

CITY OF APPLE VALLEY
Dakota County, Minnesota
November 20, 2012

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held November 20, 2012, at 7:00 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, Associate City Planner Bodmer, Recreation Superintendent Breuer, Assistant City Administrator Grawe, Human Resources Manager Haas, Finance Director Hedberg, City Planner Lovelace, City Engineer Manson, Community Development Director Nordquist, 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.

APPROVAL OF AGENDA

MOTION: of Bergman, seconded by Hooppaw, 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. Councilmember Grendahl requested an item be moved to the regular agenda.

MOTION: of Bergman, seconded by Grendahl, moving item 4.I.2 – Kimley-Horn and Associates, Inc., to Conduct Red Line/Cedar Avenue BRT Market and Development Standards Study, to the regular agenda, and approving all remaining items on the consent agenda. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of Bergman, seconded by Grendahl, approving the minutes of the regular meeting of November 8, 2012, as written. Ayes - 5 - Nays - 0.

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MOTION: of Bergman, seconded by Grendahl, approving the minutes of the special meeting of November 13, 2012, as written. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2012-217** accepting, with thanks, the donation of \$210.00 from William VanderBie and family in memory of Elizabeth VanderBie, for the beautification of Lebanon Cemetery. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Apple Valley American Legion, Squadron 1776, for use on January 12, 2013, at the Apple Valley American Legion, 14521 Granada Drive, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Valley Athletic Association, for use on February 11, 2013, at Buffalo Wild Wings, 14658 Cedar Avenue, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, appointing Planning Commission Chair Tom Melander to fill the vacancy on the Economic Development Authority (EDA) Board. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2012-218** approving the Public Works Department Policy Manual, Section 1.09 - Driver Feedback Equipment Policy. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2012-219** approving a two-year extension of Cobblestone Lake Senior Complex Addition preliminary plat. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2012-220** approving reauthorizing issuance of a building permit for Cobblestone Lake Senior Complex, with conditions, as originally listed in Resolution No. 2008-246. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2012-221** approving an Interim Use Permit to allow crushing and temporary storage of concrete material at Menards-Hanson property, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2012-222** approving plans and specifications for AV Project 2012-108, Water Treatment Facility expansion, and authorizing advertising for receipt of bids, at 10:00 a.m., on January 29, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving the contract for AV Project 2012-131, Well Pumps 6, 11, 13 and High Zone Pump 4 maintenance, with Keys Well Drilling, in the amount of \$87,502.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, accepting Liquor Store No. 2 - Cooler Door Replacement Project, as complete and authorizing final payment on the contract with AA Equipment Company, in the amount of \$15,916.63. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, accepting AV Project 2012-102, 2012 Micro Surfacing, as complete and authorizing final payment on the contract with Asphalt Surface Technologies Corporation, in the amount of \$52,052.69. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving hiring the full time employees, as listed in the Personnel Report dated November 20, 2012. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

RED LINE/CEDAR AVENUE BRT MARKET STUDY

Councilmember Grendahl questioned the \$200,000 grant agreement to study the Cedar Avenue BRT market and development standards and the density of development. Everything she is seeing is referencing higher density. She does not believe that is what residents want.

Ms. Bodmer said the HUD Sustainable Communities Regional Planning Grant is available to the City through its Partnership with Corridors of Opportunity. The study involves four cities and two counties. Apple Valley will co-lead the study with Dakota County. On June 9, 2011, the City Council approved the sub-recipient grant with the Metropolitan Council, who is administering the grant.

Councilmember Grendahl said she thinks the development will occur without government needing to study it. Considering the current deficit, she has concerns spending this much money on another Cedar Avenue study.

Discussion was held.

MOTION: of Goodwin, seconded by Hooppaw, approving the Agreement to conduct the Red Line/Cedar Avenue BRT Market and Development Standards Study, with Kimley-Horn, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 1 (Grendahl).

2013 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 2013. 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 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 Agriculture that the licensees are in compliance. The Police Department reviewed its contacts and incident responses and only had concerns regarding one of the licensees. Therefore, it was requested the public hearing on Spoon, Inc., d/b/a Spoon be conducted separately. 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 13, 2012, meeting.

Mayor Hamann-Roland called the public hearing to order at 7:22 p.m. to consider renewal applications for all On-Sale Intoxicating Liquor, Club, Wine, and 3.2 Percent Malt Liquor licenses for the year 2013, except for Spoon, Inc., d/b/a Spoon. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 7:23 p.m.

MOTION: of Bergman, seconded by Goodwin, approving renewal, for 2013, 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. 2012-223** for Apple Minnesota, LLC, d/b/a Applebee's Neighborhood Grill & Bar; **No. 2012-224** for Apple Valley Grill, LLC, d/b/a Wild Bill's Sports Saloon; **No. 2012-225** for Blazin Wings, Inc., d/b/a Buffalo Wild Wings Grill & Bar #28; **No. 2012-226** for El Azteca Apple, Inc., d/b/a El Azteca Mexican Restaurant; **No. 2012-227** for El Toro of Apple Valley, Inc., d/b/a El Toro Mexican Restaurant; **No. 2012-228** for GSTL Investment, LLC, d/b/a Valley Tap House; **No. 2012-229** for H.O.C., Inc., d/b/a Rascals-Apple Valley Bar & Grille; **No. 2012-230** for Hiraku Japanese Restaurant, Inc., d/b/a Kami Japanese Restaurant; **No. 2012-231** for Lancer Food Service, Inc., d/b/a Lancer Food Service; **No. 2012-232** for Osaka AV, Inc., d/b/a Osaka Seafood Steakhouse; **No. 2012-233** for Red Robin International, Inc., d/b/a Red Robin America's Gourmet Burgers & Spirits #631; **No. 2012-234** for Rich Management, Inc., d/b/a Bogart's/Apple Place Bowl; **No. 2012-235** for RT Minneapolis Franchise, LLC, d/b/a Ruby Tuesday; **No. 2012-236** for UASanders, LLC, d/b/a Panino Brothers; **No. 2012-237** for Wadsworth Old Chicago, Inc., d/b/a Old Chicago; **No. 2012-238** for Water's Edge Restaurant, LLC, d/b/a Enjoy!; **No. 2012-239** for Apple Valley American Legion, Post 1776; **No. 2012-240** for Chipotle Mexican Grill of Colorado, LLC, d/b/a Chipotle Mexican Grill; **No. 2012-241** for D & D of Minnesota, Inc., d/b/a Famous Dave's BBQ Shack; and **No. 2012-242** for

The Noodle Shop, Co. - Colorado, Inc., d/b/a Noodles & Company. Ayes - 5 - Nays - 0.

Ms. Gackstetter then reviewed the information regarding the renewal application for On-Sale Intoxicating Liquor for Spoon, Inc., d/b/a Spoon. She noted legal counsel for the licensee has requested a continuance of the public hearing.

Mayor Hamann-Roland called the public hearing to order at 7:25 p.m. to consider the 2013 renewal application for the On-Sale Intoxicating Liquor license and Special License for Sunday Liquor Sales for Spoon, Inc., d/b/a Spoon. The Mayor asked for questions or comments from the Council and the audience.

Councilmember Goodwin said he is perplexed that the licensee is opting not to speak this evening.

Councilmember Hooppaw stated he does not want this to drag out past the next meeting and prefers to have all the discussion at one meeting.

Mayor Hamann-Roland stated the City Council takes this matter seriously.

MOTION: of Hooppaw, seconded by Goodwin, to continue the public hearing on the 2013 renewal application for the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales for Spoon, Inc., d/b/a Spoon to the regular City Council meeting of December 13, 2012. Ayes - 5 - Nays - 0.

TAX INCREMENT FINANCING DISTRICT 15

Mr. Hedberg said the Council is requested to hold a public hearing on a new Tax Increment Financing (TIF) District. TIF District No. 15, also known as Parkside Village, is located north and east of 153rd Street and Galaxie Avenue. He described various details of the housing district, which requires 20% of its units to be occupied by renters whose income does not exceed 50% of the household median income threshold. He then reviewed the prior Memo of Understanding with IMH Special Asset NT 176-AVN, the property owner. He also reviewed the Parkside Village Master Plan, the Tax Increment Financing Plan, the revenue sources and use statement, county and school input, future actions, and requested actions. He noted that the action this evening creates the tool, and additional action would be required to use the tool.

Councilmember Bergman asked if the City is intending to create additional TIF housing districts.

Mr. Nordquist responded this is the first and only housing district proposed by the City of Apple Valley.

Discussion was held.

Councilmember Grendahl said according to her research on the State Auditor's website, affordability is the driving force of a housing district. She noted Apple Valley already meets its

affordable housing requirements. She does not believe this was the Council's vision for this site. She asked how much assistance the developers would get.

Mr. Hedberg said the TIF note would be for \$5,350,000. Based on various assumptions and depending on the increments generated and the other criteria, it is estimated the developers would get up to \$8,400,000 including interest.

Councilmember Grendahl questioned spending that amount on 60 units. She then commented on other properties that are in foreclosure.

Mayor Hamann-Roland asked about the taxes.

Mr. Hedberg stated one of the requirements of the Memo of Understanding was that they become current on their property taxes, which they have done.

Councilmember Grendahl commented on the federal tax code and its potential impact on apartment buildings.

Councilmember Hooppaw asked if the City is contemplating bond issuance as part of this project.

Mr. Hedberg said no.

Councilmember Hooppaw asked what security the City would have if the project did not move forward.

Mr. Hedberg responded that the security is still being negotiated; however, the City is seeking a Letter of Credit that would be held until the building is occupied.

Councilmember Goodwin said when the project was first proposed, the apartments were supposed to be market rate. He asked for clarification regarding the income that would qualify for the affordable housing units.

Mr. Nordquist stated it is 50% of the median income, or approximately \$41,000 or less, based on family size.

Mr. Tony Patinella, of Titan Development, said the affordable and market rate units will be built with the same finishes and amenities.

Mayor Hamann-Roland noted the property has a lot of assessments. This tool gives the City an opportunity to deal with the assessments as well as get a quality development.

Discussion continued.

Mr. Nordquist added the Planning Commission unanimously approved both the land use proposal and use of Tax Increment Financing assistance for this type of development at this location.

Councilmember Grendahl questioned the amount of the assistance.

Mr. Hedberg said the assistance is the amount needed to address the delinquent and current assessments on the property.

Councilmember Grendahl said that means the City would be subsidizing all the housing in this development, not just the affordable housing, and that is something she cannot support.

Councilmember Goodwin stated that the project will not get built without TIF.

Mayor Hamann-Roland called the public hearing to order at 8:25 p.m. to consider amendments to the Master Development District to include the establishment of Increment Financing District No. 15 – Parkside Village. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:26 p.m.

MOTION: of Goodwin, seconded by Hooppaw, adopting **Resolution No. 2012-243** approving amendments to the Master Development Program for Master Development District, the establishment of Tax Increment Financing District No. 15, and approving the Tax Increment Financing Plan therefor.

Councilmember Bergman stated he still has concerns regarding the area to the west. He wants the City to be judicious in its use of TIF.

Action was taken on the motion. Ayes - 4 - Nays - 1 (Grendahl).

ORDINANCE AMENDING FEES CONTAINED IN CITY CODE

Mr. Grawe gave the second reading of the proposed amendments to 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, licenses and permits, subdivision and development fees, and utility fees. The fees would be effective January 1, 2013. He 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 Consumer Price Index and Engineering News-Record indices. No comments from the public have been received regarding the proposed changes.

MOTION: of Hooppaw, seconded by Goodwin, passing **Ordinance No. 937** amending the Fee Schedule Appendix of Title III, Chapter 35, of the City Code by adjusting certain fees and charges effective January 1, 2013. Ayes - 5 - Nays - 0.

COMMUNICATIONS

Mayor Hamann-Roland welcomed Barry Bernstein who was hired as the Parks and Recreation Director.

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 November 20, 2012, and noting that each event listed is hereby deemed a Special Meeting of the City Council. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland wished everyone a happy Thanksgiving.

CLAIMS AND BILLS

MOTION: of Grendahl, seconded by Hooppaw, to pay the claims and bills, check register dated November 15, 2012, in the amount of \$617,206.38. Ayes - 5 - Nays - 0.

CLOSE MEETING, LABOR NEGOTIATIONS

Ms. Hills reviewed exceptions to the open meeting law and advised the Council that it could hold a closed session, under the provisions of M.S. 13D.03, to discuss labor negotiations.

MOTION: of Goodwin, seconded by Bergman, to enter into a closed meeting and convene in closed session to discuss LELS and AFSCME union labor negotiations. Ayes - 5 - Nays - 0.

The Council convened in the Regent Conference Room at 8:37 p.m. In attendance were Mayor Hamann-Roland; Councilmembers Bergman, Goodwin, Grendahl, and Hooppaw; City Administrator Lawell; City Clerk Gackstetter; Human Resources Manager Haas; Public Works Director Blomstrom and Police Chief Rechtzigel. The meeting was tape recorded as required by law. The Council reconvened in open session at 9:11 p.m.

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

The meeting was adjourned at 9:12 o'clock p.m.

Respectfully Submitted,

/s/ Pamela J. Gackstetter

Pamela J. Gackstetter, City Clerk

Approved by the Apple Valley City Council on 12-13-12.