

CITY OF APPLE VALLEY
Dakota County, Minnesota
June 17, 2010

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held June 17, 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, Recreation Supervisor Bird, Public Works Director Blomstrom, Assistant City Administrator Grawe, Finance Director Hedberg, Parks and Recreation Director Johnson, Police Chief Johnson, City Planner Lovelace, Community Development Director Nordquist, Human Resources Manager Pearson, Police Captain Rehtzigel, Arena Office Supervisor Schesso, 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 item 4.O – Adopt Resolution to Consider Participation in Minnesota GreenStep Cities Program to the consent 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 LaComb, approving all items on the consent agenda with no exceptions. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of Bergman, seconded by LaComb, approving the minutes of the regular meeting of May 27, 2010, as written. Ayes - 5 - Nays - 0.

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- MOTION: of Bergman, seconded by LaComb, approving amending the 2010 Off-Sale 3.2 Percent Malt Liquor License for Wal-Mart Stores, Inc., d/b/a Wal-Mart Supercenter #2642, 7835 150th Street W. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, approving a temporary event license for two outdoor special events to Rich Management, Inc., d/b/a Apple Place, on June 25 and 26, 2010, and June 26 and 27, 2010, for use in the parking lots at 14917 Garrett Avenue and 7300 147th Street W.; as described in the City Clerk's memo dated June 14, 2010. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-123** approving qualifications for head election judges and election judges. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-124** appointing individuals listed in the resolution to serve as judges for the Primary Election to be held on August 10, 2010, in the City. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-125** amending the 2009 budget. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-126** amending the 2009 and 2010 budgets for uncompleted 2009 projects. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-127** requesting administrative funding from Dakota County Community Development Agency (CDA) for Energy Efficiency Loan Program. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, approving the reduction of financial guarantees for Oakwood Hills NRMP (PC07-28) from \$15,914.06 to \$14,777.34 and Oakwood Hills Construction & Development Security (PC07-28) from \$17,775.63 to \$16,505.94, as listed in the Community Development Department Assistant's memo dated June 17, 2010. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, approving AV Project 2010-121, Lift Station SCADA Replacement, with Automatic Systems Company, in the amount of \$77,564.00. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, approving a Fireworks Display Agreement with Pyrotechnic Display, Inc., to provide a fireworks display on July 4, 2010, in the amount of \$19,500.00, as attached to the Recreation Supervisor's memo dated June 11, 2010; subject to receipt of a fireworks permit and certificate of insurance, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by LaComb, approving the Professional Services Agreement for AV Project 2010-122, Lebanon Cemetery Master Plan Update, with Sanders

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Wacker Bergly, Inc., in the amount of \$11,900.00, 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 elevator inspection at Hayes Community and Senior Center, with Schindler Elevator Corporation, in the amount of \$864.00 per year, plus applicable taxes, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the Work Site Agreement and Statement of Work with Tree Trust for 2010 Landscape Construction Services at various parks, as attached to the Park Maintenance Superintendent's memo dated June 14, 2010, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving the 2010 Joint Powers Agreement with Dakota County Multi-Agency Assistance Group (MAAG), as attached to the Police Captain's memo dated June 17, 2010, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving Change Order No. 1 to the contract with McNamara Contracting, Inc., for AV Project 2008-111, Apple Valley East Family Addition, in the amount of an additional \$24,035.86. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving Change Order No. 1 to the contract with McNamara Contracting, Inc., for AV Project 2010-101, 2010 Street Maintenance Project, in the amount of an additional \$41,187.86. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving Change Order No. 2 to the contract with Dave Perkins Contracting, Inc., for AV Project 2009-111, Long Lake Drawdown Pipe, in the amount of an additional \$1,603.34. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving Change Order No. 2 to the contract with GenCon Construction, for Redwood Pool Renovation, resulting in no change to the contract amount. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, approving Change Order No. 1 to the agreement with Visu-Sewer, Inc., with a deduction of \$1,560.00; and accepting AV Project 2009-134, 2009 Cured-In-Place Pipe Repairs - Sewer Lines, as complete and authorizing final payment in the amount of \$24,700.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, accepting Project 08-383, Aquatic Center Expansion, as complete and authorizing final payment on the contract with CM Construction Company, Inc., in the amount of \$9,000.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, accepting 2010 Tree Planting as complete and authorizing final payment on the agreement with Friedges Landscaping, Inc., in the amount of \$28,350.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, accepting Security and Fire Monitoring System at Redwood Community Center as complete and authorizing final payment on the agreement with General Security Services Corporation (GSSC), in the amount of \$4,875.63. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, accepting Farquar Lake Weed Harvesting as complete and authorizing final payment on the agreement with Midwest Weed Harvesting, in the amount of \$12,924.14. 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 June 17, 2010. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by LaComb, adopting **Resolution No. 2010-128** authorizing exploring the possibility of participation in the Minnesota GreenStep Cities Program. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

2010 APPLE VALLEY FREEDOM DAYS

Mr. Randy Johnson introduced Apple Valley Freedom Days Committee Chair Pat Schesso and City liaison Bill Bird. He stated preparation for Freedom Days is a team effort which includes many departments in the City including Police, Fire, Public Works, and Parks and Recreation.

Ms. Schesso thanked the City and the Apple Valley American Legion for supporting Apple Valley Freedom Days. Ms. Schesso and Mr. Bird then presented the various activities planned for the 44th Annual Apple Valley 4th of July Celebration, which begins on June 25 and concludes on July 4. The parade begins at 1:00 p.m. on July 4 and the fireworks will begin at 10:00 p.m. that evening. Everyone is invited to enjoy the fun and participate in the various events.

Mayor Hamann-Roland thanked the Freedom Days Committee and many volunteers for their efforts in coordinating all the activities. She stated she believes it is one of the best 4th of July celebrations and fireworks in the state.

Ms. Schesso reminded the public that chairs and blankets cannot be placed along the parade route prior to 24 hours before the start of the parade.

Councilmember Bergman asked where the public can retrieve their items if they are picked up by the City.

Ms. Schesso said items picked up by the City will be stored at the sports arena.

MOTION: of Grendahl, seconded by LaComb, adopting **Resolution No. 2010-129** proclaiming July 4, 2010, as “The 44th Annual Apple Valley 4th of July Freedom Days Celebration” and encouraging citizens to support and participate in the community-wide celebration. Ayes - 5 - Nays - 0.

TELECOMMUNICATIONS MONOPOLES

Mr. Tom Lovelace reviewed the requests by FMHC Corporation for Clear Wireless, LLC, for two Conditional Use Permits to allow the installation of a 90-foot telecommunications tower in Hayes Park and on the Christ Church property.

Hayes Park is approximately 24 acres and is located on the southwest corner of 145th Street W. and Hayes Road. The applicant is proposing replacing an existing light standard with the monopole. The light would then be co-located on the monopole at approximately the 60-foot level. Ground cabinets will be located near the base of the monopole. Mr. Lovelace stated this request is part of a larger project by ClearWire to obtain City-wide coverage in order provide their service throughout the community. Their plan includes placing antennas on several reservoirs, three additional monopoles, and one of the taller buildings in the City. He stated the Planning Commission reviewed this item and recommended approval.

Councilmember Grendahl asked what services this will offer to Apple Valley residents.

Ms. Pat Conlin, of FMHC Corporation, explained the 4G, or 4th generation, wireless communication services that will be available as a result of this project.

Mayor Hamann-Roland asked how that will be different from what residents currently have with DSL and wireless services.

Ms. Conlin said that to the extent the service being provided is similar, the difference would be ClearWire does not require a line or wire to enter the home or business; instead the service is accessed via wireless modem. It provides users more mobility and she said it is also significantly faster than most DSL's and broadbands.

Councilmember Bergman asked if there was anyone present who wished to comment on this item or if there were any comments at any of the public hearings regarding the Conditional Use Permit for this location.

Mr. Lovelace stated the public hearings on the monopoles were held over two Planning Commission meetings. This afforded the public two opportunities to speak. He did not believe there were any comments regarding this site.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2010-130** approving a Conditional Use Permit to allow construction of a telecommunications monopole

in Hayes Park, at 14603 Hayes Road, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

Mr. Lovelace stated the second Conditional Use Permit is for the installation of a 90-foot telecommunications monopole located on the Christ Church property, located at 12925 Johnny Cake Ridge Road. The site is approximately 6.4 acres. The applicant is proposing construction of the monopole on the easterly edge of the parking lot. Similar to the last proposal, a light would be co-located on the monopole which would provide lighting for the church parking lot. The equipment cabinet on this site would be fenced and bollards would also be placed around the perimeter of the tower to protect it from vehicles.

Councilmember Bergman questioned whether a permit would be required for the installation of the 8-foot fence.

Mr. Lovelace affirmed a permit would be required. He then presented a pictorial mock-up of what the pole may look like on the site. He stated a couple of comments were received at the two meetings during which the public hearing was held. One comment was in regard to co-locating on the pole located in Hagemeister Park. Mr. Lovelace indicated the two service providers could not reach an agreement to co-locate on the tower in Hagemeister Park. The second comment was a concern that if the pole fell it would knock the overhead utility lines down along the west side of Johnny Cake Ridge Road. Mr. Lovelace stated the pole meets the setback requirements and therefore, would not hit the utility lines if it would fall. He stated the Planning Commission also reviewed this item and recommended approval.

Councilmember Goodwin said he is fine with the tower being located in the middle of the parking lot, but questioned if it might not be better placed on the north end of the property because it would be further away from the homes. He thought it may be less obtrusive in that area.

Mr. Peter Coyle, of Larkin Hoffman on behalf of ClearWire, said they are willing to relocate the tower as recommended by Councilmember Goodwin. However, they will need approval by the church, since it is their property. The church has indicated a concern in the placement of the pole so that it does not affect any potential for the church to expand. If the church is comfortable with the recommended location and there are not setback issues at that location, they are perfectly willing to make that move. He asked if it would be possible to receive authorization to do "A" or "B", and he stated they would move to "B" if they could.

Mr. Dougherty offered language amending the second condition of the draft resolution which would give authorization for the tower at either location.

MOTION: of Goodwin, seconded by LaComb, amending the proposed resolution by adding the following language, as recommended by the City Attorney, to the second condition "...or with a site plan submitted and approved by the Community Development Department that places the tower on the northeastern portion of the property and meets code requirements". Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2010-131**, as amended, approving a Conditional Use Permit to allow construction of a telecommunications monopole on Lot 1, Block 1, Christ Church Addition (12925 Johnny Cake Ridge Road), with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

COUNCIL COMMUNICATION

Mayor Hamann-Roland invited everyone to Music in Kelley Park at Stage One on Friday night and thanked everyone who participated in the Apple Valley Community Ride 2010 held last Sunday.

CALENDAR OF UPCOMING EVENTS

MOTION: of Grendahl, seconded by Bergman, approving the calendar of upcoming events as included in the City Clerk's memo dated June 14, 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 June 2, 2010, in the amount of \$1,219,864.85; June 9, 2010, in the amount of \$536,711.05; and June 16, 2010, in the amount of \$1,477,901.19. Ayes - 5 - Nays - 0.

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

The meeting was adjourned at 8:40 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 07-08-10