

CITY OF APPLE VALLEY
Dakota County, Minnesota
September 23, 2010

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

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

ABSENT: None.

City staff members present were: City Administrator Lawell, City Clerk Gackstetter, City Attorney Dougherty, City Engineer Manson, Public Works Director Blomstrom, Associate City Planner Bodmer, Assistant City Administrator Grawe, Parks and Recreation Director Johnson, Police Chief Johnson, Human Resources Manager Pearson, and Fire Chief Thompson.

Mayor Hamann-Roland called the meeting to order at 8:01 p.m. Everyone took part in the Pledge of Allegiance to the flag.

APPROVAL OF AGENDA

MOTION: of LaComb, seconded by Bergman, adding Proclaim September 24, 2010, "Richard G. Asleson Day" to the regular agenda and approving the agenda for tonight's meeting, as amended. 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.

Councilmember Bergman commented on the cable-median barrier going up along Cedar Avenue/Highway 77. He questioned the State's logic in installing the barrier when improvements are scheduled in the area that may require it to be removed. He asked who is paying for it and how it might impact the installation of a third northbound lane.

Mr. Blomstrom said the Minnesota Department of Transportation (MnDOT) is installing cable-median barrier along Highway 77 as part of an overall safety program for state trunk highways. He stated it has proven to be very effective in preventing head-on collisions from vehicles that cross medians into opposing traffic. He further stated MnDOT communicated with staff and provided the City with plans prior to its installation. Staff asked how the installation coordinated with the study that has been discussed with the City Council. MnDOT indicated it did not affect their plans for future improvements on Highway 77. They further indicated the results they have seen with the reduction of fatalities warranted the installation of the barrier at this time.

Councilmember Bergman inquired if the barrier is going to proceed north, up to the Mall of America.

Mr. Blomstrom said he was unsure but would check with MnDOT.

Councilmember Grendahl stated a couple days ago she witnessed a belly-dump truck hit and knock out approximately ten posts that were recently installed. She questioned if the cable would have actually prevented the truck from crossing the median. She also questioned whether the barrier may prove to be a maintenance issue.

Mr. Blomstrom responded that the cable is designed to stop very heavy vehicles and the posts are designed to break away.

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 Goodwin, seconded by LaComb, approving all items on the consent agenda with no exceptions. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of Goodwin, seconded by LaComb, approving the minutes of the regular meeting of August 26, 2010, as written. Ayes - 5 - Nays - 0.

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

MOTION: of Goodwin, seconded by LaComb, adopting **Resolution No. 2010-165** accepting, with thanks, the donation of cash and/or items for use in Robert L. Erickson Park. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, approving issuance of a 2010 Christmas Tree Sales Lot license to Bill Brabec d/b/a Silver Bell Christmas Tree Farm, for use on Lot 2, Block 1, East Valley Plaza 3rd Addition (between Upper 141st and 140th Streets), as described in the City Clerk's memo dated September 20, 2010. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, adopting **Resolution No. 2010-166** appointing individuals listed in the resolution to serve as judges for the General Election to be held on November 2, 2010, in the City. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, approving temporary parking on the north side of Greenleaf Elementary School for school events during the 2010/2011 school

year, as attached to the Police Chief's memo dated September 16, 2010. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, approving the release of financial guarantee for Heritage Lutheran Church Expansion NRMP (PC08-20), as listed in the Community Development Department Assistant's memo dated September 23, 2010. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, adopting **Resolution No. 2010-167** approving a 10-foot sign setback variance for Applebee's Neighborhood Grill & Bar, 14678 Cedar Avenue, as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, approving the Encroachment Agreement with Magellan Pipeline Company, in connection with AV Project 2010-101, 2010 Street Maintenance Project, as attached to the City Engineer's memo dated September 17, 2010, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, adopting **Resolution No. 2010-168** approving plans and specifications for AV Project 2010-111, Deep Well No. 20 Construction; and authorizing advertising for receipt of bids, at 10:00 a.m., on October 22, 2010. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, adopting **Resolution No. 2010-169** amending the 2010 Pay and Benefit Plan. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by LaComb, approving hiring the full-time and seasonal employees and firefighter assignments listed in the Personnel Report and Addendum dated September 23, 2010. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

PROCLAIM RICHARD G. ASLESON DAY

Mayor Hamann-Roland sadly announced Dick Asleson passed away on September 20, 2010, after a short battle with pulmonary fibrosis. On behalf of the City Council she extended sincere sympathy to Mr. Asleson's family. She then read a proclamation proclaiming September 24, 2010, as "Richard G. Asleson Day".

MOTION: of Goodwin, seconded by LaComb, proclaiming September 24, 2010, as "Richard G. Asleson Day" in honor and memory of Dick Asleson, a former City Administrator, current Traffic Safety Advisory Committee Member, and extraordinary public servant. Ayes - 5 - Nays - 0.

Mr. Lawell, City Administrator and President of the Apple Valley Rotary Club, said Mr. Asleson was a very important part of the community. Mr. Asleson began working for the community when Apple Valley was still a village and he was a charter member of the Apple Valley Rotary Club. He enriched many lives and will definitely be missed.

Councilmember Goodwin stated Mr. Asleson was only 26 when he became the City Administrator. *Money Magazine* recently named Apple Valley the 20th Best Place to Live. He said Mr. Asleson had as much to do with that distinction as anybody.

Mayor Hamann-Roland noted a newspaper article from 1972 said Mr. Asleson was a legend in the City of Apple Valley. She also stated he was integral in helping the City get its Aaa bond ranking.

PROCLAIM FIRE PREVENTION WEEK

Fire Chief Thompson said every year the National Fire Protection Association (NFPA) along with Fire Departments nationwide recognize Fire Prevention Week commemorating the Great Chicago Fire of 1871. He then reviewed activities the Fire Department will be conducting during the week of October 3rd at elementary schools in the City. The 2010 theme for Fire Prevention Week is "Smoke Alarms" A Sound You Can Live With". Public open houses will be held, from 6:00 to 9:00 p.m., at Fire Station No. 1 on October 5, at Fire Station No. 2 on October 6, and at Fire Station No. 3 on October 7, 2010, and everyone is invited. He then read the proclamation proclaiming Fire Prevention Week.

MOTION: of Bergman, seconded by Grendahl, proclaiming October 3-9, 2010, as "Fire Prevention Week" in support of the Fire Department's public safety efforts and urging all citizens to install smoke alarms and carbon monoxide detectors, and to plan and practice fire drills. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland commented about how excited the children are to participate in the various events and thanked the Fire Department for their efforts in coordinating these events.

BIKE-WALK TRAIL AND SIDEWALK PLAN

Ms. Bodmer said she is pleased to bring the conclusion of the Bike-Walk Apple Valley Trail and Sidewalk study to the Council this evening. She was one of the staff members who worked on the project with the Bike-Walk Apple Valley Task Force, along with the consultant team of Mr. Michael Schroeder, from LHB, Inc., Mr. Dan Cornejo, from Cornejo Consulting, and Mr. Jack Broz, from Howard R. Green Company. She said it was a short, but intensive study that started in April and was funded from a grant received from the Minnesota State Health Improvement Program (SHIP).

Ms. Bodmer reviewed key deliverables of the study, described the public's involvement and participation, and reviewed the accomplishments as well as the conclusion of the Bike-Walk Apple Valley Trail and Sidewalk Plan. She stated 40 gaps in the existing trail and sidewalk system were

identified and ranked by the Task Force. She presented a map which showed the location of the gaps and their ranking. She noted the Plan also provides ideas for best practices and recommendations for improvements.

Mayor Hamann-Roland thanked staff and the public for completing the study. The City now has a good sense of its needs and the Plan will be valuable when applying for future grant opportunities. She liked the comment about the natural alignment of projects and improvements to fill in gaps and encouraged staff to pay attention to that possibility.

Councilmember Goodwin emphasized this is a long-term plan and will be accomplished in segments as money allows.

MOTION: of LaComb, seconded by Goodwin, accepting the Bike-Walk Apple Valley Trail and Side Walk Plan dated September 3, 2010. Ayes - 5 - Nays - 0.

ZONING AMENDMENTS

Ms. Bodmer said this is a continuation of the ordinance amendments needed to ensure consistency between the 2030 Comprehensive Plan and the zoning requirements. She noted the Metropolitan Land Planning Act requires cities in the metropolitan area to review and update their rules and ordinances within nine months of adoption of their Comprehensive Plan updates to ensure they are consistent. Apple Valley's 2030 Comprehensive Plan was adopted by the City Council on January 14, 2010. Eleven properties were found to be inconsistent. The Council rezoned eight parcels at its August 26, 2010, meeting. Two properties need further study. The parcel being reviewed this evening also requires a text amendment. She then reviewed the proposed amendments. The property is located at 6442 140th Street, which is the Central Maintenance Facility site. The Planning Commission voted unanimously to recommend approval on September 15, 2010.

Councilmember Bergman asked why the amendment was not made with the 2020 Comprehensive Plan.

Ms. Bodmer said at that time there were still some industrial land uses to the south of the property. With the completion of the Midtown Village and additional residential properties in the area, it makes sense to rezone it now.

MOTION: of Goodwin, seconded by Bergman, waiving the procedure for a second reading and passing **Ordinance No. 900** amending Section 155.246 of the City Code related to permitted uses in "P" (Institutional) Zoning District, as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, waiving the procedure for a second reading and passing **Ordinance No. 901** rezoning Lot 1, Block 2, Eastview Addition (Central Maintenance Facility) from "I-2" (General Industrial) to "P" (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

ORDINANCE AMENDING CHAPTER 111 REGULATING ALCOHOLIC BEVERAGES

Ms. Gackstetter gave the first reading of an ordinance amending Chapter 111 of the City Code regulating bonding and insurance requirements for intoxicating liquor, 3.2 percent malt liquor, and wine licenses. The ordinance is being amended to be consistent with bills passed during the 2010 Minnesota Legislative Session. The amendment consists of three modifications: replacement of the words “State Treasurer” with “Commissioner of Management and Budget”, a revision to the written notification requirements for an insurance policy cancellation from 30 days to 60 days (except for nonpayment), and an additional requirement for the insurer to send written notice to the City Clerk the same time a cancellation request is received from or a notice is sent to the insured licensee. The City Attorney’s office drafted the ordinance. Because businesses are already obligated to meet the requirements under state law, she recommended waiving the second reading.

MOTION: of Goodwin, seconded by LaComb, waiving the procedure for a second reading and passing **Ordinance No. 902** amending Chapter 111 entitled “Alcoholic Beverages” regulating bonding and insurance requirements for intoxicating liquor, 3.2 percent malt liquor, and wine licenses. Ayes - 5 - Nays - 0.

ORDINANCE AMENDING CHAPTER 115 REGULATING TOBACCO SALES

Ms. Gackstetter gave the first reading of an ordinance amending Chapter 115 of the City Code regulating tobacco sales. The ordinance is being amended to be consistent with bills passed during the 2010 Minnesota Legislative Session. The amendment deletes definitions no longer needed, revises definitions to be consistent with new statutory definitions, adds “tobacco-related devices” to the self-service merchandising prohibition, adds the self-service merchandizing exemption, adds the restriction for persons under age 18 from entering a self-service merchandising premises, and replaces the word “minor” with “person under the age of 18”, restricts sales of nicotine or lobelia delivering products to persons under age 18, as well as some minor housekeeping items. The City Attorney’s office drafted the ordinance. She noted most of the changes are already required under state law; therefore, staff is recommending waiving the second reading.

MOTION: of Grendahl, seconded by Bergman, waiving the procedure for a second reading and passing **Ordinance No. 903** amending Chapter 115 entitled “Tobacco Regulations” regulating tobacco sales. Ayes - 5 - Nays - 0.

STAFF COMMUNICATIONS

Mr. Grawe invited residents to Clean Up Day this Saturday, September 25, 2010, from 8:00 a.m. to 1:00 p.m. at Central Maintenance Facility, located at 6442 140th Street.

Mr. Johnson invited the public to the Robert L. Erickson Park dedication ceremony this Saturday, September, 25, 2010, at 11:00 a.m.

COUNCIL COMMUNICATION

Councilmember Grendahl stated she has received numerous complaints regarding placement of political signs. She thinks it looks tacky and wants to make sure the City is enforcing its ordinances regarding sign placement.

Mayor Hamann-Roland stated the signs almost seem like billboards this year.

Councilmember Goodwin said what bothers him is when the same candidate has two or three or four signs in a row. He said he is unsure how to resolve it and noted it may require a legislative solution.

Councilmember Bergman said four years ago the Council discussed this topic at an informal meeting. He recommended the Council again visit this matter after this election.

Mayor Hamann-Roland said the Minnesota Mayors group visited a city that allowed signs in designated places. She thought that was a good idea because it kept all the signs in just two places. She agreed that it would be good for the Council to discuss this topic again.

Councilmember Grendahl noted the ordinance requires signs placed in the right of way to be 18 feet back from the edge of the roadway. She has seen several signs that are not in compliance.

City Attorney Dougherty said the Council has two options. The first option would be to restrict signs from all right of ways, which is the County's approach. The second option would be to allow some reasonable use of the right of way but require the signs to be placed a safe distance back from the roadway. The City is currently following the second option. He added that if signs are allowed, the law does not allow any restriction on their size during the election season.

Councilmember Grendahl stated the City picks up signs that are improperly placed all the time. She thinks the City should be consistent by also picking up political signs when they are not complying with City Code.

Mayor Hamann-Roland said the Council will also want to consider the impact on open house signs. Open house signs are important to realtors, yet it is important they are placed in a way that does not clutter up the City and make it look unattractive.

Councilmember Goodwin said it is too late to do anything about it now because the election is only a few weeks away. He would like to study it and discuss it after the election. He added it may be necessary to seek the League of Minnesota Cities help to get a legislative change.

Mayor Hamann-Roland commented on all the super-sized signs this year. She also noted several signs have fallen down and asked candidates to maintain their signs that are up.

Councilmember Grendahl said she thinks signs that are not complying with City Code should be picked up.

Councilmember Bergman commented on the placement of political signs near 140th Street and Garden View Drive. He said they were placed while there was construction in the area, but now the construction is completed. They are not 18 feet back from the roadway and he is concerned they may pose a safety hazard.

City Attorney Dougherty said there is no exception to the City Code during construction.

The Council further discussed political sign placement and directed staff to add it to an informal agenda in January or February for discussion.

Councilmember Bergman commended staff on the *Valley Beat* which highlighted the history of the Police Department. He recommended staff do something similar on the history of the City through interviews with former mayors.

Mayor Hamann-Roland acknowledged receipt of the Presidents' Community Partner Award from Minnesota Campus Compact for its partnership with the Partners in Higher Education, which includes Dakota County Technical College, Inver Hills Community College, and St. Mary's University.

CALENDAR OF UPCOMING EVENTS

MOTION: of Bergman, seconded by Grendahl, approving the calendar of upcoming events as included in the City Clerk's memo dated September 20, 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 Goodwin, to pay the claims and bills, check registers dated September 16, 2010, in the amount of \$333,357.58; and September 22, 2010, in the amount of \$1,349,109.50. Ayes - 5 - Nays - 0.

CLOSE MEETING, LABOR NEGOTIATIONS

Mr. Dougherty reviewed exceptions to the open meeting law and advised the Council that it could hold a closed session, under the provisions of M.S. 13D.03, to discuss labor negotiations.

MOTION: of Grendahl, seconded by Goodwin, to enter into a closed meeting and convene in closed session to discuss LELS and AFSCME union labor negotiations. Ayes - 5 - Nays - 0.

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The Council convened in the Regent Conference Room at 9:25 p.m. In attendance were Mayor Hamann-Roland; Councilmembers Bergman, Goodwin, Grendahl, and LaComb; City Administrator Lawell, City Clerk Gackstetter, Human Resources Manager Strauss, Human Resources Representative Haas, Public Works Director Blomstrom, Parks and Recreation Director Johnson, Police Chief Johnson, and Legal Counsel Susan Hansen from Frank Madden and Associates. The meeting was tape recorded as required by law. The Council reconvened in open session at 10:20 p.m.

The meeting was adjourned at 10:21 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 10-14-10.