

CITY OF APPLE VALLEY  
Dakota County, Minnesota  
August 22, 2013

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held August 22, 2013, at 7:00 o'clock p.m., at Apple Valley Municipal Center.

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

ABSENT: Councilmember Grendahl.

City staff members present were: City Administrator Lawell, City Clerk Gackstetter, City Attorney Dougherty, Parks and Recreation Director Bernstein, Public Works Director Blomstrom, Associate City Planner Dykes, Assistant City Administrator Grawe, Human Resources Manager Haas, Finance Director Hedberg, City Planner Lovelace, City Engineer Manson, Police Chief Rechtzigel, Police Captain Scott, and Fire Chief Thompson.

Mayor Hamann-Roland called the meeting to order at 7:01 p.m. Everyone took part in the Pledge of Allegiance to the flag.

#### APPROVAL OF AGENDA

MOTION: of Goodwin, seconded by Bergman, changing the date of item 4.A to July 25, 2013, and approving the agenda for tonight's meeting, as amended. Ayes - 4 - 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 items on the consent agenda with no exceptions. Ayes - 4 - Nays - 0.

#### CONSENT AGENDA ITEMS

MOTION: of Bergman, seconded by Goodwin, approving the minutes of the regular meeting of July 25, 2013, as written. Ayes - 3 - Nays - 0. - Abstain - 1 (Hooppaw).

MOTION: of Bergman, seconded by Goodwin, amending the Precious Metal Dealer License held by Jay F. Jeweler, Inc., d/b/a Jay F. Jeweler, by changing the business location to 7587 148th Street W, effective August 26, 2013. Ayes - 4 - Nays - 0.

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MOTION: of Bergman, seconded by Goodwin, authorizing issuance of a 1 to 4 Day Temporary On-Sale Liquor License to Apple Valley American Legion, Post 1776, by Minnesota Alcohol and Gambling Enforcement Division, for use on September 7, 2013, outdoors at American Legion, 14521 Granada Drive, as described in the City Clerk's memo dated August 19, 2013. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a new 2013 Fuel Dispensing Facility Permit to Kwik Trip, Inc., d/b/a Kwik Trip #406, 7545 145th Street W., effective September 19, 2013, as described in the City Clerk's memo dated August 19, 2013. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a new 2013 Off-Sale 3.2 Percent Malt Liquor License to Kwik Trip, Inc., d/b/a Kwik Trip #406, 7545 145th Street W., effective September 19, 2013, as described in the City Clerk's memo dated August 19, 2013. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a new 2013 License to Sell Tobacco and Tobacco Products to Kwik Trip, Inc., d/b/a Kwik Trip #406, 7545 145th Street W., effective September 19, 2013, as described in the City Clerk's memo dated August 19, 2013. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Apple Valley Ducks Unlimited, for use on September 11, 2013, at the Apple Valley American Legion, 14521 Granada Drive, and waiving any waiting period for State approval. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2013-115** amending the 2013 Budget for specific items. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving receipt of the 2014 Financial Requirements of the Apple Valley Firefighter's Relief Association, as attached to the Fire Chief's memo dated July 29, 2013. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Cooperation Agreement and Supplements with Dakota County for U. S. Department of Housing and Urban Development (HUD) Entitlement Programs for Fiscal Years 2014-2016, as attached to the City Planner's memo dated August 19, 2013, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving AV Project 2013-140, Long Lake Draw Down, and direct staff to open the drawdown pipe valve on September 23, 2013, as described in the Natural Resources Coordinator's memo dated August 22, 2013. Ayes - 4 - Nays - 0.

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MOTION: of Bergman, seconded by Goodwin, approving the release of financial guarantees for Apple Valley Business Campus NRMP and Pizza Ranch NRMP, as listed in the Community Development Department Assistant's memo dated August 22, 2013. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the release of design security to Menard, Inc., associated with the Design Agreement, for AV Project 2012-112, Fischer Point Addition, as listed in the City Engineer's memo dated August 22, 2013. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2013-116** setting a public hearing, at 7:00 p.m., on September 26, 2013, to consider vacating utility easements on Outlot B, Cortland Addition. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2013-117** approving a 5-foot variance from the side yard setback on Lot 13, Block 2, Cedar Isle Estates 5th Addition (14091 Forest Lane) to allow construction of a 3-season porch, with conditions as recommended by the Planning Commission. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Police Liaison Services Agreement with Independent School District 196, for the 2013-2014 school year, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Water Quality Improvement Cost Share Program Agreement with Kevin and Maren Wallenberg for raingarden at 13081 Herald Circle, in an amount not to exceed \$500.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Water Quality Improvement Cost Share Program Agreement with William J. and Patricia Harrod for native gardens at 8675 Hunters Way, in an amount not to exceed \$500.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Design Agreement with South Shore Development, Inc., for design services relating to AV Project 2013-154, Apple Valley East Family 2nd Addition, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the Right of Entry and Testing Agreement with Verizon Wireless, for Palomino Reservoir, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving the contract for AV Project 2013-133, 2013 Traffic Control Signal System Painting, with OLS Restoration, Inc., in the amount of \$5,650.00. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving Change Order No. 1 to the contract with McNamara Contracting, Inc., for AV Project 2013-102, Whitney Drive Street Improvements, for an all-way stop at 153rd Street and Garrett Avenue, in the amount of an additional \$35,610.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving Change Order No. 2 to the contract with Magney Construction, Inc., for AV Project 2012-108, Water Treatment Plant Expansion, in the amount of an additional \$36,618.75, and authorizing the Public Works Director to sign the same. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2013-134, 2013 Sanitary Sewer Pipe Lining, as complete and authorizing final payment on the contract with Insituform Technologies USA, LLC, in the amount of \$3,639.79. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting AV Project 2011-154, Arc Flash Hazard Analysis and Electrical Inspection, as complete and authorizing final payment on the contract with Master Electric Company, Inc., in the amount of \$3,153.75. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, accepting Fire Station 1 Garage Door Replacement as complete and authorizing final payment on the contract with Twin City Garage Door Company, in the amount of \$48,300.00. Ayes - 4 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, approving hiring the seasonal, part time, and paid on call volunteer employees, promotion of employee, acting assignment of employee, and resignation of employee, as listed in the Personnel Report and Addendum dated August 22, 2013. Ayes - 4 - Nays - 0.

#### END OF CONSENT AGENDA

#### VIVO RESTAURANT ON-SALE LIQUOR LICENSE

Mayor Hamann-Roland thanked Dan and Kay Schimek, owners of Enjoy! restaurant, for their commitment to Apple Valley, their generosity, and for finding an organization to sell their business to that will carry on their legacy.

Ms. Gackstetter reviewed the application by Vivo Restaurants, LLC, d/b/a Vivo for On-Sale Intoxicating Liquor and Special License for Sunday Liquor Sales as described in her memo dated August 19, 2013. 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 15435 Founders Lane and the premises includes the outdoor patio. She stated the Police Department completed the necessary background investigation and found no reason the license could not be authorized at this time.

Mayor Hamann-Roland called the public hearing to order at 7:12 p.m. to consider the application by Vivo Restaurants, LLC, d/b/a Vivo, 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 7:13 p.m.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2013-118** approving issuance of a 2013 On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales to Vivo Restaurants, LLC, d/b/a Vivo, for premises located at 15435 Founders Lane. Ayes - 4 - Nays - 0.

Mr. Tom Mould, President, and Mr. Bob Tinsley, Vice President, addressed the City Council.

Mayor Hamann-Roland welcomed Vivo to Apple Valley.

#### HIDDEN PONDS VACATION

Ms. Dykes reviewed the request by Duffy Development Company to vacate the access restriction easement on Lot 1, Block 1, Hidden Ponds Addition.

Mayor Hamann-Roland called the public hearing to order, at 7:26 p.m., to consider vacating the access restriction easement on Lot 1, Block 1, Hidden Ponds Addition. The Mayor asked for questions or comments from the Council and the public. There were none and the hearing was declared closed at 7:27 p.m.

MOTION: of Hooppaw, seconded by Bergman, adopting **Resolution No. 2013-119** completing the vacation of easements on Lot 1, Block 1, Hidden Ponds Addition, and authorizing the City Clerk to record the necessary documents. Ayes - 4 - Nays - 0.

#### COUNCIL COMMUNICATIONS

Mayor Hamann-Roland stated *Money Magazine* selected the City of Apple Valley as the 17th Best Place to Live in America. It is a great honor and she is very proud of the citizens, businesses, staff, and City Council, who helped make this recognition possible.

#### CALENDAR OF UPCOMING EVENTS

MOTION: of Hooppaw, seconded by Bergman, approving the calendar of upcoming events as included in the City Clerk's memo dated August 19, 2013, 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 Bergman, seconded by Goodwin, to pay the claims and bills, check registers dated August 1, 2013, in the amount of \$713,192.24; August 8, 2013, in the amount of \$1,824,360.52; August 15, 2013, in the amount of \$560,864.53; and August 22, 2013, in the amount of \$2,617,477.68. Ayes - 4 - Nays - 0.

MOTION: of Hooppaw, seconded Bergman, to adjourn. Ayes - 4 - Nays - 0.

The meeting was adjourned at 7:31 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 9-12-13.