Ann Thies place at the council dais.

6. Consent Agenda

- A. Designation of Official Depositories.
- B. **Resolution 99-01** Designating Institutions for Investment.

- C. Designation of Official Newspaper.
- D. Approval of Gambling Permit for Minnesota Motorcycle Riders Association.
- E. Approval of 1999 Tobacco Licenses.

*Moved by Jim Johnson, seconded by Carolyn Smith, to approve the consent agenda. **Motion passed unanimously.***

7. Comments by Residents in Attendance

There were none.

8. Park Commission Comments

There were none.

9. Planning Commission Comments

Carolyn Smith said she talked to the mayor about continuing on the planning commission until the comprehensive plan was completed to insure continuity in the planning process. There was some discussion about this issue.

The council was in favor in having Carolyn Smith continue on the planning commission until the comprehensive plan was completed.

OLD BUSINESS

10. Lighting at the Holiday Station

Loren Kohnen said he recently spoke with Joe Francis about the lighting at the Holiday Station. Francis said he was working on a number of options especially on the east side of their building.

Greg Ebert said they ordered some shields to reduce the glare. However, they will not work with the lights they installed. He had an example of the shielding with him.

Ebert said instead they painted the inside of a fixture black with high temp paint. If the fixtures does not get too hot, this will be a good alternative. He said that underneath the light currently painted black the candlepower was reduced to 55.1 from 79.5, a 30% reduction. He said this, however, would not get them down to the 1.2 candlepower.

Greg Ebert said that the lighting reflection was much worse with the snow on the ground. He said in order to paint the inside of the boxes black they would need to have some 25-degree weather. He said that as a future comment to make it easier to lessen the amount of light was to require vertical lamps versus horizontal lamps. He said that there is a lot less travel of the light on a vertical lamp.

Phil Zietlow asked what happened with the proposal to turn off a row of lights.

Greg Ebert said that it would be expensive for them to rewire the lighting.

John Ferris said that the current proposal was to paint the interior of the box black.

Carolyn Smith said that she met with Mr. Dorweiler and looked at the lighting from his bedroom. She said there was a glow that came from the station into the Dorweiler's home.

She said that the other problems are with the pop machines on the outside. At night if you are standing in front of one of these machines, the machine itself gives off around 7 candlepower of light.

Smith said another issue is the facade lighting. She said the facade lighting could be considered a sign and as a sign it is far too large. She suggested that only the portion of the facade that says, "Holiday" be backlit. She also said that she did not want to give Holiday the opinion that facade lighting is acceptable.

John Ferris said that right now Holiday is trying to reduce the amount of lighting by either shielding the lights or by painting the backs of the light boxes black which will not be accomplished until the weather warms up.

Phil Zietlow said that in the meantime, they could be working on reducing the amount of lighting under the canopy. Zietlow said that at the last meeting Ebert said he was going to rewire the lighting under the canopy to cut one or two rows of the lights out.

There was some discussion about the cost of rewiring.

John Hamilton suggested that they could simply pull the bulbs out of the lights instead of rewiring and see what type of results they come up with.

There was some discussion about the status of the revision of the sign ordinance.

John Ferris said that before the next meeting he would meet with Greg Ebert to test the lighting after the bulbs were taken out.

Carolyn Smith said that she would also like to be there, as did Mr. Dorweiler. They set a time for Monday night at 7 p.m. to remove bulbs under the canopy to assess the amount of light given off after bulbs were taken out.

There was some discussion about the amount of bulbs. Ferris said that Ebert should start by removing half of the bulbs or at least as many bulbs as it would take to bring the lighting to an acceptable level. At that point they could add as many bulbs back until they had adequate light under the canopy.

Mr. Dorweiler mentioned some of the results of his light meter testing. He said that under the Holiday station canopy there was twice as much candlepower as under the Mayer Mobil canopy.

11. **Ordinance 306 to Rezone Property from Rural Residential to Agricultural Preserve**

Ron Batty said the city received an application from the Leatherdale's and the Crosby's to rezone 80 acres of property from rural residential to agricultural preserve. This ordinance and the next item on the agenda, the resolution adopting the official map, are the two steps remaining in the process for placing this property into agricultural preserve.

*Moved by Carolyn Smith, seconded by Jim Johnson, to approve **Ordinance 306** rezoning property from rural residential to agricultural preserve. **Motion passed unanimously.***

*Moved by Carolyn Smith, seconded by Jim Johnson, to approve the **Resolution 98-02** authorizing publication of the ordinance by title and summary. **Motion passed unanimously.***

12. Resolution 99-03 Adopting Official Map Designating Property as Eligible for Agricultural Preserve

*Moved by Jim Johnson, seconded by Phil Zietlow, to approve the **Resolution 98-03. Motion passed unanimously.***

13. Preliminary Plat Subdivision for 3212 Pioneer Trail – Tom Gubbins

Loren Kohnen said Mr. Gubbins wished to subdivide his property into a plat consisting of 10 lots with one outlot. He said that the planning commission recommended approval of the preliminary plat with 19 conditions. He said he and the public works director met with Mr. Gubbins to discuss issues related to the plat. He said they checked the site and access to Lot 5 and the outlot where it crosses a large swale. He said there should be no problems. Kohnen said the septic sites are staked and flagged and the only information that is late in coming is the information regarding the easement required by the power company for the power line crossing the property. Initially he estimated a 100 feet easement on each side of the power line. However, from discussions with the electrical company it could be as small as 37.5 feet.

Loren Kohnen read off the 19 conditions. He also passed out a copy of an overlay plat that was required by the city engineer showing 30,000 square foot lots in case this area would ever be sewerred. Kohnen said he recommended approval of the preliminary plat. He said the final plat would not be brought back to the council for approval until all the easement issues were cleared up.

Tom Crosby, attorney representing Tom Gubbins, said he was filling in for John Waters of his firm. He said that they had some minor issues with a few of the conditions. He said they would like the option to have either a homeowner's association or a tenant in common ownership arrangement for the Outlot A. He said they were not sure what option will be the best so they would like the option to have either/or.

There was some discussion about the driveway for lots 1 and 2. That issue was clarified.

Mr. Gubbins said a park dedication fee was requested in addition to a trail easement. He asked if it would be possible for the city council to credit the trail easement against a portion of the park dedication.

Loren Kohnen said that has never been done before in the city. He said other developments, most notably, the Foxberry Farms development, was required to do both.

Glenn Cook said that the 10-foot utility trail easement would be on top of the 10-foot utility easement.

There was some discussion about when the trail would be created.

Jim Dillman said that that trail would be developed some time in the future.

Mr. Crosby asked who would be responsible for the liability of the trail.

Ron Batty said that they have never discussed that issue before. He said that issue would need to be clarified. He assumed the city would be responsible for the trail.

There was some discussion about the condition requiring the demolition of the barn and the filling of the barn's foundation before approval of the plat.

Tom Gubbins asked if it would be possible to require this before a building permit was issued rather than requiring that it be done now.

The city council was okay with that.

Moved by Jim Johnson, seconded by Carolyn Smith, to authorize preparation of the preliminary plat resolution with the 19 conditions by the planning commission changing condition 14 to read "the barn shall be torn down before the plat is approved and the foundation filled in before a building permit is issued" and changing condition 15 to allow the sharing of Outlot A by either a homeowner's association or by tenants in common.

Motion passed unanimously.

13. Conditional Use Permit Amendment for the Building Addition and Addition to Parking Area for Holy Name Church

Loren Kohnen said that Holy Name Church is requesting an amendment to its existing conditional use permit(CUP) to construct a 26,800 sq. ft. addition.

Kohnen said the addition was for an enlarged worship area, new chapel, some office space, new entry and narthex, as well as additional meeting rooms, fellowship room, and new maintenance room.

Loren Kohnen went through the additional conditions. He said that condition number 2 regarding the entrances to County Road 24 was discussed at the December planning meeting. Staff was instructed to meet with representatives of the church and Hennepin County Public Works to discuss the intersection of Brockton Lane and County Road 24 as well as the entrances from the west side of the parking lot to County Road 24.

He said that it was decided that for safety reasons the intersection of County Road 24 and Brockton Lane would remain unchanged. After the meeting he said that he met with Father Arnold and Mr. Cooley regarding berming and planting on the north and east side of the church property.

Mr. Kohnen referenced a letter to Mr. Cooley from Vern Genslinger regarding the entrance and that they would not support any change or additional access onto the County Road.

Mr. Cooley said that they had retained a landscape architect to work with the three residents on Brockton Lane to create berming and landscaping that would keep the bright lights from people entering and exiting the church parking lot from shining into their homes. He said that since these residents are not at the meeting they must have been satisfied with this solution.

Moved by Jim Johnson, seconded by Carolyn Smith, to direct the city attorney to draft a resolution approving the conditional use permit amendment, changing the second condition to reflect the outcome of the meeting between the church, the county and the city of Plymouth.

Motion passed unanimously.

14. Medina Variance for Height and Sign Area, 500 State Trunk Highway 55, Medina Entertainment Center Entertainment Center

Loren Kohnen said the Medina Entertainment Center was requesting a height and area variance to replace its existing sign. He said originally they were requesting a 400 square foot sign. The

Planning Commission, after reviewing it, approved an area variance allowing 192 square feet sign and a height variance of 11 feet. He said the hardship for the height variance was the elevation of the road which was significantly above the elevation of the Medina Entertainment Center.

There was some discussion about the sign variance. The city council members did not have an issue with the height variance, but since there was no hardship for the area variance, they had difficulty in coming up with a reason for allowing a variance of that size especially since recent sign area variances were denied.

Dennis Mellon of Sign Crafters said this sign was unique and so was the business. He said there are seven businesses within this one property and 100 square feet of signage is not sufficient in order to advertise for all of these businesses.

There was some discussion about the amount of light that the sign would give off.

Mellon said that it would be a brighter sign than the current sign.

Since there was no allowance in the current sign ordinance for businesses that had larger frontages or businesses that were incorporating other businesses, except for shopping centers where the ordinance allows two 100-foot square foot area signs, the council believed that it may be reasonable to adjust the city's ordinance to allow for larger signs on larger properties.

Ron Batty said they had been working on the sign ordinance and he said there are not a lot of issues left to be resolved in order to complete the revision of the ordinance.

John Ferris said that we should put the sign ordinance on the next council agenda.

There was some discussion about dealing with glare issues.

Ron Batty said he also has a draft of a glare ordinance that could help resolve some of these issues.

It was decided to postpone approving the area variance until revisions to the city's current sign ordinance were completed.

Moved by Jim Johnson, seconded by Carolyn Smith, to approve the height variance for the sign. The area variance and the ordinance would be dealt with at the next city council meeting.

Motion passed unanimously.

15. **Hiring Update**

Ed Belland said he tentatively extended a job offer to Mr. James Nystrom. He said Nystrom was their top candidate. He has 10 years of experience with Hennepin County Parks, he is a firearms instructor, and a very qualified officer. Belland said that because would come to the department with significant experience, Nystrom requested starting at the step 3 salary and asked to remain at that step for the next three years. Belland said that he recommended hiring him at step 2 and allowing him to proceed to step 3 and step 4 naturally.

There was some discussion. The city council was in favor of allowing him to begin at step 3 and staying there for three years.

*Moved by Phil Zietlow, seconded by John Hamilton, to approve hiring James Nystrom, pending the physical and psychological exams and to allow Nystrom to start at step 3 and stay at step 3 for the next three years. **Motion passed unanimously.***

16. **False Alarm Ordinance**

Ed Belland said that included in the packet was a draft of the false alarm ordinance. He said that he was not sure about allowing an exception for an acts of God. Belland said that this seemed too broad. He said if a bird flew into the window and triggered a security alarm that could be considered an act of God, however, it probably means that the sensitivity of the motion detector for the alarm is set too high.

There was some discussion about the act of God exception.

Ron Batty said that he and the police chief could come up with some alternate language that would work.

There was some discussion about the amount of fines and the exceptions.

Ed Belland said they would give one free security alarm per year per property and zero fire false alarms.

John Hamilton said that he would be more comfortable giving two false security alarms. He said one seemed too restrictive.

There was some additional discussion about this. The consensus of the council was to allow for two false security alarms and one false fire alarm before the city would begin to charge.

Ed Belland said that there was also an appeal process where the initial appeal would be to the police chief and if the property owner was not satisfied with the appeal to the police chief they could then appeal to the city council.

Ron Batty said that he and the police chief could work out the remaining issues and bring a draft back to the city council for approval at the next meeting.

17. **Engineering Fee Increase**

Glenn Cook said that he was requesting less than a 3% increase for most of the categories for engineering for next year.

*Moved by Jim Johnson, seconded by Phil Zietlow, to approve the 1999 Engineering Fees. **Motion passed unanimously.***

18. **Land Swap for the Wessin Property**

Glenn Cook said earlier today he and other city staff members met with Dave Wessin. He said that the city council authorized him to negotiate with them regarding the exchange of land for wetland credits. He said they were in agreement with the costs involved and the assessed value of the property. He said that the only issue was the amount of soft costs. He said these will approximately be \$10,000. He said basically they would like to split those costs with the city for around \$5,000 a piece. If the city council was okay with this, then the next step would be to have the city attorney to draft an agreement for the land exchange and for the wetland banking credits.

*Moved by John Hamilton, seconded by Phil Zietlow, to authorize the city attorney to draft an agreement for the land exchange for the wetland banking credits. **Motion passed unanimously.***

19. Park Commission Appointments

*Moved by Jim Johnson, seconded by Carolyn Smith, to approve the park commission appointments. **Motion passed unanimously.***

20. Appointment to Offices and Commissions for 1999

John Ferris said that all but one appointment was accounted for in the recommendations. He said the only remaining seat would be for a second representative to the Lake Minnetonka Communications Commission. Carolyn Smith was nominated to be an alternate for John Hamilton.

<u>Office or Committee</u>	<u>1998 Appointee(s)</u>	<u>1999 Proposed</u>
1. Acting Mayor	Ann Thies	Phil Zietlow
2. Public Safety Commissioner	Phil Zietlow	Jim Johnson
3. Public Works Commissioner	John Hamilton	Carolyn Smith
4. Planning & Zoning Commissioner	Ann Thies	John Hamilton
5. Parks Commissioner	Jim Johnson	Phil Zietlow
6. Commissioner of Administration	John Ferris	John Ferris
7. Finance Committee	John Ferris	John Ferris
	Phil Zietlow	Phil Zietlow
	Paul Robinson	Paul Robinson
8. City Attorney	Ron Batty	Ron Batty
9. Prosecuting Attorney	Steve Tallen	Steve Tallen
10. City Engineer	Glenn Cook	Glenn Cook
11. Building Inspector	Loren Kohnen	Loren Kohnen
12. WHRC Representative	Paul Robinson	Paul Robinson
13. Lake Minnetonka Cable Commissioners (2)	John Hamilton	John Hamilton
	Ann Thies	Carolyn Smith
14. NWS Chamber of Commerce Representatives	John Ferris	John Ferris
	Jim Johnson	Jim Johnson
15. Fire Marshal	Loren Kohnen	Loren Kohnen
16. Weed and Tree Inspector	Phil Zietlow	Phil Zietlow
17. Elm Creek Watershed Rep. and alternate	Patrick Klise	Patrick Klise
	Bill Waytas	Bill Waytas
18. Pioneer Creek Watershed Rep. and alternate	Donald Johnston	Donald Johnston
	Mary Ann Huseth	Mary Ann Huseth
19. Minnehaha Creek Watershed Rep. and alternate	Phil Zietlow	Phil Zietlow
	John Ferris	John Ferris
20. NW League of Municipalities	John Ferris	John Ferris
21. Communities in Collaboration Council	Jim Johnson	Jim Johnson

*Moved by Phil Zietlow, seconded by Jim Johnson, to approve the appointments as presented. **Motion passed unanimously.***

21. Recognition of \$500 Donation from Loren Kohnen

The city council thanked Loren Kohnen for the \$500.

Loren Kohnen thanked the city council for keeping his firm for building inspection and zoning administration. He said he really appreciates working here.

22. Set a Date for Local Board of Review

Moved by Jim Johnson, seconded John Hamilton, to approve the local board of review date for April 14, 1999 at 7:00 p.m. **Motion passed unanimously.**

23. Approval of Long Lake Fire Contract

Paul Robinson said the cost of the fire contract was approved as a part of the budget, however, the city council had not formally approved the actual contract.

Moved by Jim Johnson, seconded by Phil Zietlow, to approve the fire contract. **Motion passed unanimously.**

24. Tax Increment Financing

Paul Robinson said he had been working on the tax increment financing reports for quite some time. He said he could continue to appease the state auditor and waylay them for a couple more years with the additional information. However, this year, if the reports are not filled out to the satisfaction of the state auditor, the state auditor can withhold HACA from the city which is around \$220,000 per year.

Robinson said he would like to hire Ehlers & Associates to assist him in completing the tax increment financing reports. Robinson said they have a great deal of experience filling out the tax increment financing reports. Also they helped set up a number of the city's original districts and still have that information. Currently, the city has around \$1,000,000 in fund balance in the tax increment financing funds and the payoff for the TIF bond is around \$700,000. He said without determining what all of that revenues were meant for, it would be difficult to know if we have excess TIF. He said at least \$200,000 of the current fund balance needs to be transferred back into the general fund.

There was some discussion. The city council was in favor of allowing up to \$5,000 for Ehler's and Associates to complete the tax increment financing reports.

Moved by John Ferris, seconded by Phil Zietlow, to approve up to \$5,000. **Motion passed unanimously.**

25. Pay the Bills

Phil Zietlow asked if the Hamel sewer pipe repair was bid out.

Jim Dillman said that it was not bid out but that they did receive quotes for the job.

Moved by Phil Zietlow, seconded by John Hamilton to approve the bills, order check numbers 19192-19250 for \$129,549.06 and payroll check numbers 15916-15930 for \$13,336.04 and 15931-15951 for \$15,511.00. **Motion passed unanimously.**

26. Adjournment

Moved by Jim Johnson, seconded by Carolyn Smith, to adjourn the meeting at 10:00 p.m. **Motion passed unanimously.**

John B. Ferris, Mayor

Attest:

Paul Robinson, City Clerk-Treasurer

(THIS PAGE LEFT BLANK INTENTIONALLY)

(THIS PAGE LEFT BLANK INTENTIONALLY)