

CITY OF APPLE VALLEY
Dakota County, Minnesota
March 24, 2011

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held March 24, 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 Finance Director Broughten, Parks and Recreation Director Johnson, Police Chief Johnson, City Planner Lovelace, City Engineer Manson, Community Development Director Nordquist, Human Resources Manager Pearson, Police Captain Rehtzigel, 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 Bergman, seconded by Grendahl, adding item 4.T - 2011-2012 Insurance Renewal with League of Minnesota Cities Insurance Trust to the consent agenda and approving the agenda for tonight's meeting, as amended. 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.

Mr. Dave Gugino, from Flint Hills Refinery Community Advisory Committee, gave a brief update on the purpose, history, and milestones of the Committee. He announced there will be a vacancy on the Committee and they are currently recruiting for this position. He invited residents interested in serving on the Committee to apply.

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

CONSENT AGENDA ITEMS

MOTION: of Goodwin, seconded by Bergman, approving the minutes of the regular meeting of February 24, 2011, as written. Ayes - 4 - Nays - 0 - Abstain - 1 (Bergman).

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MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-39** accepting, with thanks, the donation of \$200.00 from Residential Mortgage Group for the Police K-9 Program. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving a change in manager for Water's Edge Restaurant, LLC, d/b/a Enjoy!, in connection with the On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales at 15435 Founders Lane, naming David Soos as General Manager; as described in the City Clerk's memo dated March 21, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, receiving the Telecommunications Advisory Committee's 2010 annual report. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving renewal of the Client Services Agreement with Bill Velin of Wells Fargo Insurance Services, acting as the Agent of Record for 2011-2012, in the amount of \$8,000.00, as recommended in the Finance Director's memo dated March 12, 2011; and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-40** amending 2010 operating budget to reallocate worker compensation insurance. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-41** amending 2011 operating budget to reallocate worker compensation insurance. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the standing purchase order list for 2011, as attached to the Finance Director's memo dated March 17, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-42** establishing municipal state aid streets. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-43** amending the 2030 Comprehensive Plan Land Use Map for Outlot A, Apple Valley East Family Addition. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-44** setting a public hearing, at 8:00 p.m., on April 28, 2011, for vacation of drainage and utility easements on Lot 1, Block 1, Menard Addition. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-45** approving specifications for 2011 Outdoor Pool Water Management; and authorizing

advertising for receipt of bids, at 10:00 a.m., on April 21, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-46** approving plans and specifications for AV Project 2010-134, Galaxie Pond Flood Mitigation; and authorizing advertising for receipt of bids, at 10:00 a.m., on May 5, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-47** approving plans and specifications for AV Project 2011-106, Upper 147th Street West Extension; and authorizing advertising for receipt of bids, at 10:00 a.m., on May 5, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-48** awarding the contract for AV Project 2011-101, 2011 Street Maintenance Project, to McNamara Contracting, Inc., the lowest responsible bidder, in the amount of \$1,735,383.54. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-49** approving First Amendment to Amended and Restated Minnesota Valley Transit Authority (MVTA) Joint Powers Agreement. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Joint Powers Agreement with Dakota County for Pictometry software as attached to the City Planner's memo dated March 18, 2011, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-52** approving the Joint Powers Agreement with Minnesota Department of Public Safety, Bureau of Criminal Apprehension, for Criminal Justice Data Communications Network (CJDN), as attached to the Police Captain's memo dated March 21, 2011, and authorizing the Mayor and City Clerk to the Joint Powers Agreement. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Agreement for Street and Storm Drainage Improvements along Granada Avenue with BFI Real Estate Holdings, LLC, and H&S 2020, Inc., and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Agreement for AV Project 2011-118, 2011 Reconditioning and Painting of Steel Fence Sections, Fence Support Posts, and Decorative Light Poles with Champion Coatings Inc., in the amount of \$58,476.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Agreement for AV Project 2011-111, 2011 Farquar Lake Fish Removal with Jeff Riedemann Fisheries, in the amount of \$8,500.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Lease Agreement with Loffler Companies for 36-month lease of two multi-function digital copiers, and authorizing the City Administrator to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving the Agreement with Magellan Pipeline Company, L.P., authorizing expenditure of \$3,500.00 for initiation of pipeline lowering process along 147th Street corridor, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving Change Order No. 2 to the contract with E.H. Renner and Sons, Inc., for AV Project 2010-111, Deep Well 20 Construction, with a deduction of \$1,715.00. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2011-50** approving amending the 2011 Employee Pay and Benefit Plan. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving hiring the part time and seasonal employees and resignation of employees, as listed in the Personnel Report and Addendum dated May 24, 2011. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, approving renewal of the City's general liability, property, automobile, workers' compensation, umbrella, and other insurance coverage for March 1, 2011, through March 1, 2012, with the League of Minnesota Cities Insurance Trust at a total premium of \$778,529.00, including the non-waiver of statutory liability limits for the City's insurance, as recommended in the Finance Director's memo dated March 12, 2011. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

PRESENTATION OF LIFE SAVER AWARDS

Fire Chief Thompson described the events surrounding a house fire at 957 Redwood Drive and subsequent cardiac arrest save on February 4, 2011.

Mr. Jeff Czysen, Operations Manager for Allina Medical Transportation, provided various statistics regarding cardiac arrest.

Mr. Farrell "Buzz" Graves thanked the Fire, Police, and Allina Ambulance personnel who saved his life. He then commented on the importance of living in a strong community with sound leadership.

Allina Life Saver Awards were presented to Paramedics Katie Kuenzi and Albert Reiff; Police Sergeant Peter Matos and Police Officer Marcus Smith; and Firefighters Trudy Hagert, Sam Seal, Nick Torrini, and Captain David Kennedy.

Mayor Hamann-Roland commended all those involved.

ALF AMBULANCE 2010 ANNUAL REPORT

Mr. Jeff Czyson, Operations Manager for Allina Medical Transportation, reviewed the ALF Ambulance 2010 Annual Report. He noted the average response time in Apple Valley was 7.03 minutes.

Mayor Hamann-Roland thanked Mr. Czyson for the information.

Councilmember Goodwin questioned the higher percentage of calls for service in Apple Valley as compared to the City of Lakeville, even though Apple Valley has a smaller population.

Mr. Czyson said it has been a consistent trend. He pointed out Apple Valley has busier roads and larger business hubs, so there are probably more calls for individuals who do not live in the City.

Councilmember Bergman asked about the response time in the City of Farmington.

Mr. Czyson explained rural areas increase the response time because there are fewer roads and less access. He described various actions Allina has taken to reduce response time in that area.

MOTION: of Hooppaw, seconded by Bergman, receiving the ALF Ambulance 2010 Annual Report. Ayes - 5 - Nays - 0.

OFFICIAL MAP AMENDMENT – 147TH STREET

Mr. Lovelace reviewed the staff report regarding the public hearing and proposed ordinance amending the City's Official Map establishing the alignment of 147th Street W. over the Hanson Pipe & Product Company property located at 6550 150th Street W.

The Council discussed the alignment of the street and the proposed amendment.

Councilmember Goodwin pointed out that this alignment has been included in the City's Comprehensive Plan for many, many years.

Mayor Hamann-Roland called the public hearing to order, at 8:39 p.m., to consider amending the official map of the City of Apple Valley by establishing the alignment of 147th Street W. over the Hanson Pipe & Product property, located at 6550 150th Street W. The Mayor asked for

questions or comments from the Council and the public. There were none and the hearing was declared closed at 8:40 p.m.

MOTION: of Goodwin, seconded by Grendahl, passing **Ordinance No. 911** amending the Official Map by establishing the 147th Street W. alignment on the Hanson Pipe & Product property, located at 6550 150th Street W. Ayes - 5 - Nays - 0.

ORDINANCE ADDING CHAPTER 123 REGARDING MASSAGE THERAPY

Mayor Hamann-Roland commented on how the citizenry, businesses, the Police Department, the City Council, legal counsel, and all who contributed to this item did a wonderful job of communicating and listening to one another, which made for a better ordinance.

Police Chief Johnson gave the second reading of the proposed ordinance amending Title XI of the City Code entitled "Business Regulations" by adding Chapter 123 entitled "Massage Therapy Business and Massage Therapist Licenses". He stated the ordinance would require massage therapy businesses and massage therapists to be licensed with the City. It provides definitions and describes the licensing process, license eligibility, and regulations governing the licensees. The first reading was held on February 24, 2011. Since that time, staff has met with owners of businesses and therapists who would be impacted by the ordinance and listened to their input. As a result of their input, staff is recommending a number of revisions. He reviewed the proposed changes.

Mayor Hamann-Roland commented on feedback she has received from other communities indicating this is a model ordinance they would like to emulate. She believes the ordinance takes a balanced approach, with zero tolerance for prostitution and concern for the businesses and massage therapists.

Councilmember Hooppaw thanked staff and the business and massage therapists for their time and effort in helping with this ordinance. He believes it gives the Police Department the tools they need and is fair to the businesses as well.

Councilmember Grendahl asked what constitutes being a resident of Minnesota.

Police Chief Johnson described various types of proof that would be permissible.

Councilmember Grendahl said she has concerns and is unsure what proof would verify residency. She asked if staff would come back with an amendment if it became a problem.

Police Chief Johnson said absolutely.

The Council and staff held discussion regarding the residency requirement and types of proof.

Councilmember Hooppaw recommended staff provide the Council periodic reporting on the number and location of licenses being issued.

Mr. Chris Fuller, 176 Garden View Drive, expressed his appreciation and support for the ordinance. He lives across the street from the house on Garden View Drive that was mentioned earlier this evening where scantily clad women posing as massage therapists were conducting their business.

Ms. Vicki Fuller, 176 Garden View Drive, asked if the new ordinance allows massage therapists to work out of their homes.

Ms. Hills affirmed that a single therapist may operate out of the home in which they reside. She added that all of the home occupation regulations would apply.

Ms. Fuller questioned if massage therapists would be required to prove their training or credentials before they started working.

Ms. Hills said all massage therapists, whether working from their home or a commercial site, are required to be licensed and must meet certain educational or training requirements.

Mayor Hamann-Roland cited the various training credentials required for a massage therapist license.

Ms. Fuller asked if a massage therapist had 90 days to provide those credentials or if they had to be provided prior to receiving a license.

Mayor Hamann-Roland said they had to be provided prior to receiving the license.

Councilmember Hooppaw pointed out the ordinance also gives the Police Department the ability to inspect massage therapy home occupations.

Mr. Joe Jenson, of Massage Envy, noted there have been a lot of changes made to the ordinance since December. He appreciates the efforts the Council and staff made to work with them. He indicated there may be some things in the ordinance that are more stringent than they need to be; however, he believes the community will be better with the ordinance than without it. He stated he does not understand the purpose of the residency requirement in light of the other requirements listed in the ordinance, but he appreciates the other changes that were made.

MOTION: of Goodwin, seconded by Hooppaw, passing **Ordinance No. 912** amending Title XI of the City Code by adding Chapter 123 regulating Massage Therapy Business and Massage Therapist Licenses. Ayes - 4 - Nays - 0 - Abstain - 1 (Grendahl.)

ORDINANCE ADDING MASSAGE THERAPY FEES

Ms. Gackstetter gave the second reading of the proposed ordinance amending the Fee Schedule Appendix of Title III of the City Code by establishing certain fees and charges related to massage therapy businesses and massage therapists. The fees were amended prior to the meeting

on February 24, 2011, and there have been no comments from the public since that time. In setting the proposed fees, she considered the cost of other fees as well as the results of the fee study from 2008. She indicated if the Council passes the ordinance establishing the fees, she will publish both the massage therapy ordinance and the fee ordinance, which will make them effective on April 1, 2011.

MOTION: of Goodwin, seconded by Hooppaw, passing **Ordinance No. 913** amending the Fee Schedule Appendix of Title III, Chapter 35, of the City Code by establishing certain fees and charges related to massage therapy businesses and massage therapists. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland thanked the businesses and massage therapists for providing their input and helping making this the best ordinance it can be.

ORDINANCE AMENDING LATE-NIGHT PARKING

Mr. Blomstrom gave the first reading of an ordinance amending Section 71.17 regulating late-night parking. The amendment provides a fourth exception to late-night parking which would allow vehicles, road construction machinery, and equipment used in connection with City road repair and maintenance projects to be parked within the right-of-way. The Council accepted the first reading. The second reading will be April 14, 2011.

ORDINANCE AMENDING SNOW AND ICE IN STREETS AND ON SIDEWALKS

Mr. Blomstrom gave the first reading of an ordinance amending Chapter 96 of the City Code by adding Section 96.07 regulating snow and ice in the street or on sidewalks. The proposed ordinance prohibits snow and ice from being deposited into the traveled portion of public streets and sidewalks during plowing of private driveways and parking lots. It also provides for an abatement process if necessary. The Council accepted the first reading. The second reading will be April 14, 2011.

APPOINT PLANNING COMMISSIONER

Ms. Gackstetter reviewed her memo dated March 21, 2011, listing applicants for the Planning Commission vacancy.

The Mayor called for nominations for the vacancy. Councilmember Bergman nominated Chloe Barker, Chris Bedor, Bruce Folken, Brad Kragness, David Monn, and Brian Wasserman. There being no further nominations, the Mayor declared the nominations closed.

MOTION: of Bergman, seconded by Grendahl, accepting the six nominations for Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, amending the previously adopted appointment process to reduce the number of candidates by selecting four of candidates appearing on the ballot. Ayes - 5 - Nays - 0.

The City Clerk prepared ballots and distributed them to the Council who were asked to each select four names from the six nominees. After selections were made, they were tallied and the City Clerk announced that four names remained.

MOTION: of Grendahl, seconded by Goodwin, amending the previous appointment process to reduce the number of candidates by selecting three of the candidates appearing on the ballot. Ayes - 5 - Nays - 0.

The City Clerk prepared ballots and distributed them to the Council who were asked to each select three names. After selections were made, they were tallied and the City Clerk announced that three names remained.

MOTION: of Grendahl, seconded by Goodwin, amending the previous appointment process to reduce the number of candidates by selecting one less than the total number of names appearing on the ballot. Ayes - 5 - Nays - 0.

The City Clerk prepared ballots and distributed them to the Council who were asked to each select two names. After selections were made, they were tallied and the City Clerk announced that the two names remained.

The City Clerk prepared ballots and distributed them to the Council who were asked to each select one name. After selections were made, they were tallied and the City Clerk announced that Brian Wasserman received the majority of votes.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2011-51** appointing Brian Wasserman to the Planning Commission for a term expiring March 1, 2014. Ayes - 5 - Nays - 0.

Mayor Hamann-Roland thanked all the applicants who applied and expressed interest in the position.

STAFF COMMUNICATIONS

Mr. Lawell invited the public to the Home & Garden Expo on April 2, 2011, from 9:00 a.m. to 3:00 p.m. at the Dakota County Western Service Center.

COUNCIL COMMUNICATIONS

Mayor Hamann-Roland presented a plaque to City Clerk Gackstetter recognizing her achievement as a Certified Municipal Clerk of Minnesota.

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 March 21, 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 Bergman, seconded by Goodwin, to pay the claims and bills, check registers dated March 2, 2011, in the amount of \$242,056.95; March 9, 2011, in the amount of \$1,110,453.19; March 16, 2011, in the amount of \$756,969.59; and March 23, 2011, in the amount of \$710,602.90. 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 Grendahl, seconded by Hooppaw, to enter into a closed meeting and convene in closed session to discuss LELS Police Sergeants and Police Officers union labor negotiations. Ayes - 5 - Nays - 0.

The Council convened in the Regent Conference Room at 9:53 p.m. In attendance were Mayor Hamann-Roland; Councilmembers Bergman, Goodwin, Grendahl, and Hooppaw; City Administrator Lawell, City Clerk Gackstetter, Human Resources Manager Strauss, Police Chief Johnson, and Police Captain Rechtzigel. The meeting was tape recorded as required by law. The Council reconvened in open session at 10:31 p.m.

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

The meeting was adjourned at 10:32 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 4-14-11.