

CITY OF APPLE VALLEY  
Dakota County, Minnesota  
August 12, 2010

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held August 12, 2010, at 8:00 o'clock p.m., at Apple Valley Municipal Center.

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

ABSENT: None.

City staff members present were: City Administrator Lawell, Deputy City Clerk Murphy, City Attorney Dougherty, City Engineer Manson, Public Works Director Blomstrom, Assistant Finance Director Broughten, 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, Human Resources Manager Pearson, Police Captain Rehtzigel, 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, 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. Councilmember Goodwin requested moving item 4.D - Final Construction Plans and Granting Easements for the Cedar Avenue Transitway Improvements, to the regular agenda.

MOTION: of Bergman, seconded by LaComb, moving item 4.D - Final Construction Plans and Granting Easements for the Cedar Avenue Transitway Improvements and approving remaining items on the consent agenda as amended. Ayes - 5 - Nays - 0.

#### CONSENT AGENDA ITEMS

MOTION: of Bergman, seconded by LaComb, approving the minutes of the regular meeting of July 22, 2010, as written. Ayes - 5 - Nays - 0.

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MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-148** accepting, with thanks, the donation of a 1997 Dodge, from Sandra M. Hockert, for use by the Fire Department in training. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-149** accepting, with thanks, the donation of \$350.00 from Apple Valley American Legion for Parks and Recreation Department Safety Camp. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, receiving the 2009 Annual Audited City Financial Statements and Management Letter by Kern, DeWenter, Viere, Ltd. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-151** approving continued participation in Livable Communities Act (LCA) Affordable and Lifecycle Goals for 2011-2020. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving a Lease Agreement with Clear Wireless, LLC, for ground space at Central Maintenance Facility, as attached to the Public Works Superintendent's memo dated August 12, 2010, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the Agreement for AV Project 2010-127, 2010 Traffic Control Signal System Painting, with Budget Sandblasting & Painting, Inc., in the amount of \$12,850.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the Agreement for Hayes Park Arena Air Unit and Compressor with South River Heating & Cooling, Inc., in the amount of \$17,775.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the Agreement for Police Liaison Services with Independent School District 196, in the amount of \$147,702.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the Agreement for Quarry Point Athletic Complex Tournament Baseball Backstop Extension with Midwest Fence and Manufacturing Company, in the amount of \$16,985.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the Agreement for AV Project 2010-130, 2010 Bituminous Trail Fog Sealing, with Minnesota Roadway Company, in

the amount of \$36,750.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the Agreement for A.B.L.E. Fire Training Facility Master Planning and Feasibility Study, with Rick Swisher Architect, Inc., and authorizing the Fire Chief to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving Change Order No. 1 to the contract with LPD Electric, Inc., for AV Project 2010-107, LED Street Light Pilot Project, in the amount of an additional \$2,821.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving Change Order No. 1 to the contract with Premium Electrical Services, LLC, for EECBG Grant Lighting Retrofits Project, in the amount of an additional \$9,224.05. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, accepting Playground Structure - Alimagnet Park as complete and authorizing final payment on the Agreement with St. Croix Recreation Company, Inc., in the amount of \$25,000.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-152** directing the City Engineer to prepare plans and specifications for AV Project 2010-104, 2010 Menards Site Improvements – Flagstaff Avenue. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-153** authorizing request for proposals for Group Dental Insurance, with proposals due September 10, 2010, as described in the Human Resources Manager’s memo dated August 6, 2010. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving hiring the seasonal employees and resignation of employee, as listed in the Personnel Report dated August 12, 2010. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, setting a special informal City Council meeting, at 6:00 p.m., on August 26, 2010, at the Municipal Center; for the purpose of discussing the proposed 2011 City budget. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

FINAL CONSTRUCTION PLANS FOR CEDAR AVENUE

Councilmember Goodwin inquired what specifically was being approved in the resolution. Is it the easements or the construction plans. He stated he does not remember what was and was not voted on over the years. He said he has never been in favor of a 147th Street bus stop because of the parking situation but has no issues with approving the easements.

Mr. Blomstrom stated the resolution does include the final plans for the construction on Cedar Avenue and the second action would be granting the easements to Dakota County. He said Councilmember Goodwin is correct that the plans do include the bus pullouts at 147th Street.

Councilmember Bergman inquired if the buses will stop even if there is no station stop.

Mr. Blomstrom stated that the County is nearing completion of the Cedar Avenue Implementation Plan and he assumes that the construction plans would be amended not to construct the bus pullouts if the implementation plan concludes that the station stops at 147th Street are not warranted.

Councilmember Bergman questioned if the project will proceed as if the bus pullouts are needed and build them. Then during construction if the County or MVTA decides there is not a need for them, will that corner have to be redone.

Mr. Blomstrom stated modifications to eliminate the bus pullouts during construction can be facilitated during construction. He said City staff is hoping implementation plans will be completed by the time the County moves forward with construction plans. He stated it is nearing completion at this time.

Councilmember Bergman agreed with Councilmember Goodwin that they have all known this could be an issue. He questioned if the walkways proposed at 147th Street and Upper 139th Street would be constructed before knowing the outcome of the implementation plan.

Mr. Blomstrom stated the walkways are being considered under a separate process during the implementation plan for justification of the bus stops as well as what type of facility.

Mayor Hamann-Roland said this has been before the 147th Street businesses and the Chamber of Commerce and Dakota County have worked through the plans as they are. She stated there has not been a strong movement from the businesses to say this is not what they want. They have worked this through with Dakota County at this point.

Mr. Lawell stated he talked with Chamber of Commerce President Ed Kearney regarding the implementation process and the Cedar Avenue construction project. He said there are specific provisions in the plans regarding the closure of intersections for a limited time. He stated Mr. Kearney is pleased with that and did not express any concern regarding the implementation plans.

Mr. Blomstrom said the Council could add a condition on to Exhibit A that the results of the implementation plan would dictate the construction of the bus pullouts and that the County would commit that if the implementation plan drew the conclusion that certain station stops were not warranted, the project would be amended to eliminate the bus pullouts.

Councilmember Grendahl stated she would speak in favor of this project because she thought this had all been worked out with the Chamber and the numerous meetings held in the past.

Councilmember LaComb feels there are many elements to the Cedar Avenue project where there will never be 100 percent agreement. She stated there has been discussion for well over a decade and over that period of time elected officials have changed both at the County and local level. She feels this is a project of compromise and that the City is at a point that it needs to move on.

MOTION: of Grendahl, seconded by LaComb, adopting **Resolution No. 2010-150** approving final construction plans granting easements within City-owned property for the Cedar Avenue Transitway Improvements and adding a condition to Exhibit A requesting that the County provide commitment to revising the construction plans for the proposed bus pullouts of 147th Street and Upper 139th Street if the implementation plan determines that these station stops are not warranted along the corridor. Ayes - 4- Nays - 1. (Goodwin).

Councilmember Goodwin would like it on record that his concern is for the bus stop at 147th Street and Cedar Avenue intersection.

#### GENERAL OBLIGATION CROSSOVER REFUNDING BONDS, SERIES 2010A

Mr. Steve Mattson, of Northland Securities, Inc., the City's fiscal consultant, presented an opportunity for the City to save some money on Crossover Improvement Bonds for a saving of about \$223,000. He is anticipating an Aaa rating and that the end of August would be a favorable timeframe for going to market.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2010-154** authorizing issuance and sale of the City's \$4,200,000 General Obligation Crossover Refunding Bonds, Series 2010A, to Northland Securities, Inc., providing the total net savings is at least \$150,000.00 and the savings meet the 3% savings test as set forth in MS 475.67, subd. 12, and authorizing execution of the necessary documents. Ayes - 5 - Nays - 0.

#### APPLE VALLEY EAST FAMILY 2ND ADDITION

Mr. Lovelace presented the request submitted by Tradition Development for amendments to the 2030 Comprehensive Plan Land Use Map, rezoning and planned development ordinance amendments, and subdivision by plat of approximately 14.5 acres of property located in the northeast corner of 155th Street West and Pilot Knob Road.

The applicant has requested the redesignation on the 2030 Comp Plan Land Use Map of the north 9 acres of Outlot A, Apple Valley East Family Addition from "MD" (Medium Density Residential/6-12 units per acre) to "LD" (Low Density residential/3-6 units per acre) and the south 5.5 acres from "MD" to "C" (Commercial).

The rezoning request would create "PD-849/zone 2" over the north 9 acres of the existing outlot and amend the existing planned development ordinance by adding uses, area requirements, and performance standards for zone 2. No zoning changes would be expected to the south 5.5 acres until a development plan is submitted.

The final request is for approval of subdivision by plat of the 14.5-acre Outlot A, Apple Valley East Family Addition into 53 single family lots on approximately 9 acres, which is one less than the original request. The remaining 5.5 acres will be subdivided into two outlots. Access to the platted lot will be via a public street that will intersect with Embry Path at two locations.

Mr. Lovelace stated the developer has seen that the townhouse market has slowed up drastically. People are looking for single family homes again with less square footage and private yards. The smaller lots and smaller homes are becoming popular and generating more interest. A berm to the west will be designed to provide some screening from the traffic along Pilot Knob Road and another berm to the south will screen the residential houses from the commercial area. Sewer and water have been designed and stormwater runoff will be deposited into the pond in the southwest corner of the development. He stated the developer did take into consideration the monotony of the units to allow for a variety of style and a non-monotony clause will be written in.

The Planning Commission recommended approval of the Comprehensive Plan amendments that would redesignate the north 9 acres.

Mayor Hamann-Roland questioned if the non-monotony clause will include the garage doors.

Mr. Steve Ach, K. Hovnanian Homes, addressed the question on the garage doors. He said they are planning to offer different color pallets that match the siding and soften the garage doors. They are really trying to attract a different customer with a different price point. He stated they have five plans with three different elevations on each plan with a color matrix and a package plan for customers to choose from. They will have internal regulations on themselves so they do not repeat the same house design. They are excited to build next to the CDA project and bring more energy to that area.

Councilmember Goodwin questioned how many square feet there is per floor in these houses and if they feel this house will be successful in this price point.

Mr. Ach stated they have five homes that range in size from approximately 1,750 to 2,150 square feet on two floors. He feels this type of house will be successful because it is like the first-time buyer looking for a single family house rather than a townhouse to provide a single family opportunity. These are single family homes with no homeowner's association.

Councilmember Bergman stated he is not a fan of this project but is moving it along because he feels the community needs an assortment of houses. He feels the City is missing a price point out there. He stated the lot sizes and the houses are really small and when looking at the overall

development plan, he feels the City already has lots of these kind of houses and there is a price point the City does not have that surrounding communities do have. He shows concern for the project but will go along for the good of the people.

Councilmember Grendahl questioned the rationale of why one Planning Commissioner voted against the recommendation directing the City Council to direct staff to prepare the necessary planned development ordinance and preliminary plat.

Mr. Lovelace said Commissioner Scanlan was concerned about the nature of the development. He brought up the availability of parking, the small lots, the upkeep, the construction, and the rear elevation as well as the garage doors.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2010-155** amending the 2030 Land Use Map of the Comprehensive Plan changing the redesignation of the north 9 acres of Outlot A, Apple Valley East Family Addition from "MD" (Medium Density Residential/6-12 units per acre) to "LD" (Low Density Residential/3-6 units per acre) and the south 5.5 acres of Outlot A, Apple Valley East Family Addition from "MD" Medium Density Residential/6-12 units per acre) to "C" (Commercial), as recommended by the Planning Commission; and authorizing submittal to the Metropolitan Council. Ayes - 5 - Nays - 0.

Councilmember LaComb stated she would like to compliment anyone that comes here that is really making a commitment to the community and is continuing to provide their resources to first time homebuyers and others in a very small market area. She feels there are a number of people in the community who are ready to down size but are not ready for communal living and this gives them an alternative. She agrees the lot is smaller but it is still a single family home in a new development.

MOTION: of Grendahl, seconded by Bergman, directing staff to prepare planned development ordinance amendments for Planned Development No. 849/zone 2 that include permitted, conditional, and accessory uses; and area requirements and special performance standards consistent with the proposed development plans. Ayes - 5 - Nays - 0.

#### PARKS AND RECREATION ADVISORY COMMITTEE VACANCY

Mr. Lawell reviewed the City Clerk's memo dated August 9, 2010, listing applicants for the Parks and Recreation Advisory Committee vacancy.

The Mayor called for nominations for the vacancy. Councilmember Grendahl nominated Jennifer Ackland, Paula Christiansen, Kristopher Lee, Jim Lombardi, Jeremy Morgan, Mark Schori, Brenton Schulz, and Ben Van Gundy. There being no further nominations, the Mayor declared the nominations closed.

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MOTION: of Grendahl, seconded by LaComb, accepting the eight nominations for Parks and Recreation Advisory Committee and amending the previously adopted appointment process to reduce the number of candidates by selecting two fewer candidates than total names appearing on the ballot. Ayes - 5 - Nays - 0.

The Deputy City Clerk prepared ballots and the City Attorney distributed them to the Council who were asked to each select six names from the eight nominees. After selections were made, they were tallied and the City Attorney announced that seven names remained.

The Deputy City Clerk prepared ballots and the City Attorney distributed them to the Council who were asked to each select five names. After selections were made, they were tallied and the City Attorney announced that six names still remained.

The Deputy City Clerk prepared ballots and the City Attorney distributed them to the Council who were asked to each select four names. After selections were made, they were tallied and the City Attorney announced that five names still remained.

The Deputy City Clerk prepared ballots and the City Attorney distributed them to the Council who were asked to each select three names. After selections were made, they were tallied and the City Attorney announced that four names still remained.

The Deputy City Clerk prepared ballots and the City Attorney distributed them to the Council who were asked to each select two names. After selections were made, they were tallied and the City Attorney announced that three names still remained.

The Deputy City Clerk prepared ballots and the City Attorney distributed them to the Council who were asked to each select one name. After selections were made, they were tallied and the City Attorney announced that Brenton Schulz received the majority of votes.

MOTION: of Grendahl, seconded by LaComb, adopting **Resolution No. 2010-156** appointing Brenton Schulz to the Parks and Recreation Advisory Committee for a term expiring March 1, 2012. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland thanked all the applicants who applied and expressed interest in the position.

COUNCIL COMMUNICATION

Councilmember Bergman reminded everyone of the Grand Opening on Sunday, August 15, for White Castle located at 15101 Cedar Avenue.

Mayor Hamann-Roland announced there would be music in Kelley Park on Friday, August 13.

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 August 9, 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 July 28, 2010, in the amount of \$1,312,770.40; and August 4, 2010, in the amount of \$377,493.92; and August 11, 2010, in the amount of \$1,089,864.11. Ayes - 5 - Nays - 0.

CLOSED MEETING, PERFORMANCE EVALUATION

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. 13D05, Subd. 3a, to conduct a performance evaluation.

MOTION: of Bergman, seconded by Grendahl, to enter into a closed meeting and convene in closed session to conduct a performance evaluation of the City Administrator. Ayes - 5 - Nays - 0.

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; and City Administrator Lawell. The meeting was tape recorded as required by law. The Council reconvened in open session at 10:14 p.m.

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

The meeting was adjourned at 10:15 o'clock p.m.

Respectfully Submitted,

/s/ Joanne Murphy  
Joanne Murphy, Deputy City Clerk

Approved by the Apple Valley City Council on 8-6-10.