

CITY OF APPLE VALLEY
Dakota County, Minnesota
February 23, 2012

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held February 23, 2012, at 7:00 o'clock p.m., at Apple Valley Municipal Center.

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

ABSENT: Councilmember Bergman.

City staff members present were: City Administrator Lawell, Deputy City Clerk Marschall, City Attorney Dougherty, Public Works Director Blomstrom, Assistant City Administrator Grawe, Human Resources Manager Haas, Finance Director Hedberg, Parks and Recreation Director Johnson, City Planner Lovelace, 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 7:00 p.m. Everyone took part in the Pledge of Allegiance to the flag led by Boy Scouts Tim and Matthew Sampers from Troop 207.

APPROVAL OF AGENDA

MOTION: of Grendahl, seconded by Hooppaw, approving the agenda for tonight's meeting as written. Ayes - 4 - Nays - 0.

AUDIENCE

Mary Hamann-Roland asked if anyone was present to address the Council, at this time, on any item not on this meeting's agenda.

Mr. Gene Rechtzigel, 6533 160th Street W., presented a letter to the Mayor and Council on alleged trespassing on property currently in ownership dispute.

Mayor Hamann-Roland asked Mr. Dougherty to respond.

Mr. Dougherty said he would happy to meet with Mr. Rechtzigel and his counsel. He also stated the property in question is subject to a lawsuit with the City named as a party, along with Fischer Sand & Aggregate, LLC, and the court has jurisdiction on the matter.

CONSENT AGENDA

Mayor Hamann-Roland asked if the Council or anyone in the audience wished to pull any item from the consent agenda. Mr. Gene Rechtzigel requested item 4.C be moved to the regular agenda.

MOTION: of Hooppaw, seconded by Goodwin, moving consideration of item 4.C - Approve Fischer Sand & Aggregate, LLC, Commercial Extraction Permit for 2012 to the regular agenda, and approving all remaining items on the consent agenda. Ayes - 4 - Nays - 0.

CONSENT AGENDA ITEMS

- MOTION: of Hooppaw, seconded by Goodwin, approving the minutes of the regular meeting of February 9, 2012, as written. Ayes - 4 - Nays - 0.
- MOTION: of Hooppaw, seconded by Goodwin, approving the Special Outdoor Promotion/Temporary Sign Permit for placement of signage on City property from March 1, 2012, through March 31, 2012, in connection with the 2012 Home & Garden Expo, as described in the application. Ayes - 4 - Nays - 0.
- MOTION: of Hooppaw, seconded by Goodwin, approving the Livable Communities Demonstration Account (LCDA) Grant Agreement with the Metropolitan Council for Cobblestone Lake Senior Housing and Park Improvement - Grant No. SG011-143, and authorizing the Mayor and City Clerk to sign the same; and designating signing authority for reimbursement requests to of the Community Development Director and Finance Director. Ayes - 4 - Nays - 0.
- MOTION: of Hooppaw, seconded by Goodwin, approving the Livable Communities Demonstration Account (LCDA) Grant Agreement with the Metropolitan Council for Gathering (a.k.a. The Enclave) Apartments Trails - Grant No. SG011-150, to expire on December 31, 2014, and authorizing the Mayor and City Clerk to sign the same; and designating signing authority for reimbursement requests to of the Community Development Director and Finance Director. Ayes - 4 - Nays - 0.
- MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2012-49**, authorizing application for 2011 Staffing for Adequate Fire and Emergency Response (SAFER) Grant Funds to hire an Operations and Training Officer for the Apple Valley Fire Department. Ayes - 4 - Nays - 0.
- MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2012-50**, calling a public hearing on the proposed adoption of an amendment to the Master Development Program relating to its Master Development District, the proposed establishment of Tax Increment Financing District No. 14 within the Master Development District and the proposed adoption of a Tax Increment Financing Plan relating thereto and the proposed modifications of the Tax Increment Financing Plans for Tax Increment Financing Districts No. 7 and No. 13. Ayes - 4 - Nays - 0.
- MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2012-51**, approving plans and specifications for AV Project 2012-101, the 2012 Street Maintenance Project, and authorizing advertising for receipt of bids, at 10:00 a.m. on March 22, 2012. Ayes - 4 - Nays - 0.
- MOTION: of Hooppaw, seconded by Goodwin, authorizing the solicitation of quotes for AV Project 2011-145, Valleywood Clubhouse Sanitary Sewer Extension. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, authorizing the solicitation of quotes for AV Project 2012-116, Valleywood Clubhouse Sanitary Grinder Stations. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving the 2012 South Metro Cities Joint Powers Agreement for Street Maintenance Services with the City of Burnsville and other metropolitan cities, and authorizing the Mayor and City Clerk to sign the necessary documents. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving the proposal from Brimeyer Fursman for recruitment of Police Chief, for Phase I and II of the proposal dated December 8, 2011, at a cost not to exceed \$12,000.00 plus expenses. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving a two-year service agreement with TeeMaster Corporation in the amount of \$7,500.00 annually, and authorizing the Mayor and City Clerk to sign the necessary documents. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving Change Order No. 1 to the agreement with Midwest Trenchless Technologies for AV Project 2010-139, 2010 Cured in Place Pipe (CIPP) Repairs, in the amount of an additional \$10,615.00. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving Change Order No. 1 to the contract with Keys Well Drilling Company for AV Project 2011-149, Well Pumps 1, 2, 18, and LZP4, in the amount of an additional \$22,262.00. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, approving hiring and re-hiring, of the full-time, part-time, and seasonal employees, and the resignation and retirement of employees, as listed in the Personnel Report dated February 23, 2012. Ayes - 4 - Nays - 0.

END OF CONSENT AGENDA

FISCHER SAND & AGGREGATE EXCAVATING PERMIT

Mr. Lovelace reviewed the request by Fischer Sand & Aggregate, LLC, for an annual excavation permit for mining operations. Principal mining will occur in the central operations area, located west of Pilot Knob, south of County Road 42, east of Flagstaff Avenue, and north of County Road 46. He stated this is a routine permit the City reviews on an annual basis, subject to City Code and Conditional Use Permits.

Councilmember Grendahl asked if this routine annual item is typically on the consent agenda.

Mr. Lovelace confirmed.

Mr. Gene Rehtzigel said he would be in favor of amending the area of the excavation permit identified as parcel ID #01-03500-011-52, located east of the Regatta development. He would be willing to discuss it further with staff.

Mr. Lovelace stated back in 2000 Fischer Sand & Aggregate received a Conditional Use Permit (CUP) to mine on the property referred to as the 160th Street or McNamara property. The mining does not impact the majority of the property.

Mr. Pete Fischer, of Fischer Sand & Aggregate, LLP, stated the original CUP was issued in 1993 and amended in 2007. The annual excavation permit has been submitted and approved by City Council nineteen times prior, and he never had to appear before Council. He said in 2007 the CUP was amended to ensure a portion of the property would be the last piece mined. Mr. Fischer also reviewed the current mining activity. They are not mining on the McNamara parcel and with the downturn of construction activity, it may be a few years before mining begins on that site. He then read a brief statement explaining their compliance with the CUP since its 1993 issuance.

Councilmember Goodwin asked for clarification on the map where the disputed property is located.

Mr. Lovelace identified the location.

Councilmember Goodwin noted the mining is not near the disputed property and this is a civil matter in the hands of the district court.

Mayor Hamann-Roland summarized that when the CUP was amended in 2007, the McNamara property would be the last piece mined because Mr. Fischer wants to preserve the good relationship he has with the Regatta neighborhood.

Mr. Rehtzigel asked if the required information from the 2011 extraction permit was received by Council.

Mr. Lovelace replied the required information is part of the original CUP amended and approved in 2007, and each annual excavation permit must adhere to all applicable City ordinances and approved Conditional Use Permits. He added that if Mr. Rehtzigel has concerns or issues with any past permits, he can present them to the City and staff will investigate.

MOTION: of Hooppaw, seconded by Goodwin, approving the application for renewal of commercial excavation permit by Fischer Sand & Aggregate, LLP, for 2012, subject to adhering to all applicable City ordinances and Conditional Use Permits. Ayes - 4 - Nays - 0.

Mr. Lovelace reviewed the request by Hebert and Associates, Inc., for approval of a subdivision by preliminary plat of Outlot A, Magellan Addition. The 27-acre outlot is located on the northeast corner of 147th Street W. and Flagstaff Avenue. It would be subdivided to create two lots and two outlots for the purpose of constructing two office/warehouse buildings on the proposed lots and future industrial development on the two outlots.

MOTION: of Grendahl, seconded by Goodwin, adopting **Resolution No. 2012-52** approving the preliminary plat of Apple Valley Business Campus, for two lots and two outlots, with conditions as recommended by the Planning Commission. Ayes - 4 - Nays - 0.

REAPPOINT COMMISSION & COMMITTEE MEMBERS

Mr. Grawe reviewed the City Clerk's memo dated February 17, 2012, regarding the reappointment of Commissioners and Committee Members with terms expiring March 1, 2012. He noted all members have indicated their interest in serving an additional term.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2012-53** reappointing David Kemp to the Cemetery Advisory Committee for a term expiring March 1, 2015. Ayes - 4 - Nays - 0.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2012-54** reappointing Darrell Retka and Brenton Schulz to the Parks and Recreation Advisory Committee for a term expiring March 1, 2015. Ayes - 4 - Nays - 0.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2012-55** reappointing Ken Alwin and Thomas Melander to the Planning Commission for a term expiring March 1, 2015. Ayes - 4 - Nays - 0.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2012-56** reappointing Scott Hugstad-Vaa and John Magnusson to the Telecommunications Advisory Committee for a term expiring March 1, 2015. Ayes - 4 - Nays - 0.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2012-57** reappointing Harald Eriksen and Charles Grawe to the Traffic Safety Advisory Committee for a term expiring March 1, 2015. Ayes - 4 - Nays - 0.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2012-58** reappointing Edwin Holmes and Sharon Schwartz to the Urban Affairs Advisory Committee for a term expiring March 1, 2015. Ayes - 4 - Nays - 0.

The Council congratulated the reappointees and extended thanks to all Commissioners and Committee Members for their valuable services.

COUNCIL COMMUNICATION

Mr. Lawell stated the Beyond the Yellow Ribbon volunteer committee is in the process of preparing its action plan for submission to the State. A ceremony is scheduled on March 30, 2012, in the City of Lakeville. Staff will communicate additional information as it becomes available.

CALENDAR OF UPCOMING EVENTS

MOTION: of Grendahl, seconded by Hooppaw, approving the calendar of upcoming events as included in the City Clerk's memo dated February 17, 2012, and noting that each event listed is hereby deemed a Special Meeting of the City Council. Ayes - 4 - Nays - 0.

CLAIMS AND BILLS

MOTION: of Grendahl, seconded by Goodwin, to pay the claims and bills, check registers dated February 16, 2012, in the amount of \$615,409.82; and February 23, 2012, in the amount of \$241,146.22. Ayes - 4 - Nays - 0.

MOTION: of Grendahl, seconded by Goodwin, to adjourn. Ayes - 4 - Nays - 0.

The meeting was adjourned at 7:39 o'clock p.m.

Respectfully Submitted,

/s/ Stephanie Marschall
Stephanie Marschall, Deputy City Clerk

Approved by the Apple Valley City Council on 3-8-12.