

CITY OF APPLE VALLEY

Dakota County, Minnesota

November 23, 2010

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held November 23, 2010, at 8:00 o'clock p.m., at Apple Valley Municipal Center.

PRESENT: Mayor Hamann-Roland; Councilmembers Bergman, Goodwin, Grendahl, LaComb.

ABSENT: None.

City staff members present were: City Administrator Lawell, City Clerk Gackstetter, City Attorney Dougherty, Public Works Director Blomstrom, Building Official Brady, Assistant City Administrator Grawe, Finance Director Hedberg, Parks and Recreation Director Johnson, Police Chief Johnson, City Engineer Manson, City Planner Lovelace, Community Development Director Nordquist, Human Resources Manager Pearson, and Fire Chief Thompson.

Everyone took part in the Pledge of Allegiance led by Webelo Cub Scouts Bill Barretto, Adam Labiosa, Nathan Labiosa, Matthew Recksiedler, Trenton Spangler, and Alec Young and Den Leader Tom Labiosa, from Pack 298.

APPROVAL OF AGENDA

MOTION: of Bergman, seconded by LaComb, approving the agenda for tonight's meeting, as presented. Ayes - 5 - 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 LaComb, seconded by Bergman, approving all items on the consent agenda with no exceptions. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of LaComb, seconded by Bergman, approving the minutes of the regular meeting of November 9, 2010, as written. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to American Legion Auxiliary, Post 1776, for use on the revised date of January 8, 2011, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

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MOTION: of LaComb, seconded by Bergman, approving a change in officer for Apple Valley American Legion, Post 1776, in connection with the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales at 14521 Granada Drive, naming Paul Ganfield as 2nd Vice Commander; as described in the City Clerk's memo dated November 19, 2010. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, authorizing participation in the 2011 Fixed Price Fuel Program with State of Minnesota and the purchase of 18,000 gallons of unleaded gasoline, as described in the Public Works Supervisor's memo dated November 23, 2010, and authorizing the Public Works Supervisor to sign the same. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, adopting **Resolution No. 2010-189** rejecting bids for AV Project 2010-104, Menards Site Expansion – Flagstaff Avenue. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, approving the Release of Assessment Waiver Agreement for Lots 2 through 4, Block 2, Embry Estates, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, approving the Release of Assessment Waiver Agreement for Lots 5 through 12, Block 2, Embry Estates, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, adopting **Resolution No. 2010-190** approving extending the preliminary plat of Cobblestone Lake Senior Complex Addition for two years, with conditions, as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, adopting **Resolution No. 2010-191** reauthorizing issuance of building permit for Cobblestone Lake Senior Complex, with conditions, as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, adopting **Resolution No. 2010-192** directing the City Engineer to prepare plans and specifications for AV Project 2010-134, Galaxie Pond Flood Mitigation. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, approving the Water Quality Improvement Cost Share Program Agreement with Jorge and Susan Allen for native plant shoreline buffer, in the amount of \$500.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

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MOTION: of LaComb, seconded by Bergman, approving the License Agreement with Scott and Lonnie Mundt for deck encroachment at 13920 Holyoke Path, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, approving the Service and License Agreement with Icon Enterprises CivicPlus, Inc., for website development, training, and hosting, in the amount of \$29,543.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, approving the Professional Services Agreement with Short Elliott Hendrickson, Inc., (SEH) for AV Project 2010-103, Water Treatment Plant Expansion Feasibility Plan, in the amount of \$76,842.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, accepting AV Project 2010-102, 2010 Reconditioning and Painting of Steel Fence Sections, Fence Support Posts, and Decorative Light Poles, as complete and authorizing final payment on the agreement with Champion Coatings, Inc., in the amount of \$24,352.00. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, accepting 2010 Outdoor Pool Water Management as complete and authorizing final payment on the agreement with Hawkins, Inc., in the amount of \$74,385.00. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, accepting AV Project 2008-114, Palomino Reservoir Rehabilitation, as complete and authorizing final payment on the agreement with Horizon Brothers Painting Corp. Inc., in the amount of \$4,748.26. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, accepting AV Project 2009-122, 140th Street and Garden View Drive Street Improvements, as complete and authorizing final payment on the agreement with McNamara Contracting, Inc., in the amount of \$78,244.18. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, accepting AV Project 2008-111, Apple Valley East Family Addition, as complete and authorizing final payment on the agreement with McNamara Contracting, Inc., in the amount of \$18,096.36. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, accepting AV Project 2010-110, 2010 Concrete Removal and Replacement Services, as complete and authorizing final payment on the agreement with Ron Kassa Construction, Inc., in the amount of \$2,944.95. Ayes - 5 - Nays - 0.

MOTION: of LaComb, seconded by Bergman, approving hiring the seasonal employees as listed in the Personnel Report dated November 23, 2010. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

2011 ON-SALE LIQUOR AND WINE LICENSE RENEWALS

Ms. Gackstetter reviewed the list of On-Sale Intoxicating Liquor, Club, Wine, and 3.2 Percent Malt Liquor license renewal applications as attached to her memo dated November 19, 2010, and noted receipt of the affidavit of publication of the hearing notice. No comments have been received. The Police Department completed the background investigations and noted nothing which would preclude renewing the licenses. The Finance Department checked Dakota County tax records and confirmed all taxes are paid. The City Clerk checked the Minnesota Department of Revenue's delinquent taxpayers list and none of the licensees are listed. She also confirmed with the Minnesota Department of Health and the Minnesota Department of Agriculture that the licensees are in compliance. Ms. Gackstetter noted that only the public hearing for renewal of On-Sale 3.2 Percent Malt Liquor licenses will take place this evening. Action on all 3.2 Percent Malt Liquor licenses will take place at the December 9, 2010, meeting.

Mayor Hamann-Roland called the public hearing to order at 8:09 p.m. to consider renewal applications for On-Sale Intoxicating Liquor, Club, Wine, and 3.2 Percent Malt Liquor licenses for the year 2011. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:10 p.m.

MOTION: of Goodwin, seconded by Grendahl, approving renewal, for 2011, of On-Sale Intoxicating Liquor, On-Sale Club Intoxicating Liquor, Special License for Sunday Liquor Sales, and On-Sale Wine licenses, subject to receipt of the necessary fees and documents, by adopting **Resolutions No. 2010-193** for Apple Minnesota, LLC, d/b/a Applebee's Neighborhood Grill & Bar; **No. 2010-194** for Apple Valley Grill, LLC, d/b/a Wild Bill's Sports Saloon; **No. 2010-195** for Blazin Wings, Inc., d/b/a Buffalo Wild Wings Grill & Bar; **No. 2010-196** for El Azteca Apple, Inc., d/b/a El Azteca Mexican Restaurant; **No. 2010-197** for El Toro of Apple Valley, Inc., d/b/a El Toro Mexican Restaurant; **No. 2010-198** for H.O.C., Inc., d/b/a Rascals-Apple Valley-Bar & Grille; **No. 2010-199** for Hiraku Japanese Restaurant, Inc., d/b/a Kami Japanese Restaurant; **No. 2010-200** for Lancer Food Service, Inc.; **No. 2010-201** for Osaka Japanese Restaurant, Inc., d/b/a Osaka Seafood & Steakhouse; **No. 2010-202** for Red Robin International, Inc., d/b/a Red Robin America's Gourmet Burgers and Spirits; **No. 2010-203** for Rich Management, Inc., d/b/a Apple Place; **2010-204** for RT Minneapolis Franchise, LLC, d/b/a Ruby Tuesday; **No. 2010-205** for UASANDERS, LLC, d/b/a Panino Brothers; **No. 2010-206** for Wadsworth Old Chicago, Inc., d/b/a Old Chicago; **No. 2010-207** for Water's Edge Restaurant, LLC, d/b/a Enjoy!; **No. 2010-208** for Apple Valley American Legion Post 1776; **No. 2010-209** for Chipotle Mexican Grill of Colorado, LLC, d/b/a Chipotle Mexican Grill; **No. 2010-210** for D & D of Minnesota, Inc., d/b/a Famous Dave's BBQ

Shack; **No. 2010-211** for Song Long, Inc., d/b/a Song Long; and **No. 2010-212** for The Noodle Shop Company - Colorado, Inc., d/b/a Noodles & Company. Ayes - 5 - Nays - 0.

#### APPLICATION FOR COMMUNITY LANDFILL ABATEMENT

Mr. Grawe said since 2003 the Cities of Apple Valley, Burnsville, and Eagan have jointly contracted with Dakota Valley Recycling and have received funding from Dakota County to promote and operate landfill abatement programs. Presented this evening is the 2011 Large Community Funding Application to Dakota County to support the joint recycling program for the Cities of Apple Valley, Eagan, and Burnsville, in the amount of \$156,500.00. There is also a special allocation for a local initiative. As a result of the Better Energy (BE) Program, businesses identified areas where they believed education on recycling and energy efficiency would be of use to them. The proposal for the local negotiated initiative funding, in the amount of \$14,675.00, creates a program to help meet those needs.

Mayor Hamann-Roland said this is terrific program and thanked Mr. Grawe for bringing forth the application. She stated a couple businesses have asked about cardboard recycling and inquired if the local initiative might be able to help with that.

Mr. Grawe said there may be opportunities to help with cardboard recycling.

MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-213** approving submission of the Apple Valley, Burnsville, and Eagan joint 2011 landfill abatement and recycling funding application, in the total amount of \$171,175.00, to Dakota County, and authorizing execution of the necessary documents.

Councilmember Grendahl if the services are equally divided amongst the three communities.

Mr. Grawe responded that the services funded through the joint application are equally shared. However, the City of Burnsville purchases additional service from Dakota Valley Recycling as well.

Vote was taken on the motion. Ayes - 5 - Nays - 0.

#### ORDINANCE AMENDING CHAPTER 51 REGARDING SEWAGE TREATMENT SYSTEMS

Mr. Brady gave the second reading of an ordinance amending Title V, Chapter 51 of the City Code entitled "Water and Sewers" by amending Sections 51.55 through 51.65 regarding individual sewer treatments. The new rules will establish consistent means and methods for the design and installation of septic systems. The primary changes include identification of two soil treatment and dispersal areas, revised hydraulic loading rates, minimum tank sizing, management plans for

new systems, and variance procedures. Staff does not anticipate a large departure from current enforcement procedures.

Mayor Hamann-Roland questioned if staff received any comments since the last reading.

Mr. Brady stated no comments were received.

MOTION: of LaComb, seconded by Goodwin, passing **Ordinance No. 905** amending Title V, Chapter 51 of the City Code entitled "Water and Sewers", regarding sewage treatment systems. Ayes - 5 - Nays - 0.

### COMMUNICATIONS

Mr. Lawell commented on the recent snow and ice and thanked staff from the Departments of Public Works, Police, and Fire for dealing with these difficult situations.

Mayor Hamann-Roland asked the Police Chief, Fire Chief, and Public Works Director to provide an update.

Police Chief Johnson, Fire Chief Thompson, and Mr. Blomstrom reported on the snow and ice conditions, calls for service, and departmental responses surrounding the November 13<sup>th</sup> and November 20<sup>th</sup> snow and ice storm events. They also explained how each department prepares for these conditions and offered various public safety tips.

### CALENDAR OF UPCOMING EVENTS

MOTION: of Grendahl, seconded by LaComb, approving the calendar of upcoming events as included in the City Clerk's memo dated November 19, 2010, and noting that each event listed is hereby deemed a Special Meeting of the City Council. Ayes - 5 - Nays - 0.

### CLAIMS AND BILLS

MOTION: of Bergman, seconded by Grendahl, to pay the claims and bills, check registers dated November 10, 2010, in the amount of \$625,608.91; and November 17, 2010, in the amount of \$814,035.28. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland wished everyone a happy Thanksgiving.

MOTION: of Bergman, seconded by Grendahl, to adjourn. Ayes - 5 - Nays - 0.

The meeting was adjourned at 8:25 o'clock p.m.

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Respectfully Submitted,

/s/ Pamela J. Gackstetter  
Pamela J. Gackstetter, City Clerk

Approved by the Apple Valley City Council on 12-9-10.