

CITY OF APPLE VALLEY
Dakota County, Minnesota
January 24, 2013

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held January 24th, 2013, 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 Dougherty, Parks and Recreation Director Bernstein, Recreation Supervisor Bilek, Public Works Director Blomstrom, Planner Bodmer, Recreation Supervisor Frey, Assistant City Administrator Grawe, Human Resources Manager Haas, Finance Director Hedberg, City Planner Lovelace, City Engineer Manson, Police Captain Marben, Community Development Director Nordquist, Police Chief Rechtzigel, Fire Chief Thompson, and Police Officer Tietz.

Mayor Hamann-Roland called the meeting to order at 7:00 p.m. Everyone took part in the Pledge of Allegiance led by Boy Scouts Ben Bauer, Corey Christian, Adam Harrold, Josh Lesch, Willy Michaels, Adam Morken, Kaleb Ohlhauser, Jensen Petros, Will Rohda, Brandon Ruth, Daniel Slotton, and Logan Timbers from Troop 293.

APPROVAL OF AGENDA

MOTION: of Grendahl, 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. There were no requests.

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

CONSENT AGENDA ITEMS

MOTION: of Bergman, seconded by Grendahl, approving the minutes of the regular meeting of January 8, 2013, as written. Ayes - 5 - Nays - 0.

CITY OF APPLE VALLEY

Dakota County, Minnesota

January 24, 2013

Page 2

- MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-6**, accepting, with thanks, the donation of cash and prizes from various businesses toward sponsorship of the 2013 Mid-Winter Fest Celebration. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-7**, accepting, with thanks, the donation of 32 lockers, 2 industrial shelving units, 5 office chairs, and 4 picnic tables from Ford Motor Company. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-8**, accepting, with thanks the donation of \$250.00 from Sheldon T. Peterson for Valleywood Clubhouse. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by Grendahl, approving the amendment to the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales for El Toro of Apple Valley, Inc., changing the business name to El Loro Mexican Grill, located at 14638 Cedar Avenue, Suite C. 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 American Legion Auxiliary, Unit 1776, for use on March 9, 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 the 2013 admission and rental fees for the Apple Valley Family Aquatic Center and Redwood Outdoor Pool, as described in the Recreation Superintendent's memo dated January 18, 2013. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by Grendahl, approving the 2013 ice rental fees for the Sports Arena and Hayes Park Arena, as described in the Arena Manager's memo dated January 18, 2013. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by Grendahl, approving the 2013 fees for Valleywood Golf Course, and granting the Parks and Recreation Director or designee the latitude to adjust golf course fees for promotions, as described in the Valleywood Golf Course Manager's memo dated January 18, 2013. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by Grendahl, receiving the Cemetery Advisory Committee's 2012 annual report. Ayes - 5 - Nays - 0.
- MOTION: of Bergman, seconded by Grendahl, appointing Kern, DeWenter, Viere, Ltd., as auditors for the year 2012, at a cost not to exceed 49,800.00, and authorizing the

Mayor and City Clerk to execute the Letter of Understanding, as attached to the Finance Director's memo dated January 16, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-9**, approving the Public Works Department Policy Manual, Section 2.05 - On-Call Duty Policy, and Section 4.02 - Special Inspections Policy. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving the use of forfeited property by the Police Department, as described in the Police Chief's memo dated January 18, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-10**, approving the Reallocation of Special Assessment Roll Nos. 605 and 607, for the Cortland Development Area. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-11**, approving the Dakota County Community Development Agency (CDA) Redevelopment Incentive Grant (RIG) Program Application for Flagstaff Avenue Roundabout Intersection Construction Project. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-12** approving the Dakota County Community Development Agency (CDA) Redevelopment Incentive Grant (RIG) Program Application for BRTOD (Bus Rapid Transit Oriented Development) Ordinance and Design Guidelines Implementation Project. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving the release of financial guarantees for Cobblestone Lake South Shore 5th Addition, Cobblestone Lake South Shore 6th Addition, and Cobblestone Lake South Shore 7th Addition, as described in the Community Development Department Assistant's memo dated January 24, 2013; and approving the release of financial guarantee for Oakwood Hills NRMP, as described in the Natural Resources Coordinator's memo dated January 24, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, directing staff to prepare an amendment to the Code of Ordinances, Section 154.04(J) regarding menu board signage for drive-thru lanes for restaurants providing drive-up window service. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-13**, approving a 498 sq. ft. variance to increase the maximum size permitted for a detached garage on Lot 23, Block 1, Chateau Estates (8460 133rd Street Court). Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-14**, approving plans and specifications for AV Project 2013-101, Greenleaf Street and Utility

Improvements; and authorizing advertising for receipt of bids, at 10:00 a.m., on February 28, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-15**, approving plans and specifications for AV Project 2013-102, Whitney Drive Improvements, and authorizing advertising for receipt of bids, at 10:00 a.m., on March 14, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No 2013-16**, approving specifications for AV Project 2013-116, Golf Car Lease, and authorizing advertising for receipt of bids, at 2:00 p.m., on February 22, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving the engineering services proposal from Foth Infrastructure and Environment, for Phase 1 Environmental Site Assessment on four parcels adjacent to Kelley Park, in the amount of \$4,800.00. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving the contract with Cannon Construction, Inc., the lowest responsible bidder, for Apple Valley Project 2013-114, Municipal Center Building Inspections Office Modifications, in the amount of \$8,317.00, and authorizing the Mayor and Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving the contract with Dakota County for 2013 Sentence to Service (STS) Program work crews, in the amount of \$24,245.52, as attached to the Park Superintendent's memo dated January 24, 2013, and authorizing the Mayor and Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving acceptance of public improvements related to AV Project 2011-127, Cobblestone Lake South Shore 5th Addition; AV Project 2011-148, Cobblestone Lake South Shore 6th Addition; and AV Project 2012-151, Cobblestone Lake South Shore 7th Addition; as described in the Assistant City Engineer's memo dated January 16, 2013. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, accepting AV Project 2011-143, Long Lake Retrofit BMPs, as complete and authorizing final payment on the contract with Minnesota Dirt Works, Inc., in the amount of \$9,585.88, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Grendahl, approving the 2013 Labor Agreement with AFSCME Council 5, Local No. 479, as attached to the Human Resources Manager's memo, dated January 18, 2013, and authorizing execution of the necessary documents. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

JACK NILES AWARD

Mr. Bernstein recognized Recreation Supervisor Lyndell Frey as the recipient of the 2012 Jack Niles Award presented by the Minnesota Recreation and Park Association. The Council congratulated Mr. Frey on receiving this prestigious award.

MID-WINTER FEST 2013

Mr. Bilek reviewed activities planned for this year's Mid-Winter Fest celebration and invited everyone to participate in the activities.

MOTION: of Grendahl, seconded by Hooppaw, adopting **Resolution No. 2013-17** proclaiming February 2 and 3, 2013, as "Apple Valley Mid-Winter Fest 2013" and encouraging citizens to support and participate in the celebration. Ayes - 5 - Nays - 0.

2013 ON-SALE LIQUOR LICENSE FOR SPOON, INC.

Ms. Gackstetter introduced this item and provided a brief history on the request by Spoon, Inc., d/b/a Spoon, located at 14871 Granada Avenue, to renew its On-Sale Liquor License for the remainder of 2013.

Mayor Hamann-Roland called the public hearing to order at 7:18 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.

Mr. Kav Theng and Ms. Van Ngo, owners of Spoon, Inc., addressed the City Council.

Discussion followed.

Police Chief Rehtzigel, Fire Chief Thompson, and Police Office Tietz provided additional history.

Mayor Hamann-Roland asked for additional questions or comments from the Council and the audience. There were none and the hearing was declared closed at 8:09 p.m.

MOTION: of Goodwin, seconded by Hamann-Roland, adopting **Resolutions No. 2013-18** renewing the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales for Spoon, Inc., d/b/a Spoon, through March 31, 2013, with conditions, and adding an additional condition, item J, requiring that all promotions and/or communications regarding private parties are identified as private parties.

Discussion continued.

Mayor Hamann-Roland recessed the meeting at 8:22 p.m.

Mayor Hamann-Roland resumed the meeting at 8:27 p.m.

The City Council continued discussion.

Vote was taken on the motion. Ayes - 2 - Nays - 3 (Bergman, Hooppaw, and Grendahl). Motion failed.

MOTION: of Hooppaw, seconded by Bergman, adopting **Resolutions No. 2013-18** denying the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales for Spoon, Inc., d/b/a Spoon. Ayes - 3 - Nays - 2 (Goodwin and Hamann-Roland).

KELLEY PARK EXPANSION

Mr. Nordquist introduced this item and Ms. Bodmer reviewed the staff report regarding the purchase of property for the expansion of Kelley Park. She noted both the Planning Commission and Parks and Recreation Advisory Committee unanimously recommended the acquisition of the four parcels.

Discussion followed.

MOTION: of Bergman, seconded by Hooppaw, approving the Purchase Agreement with IMH Special Asset NT 175-AVN, LLC, for the purchase of Lot 1, Block 4; Lot 1, Block 5; and Lots 1 and 2, Block 6, The Legacy of Apple Valley North, in the amount of \$787,451.00, subject to final revisions by the City Administrator and City Attorney, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

PARKSIDE VILLAGE LAND USE

Ms. Bodmer reviewed the staff report regarding the request by IMH Special Asset NT 175 – AVN, LLC, and Titan Development I, LLC, to amend PD-739 zoning district; vacate portions of Fortino Street and Fontana Trail and drainage and utility easements; and approve a preliminary plat, final plat and associate agreements, and site plan/building permit authorization.

Discussion followed.

Mr. Link Wilson, of Kaas Wilson Architects, addressed the City Council.

Discussion continued.

Mr. Stuart Davis and Mr. Tony Patinella, of Titan Investments, addressed the City Council.

The City Council continued discussion.

MOTION: of Hooppaw, seconded by Goodwin, waiving the procedure for a second reading and passing **Ordinance No. 938** amending Planned Development Designation No. 739 (PD-739), and approving the Planned Development Agreement. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2013-19** completing vacation of drainage and utility easements within Blocks 2, 3, 7, and 8 in The Legacy of Apple Valley North, and portions of Fortino Street and Fontana Trail, and authorizing the City Clerk to record the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2013-20** approving the preliminary plat of Parkside Village, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2013-21** approving the final plat and Subdivision Agreement for Parkside Village, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2013-22** approving the site plan and authorizing issuance of a building permit for construction of a two multiple family buildings with a total of 322 units, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

PARKSIDE VILLAGE SUBSIDY AND ASSISTANCE AGREEMENTS

Mr. Nordquist introduced this item. Ms. Tammy Omdal, of Northland Securities, presented details regarding the evaluation of public financial assistance requested by IMH Special Asset NT 175-AVN, LLC, for the proposed housing units in Parkside Village.

Discussion followed.

Mr. Link Wilson, of Kaas Wilson Architects, addressed the City Council.

Discussion continued.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2013-23** authorizing a Business Subsidy Agreement with IMH Special Asset NT 175-AVN, LLC. Ayes - 4 - Nays - 1 (Grendahl).

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2013-24** authorizing execution of a Development Assistance Agreement with IMH Special Asset NT 175-AVN, LLC. Ayes - 4 - Nays - 1 (Grendahl).

Mayor Hamann-Roland left the meeting at 9:45 p.m.

REVENUE BONDS FOR MVTA BUS GARAGE IN EAGAN

Mr. Hedberg introduced this item. Ms. Lois Spear, Minnesota Valley Transit Authority (MVTA) Finance Officer, requested authorization for issuance of \$7 million in revenue bonds by the MVTA to expand the bus garage in the City of Eagan.

Mayor Hamann-Roland returned to the meeting at 9:48 p.m.

Discussion followed.

MOTION: of Hooppaw, seconded by Bergman, adopting **Resolution No. 2013-25** approving issuance of revenue bonds by the Minnesota Valley Transit Authority (MVTA) to finance expansion of the Eagan bus garage. Ayes - 5 - Nays - 0.

POLICY ADVISORY COMMITTEE FOR TRUNK HIGHWAY 77 MANAGED LANES

Mr. Blomstrom introduced this item.

MOTION: of Hamann-Roland, seconded by Goodwin, appointing Councilmember Hooppaw Primary Representative and Councilmember Bergman Alternate Representative to the Policy Advisory Committee (PAC) for Trunk Highway 77 Managed Lanes and Cedar Grove Transit Access Project. Ayes - 5 - Nays - 0.

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 January 24, 2013, 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, check registers dated January 10, 2013, in the amount of \$1,094,042.93; January 17, 2013, in the amount of \$658,259.62; and January 24, 2013, in the amount of \$609,930.84. Ayes - 5 - Nays - 0.

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

CITY OF APPLE VALLEY
Dakota County, Minnesota
January 24, 2013
Page 9

The meeting was adjourned at 10:00 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 2-14-13.