

CITY OF APPLE VALLEY
Dakota County, Minnesota
November 22, 2011

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held November 22, 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, Recreation Superintendent Breuer, Assistant City Administrator Grawe, Finance Director Hedberg, Police Chief Johnson, City Planner Lovelace, City Engineer Manson, Community Development Director Nordquist, Human Resources Manager Pearson, Police Captain Rehtzigel, Fire Chief Thompson, and Golf Manager Zinck.

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

CONSENT AGENDA ITEMS

MOTION: of Hooppaw, seconded by Goodwin, approving the minutes of the regular meeting of October 27, 2011, as written. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving the minutes of the special meeting of November 1, 2011, as written. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to American Legion Auxiliary, Post 1776, for use on the revised date of January 14, 2012, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-175** approving changes to the Public Works Department Policy Manual, revising Section 1.01 Snow and Ice Control Policy and adding Section 4.02 Maintenance Personnel Uniform Policy and Section 4.03 Non-Union Personnel Uniform Policy. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-176** levying 2011 Special Assessment Roll No. 604 in connection with AV Project 2011-106, 147th Street Extension. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-177** establishing fire lanes at 15584 Gaslight Drive. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving early ordering of digital narrow band radios, repeater, and associated equipment for Public Works and Park Maintenance departments, with ANCOM Communications, Inc., as itemized in the quote attached to the Public Works Supervisor's memo dated November 22, 2011. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving release of financial guarantees for Jolene Addition and Home Depot, as listed in the Community Development Department Assistant's memo dated November 22, 2011. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving **Resolution No. 2011-178** approving extended hauling hours for snow operations for Fischer Sand & Aggregate, LLP, 15305 Johnny Cake Ridge Road. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-179** authorizing issuance of a building permit for Phase 2 of Valleywood Clubhouse, with conditions, as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-180** completing vacation of park, sidewalk, trail, and drainage and utility easements in Cobblestone Lake development, and authorizing the City Clerk to record the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-181** approving the final plat and Development Agreement for Cobblestone Lake South Shore 6th Addition, and authorizing the Mayor and City Clerk to sign the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-182** approving the final plat of Christianson Estate, and waiving the requirement for a subdivision agreement. Ayes - 5 - Nays - 0.

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MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-183** approving a 29.2 ft. variance from 75 ft. shoreland setback to construct a kitchen/dining addition and deck on Lot 1, Block, 1 Christensen Estate (13208 Pilot Knob Road), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-184** approving specifications for Two-Year Lease for Eight 72-Inch Mowers; and authorizing advertising for receipt of bids, at 10:00 a.m., on January 5, 2012. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving the License Agreement with New Cingular Wireless PCS, LLC, for installation of fiber optic cables at Valleywood Water Storage Reservoir, 4863 McAndrews Road, as attached to the Public Works Superintendent's memo dated November 22, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving the License Agreement with New Cingular Wireless PCS, LLC, for installation of fiber optic cables at Central Maintenance Facility, 6440 140th Street W., as attached to the Public Works Superintendent's memo dated November 22, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving Change Order No. 1 to the contract with Bituminous Roadways, Inc., for AV Project 2011-102, Garden View Drive Street Improvements, in the amount of an additional \$3,465.75. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, accepting AV Project 2009-109, Longridge Reservoir Intermediate Rehabilitation as complete and authorizing final payment on the contract with Champion Coatings, Inc., in the amount of \$7,900.00. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, accepting AV Project 2011-106, Upper 147th Street Extension as complete and authorizing final payment on the contract with Enebak Construction Company, in the amount of \$46,314.98. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-185** appointing Mary Hamann-Roland as Commissioner and Greg Helms as Alternate Commissioner, to the Black Dog Watershed Management Commission. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving hiring the seasonal and part time employees, temporary assignment of employee, and termination and resignation of employees, as listed in the Personnel Report and Addendum dated November 22, 2011. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

2012 ON-SALE LIQUOR AND WINE LICENSE RENEWALS

Ms. Gackstetter reviewed her memo regarding renewal applications for On-Sale Intoxicating Liquor, Club, Wine, and 3.2 Percent Malt Liquor licenses for 2012. City Code requires a public hearing on all On-Sale liquor renewal applications. She noted receipt of the affidavit of publication of the hearing notice and stated no comments have been received. The Police Department completed the background investigations and noted nothing which would preclude renewing the licenses. The Finance Department checked Dakota County tax records and confirmed all taxes are paid. The City Clerk checked the Minnesota Department of Revenue's delinquent taxpayers list and none of the licensees are listed. She also confirmed with the Minnesota Department of Health and the Minnesota Department of Agriculture that the licensees are in compliance. Ms. Gackstetter stated that although the On-Sale 3.2 Percent Malt Liquor renewal licenses are included in the public hearing this evening, there will be no action requested for them. Action on all 3.2 Percent Malt Liquor licenses will take place at the December 8, 2011, meeting.

Mayor Hamann-Roland called the public hearing to order at 8:06 p.m. to consider renewal applications for On-Sale Intoxicating Liquor, Club, Wine, and 3.2 Percent Malt Liquor licenses for the year 2012. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:07 p.m.

MOTION: of Bergman, seconded by Goodwin, approving renewal, for 2012, of On-Sale Intoxicating Liquor, On-Sale Club Intoxicating Liquor, Special License for Sunday Liquor Sales, and On-Sale Wine licenses, subject to receipt of the necessary fees and documents, by adopting **Resolutions No. 2011-186** for Apple Minnesota, LLC, d/b/a Applebee's Neighborhood Grill & Bar; **No. 2011-187** for Apple Valley Grill, LLC, d/b/a Wild Bill's Sports Saloon; **No. 2011-188** for Blazin Wings, Inc., d/b/a Buffalo Wild Wings Grill & Bar #28; **No. 2011-189** for El Azteca Apple, Inc., d/b/a El Azteca Mexican Restaurant; **No. 2011-190** for El Toro of Apple Valley, Inc., d/b/a El Toro Mexican Restaurant; **No. 2011-191** for H.O.C., Inc., d/b/a Rascals-Apple Valley Bar & Grille; **No. 2011-192** for Hiraku Japanese Restaurant, Inc., d/b/a Kami Japanese Restaurant; **No. 2011-193** for Lancer Food Service, Inc., d/b/a Lancer Food Service; **No. 2011-194** for Red Robin International, Inc., d/b/a Red Robin America's Gourmet Burgers and Spirits #631; **No. 2011-195** for Rich Management, Inc., d/b/a Bogart's/Apple Place Bowl; **2011-196** for RT Minneapolis Franchise, LLC, d/b/a Ruby Tuesday; **No. 2011-197** for Spoon, Inc., d/b/a Spoon; **No. 2011-198** for UASanders, LLC, d/b/a Panino Brothers; **No. 2011-199** for Wadsworth Old Chicago, Inc., d/b/a Old Chicago; **No. 2011-200** for Water's Edge Restaurant, LLC, d/b/a Enjoy!; **No. 2011-201** for Apple Valley American Legion, Post 1776; **No. 2011-202** for Chipotle Mexican Grill of Colorado, LLC, d/b/a Chipotle Mexican Grill; **No. 2011-203** for D & D of Minnesota, Inc., d/b/a Famous Dave's BBQ Shack; and **No. 2011-204** for The Noodle Shop, Co. - Colorado, Inc., d/b/a Noodles & Company. Ayes - 5 - Nays - 0.

OSAKA SEAFOOD STEAKHOUSE ON-SALE LIQUOR LICENSE

Ms. Gackstetter reviewed the application by Osaka AV, Inc., d/b/a Osaka Seafood Steakhouse for On-Sale Intoxicating Liquor and Special License for Sunday Liquor Sales as described in her memo dated November 18, 2011. She noted receipt of the affidavit of publication of the hearing notice and stated no comments have been received to date. The restaurant is located at 7537 148th Street W., Suite A., and will seat approximately 120 people. A restaurant with a liquor license is currently operating at this location; however, the name of the licensee, the business name, and owners have changed. She stated the Police Department completed the necessary background investigation and found no reason the license could not be authorized at this time. Ms. Gackstetter noted that due to the timing of the application, the resolution approves licenses for both 2011 and 2012.

Mayor Hamann-Roland called the public hearing to order at 8:09 p.m. to consider the application by Osaka AV, Inc., d/b/a Osaka Seafood Steakhouse, for On-Sale Intoxicating Liquor and Special License for Sunday Liquor Sales. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:10 p.m.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2011-205** approving issuance of a 2011 and 2012 On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales to Osaka AV, Inc., d/b/a Osaka Seafood Steakhouse, for premises located at 7537 148th Street W., Suite A. Ayes - 5 - Nays - 0.

VALLEY TAP HOUSE ON-SALE LIQUOR LICENSE

Ms. Gackstetter reviewed the application by GSTL Investments, LLC, d/b/a Valley Tap House for On-Sale Intoxicating Liquor and Special License for Sunday Liquor Sales as described in her memo dated November 18, 2011. She noted receipt of the affidavit of publication of the hearing notice and stated no comments have been received to date. The restaurant is located at 14889 Florence Trail and the premises includes the outdoor patio. The application shows seating of approximately 186 people inside and 74 people outside. She stated the Police Department completed the necessary background investigation and found no reason the license could not be authorized at this time. The owners have indicated the restaurant will open on or about December 5, 2011. Ms. Gackstetter noted that due to the timing of the application, the resolution approves licenses for both 2011 and 2012.

Mayor Hamann-Roland called the public hearing to order at 8:12 p.m. to consider the application by GSTL Investments, LLC, d/b/a Valley Tap House, for On-Sale Intoxicating Liquor and Special License for Sunday Liquor Sales. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:13 p.m.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2011-206** approving issuance of a 2011 and 2012 On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales to GSTL Investments, LLC, d/b/a Valley Tap House, for premises located at 14889 Florence Trail. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland welcomed Valley Tap House to Apple Valley.

Mr. Gene Suh, President, and Mr. Tony Ostlund, General Manager, spoke about their concept and menu and invited the public to stop in.

PAVEMENT MANAGEMENT PROGRAM AND SPECIAL ASSESSMENT POLICY

Mr. Blomstrom reviewed the presentation on the Pavement Management Program, which highlighted the City's current investment in roads, the purpose of pavement condition ratings, the importance of pavement preservation, various preservation methods, anticipated reconstruction needs, preliminary cost estimates, and potential funding options. He presented various comparisons to other communities and noted the differences of funding roads through special assessments and tax levies. He then highlighted key components of the proposed Special Assessment Policy, including which items would and would not be included in special assessments, how the rates for residential and commercial/industrial properties would be determined, and guidelines for assessment terms. Mr. Blomstrom said staff is recommending the City establish a goal of maintaining the current overall pavement condition for the City's street system at a rating of 73. In order to bridge the funding gap of \$960,000 necessary to maintain the 73 rating, staff is further recommending using \$300,000 from the Future Capital Projects Fund to phase in additional funding from the Road Improvement Tax Levy and the use of special assessments which would result in approximately \$660,000 in funding for a portion of the cost for street reconstruction.

Mr. Hedberg explained the tax impacts of the Pavement Management Program using Options 1 and 2.

Councilmember Goodwin noted that up to this point, the City has not had to rebuild many roads. He asked Mr. Blomstrom to describe the process involved in rebuilding a road.

Mr. Blomstrom explained the three primary methods used to maintain the City's roads, one of which is rebuilding it.

Mayor Hamann-Roland pointed out that it costs a lot more money to fix a road that has not been maintained.

Councilmember Hooppaw asked if the policy included any options for elderly residents or residents with demonstrated hardships.

Mr. Blomstrom summarized the assessment deferral program. He added that the City is not just looking for new money to fund road reconstruction. Staff started this process several years ago by cutting costs through changes in staffing, in the way the City designs and delivers projects, and by delaying road reconstruction through preservation.

The Council and staff held discussion.

Councilmember Grendahl asked how much public input was sought.

Mr. Blomstrom said an article ran on the front page of the *Thisweek Newspaper* inviting the public to attend tonight's meeting, *Apple Valley Patch* ran an article, and there was information posted on

the City's website.

Councilmember Grendahl said she would like more public input from residents and Chamber of Commerce members on this issue.

The Council and staff held discussion on who is a benefiting property owner under the special assessment option.

Councilmember Grendahl stated she did not feel this was the time to implement a Special Assessment Policy. She asked if the churches were contacted. She also asked what the amount of unspent money is in the operating budget.

Mr. Hedberg said it has been approximately \$1 million the last couple of years. He expects a similar savings this year.

Councilmember Grendahl said she will not be supporting this tonight.

Councilmember Bergman asked what the procedure would be for residents adjacent to a road reconstruction project scheduled in 2012. He also asked what percentage of residents it would take to delay or stop a project from moving forward.

Mr. Blomstrom described the process.

Councilmember Goodwin said there are really only three funding options to maintain the City's roads: the entire cost of the road can be assessed to the benefiting property owners, the entire cost of the road can be levied, or a hybrid of both a special assessment and a levy can be used. The other option is to ignore the roads. He noted staff is recommending the hybrid, whereby 70 percent of the reconstruction costs will be levied and 30 percent will be assessed.

The Council and staff held discussion on repairing or rebuilding roads that were delayed at the public's request.

Councilmember Hooppaw stated he would also like to get additional public input. He asked what would happen to some of the roads that are currently identified on the map as red, or needing to be rebuilt, if the Council delayed acting on this.

Mr. Blomstrom said it would start to create a backlog of projects. He said staff is willing to meet with members of the Chamber and gather more input if that is what the City Council would like. He then asked for direction.

The Council recommended seeking additional input.

Councilmember Bergman said he believes Option 2 is the better plan. He commented on the timeframe and the importance of moving things forward.

The Council and staff continued discussion.

Mr. Blomstrom said there is probably sufficient funding to bridge the gap for one year. However, he cautioned setting a precedent that may be different for those who come before or after a funding means is established. Although no policy is perfect, he recommends waiting to move reconstruction projects forward until a policy is established that can be utilized over the long term.

Mr. Gary Humphrey, 15835 Hyland Point Court, requested the Council table this item until it receives more public input.

Ms. Marian Brown, 7754 142nd Street W., said she recommends the cost for road reconstruction be shared equally by all residents through their property taxes.

The Council directed staff to gather additional input and bring the findings back to the Council meeting on December 20, 2011.

COMMUNICATIONS

Mr. Nordquist announced the preliminary report from the Metropolitan Council Livable Communities Advisory Committee indicates both projects submitted by the City of Apple Valley will be recommended for grant funding totaling \$1,070,000.

Mayor Hamann-Roland and Mr. Lawell thanked Ms. Pearson for her service to the City and wished her well in her new endeavor.

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 November 18, 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 Goodwin, to pay the claims and bills, check registers dated November 3, 2011, in the amount of 272,865.02; November 9, 2011, in the amount of \$817,119.03; November 17, 2011, in the amount of \$1,151,529.50; and November 22, 2011, in the amount of \$576,898.79. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland wished everyone a happy Thanksgiving.

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

The meeting was adjourned at 9:58 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 12-8-11.