

CITY OF APPLE VALLEY
Dakota County, Minnesota
December 20, 2011

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held December 20, 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 Hills, Public Works Director Blomstrom, Assistant City Administrator Grawe, Acting Human Resources Manager Haas, Finance Director Hedberg, Parks and Recreation Director Johnson, City Engineer Manson, Police Captain Marben, Community Development Director Nordquist, Acting Police Chief Rechtzigel, and Fire Chief Thompson.

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 Goodwin, seconded by Bergman, removing item 4.G – Direct Urban Affairs Advisory Committee to Study Alternative Energy Sources for Residential Properties from the agenda; moving item 4.I – Approve Mediated Settlement Agreement with Bostrom Sheet Metal Works, Inc., Modern Piping, Inc., EDI Architecture, Inc., and HVAC Reps, Inc., to the regular agenda; and approving the agenda for tonight's meeting, as amended. Ayes - 5 - Nays - 0.

MEDIATED SETTLEMENT AGREEMENT

Councilmember Grendahl asked for an explanation of the revised handouts relating to the Mediated Settlement Agreement.

Mr. Johnson said the fluid cooler in the Hayes Community and Senior Center has been defective from the day it was installed. Over the last two years, the City attempted to resolve the issue with the four vendors involved. An agreement was reached during mediation. The attorneys for the various parties continue to tweak the agreement. The revised memo includes a motion approving the agreement subject to final revisions approved by the City Administrator and City Attorney.

MOTION: of Hooppaw, seconded by Bergman, approving the Mediated Settlement Agreement with Bostrom Sheet Metal Works, Inc., Modern Piping, Inc., EDI Architecture, Inc., and HVAC Reps, Inc., as attached to the Parks and Recreation Director's memo dated December 16, 2011, subject to final revisions and changes as approved by the City Administrator and City Attorney, and authorizing the Mayor and City Clerk to sign the same. 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 remaining items on the consent agenda. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of Bergman, seconded by Goodwin, approving the minutes of the regular meeting of December 8, 2011, as written. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of an off-site gambling permit, by the State Gambling Control Board, to Apple Valley Hockey Association, for use on January 12, 2012, at the Apple Valley Senior High School, 14450 Hayes Road, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a lawful gambling permit to conduct excluded bingo, by the State Gambling Control Board, to Eastview Lighting Touchdown Club, for use on February 26, 2012, at Rascal's – Apple Valley Bar & Grille, 7721 147th Street W., and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a new 2012 Fuel Dispensing Facility Permit to Dana Marathon, LLC, d/b/a Dana Marathon, 14050 Pilot Knob Road, as described in the City Clerk's memo dated December 16, 2011. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a new 2012 Off-Sale 3.2 Percent Malt Liquor License to Dana Marathon, LLC, d/b/a Dana Marathon, 14050 Pilot Knob Road, as described in the City Clerk's memo dated December 16, 2011. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a new 2012-2013 License to Sell Tobacco and Tobacco Products to Dana Marathon, LLC, d/b/a Dana Marathon, 14050 Pilot Knob Road, as described in the City Clerk's memo dated December 16, 2011. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving extension of the Agreement with the Apple Valley Chamber of Commerce, for provision of Convention and Visitors Bureau (CVB) services, through December 31, 2012, as attached to the

CITY OF APPLE VALLEY

Dakota County, Minnesota

December 20, 2011

Page 3

Assistant City Administrator's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Apple Valley Convention and Visitors Bureau (CVB) 2012 budget and marketing plan as attached to the Assistant City Administrator's memo dated December 20, 2011. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving revised City Attorney fees for 2012 legal services, as attached to the Assistant City Administrator's memo dated December 20, 2011. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the reduction of financial guarantee for Cobblestone Lake South Shore 5th Addition, from \$465,370.00 to \$84,037.00, as listed in the Community Development Department Assistant's memo dated December 20, 2011. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Joint Powers Agreement with Dakota County for traffic signal maintenance as attached to the Public Works Director's memo dated December 14, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Professional Services Agreement with Cartegraph Systems, Inc., for database conversion services, as attached to the Public Works Director's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Engineering Consulting Agreement with Bolton & Menk, Inc., for engineering services, as attached to the City Engineer's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Engineering Consulting Agreement with Foth Infrastructure & Environmental, LLC, for engineering services, as attached to the City Engineer's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Engineering Consulting Agreement with KLM Engineering, Inc., for engineering services, as attached to the City Engineer's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Engineering Consulting Agreement with Short Elliott Henderson, Inc., for engineering services, as attached to the City Engineer's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

CITY OF APPLE VALLEY

Dakota County, Minnesota

December 20, 2011

Page 4

MOTION: of Bergman, seconded by Goodwin, approving the Engineering Consulting Agreement with Stantec Consulting Services, Inc., for engineering services, as attached to the City Engineer's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Engineering Consulting Agreement with TKDA, Inc., for consulting engineering services, as attached to the City Engineer's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Engineering Consulting Agreement with Wenck Associates, Inc., for consulting engineering services, as attached to the City Engineer's memo dated December 20, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Agreement for 2012 Water Treatment Chemicals – Chlorine and Hydrofluorosilicic acid with DPC Industries, Inc., in an amount not to exceed \$55,000.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Agreement for 2012 Water Treatment Chemicals – CAIROX Potassium Permanganate with Hawkins, Inc., in an amount not to exceed \$12,500.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Agreement for AV Project 2011-154, Arc Flash Analysis and Electrical Inspection, with Master Electric Company, Inc., estimated in the amount of \$63,075.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Agreement for AV Project 2012-110, Location Marking and Clearance of Electric and Communication Facilities, with Premier Lighting, Inc., estimated in the amount of \$2,000.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Agreement for AV Project 2011-152, Sanitary Sewer Lining, with Veit & Company, Inc., in the amount of \$10,390.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Agreement for AV Project 2011-151, 2011 Cured in Place Pipe Repairs, with Visu-Sewer, Inc., in the amount of \$38,770.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving Change Order No. 1 to the contract with Veit & Company, Inc., for AV Project 2011-142, Pond Cleanouts,

in the amount of an additional \$7,160.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2011-139, Roof Replacement – Central Maintenance Facility Areas 1 and 4, as complete and authorizing final payment on the contract with A-Plus Roofing Company, in the amount of \$40,100.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2011-102, Garden View Drive Improvements, as complete and authorizing final payment on the contract with Bituminous Roadways, Inc., in the amount of \$69,434.83. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2010-134, Galaxie Pond Flood Mitigation, as complete and authorizing final payment on the contract with Max Steinger, Inc., in the amount of \$8,313.25. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2011-101, 2011 Street Improvement Project, as complete and authorizing final payment on the contract with McNamara Contracting, Inc., in the amount of \$154,639.24. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2009-102, Whitney Pond Storm Water Improvements, as complete and authorizing final payment on the contract with Minnesota Dirt Works, Inc., in the amount of \$90,405.97. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2011-218** approving fund balance reporting and governmental fund type definitions included in Government Accounting Standards Board Statement (GASB) No. 54. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2011-219** committing 2011 General Fund balance for specific items. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2011-220** amending the 2012 Employee Pay and Benefit Plan. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2011-221** restating the employee Health Reimbursement Arrangement (HRA) and approving the Administration Agreement; and authorizing the Mayor and City Clerk to sign the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2011-222** restating the employee Flexible Benefits Plan and approving the Administration Agreement; and authorizing the Mayor and City Clerk to sign the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving hiring the seasonal employee and resignation of employee listed in the Personnel Report dated December 20, 2011.
Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

PAVEMENT MANAGEMENT PROGRAM AND SPECIAL ASSESSMENT POLICY

Mr. Blomstrom said during the Pavement Management Program and Special Assessment Policy discussion at the November 22, 2011, meeting, the City Council directed staff to solicit more public input. Staff has since met with Chamber of Commerce Board representatives and Chamber members. In addition, staff continues to reach out to property owners, residents, and institutional representatives. Additional public input meetings will be held in January.

The City's public infrastructure, which includes streets, the water distribution system, sanitary sewer, and storm sewer, is by far the City's largest asset. Maintaining this asset is a challenge with which every city struggles. In order to manage it effectively, long-term goals and targets must be established. He stated there are two primary issues for the Council to consider: first, what is the target benchmark for the street system, and second, what means should be used to pay for them. He noted this issue was first identified in March 2009 at a goal setting session. Since that time, the Council has discussed this topic at several public meetings. Staff is still seeking input from the public, so no action is requested this evening.

He then reviewed the presentation on the Pavement Management Program, which highlighted the development and growth of the public street system, the purpose of pavement condition ratings, and the importance of pavement preservation. He presented various comparisons to other communities as well as projected funding needs. He noted that if the City's goal is to maintain the current overall pavement condition for the City's street system at a rating of 73, there would be an annual funding gap of approximately \$960,000.

Mr. Blomstrom then presented three program funding options: Option 1 – road improvement levy, Option 2 – special assessments and levy, and Option 3 – balanced levy adjustment. He gave specific examples of how the residential assessment rate and commercial/industrial assessment rate under Option 2 might apply to parcel specific properties.

Mr. Hedberg reviewed the tax impacts of the three funding options on the median valued home, a home valued at \$300,000; and commercial properties valued at \$500,000, \$2.4 million, and \$9 million. He explained that the additional funds needed for the Pavement Management Program could be levied beginning in 2018, which is when some debt service levies will be paid off.

Mr. Ed Kearney, Chamber of Commerce President, said they had three meetings with the City regarding this issue in the last week and one-half. He thanked City staff for continuing to research this matter and coming up with the third option. He said no one he has talked to questions the need of a Pavement Management Program, but he believes additional time is needed to help educate the public. The Chamber Board asked him to read a letter representing the Chamber's position. He then read the letter.

Mayor Hamann-Roland suggested the City hold an open house for the public to learn more about this topic.

Mr. Kearney offered the Chamber's services relative to communicating information to the businesses.

Mr. Blomstrom described how staff is intending to move forward and asked for feedback from the Council.

Councilmember Goodwin said he has three points he wants to make. First, every city in the comparison group uses special assessments and several of them assess a higher percentage of the project than Apple Valley is considering under Option 2. He noted the City of Eagan assesses 75 percent of the project's total cost. Second, in order to assess a property, a city must be able to show a benefit to the property. With the value of homes decreasing, it may be more difficult to show a benefit to the property. Third, he stated this is the eighth public meeting at which the Council has discussed this topic.

Councilmember Grendahl noted only one of those meetings were on cable TV. She is not in favor of Options 1 or 2. She is pleased there is a third option and that staff has received additional public input. She has received comments about money being used for Valleywood while there is not enough money available for road reconstruction and assessments are being considered. She suggested the unspent money from the Operating Budget be used for roads. She agrees with using the existing fund balance until 2018 as identified in Option 3. At that time, it will need to be revisited. She is hopeful the economy will improve and there will be enough new dollars to make up the difference.

Councilmember Bergman said he is glad there has been more public discussion. He noted the Council began discussion on this topic in 2009 and then commented on the importance of roads that are in good condition. He believes Option 3 is a viable solution, but is willing to delay a decision for another month or so in order to further educate the public and gather additional input.

Councilmember Hooppaw thanked the public for attending the meeting. He asked staff to post the presentation on the City's website. At the City Council candidate forum last fall, he said some big decisions were going to need to be made in the next few years and there will only be one chance to make the right decision. This is one of those decisions. He does not want to start down one path today and five years from now decide it would be better to go another way. Because this needs to be a long-term decision, he is also willing to wait on the decision. He noted assessments may be the norm for other communities, but it does not necessarily make it the best way. He thanked staff for coming up with Option 3. He is not ready to make a decision on what would be right in 2018. He expressed concern about the impact inflation might have on Option 3, because it is not something the City can control.

Mayor Hamann-Roland noted the laws regarding assessments may also be different in 2018.

Mr. Blomstrom said the Council will need to decide if it wants to use assessments to help pay for road reconstruction. Whatever funding combination is decided upon will be a long-term

commitment and he wants to make sure everyone is comfortable with it. He commented on the difficulty of gathering public input but stated they would make every effort to get the message out.

Councilmember Goodwin noted there are other needs identified in the Capital Improvements Program, many of which are public safety related. He also wanted the public to realize that down the line Apple Valley's levy may be higher than other communities if it does not assess a portion of its road reconstruction. Lastly, he clarified the money going towards the Valleywood clubhouse is a loan and will be paid back by Valleywood Golf Course.

The Council and staff held discussion.

Mr. Blomstrom noted there is a long list of projects identified to be funded through the Future Capital Projects Fund. The concern is whether the Fund can bridge the gap through 2018.

MOTION: of Goodwin, seconded by Hooppaw, directing staff to hold open houses and obtain additional public input regarding funding options and present the findings at the January 26, 2012, meeting. Ayes - 5 - Nays - 0.

Mr. Terry Cook, 6431 132nd Street W., said he is also representing Ed Martin, Jim Houlihan, and Judy Nelson. He agrees the City needs a Pavement Management Program. He expressed concern with delaying a difficult decision too long. He favors some form of a City-wide levy. He pointed out the roads residents live on are not the only roads on which they drive. He then pointed out the advantages of a City-wide levy.

TAX INCREMENT FINANCING DISTRICT NO. 13

Mr. Hedberg said staff is requesting the City Council hold a public hearing on a Spending Plan for Tax Increment Financing District No. 13 and consider adopting the Spending Plan. He then reviewed the presentation describing the Spending Plan.

Councilmember Grendahl asked why the Spending Plan identifies \$4 million when there is only \$2.6 million available.

Mr. Hedberg said the total amount that could be used was included in the Plan. He noted the Plan does not authorize any expenditures; it only establishes a tool that can be used at a future date if the Council so desires.

Mayor Hamann-Roland called the public hearing to order, at 9:45 p.m., to consider the Spending Plan for Tax Increment Financing District No. 13. The Mayor asked for questions or comments from the Council and the public. There were none and the hearing was declared closed at 9:46 p.m.

MOTION: of Hooppaw, seconded by Bergman, adopting **Resolution No. 2011-223** approving the Spending Plan for Tax Increment Financing District No. 13. Ayes - 5 - Nays - 0.

ORDINANCE AMENDING FEES CONTAINED IN CITY CODE

Ms. Gackstetter gave the second reading of the proposed ordinance amending the Fee Schedule Appendix of Title III of the City Code. Fee adjustments are proposed for the cemetery, City fees and materials, consultant and engineering services, building inspections and permits, subdivision and development fees, and utility fees. The fees would become effective in January. She noted the proposed rates more accurately reflect the City's costs. Some changes were also recommended as a result of increased fees being charged the City and some were increased according to the Engineering News Record Construction Cost Index. No comments from the public have been received regarding the proposed changes.

MOTION: of Goodwin, seconded by Bergman, passing **Ordinance No. 928** amending the Fee Schedule Appendix of Title III, Chapter 35, of the City Code by adjusting certain fees and charges effective January 6, 2012. Ayes - 5 - Nays - 0.

COMMUNICATIONS

Mr. Lawell informed the City Council that Phil Pearsall, one of the original Apple Valley Councilmembers, recently passed away. Staff and City Council extended their condolences to the Pearsall family.

Councilmember Bergman acknowledged Matt Lawton's resignation and wished him well in his new endeavor. He then requested information regarding the Pavement Management Program open houses be broadcast on cable TV.

Mr. Lawell stated the City has successfully secured two Livable Communities Demonstration Account (LCDA) grants from the Metropolitan Council. He thanked the Mayor and staff for their efforts in obtaining these grants.

CALENDAR OF UPCOMING EVENTS

MOTION: of Grendahl, seconded by Goodwin, approving the calendar of upcoming events as included in the City Clerk's memo dated December 16, 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 Grendahl, seconded by Bergman, to pay the claims and bills, on the check register dated December 15, 2011, in the amount of \$989,590.26. Ayes - 5 - Nays - 0.

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

The meeting was adjourned at 9:56 o'clock a.m.

CITY OF APPLE VALLEY
Dakota County, Minnesota
December 20, 2011
Page 10

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 1-12-12.