

CITY OF APPLE VALLEY  
Dakota County, Minnesota  
October 27, 2011

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held October 27, 2011 at 8:00 o'clock p.m., at Apple Valley Municipal Center.

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

ABSENT: None.

City staff members present were: City Administrator Lawell, City Clerk Gackstetter, City Attorney Dougherty, 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, and Police Captain Rechtzigel.

Mayor Hamann-Roland called the meeting to order at 8:00 p.m. Everyone took part in the Pledge of Allegiance to the flag.

#### APPROVAL OF AGENDA

MOTION: of Hooppaw, 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. There were no requests.

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

#### CONSENT AGENDA ITEMS

MOTION: of Goodwin, seconded by Bergman, approving the minutes of the regular meeting of October 13, 2011, as written. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Apple Valley Sons of the American Legion, Squadron 1776, for use on February 11, 2012, at the Apple Valley American Legion, 14521 Granada Drive, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

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MOTION: of Goodwin, seconded by Bergman, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Apple Valley Sons of the American Legion, Squadron 1776, for use on April 14, 2012, at the Apple Valley American Legion, 14521 Granada Drive, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Apple Valley Sons of the American Legion, Squadron 1776, for use on July 4, 2012, at the Apple Valley American Legion, 14521 Granada Drive, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving a change in manager for Applebee Minnesota, LLC, d/b/a Applebee's Neighborhood Grill and Bar, in connection with the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales at 14678 Cedar Avenue, naming Richard James Linton as General Manager; as described in the City Clerk's memo dated October 24, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving a change in manager for Hiraku Japanese Restaurant, Inc., d/b/a Kami Japanese Restaurant, in connection with the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales at 15322 Galaxie Avenue, naming Tracy Thuy Tran as General Manager; as described in the City Clerk's memo dated October 24, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-160** setting a public hearing, at 8:00 p.m., on November 22, 2011, on the application for On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales by GSTL Investments, LLC, d/b/a Valley Tap House. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-161** setting a public hearing, at 8:00 p.m., on November 22, 2011, on renewal applications for On-Sale Intoxicating Liquor, Wine, and 3.2 Percent Malt Liquor Licenses for 2012. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-162** approving issuance of a Gambling Premises Permit to Eastview Hockey Association for the premises at Valley Tap House, 14889 Florence Trail, and waiving any waiting period for Minnesota Gambling Control Board approval of the permit. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, declaring certain City vehicles as surplus; authorizing the disposal of forfeiture and surplus vehicles by a public sale from October 28, 2011, through November 8, 2011; and approving the Agreement with MDI Auctions, for an online auction conducted through K-Bid, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Truth-in-Taxation notice, as

attached to the Finance Director's memo dated October 21, 2011, and authorizing black and white printing. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-163** approving submission of the Apple Valley, Burnsville, and Eagan 2012 Funding Application to Dakota County, in the amount of \$160,462.00, to operate a joint Recycling Program, and authorizing the execution of the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-164** commenting on the draft 2012-2016 Capital Improvement Program for Dakota County. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-165** approving a 6-foot variance from the 30-foot front yard setback on Lot 8, Block 1, Cobblestone I (8531 136th Court) to allow construction of a garage addition, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Community Development Block Grant (CDBG) Subrecipient Grant Agreement for Fiscal Years 2010-2013, as attached to City Planner's memo dated October 24, 2011, and authorizing the City Administrator to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-166** approving the Settlement Agreement and Release Documents for ponding easements, on Lot 16, White Oak Ridge Addition, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the First Amendment to Professional Services Agreement with Midwest Electrical Technologies for Inspection of Electrical Installations, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the 2012 Blue Thumb Partners' Agreement with Rice Creek Watershed District (RCWD) for membership renewal, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Design Agreement and Agreement for Private Installation of Improvements with South Shore Development, Inc., for AV Project 2011-148, Cobblestone South Shore 6th Addition, as attached to the City Engineer's memo dated October 27, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving Change Order No. 2 to the contract with Max Steininger, Inc., for AV Project 2010-134, Galaxie Pond Storm Water Improvements, in the amount of an additional \$29,219.05. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving Change Order No. 1 to the contract with Keys Well Drilling Company, with a deduction of \$548.50, and accepting AV Project 2010-133, Well Pumps 8, 12 and LZP1 Maintenance, as complete and authorizing final payment in the amount of \$21,442.88. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, accepting AV Project 2011-109, 2011 Micro Surfacing, as complete and authorizing final payment on the contract with Astech Corporation, in the amount of \$289,016.13. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving hiring the seasonal employees and resignation of employee, as listed in the Personnel Report dated October 27, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, setting a special City Council meeting at 2:30 p.m., on November 1, 2011, at the Municipal Center, to consider plans and specifications for Valleywood Clubhouse and to discuss the Pavement Management Program Special Assessment Policy and 140th/147th Street transit station stop designs. Ayes - 5 - Nays - 0.

#### END OF CONSENT AGENDA

#### AUGUSTANA HEALTH CARE CENTER OF APPLE VALLEY PROJECT

Mr. Hedberg reviewed the request by Augustana Health Care Center of Apple Valley, Inc., formerly known as Augustana Home of St. Paul. They are asking the Economic Development Authority (EDA) to issue Health Care Facilities Revenue Bonds to assist in financing renovations of their 200-unit skilled nursing facility located at 14650 Garrett Avenue. The revenue bonds are not an obligation of the City of Apple Valley, the issue does not count against the City's debt limit, and the City is not responsible for their repayment. The City Council is being asked to hold the public hearing on behalf of the EDA. No action is required by the Council.

Mayor Hamann-Roland called the public hearing to order at 8:04 p.m. on the issuance of Health Care Revenue Bonds, not to exceed \$4,500,000, by the Apple Valley Economic Development Authority for Augustana Health Care Center of Apple Valley, Inc., Project. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:05 p.m.

#### LIFEWORKS/APPLE VALLEY PROJECT

Mr. Hedberg reviewed the request by Lifeworks Services, Inc., to issue an Educational Facilities Revenue Note, Series 2011, in an amount not to exceed \$2,300,000, for the Lifeworks - Apple Valley Project. The project includes the construction of an 18,200 square foot educational facility in Eagle Ridge Business Park. The revenue note is not an obligation of the City of Apple Valley, the issue does not count against the City's debt limit, and the City is not responsible for its repayment. The City Council is being asked to hold the public hearing and adopt a resolution

authorizing issuance of the note.

Mayor Hamann-Roland called the public hearing to order at 8:07 p.m. to consider adopting a resolution authorizing the issuance of an Educational Facilities Revenue Note, Series 2011, on behalf of Lifeworks Services, Inc. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:08 p.m.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2011-167** approving issuance and sale of an Educational Facilities Revenue Note, Series 2011, in an amount not to exceed \$2,300,000.00, in connection with Lifeworks – Apple Valley Project; and authorizing execution of the necessary documents. Ayes - 5 - Nays - 0.

#### COBBLESTONE LAKE SOUTH SHORE 6TH ADDITION

Mr. Lovelace reviewed the request by South Shore Development, LLC, for a subdivision by preliminary plat of approximately 9.14 acres into 12 residential lots and one outlot and a site plan/building permit authorization to allow for construction of one single-family and ten twin-home dwelling units. The property is located along the north, east, and south side of Cobblestone Lake Parkway. He updated the Council on the vacation of easements and reviewed the utility plan and elevation drawings. He stated that on October 19, 2011, the Planning Commission voted unanimously to recommend approval.

Mayor Hamann-Roland said Cobblestone Lake is a project that is working and it is great to see it continue to move forward especially in these challenging times.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2011-168** approving the preliminary plat of Cobblestone Lake South Shore 6th Addition, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Goodwin, adopting **Resolution No. 2011-169** approving the site plan and authorizing issuance of a building permit for one single-family and ten twin-home dwelling units on Lots 1-11, Block 1, Cobblestone Lake South Shore 6th Addition, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

Councilmember Bergman asked how the marketing strategies for the Spirit of Brandtjen Farm and Cobblestone Lake compare.

Mr. Jacob Fick, of Tradition Development, said both projects are very important and the Enebek family takes great pride in both sites. He then briefed the Council on the plans for both projects.

#### MCMAMARA CONTRACTING PROPERTIES – FLAGSTAFF AVENUE

Ms. Bodmer reviewed the request by McNamara Contracting Properties, LLC, and the City of Apple Valley for a Comprehensive Plan amendment from “LD” (Low Density Residential) to “IND” (Industrial), rezoning from “SG” (Sand & Gravel) to “I-1” (Limited Industrial), vacation of

various easements, and a preliminary plat and a final plat of McNamara Apple Valley Addition. The site is comprised of two parcels totaling 10.4 acres and is located at 14325 Flagstaff Avenue.

MOTION: of Goodwin, seconded by Hooppaw, adopting **Resolution No. 2011-170** approving amending the land use guide map of the 2030 Comprehensive Plan for McNamara Contracting Properties, from “LD” (Low Density Residential) to “IND” (Industrial) as approved by the Metropolitan Council. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, passing **Ordinance No. 926** rezoning certain property from “SG” (Sand & Gravel) to “I-1” (Limited Industrial), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-171** completing the vacation of various easements, and authorizing the City Clerk to record the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-172** approving the preliminary plat of McNamara Apple Valley Addition, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Hooppaw, adopting **Resolution No. 2011-173** approving the final plat of McNamara Apple Valley Addition, and waiving the requirement for a subdivision agreement. Ayes - 5 - Nays - 0.

#### FLOODPLAIN CONTROL ORDINANCE

Mr. Lovelace gave the first reading of an ordinance amending Chapter 156 of the City Code regulating flood plain control. In June 2011, the Federal Emergency Management Agency (FEMA) approved the Flood Insurance Rate Maps (FIRMS) and insurance study which was completed in 2003. In order to continue in the federal flood insurance program, the City is required to adopt these maps and make the necessary amendments to the existing ordinance consistent with the study’s findings by December 2, 2011. Due to the short timeframe, staff is recommending waiving of the second reading. He added that the Planning Commission held a public hearing on the ordinance amendment on October 19, 2011, and recommended approval.

MOTION: of Bergman, seconded by Goodwin, waiving the procedure for a second reading and passing **Ordinance No. 927** amending Chapter 156 of the City Code regulating flood plain control. Ayes - 5 - Nays - 0.

#### STAFF COMMUNICATION

Mr. Blomstrom provided an update on the Cedar Avenue transitway construction project.

#### CALENDAR OF UPCOMING EVENTS

MOTION: of Hooppaw, seconded by Grendahl, approving the calendar of upcoming events as included in the City Clerk’s memo dated October 24 2011, 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 October 20, 2011, in the amount of \$936,883.22; and October 27, 2011, in the amount of \$1,232,687.16. Ayes - 5 - Nays - 0.

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

The meeting was adjourned at 8:48 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 11-22-11.