

CITY OF APPLE VALLEY
Dakota County, Minnesota
May 12, 2011

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held May 12th, 2011, at 8:00 o'clock p.m., at Apple Valley Municipal Center.

PRESENT: Mayor Hamann-Roland; Councilmembers Bergman, Grendahl, and Hooppaw.

ABSENT: Councilmember Goodwin.

City staff members present were: City Administrator Lawell, Deputy City Clerk Murphy, City Attorney Hills, Public Works Director Blomstrom, Associate City Planner Bodmer, Building Official Brady, Recreation Superintendent Breuer, Assistant City Administrator Grawe, Finance Director Hedberg, Police Chief Johnson, City Planner Lovelace, City Engineer Manson, Community Development Director Nordquist, Human Resources Manager Pearson, Liquor Operations Director Swanson, and Fire Chief Thompson.

Mayor Hamann-Roland called the meeting to order at 8:00 p.m. Everyone took part in the Pledge of Allegiance to the flag.

APPROVAL OF AGENDA

MOTION: of Grendahl, seconded by Bergman, approving the agenda for tonight's meeting, as presented. Ayes - 4 - Nays - 0.

AUDIENCE

Mayor Hamann-Roland asked if anyone was present to address the Council, at this time, on any item not on this meeting's agenda. No one requested to speak.

CONSENT AGENDA

Mayor Hamann-Roland asked if the Council or anyone in the audience wished to pull any item from the consent agenda. There were no requests.

MOTION: of Hooppaw, seconded by Grendahl, approving all items on the consent agenda with no exceptions. Ayes - 4 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of Hooppaw, seconded by Grendahl, approving the minutes of the regular meeting of April 28, 2011, as written. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Apple Valley Rotary Scholarship Foundation, for use on October 15, 2011, at Apple Valley Ford Lincoln, 7200 150th St. W., and waiving any waiting period for State approval. Ayes - 4 - Nays - 0.

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MOTION: of Hooppaw, seconded by Grendahl, approving the amendment to the On-Sale Liquor License and Special License for Sunday Liquor Sales regarding ownership for RT Minneapolis Franchise, LLC., d/b/a Ruby Tuesday, located at 14883 Florence Trail. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, declaring 1999 Sterling Vacuum/Jet truck as surplus; authorizing disposal of surplus City truck by a public sale; and approving the Agreement with MDI Auctions, an authorized vendor of K-BID, to conduct an online auction, as attached to the Public Works Supervisor's memo dated May 12, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, declaring Fire Unit #4985, 1982 General-Ford Fire Engine as surplus and authorizing disposal of the surplus Engine by sealed bid. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, proclaiming May 18, 2011, as "William H. Tschohl Day" in Apple Valley to recognition of his contributions to the City of Apple Valley. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-65** supporting Dakota Valley Recycling Minnesota GreenCorps Host Site Application to the Minnesota Pollution Control Agency. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the Order to Remove Hazardous Building/Structure and Conditions on Property due to fire at 4754 142nd Street W., as attached to the Building Official's memo dated May 9, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-66** authorizing sale of bike racks to Apple Valley businesses. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the Agreement with Pyrotechnic Display, Inc., for fireworks display on July 4, 2011, in the amount of \$20,000.00, subject to conditions listed in the Recreation Supervisor's memo dated May 4, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, authorizing submittal of Minnesota Pollution Control Agency EPA Section 319(h) Grant Fund application for constructing raingardens in Long-Farquar Lakes Watershed, in the amount of \$63,250.00, as described in the Natural Resources Coordinator's memo dated May 12, 2011. Ayes - 4 - Nays - 0.

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MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-67** approving the First Amended and Restated Planned Development Agreement and establishing a License Agreement for Sidewalk for The Seasons at Apple Valley site to allow for a concrete sidewalk extension to the trail in Kelley Park. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-68** approving plans and specifications for AV Project 2011-102, Garden View Drive Street Improvements, and authorizing advertising for receipt of bids, at 10:00 a.m., on June 16, 2011. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-69** approving plans and specifications for AV Project 2011-108, Sanitary Lift Station 2 Replacement, and authorizing advertising for receipt of bids, at 10:00 a.m., on June 16, 2011. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-70** awarding the contract for the AV Project 2010-134, Galaxie Pond Flood Mitigation, to Max Steininger, Inc., the lowest responsible bidder, in the amount of \$589,686.35. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-71** awarding the contract for the AV Project 2011-106, Upper 147th Street W. Extension, to Enebak Construction, Inc., the lowest responsible bidder, in the amount of \$871,119.84. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-72** approving Settlement Agreement and Release document for ponding easement at 13199 Diamond Path. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the Lease Agreement with Double B Farms, Inc., for City-owned property located east of Pilot Knob Road in the City of Lakeville, through December 1, 2011, as attached to the Public Works Director's memo dated May 12, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the Lease Agreement with Zayo Group, LLC, for installation of ground equipment at Valleywood Water Tower, 4863 McAndrews Road, as attached to the Public Works Superintendent's memo dated May 12, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the Joint Powers Agreement with the City of Burnsville for 2011 Alimagnet Lake Water Quality Improvement Projects, as attached to the Natural Resources Coordinator's memo dated May 12,

2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the Agreement with Budget Sandblasting and Painting, Inc., for AV Project 2011-119, 2011 Sealing of Decorative Concrete and Block Retaining Walls, in the amount of \$5,820.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the Agreement with Northstar Mudjacking Specialists, Inc., for AV Project 2011-116, 2011 Concrete Raising and Leveling Services, in the amount of \$7,000.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Grendahl, approving the hiring, transfer, and resignation of the full time, part-time, and seasonal employees, as listed in the Personnel Report dated May 12, 2011. Ayes - 4 - Nays - 0.

END OF CONSENT AGENDA

POPPY DAYS PROCLAMATION

Ms. Heike Cybart of the American Legion Auxiliary Poppy Committee was present. She read the proclamation, proclaiming May 20 - 21, 2011, as "Poppy Days" and May 2011 as "Poppy Month". The Council thanked the Auxiliary for its efforts in remembering those who have died in war by distributing the memorial flowers.

MOTION: of Grendahl, seconded by Bergman, proclaiming May 20 - 21, 2011, as "Poppy Days" and May as "Poppy Month" and asking citizens to pay tribute to those who have died in war in the name of freedom. Ayes - 4 - Nays - 0.

The Mayor presented the proclamation to Ms. Cybart.

MEMORIAL DAY PROCLAMATION

Mr. Lloyd Cybart, on behalf of American Legion, Post 1776, read the proclamation proclaiming May 30, 2011, "Memorial Day". He invited everyone to the ceremonies at 11:00 a.m. at the Apple Valley American Legion Memorial located behind the American Legion Post on Granada Avenue.

MOTION: of Grendahl, seconded by Hooppaw, acknowledging the Federal Proclamation of May 30, 2011, as "Memorial Day" and asking citizens to remember those who were casualties and injured in the various wars and police actions of the United States. Ayes - 4 - Nays - 0.

The Mayor presented the proclamation to Mr. Cybart and thanked the veterans for their service.

2011 SPECIAL ASSESSMENT ROLL 596

Mr. Hedberg described Assessment Roll No. 596, totaling \$3,223.52, for delinquent mowing and trash clean up charges and noted receipt of the affidavit of publication of the hearing notice. No written objections have been received.

Mayor Hamann-Roland called the public hearing to order, at 8:15 p.m., on Special Assessment Roll No. 596. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:16 p.m.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2011-73** approving and levying 2011 Special Assessment Roll No. 596, for delinquent mowing and trash clean up charges, in the total amount of \$3,223.52. Ayes - 4 - Nays - 0.

2011 SPECIAL ASSESSMENT ROLL NO. 597

Mr. Hedberg described Assessment Roll No. 597, totaling \$184,542.60, for delinquent utility and mowing charges and noted receipt of the affidavit of publication of the hearing notice. The City has received \$15,752.79 payments to date, which brings the current balance down to \$168,789.81. Following approval of the assessment roll, customers will still have 30 days to pay their accounts without receiving any additional charges. Accounts which are not paid will be certified to the County Auditor to be levied on the 2012 property tax statements.

Mayor Hamann-Roland stated that a number of charges appeared very high for a single family home.

Mr. Hedberg said the charges represent usage from late last summer and last fall. These charges are higher than the assessment six months ago because that assessment was for winter usage.

Councilmember Bergman inquired as to how much of the 2010 spring assessment was paid before it went to the property owner's taxes.

Mr. Hedberg stated less than 50 percent of the properties on the assessment rolls list are paid.

Councilmember Grendahl asked if late payments are reflected on credit score reports and if people would be more apt to make payments if late payments affected their credit.

Mr. Hedberg said when the assessments are certified to the County they become a lien on the property but the City does not report it to any credit bureau. If the City used a collection agency, the agency would take a percentage of the payment of the amount due. He said when assessment rolls are certified at the County the City receives 100 percent plus interest charges.

Councilmember Grendahl stated she was not recommending a collection agency process because she is aware of the costs involved. However, if the property owner's lack of

payment was reflected on credit records, perhaps the owner might take it more seriously. She asked what other utilities do.

Mr. Hedberg said the difference between a municipal utility and other utilities is that the City has the ability to certify an assessment to the property taxes while other utilities do not.

Councilmember Hooppaw stated that in his professional experience he only sees utilities hit a credit bureau at the point they have gone to a collection agency, not that they are individually reporting. He asked how many of the properties were on the last list.

Mr. Hedberg said a high percentage of those on the list are the same as those on the list last time. A number of people say that is how they want to pay their bill.

Mayor Hamann-Roland called the public hearing to order, at 8:24 p.m., on Special Assessment Roll No. 597. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:25 p.m.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2011-74** approving and levying 2011 Special Assessment Roll No. 597, for delinquent utility and mowing charges, in the revised amount of \$168,789.81. Ayes - 4 - Nays - 0.

2011 SPECIAL ASSESSMENT ROLL 598

Mr. Hedberg described Assessment Roll No. 598, totaling \$1,080.00, for delinquent false alarms and noted receipt of the affidavit of publication of the hearing notice. Four properties are included in the assessment. No written objections have been received.

Mayor Hamann-Roland called the public hearing to order, at 8:26 p.m., on Special Assessment Roll No. 591. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:27 p.m.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2011-75** approving and levying 2011 Special Assessment Roll No. 598, delinquent false alarm charges, in the total amount of \$1,080.00. Ayes - 4 - Nays - 0.

ELITE ONE SPORTS PERFORMANCE

Ms. Bodmer stated Elite One Sports Performance, LLC, is requesting a Conditional Use Permit (CUP) to operate an athletic training facility at 5708 Upper 147th Street W., Suites 104 and 105. Mr. Tim Parkos, the owner, would use the 3,000 square foot open area of Suite 104 for the exercise/training area and the 800 square foot office portion of Suite 105 for office, reception, and waiting. No changes to the exterior of the building or site are requested in connection with this CUP request. There would be four trainers on site with three students at a time per trainer. The training facility is focusing on athletes 12 to 15 years old who would be dropped off by a parent because they would be too young to drive. The Planning Commission recommended

approval, with conditions, and that the CUP be conducted in accordance with the floor plan dated in the staff report and the number of trainers, students, and spectators shall be limited so that the total number of parking spaces required for the use does not exceed 12 spaces.

Councilmember Bergman inquired as to why this is before Council this evening since the facility is already an exercise facility. He asked if it is because of the parking issue.

Ms. Bodmer said it is not just about the parking. When the City approves a Conditional Use Permit it looks at each location on an individual basis. A CUP is generally not granted for the entire building; each suite is looked at individually so staff can analyze the situation.

Mr. Parkos addressed the Council and stated he was excited to be in Apple Valley.

MOTION: of Grendahl, seconded by Hooppaw, adopting **Resolution No.2011-76** approving a Conditional Use Permit for a 3,800 sq. ft. athletic training facility on Lot 1, Block 2, Valley Business Park(5708 Upper 147th Street W., Suites 104 and 105) with conditions as recommended by the Planning Commission. Ayes - 4 - Nays - 0.

2011 LCDA DEVELOPMENT GRANT PRE-APPLICATIONS

Mr. Nordquist reviewed his memo regarding the 2011 Livable Communities Demonstration Account (LCDA) pre-applications. He stated approximately \$9 million will be awarded with up to six applications allowed per community. Four pre-applications have been moved to the front for discussion. The total grant amount that staff is seeking is \$1,387,600. The first application would be the Central Village Trails connecting to the Apple Valley Transit Station. This project would be meant to coincide with the timing of a project to be considered. This project confirmation must occur in June to proceed with final application in July. The project was rejected in the past because the City did not have a project connected to it. The second application is for Times Square Shopping Center and would include a facelift to the exterior of the building, sidewalk improvements, and placemaking plazas in two locations in the front of the shopping center. The third application is for a combined project entitled the Cobblestone Lake Neighborhood Senior Housing and Park Improvements. This project supports additional senior housing choices in Cobblestone Lake with transit and retail services nearby. The final application is for Fiber Optic Conduit Lines along 147th Street corridor. The project will make the City jobs corridors accessible for high tech businesses and solves the lack of connection that holds economic growth and development back.

Mayor Hamann-Roland asked if there could be a projection of model jobs for the corridor.

Mr. Nordquist said staff could work on that and the figures should be included in the application process.

Councilmember Grendahl believes staff has done a great job identifying projects that are needs in the community and fit with Livable Communities. The City has received funding in the past that has made Apple Valley a more livable community.

MOTION: of Grendahl, seconded by Hooppaw, authorizing submittal of the Livable Communities Demonstration Account (LCDA) 2011 Development Grant Pre-Applications: 1) Completion of trail/sidewalk connection gaps within the Apple Valley Transit Improvement Area (TIA); 2) Addition of lifecycle housing choices and park improvements at Cobblestone Lake; 3) Expansion of fiber optic connections along job corridors; and 4) Placemaking and infrastructure improvements at Times Square on the Cedar Avenue Bus Rapid Transit (BRT) corridor, in the total amount of \$1,387,600. Ayes - 4 - Nays - 0.

ORDINANCE REGULATING EXTERIOR BUILDING WORK

Mr. Brady gave the second reading of an ordinance amending Chapter 150 of the City Code by adding Section 150.06 regulating completion deadlines for exterior building work permitted under the State Building Code. He reviewed the standards and timeframes set forth in the proposed ordinance. He stated this ordinance only affects exterior work for which a building permit is required. The ordinance would not pertain to anything inside the home. It does not affect electrical, plumbing, or heating.

MOTION: of Bergman, seconded by Hooppaw, passing **Ordinance No. 916** amending Title XV of the City Code by adding Section 150.06, regulating completion deadlines for exterior work. Ayes - 4 - Nays - 0.

ORDINANCE REGULATING ALCOHOLIC BEVERAGES

Mr. Swanson gave the second reading of an ordinance amending Chapter 111 of the City Code regulating alcoholic beverages. The proposed ordinance designates the Hayes Community and Senior Center as an on-sale municipal liquor store and eliminates outdated language. Staff is requesting this designation so that the Wine Club can be held at the Hayes Community and Senior Center.

Councilmember Grendahl asked for specifics on the Wine Club.

Mr. Swanson stated the Wine Club meets four times a year and there is a \$20 membership. There are eight vendors at each Wine Club event. Members can have direct communications with people that are involved with production and wholesale of the products. All the profits generated by the Liquor Store and Wine Club stay in the community. People may join at any time and they may also attend one meeting as a sample for \$7.

MOTION: of Grendahl, seconded by Hooppaw, passing **Ordinance No. 917** amending City Code Section 111.04, designating the Hayes Community and Senior Center as an

On-Sale Municipal Liquor Store and deleting the requirement of a surety bond for manager and employees. Ayes - 4 - Nays - 0.

OTHER STAFF ITEMS

Mr. Nordquist said last year the American Institute of Architects selected Apple Valley as the demonstration city for sustainable Bus Rapid Transit Oriented Development along the Cedar Avenue Corridor. They are going to select national experts that will come into the community. The SDAT group will hold a three-day design workshop sometime this summer. He feels the more involvement by residents and businesses along the corridor and others that are interested in the design concepts the better. Persons interested in participating should contact the Community Development Department to be put on a list.

Mr. Nordquist updated the Council on a new law amending the standards for granting a variance from zoning controls.

COMMUNICATIONS

Mayor Hamann-Roland announced Chamber of Commerce 40th Anniversary Celebration will be May 19, 2011, at the Western Service Center with MacPhil Center for Music as the entertainment for the evening. She then noted The Seasons of Apple Valley will be having a ribbon cutting ceremony on May 20, 2011, at 11:00 a.m.

Mr. Breuer reviewed the 2011 concert schedule for Music in Kelley Park at Stage One which will be held from 6:00 – 9:00 p.m. He stated there would be food vendors on site.

Mayor Hamann-Roland added that the Apple Valley Arts Foundation, in conjunction with local businesses, will be giving away six bicycles on August 5, 2011, which is the last day of the concert series.

Mayor Hamann-Roland announced that the Parks and Recreation Department and Bicycle Friendly Apple Valley will be hosting a community bicycle ride on Sunday, June 12, 2011, at 2:00 p.m. After the bike ride there will be music in Kelley Park from 4:00 – 6:00 p.m.

CALENDAR OF UPCOMING EVENTS

Mr. Lawell announced the City has the opportunity to meet with area realtors on May 18, 2011, at 9:00 a.m. in the Council Chambers. It is Apple Valley Realtor Information Day and it gives staff an opportunity to share with realtors all the attributes in our community to make their job a little easier.

MOTION: of Grendahl, seconded by Bergman, approving the calendar of upcoming events as included in the City Clerk's memo dated May 9, 2011, and noting that each event listed is hereby deemed a Special Meeting of the City Council. Ayes - 4 - Nays - 0.

CLAIMS AND BILLS

MOTION: of Bergman, seconded by Grendahl, to pay the claims and bills, check registers dated May 4, 2011, in the amount of \$519,872.44; and May 11, 2011, in the amount of \$392,239.33. Ayes - 4 - Nays - 0.

MOTION: of Grendahl, seconded by Hooppaw, to adjourn. Ayes - 4 - Nays - 0.

The meeting was adjourned at 9:11 o'clock p.m.

Respectfully Submitted,

/s/ Joanne Murphy
Joanne Murphy, Deputy City Clerk

Approved by the Apple Valley City Council on 5-26-11.