

CITY OF APPLE VALLEY
Dakota County, Minnesota
August 26, 2010

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held August 26, 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, Finance Director Hedberg, Parks and Recreation Director Johnson, Police Chief Johnson, City Planner Lovelace, Police Captain Marben, Community Development Director Nordquist, Police Captain Rehtzigel, Human Resources Manager Pearson, Liquor Operations Director Swanson, 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 Grendahl, adding item 5.D – Resolution Amending Resolution Approving Issuance of General Obligation Crossover Refunding Bonds, Series 2010A, and Authorizing Issuance of Additional Refunding Bonds, 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. 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 Bergman, seconded by Goodwin, approving all items on the consent agenda with no exceptions. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of Bergman, seconded by Goodwin, approving the minutes of the regular meeting of August 12, 2010, as written. Ayes - 5 - Nays - 0.

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MOTION: of Bergman, seconded by Goodwin, approving issuance of a Temporary On-Sale 3.2 Percent Malt Liquor License to Apple Valley American Legion, Post 1776, for use on September 18, 2010, at Fire Station No. 1, as described in the City Clerk's memo dated August 23, 2010. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a new 2010 License to Collect Refuse, to GarbageMan, Inc., d/b/a GarbageMan, A Green Company, as described in the City Clerk's memo dated August 23, 2010. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, declaring certain City property as surplus; authorizing disposal of unclaimed property and surplus City property by a public sale; and approving the Agreement with MDI Auctions, an authorized vendor of K-BID.com, to conduct an online auction of unclaimed and surplus property, as attached the Public Works Supervisor's memo dated August 26, 2010. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving Change Order No. 1 to the contract with South River Heating & Cooling, Inc., for Hayes Park Arena Air Unit and Compressor Project, changing the completion date to December 31, 2010, resulting in no change to the contract amount. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving Change Order No. 2 to the contract with McNamara Contracting, Inc., for AV Project 2009-122, 140th Street and Garden View Drive Improvements, in the amount of an additional \$130,230.71. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving Change Order No. 2 to the contract with McNamara Contracting, Inc., for AV Project 2010-101, 2010 Street Maintenance Project, in the amount of an additional \$7,840.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2010-113, 2010 Sod Replacement Services, as complete and authorizing final payment on the agreement with Jirik Sod Farm, Inc., in the amount of \$2,232.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting Johnny Cake Ridge Park East Athletic Field Fencing Repair Project, as complete and authorizing final payment on the agreement with Midwest Fence & Manufacturing Company, in the amount of \$43,680.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting the summary of the City Administrator's performance evaluation of August 12, 2010. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

COMMUNICATIONS TOWER ORDINANCE

Mr. Lovelace reviewed the proposed amendments to Section 155.385 of the City Code regarding site design and maintenance of communication towers. The amendments relate specifically to setback requirements and design standards for communication towers constructed with an engineered breakpoint. The definition for a fall zone was also added. He noted the Planning Commission reviewed this item at three meetings and voted unanimously to recommend approval. A public hearing was held on the proposed amendments and the hearing was held open for a second meeting. No public comments were received. Therefore, staff is recommending waiving of the second reading.

MOTION: of Goodwin, seconded by LaComb, waiving the procedure for a second reading and passing **Ordinance No. 891** amending Section 155.385 of the City Code regarding communication towers and antenna site design and maintenance. Ayes - 5 - Nays - 0.

TEMP SAND & GRAVEL OVERLAY DISTRICT AND ZONING AMENDMENTS

Ms. Bodmer reviewed the proposed amendments to the Comprehensive Plan to establish a temporary sand and gravel overlay district as well as the proposed zoning amendments to eight sites to make the zoning map consistent with the 2030 Comprehensive Plan. 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. She added that there are an additional three properties that were identified as needing to be rezoned, but the Planning Commission was not ready to move them forward at this time. The Planning Commission held public hearings on the proposed amendments on August 18, 2010, and voted unanimously to recommend approval.

Councilmember Bergman commented on the statement that all sand and gravel mining is expected to be completed by the year 2030. He questioned whether the current economy may impact the completion date.

Ms. Bodmer acknowledged that there are variables and it may need to be reevaluated in the future. She added that the Comprehensive Plan must be updated every ten years and an updated Plan will reflect those estimates.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2010-157** amending the 2030 Comprehensive Plan to establish a Temporary Sand and Gravel Overlay District as recommended by the Planning Commission; and authorizing submittal to the Metropolitan Council. Ayes - 5 - Nays - 0.

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Ms. Bodmer stated the ordinance amendments to Chapter 155 of the City Code rezoning the eight properties are primarily housekeeping items. She then reviewed the proposed changes to each site.

MOTION: of Grendahl, seconded by Bergman, waiving the procedure for a second reading and passing **Ordinance No. 892** rezoning Outlot 2, Palomino Hills 2nd Addition and part of Section 16 (Christus Victor Lutheran Church site) from “NCC” (Neighborhood Commercial Center) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Goodwin, waiving the procedure for a second reading and passing **Ordinance No. 893** rezoning part of Section 16 (Palomino Hills Park and Ride site) from “NCC”(Neighborhood Commercial Center) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, waiving the procedure for a second reading and passing **Ordinance No. 894** rezoning Lot 1, Block 1, Falcon Ridge School, (Falcon Ridge Middle School site) from “A”(Agricultural) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by LaComb, waiving the procedure for a second reading and passing **Ordinance No. 895** rezoning part of Section 36 (Lebanon Cemetery site) from “SG” (Sand and Gravel) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, waiving the procedure for a second reading and passing **Ordinance No. 896** rezoning part of Section 35 (160th Street drainage pond site) from “A” (Agriculture) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by LaComb, waiving the procedure for a second reading and passing **Ordinance No. 897** rezoning part of Section 35 (Quarry Point Park and 157th Street Park & Ride sites) from “SG” (Sand and Gravel) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by LaComb, waiving the procedure for a second reading and passing **Ordinance No. 898** rezoning part of Section 35 (Quarry Point Reservoir site) from “SG” (Sand and Gravel) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by LaComb, waiving the procedure for a second reading and passing **Ordinance No. 899** rezoning part of Section 35 (Dakota County 157th Street Park and Ride site) from “SG” (Sand and Gravel) to “P” (Institutional), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

GENERAL OBLIGATION CROSSOVER REFUNDING BONDS

Mr. Hedberg asked the Council to consider amending the resolution adopted at the last meeting to include one more bond issue that can be refinanced. The estimated savings on the refinancing would be between \$15,000 and \$20,000.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2010-158** amending the prior resolution approving the issuance of General Obligation Crossover Refunding Bonds, Series 2010A, and authorizing the issuance of additional refunding bonds. Ayes - 5 - Nays - 0.

COUNCIL COMMUNICATIONS

Mayor Hamann-Roland noted the Robert L. Erickson Park dedication ceremony will be on Saturday, September 25, 2010, at 11:00 a.m.

CALENDAR OF UPCOMING EVENTS

MOTION: of Goodwin, seconded by Bergman, approving the calendar of upcoming events as included in the City Clerk's memo dated August 23, 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 August 18, 2010, in the amount of \$1,277,125.28; and August 25, 2010, in the amount of \$751,706.83. Ayes - 5 - Nays - 0.

CLOSE MEETING - ATTORNEY-CLIENT PRIVILEGE

Mr. Dougherty asked the City Council to convene in a closed session, under the provisions of M.S. 471.705, to discuss litigation involving Jorge Allen, et al, regarding ponding.

MOTION: of Goodwin, seconded by LaComb, to close the regular meeting and convene in closed session to discuss with the City Attorney litigation involving Jorge Allen, et al, regarding ponding. Ayes - 5 - Nays - 0.

The meeting was closed at 8:35 p.m. and Mayor Hamann-Roland and Councilmembers Bergman, Goodwin, Grendahl, and LaComb convened in the Regent Conference Room, at 8:32 p.m., along with City Attorney Dougherty, City Administrator Lawell, City Clerk Gackstetter, and Public Works Director Blomstrom. Mr. Dougherty advised the Council that its discussion must be limited to matters for which the meeting was closed and if issues are discussed outside of this meeting the attorney-client

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privilege will be lost. Discussion followed regarding the litigation involving Jorge Allen, et al, relative to ponding.

The Council reconvened in open session at 8:48 p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 9-23-10