

CITY OF APPLE VALLEY
Dakota County, Minnesota
November 26, 2013

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held November 26, 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, Public Works Director Blomstrom, Planner Dykes, Assistant City Administrator Grawe, Human Resources Manager Haas, Finance Director Hedberg, City Planner Lovelace, City Engineer Manson, Community Development Director Nordquist, Police Chief Rehtzigel, 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 Goodwin, seconded by Grendahl, removing item 4.B - Approve 2013 Fuel Dispensing Facility Permit for U-Haul Co. of Minnesota d/b/a U-Haul Co. of Southern Minnesota from the 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. 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 Hooppaw, seconded by Bergman, approving all items on the consent agenda with no exceptions. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

MOTION: of Hooppaw, seconded by Bergman, approving the minutes of the regular meeting of November 7, 2013, as written. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, adopting **Resolution No. 2013-153** setting a public hearing on December 26, 2013, at 7:00 p.m., on the application for On-Sale

Wine and On-Sale 3.2 Percent Malt Liquor Licenses by Smashburger Acquisition Minneapolis, LLC, d/b/a Smashburger #1317. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving renewal of a Currency Exchange License by the Minnesota Department of Commerce to Madison Financial Companies, Inc., d/b/a Money Xchange, for premises at 15465 Cedar Avenue, Ste. 170. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, adopting **Resolution No. 2013-154** approving the City's 2013-2017 Capital Improvements Program (CIP). Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving the 2014 admission and rental fees for the Apple Valley Family Aquatic Center and Redwood Outdoor Pool, as described in the Recreation Superintendent's memo dated November 20, 2013. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving the 2014 - 2015 ice rental fees for the Sports Arena and Hayes Park Arena, as described in the Arena Manager's memo dated November 22, 2013. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving the 2014 fees for Valleywood Golf Course, and granting 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 November 22, 2013. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving release of financial guarantees for Seasons at Apple Valley Senior Building, Cobblestone Lake Commercial LOC 68023479, and Cobblestone Lake Commercial LOC 68023480, as listed in the Community Development Department Assistant's memo dated November 26, 2013. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving the release of NRMP financial guarantee for Apple Valley Retail, and reduction of NRMP financial guarantee for Cortland 1st Addition from \$37,150.00 to \$22,294.00, as listed in the Public Works Technician's memo dated November 26, 2013. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, authorizing submittal of applications to Dakota County to acquire tax-forfeited parcels in Central Village West, as attached to the Finance Director's and Community Development Director's memo dated November 21, 2013, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving the contract for AV Project 2013-164, Well Pumps 4, 9, and 15 Maintenance, with Keys Well Drilling, in the amount of \$75,145.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

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MOTION: of Hooppaw, seconded by Bergman, approving the contract for AV Project 2013-165, Sanitary Sewer Lift Station 9 Electrical Service Replacement, with Killmer Electric Co., in the amount of \$18,900.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving Change Order No. A to the contract with Crimson Fire d/b/a Spartan ERV, for Fire Engine/Triple Combination Pumper, in the amount of an additional \$594.00, and authorizing the City Administrator to sign future change orders prior to Council approval. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, accepting AV Project 2013-107, 2013 Micro Surfacing, as complete and authorizing final payment on the contract with Astech Corp., Inc., in the amount of \$26,153.89. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, accepting AV Project 2013-141, 2013 Hydrant Reconditioning and Painting, as complete and authorizing final payment on the contract with Champion Coatings, Inc., in the amount of \$19,840.00. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, accepting AV Project 2013-132, 2013 Sod Replacement Services, as complete and authorizing final payment on the contract with Jirik Sod Farm, Inc., in the amount of \$705.60. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, accepting AV Project 2011-105, Flagstaff Avenue Extension, as complete and authorizing final payment on the contract with LaTour Construction, Inc., in the amount of \$94,065.31. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving the 2014-2015 Labor Agreement with Law Enforcement Labor Services, Inc., (LELS), Local No. 71, Police Officers, as attached to the Human Resources Manager's memo dated November 22, 2013, and authorizing execution of the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving the 2014-2015 Labor Agreement with Law Enforcement Labor Services, Inc., (LELS), Local No. 243, Police Sergeants, as attached to the Human Resources Manager's memo dated November 22, 2013, and authorizing execution of the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Bergman, approving hiring the seasonal employees, and resignation of employees, as listed in the Personnel Report dated November 26, 2013. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

VOYSEY CERTIFICATE OF APPRECIATION

The City Council watched a short video produced by Sean and Daniella Voysey. On behalf of the City Council, Mayor Hamann-Roland then presented a Certificate of Appreciation to Daniella Voysey for the work they did to produce the video showcasing Apple Valley.

TSCHOHL CERTIFICATE OF APPRECIATION

On behalf of the City Council, Mayor Hamann-Roland presented a Certificate of Appreciation to Bill Tschohl for being an ambassador of the community for many years. Independent School District 196 Superintendent Jane Berenz and Apple Valley Rotary Club President Dave Kingsbury also thanked Mr. Tschohl for his service to the community.

PUBLIC HEARING ON ALCOHOLIC BEVERAGE LICENSE FEE AMENDMENT

Ms. Gackstetter provided a brief history and comparisons of alcoholic beverage license fees. She stated that after extensive review of the City's costs and expenses, staff is recommending increases to the fees associated with 3.2 Percent Malt Liquor, Consumption and Display of Intoxicating Liquor, Intoxicating and Concessionaire Liquor, Wine, and investigations/applications. She noted receipt of the affidavit of publication of the hearing notice and stated no negative comments have been received. Because the second reading of the ordinance amending the fees will take place at the City Council meeting of December 12, 2013, she recommended the public hearing be opened and continued to that meeting, in order to provide the public additional time to provide comments.

The City Council held discussion.

Mayor Hamann-Roland called the public hearing to order at 7:35 p.m. regarding increasing various alcoholic beverage license fees. The Mayor asked for questions or comments from the Council and the audience. There were none.

7370, LLC, CUP FOR ON-SALE LIQUOR

Mr. Lovelace reviewed the application by 7370, LLC, for a Conditional Use Permit for the sale of alcohol in conjunction with a Class I restaurant located at 7370 153rd Street W.

Mayor Hamann-Roland called the public hearing to order at 7:43 p.m. to consider the application by 7370, LLC, for a Conditional Use Permit for the sale of alcohol in conjunction with a Class I restaurant located at 7370 153rd Street W. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 7:44 p.m.

Councilmember Bergman requested future developments look at the development site as a whole in order to best assist traffic flow.

MOTION: of Bergman, seconded by Grendahl, adopting **Resolution No. 2013-155** approving a Conditional Use Permit for the sale of alcohol in conjunction with a Class I restaurant located on Lot 2, Block 1, Apple Valley Retail Second Addition (7370

153rd Street W.), subject to conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

FIESTA MEXICAN CUISINE CUP AND ON-SALE LIQUOR LICENSE

Ms. Dykes reviewed the application by MANA Restaurants, LLC, d/b/a Fiesta Mexican Cuisine for a Conditional Use Permit for the sale of alcohol in conjunction with a Class I restaurant located at 14871 Granada Avenue. She noted the Planning Commission held the public hearing on November 6, 2013, and no comments were received. She added that the Planning Commission voted unanimously to recommend approval.

MOTION: of Grendahl, seconded by Hooppaw, adopting **Resolution No. 2013-156** approving a Conditional Use Permit for the sale of alcohol in conjunction with a Class I restaurant located on a portion of Lot 2, Block 1, Valley Commercial Park 1st Addition (14871 Granada Avenue), subject to conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

Ms. Gackstetter reviewed the application by MANA Restaurants, LLC, d/b/a Fiesta Mexican Cuisine for On-Sale Intoxicating Liquor and Special License for Sunday Liquor Sales as described in her memo dated November 22, 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 14871 Granada Avenue. She stated the Police and Fire Departments completed the necessary background and site investigations and found no reason the license could not be authorized at this time. Ms. Gackstetter noted that due to the timing of the application, the resolution approves licenses for both 2013 and 2014.

Mayor Hamann-Roland called the public hearing to order at 7:49 p.m. to consider the application by MANA Restaurants, LLC, d/b/a Fiesta Mexican Cuisine, 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 7:50 p.m.

MOTION: of Bergman, seconded by Goodwin, approving closing the public hearing on the application for an On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales to MANA Restaurants, LLC, d/b/a Fiesta Mexican Cuisine. Ayes - 5 - Nays - 0.

Mr. Jorge Montano, owner, addressed the Council and invited the public to dine at his restaurant.

Discussion followed.

MOTION: of Hooppaw, seconded by Grendahl, adopting **Resolution No. 2013-157** approving issuance of a 2013 and 2014 On-Sale Intoxicating Liquor License and Special License for Sunday Liquor Sales to MANA Restaurants, LLC, d/b/a Fiesta Mexican Cuisine, for premises located at 14871 Granada Avenue. Ayes - 5 - Nays - 0.

2014 ON-SALE LIQUOR AND WINE LICENSE RENEWALS

Ms. Gackstetter reviewed her memo regarding renewal applications for On-Sale Intoxicating Liquor, Club, Concessionaire, Special License for Sunday Liquor Sales, Wine, and 3.2 Percent Malt Liquor licenses for 2014. She noted receipt of the affidavit of publication of the hearing notice and stated no comments have been received to date.

Mayor Hamann-Roland called the public hearing to order at 7:57 p.m. to consider renewal applications for On-Sale Intoxicating Liquor, Club, Concessionaire, Special License for Sunday Liquor Sales, Wine, and 3.2 Percent Malt Liquor licenses for the year 2014. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 7:58 p.m.

MOTION: of Bergman, seconded by Grendahl, approving renewal, for 2014, of On-Sale Intoxicating Liquor, On-Sale Club Intoxicating Liquor, On-Sale Concessionaire 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. 2013-158** for Apple Minnesota, LLC, d/b/a Applebee's Neighborhood Grill & Bar; **No. 2013-159** for Apple Valley Grill, LLC, d/b/a Wild Bill's Sports Saloon; **No. 2013-160** for Blazin Wings, Inc., d/b/a Buffalo Wild Wings Grill & Bar; **No. 2013-161** for El Azteca Apple, Inc., d/b/a El Azteca Mexican Restaurant; **No. 2013-162** for El Toro of Apple Valley, Inc., d/b/a El Loro Mexican Grill; **No. 2013-163** for GSTL Investments, LLC, d/b/a Valley Tap House; **No. 2013-164** for H.O.C., Inc., d/b/a Rascals Apple Valley Bar & Grill; **No. 2013-165** for Hiraku Japanese Restaurant, Inc., d/b/a Kami Japanese Steakhouse; **No. 2013-166** for Osaka AV Inc., d/b/a Osaka Seafood Steakhouse; **No. 2013-167** for Red Robin International, Inc., d/b/a Red Robin America's Gourmet Burgers & Spirits; **No. 2013-168** for Rich Management, Inc., d/b/a Bogart's/Apple Place Bowl; **No. 2013-169** for RT Minneapolis Franchise, LLC, d/b/a Ruby Tuesday; **No. 2013-170** for UASanders, LLC, d/b/a Panino Brothers; **No. 2013-171** for Vivo Restaurants, LLC, d/b/a Vivo; **No. 2013-172** for Wadsworth Old Chicago, Inc., d/b/a Old Chicago; **No. 2013-173** for Apple Valley American Legion, Post 1776; **No. 2013-174** for Lancer Food Service, Inc., d/b/a Lancer Food Service; **No. 2013-175** for Chipotle Mexican Grill of Colorado, LLC, d/b/a Chipotle Mexican Grill; **No. 2013-176** for D & D of Minnesota, Inc., d/b/a Famous Dave's BBQ Shack; and **No. 2013-177** for The Noodle Shop, Co. - Colorado, Inc., d/b/a Noodles & Company. Ayes - 5 - Nays - 0.

ORDINANCE AMENDING ALCOHOLIC BEVERAGE INVESTIGATION FEES

Ms. Gackstetter gave the first reading of an ordinance amending Chapter 111 of the City Code regulating alcoholic beverage investigation fees. The proposed ordinance authorizes the City to charge Clubs a fee for additional investigations, similar to all other licensees. The ordinance was prepared by the City Attorney's office. The second reading is scheduled for December 12, 2013.

The City Council accepted the first reading.

ORDINANCE AMENDING FEES CONTAINED IN CITY CODE

Ms. Gackstetter gave the first reading of an ordinance amending 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, utility fees, and zoning. The fees would be effective January 1, 2014. She 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* for Mpls./St. Paul and the *Engineering News Record* cost index. The second reading is scheduled for December 12, 2013.

The City Council accepted the first reading.

ORDINANCE SETTING MAYOR AND COUNCILMEMBERS SALARIES

Mr. Lawell gave the first reading of an ordinance increasing the salaries of the Mayor and Councilmembers for 2015 and 2016. The proposed ordinance would increase the salaries by 2.5 percent in both 2015 and 2016. He presented data from the League of Minnesota Cities comparing the compensation of elected officials in comparable cities. Both the Mayor's and Councilmembers' salaries are below average compared to the surveyed cities.

MOTION: of Grendahl, seconded by Goodwin, waiving the provision for a second reading and passing **Ordinance No. 953** amending City Code Section 30.05 by setting the salary of the mayor at \$958.00 per month and the salary of each councilmember at \$686.00 per month effective January 1, 2015; and setting the salary of the mayor at \$982.00 per month and the salary of each councilmember at \$703.00 per month effective January 1, 2016.

The City Council held discussion.

Vote was taken on the motion. Ayes - 5 - Nays - 0.

PARKS AND RECREATION ADVISORY COMMITTEE VACANCY

Ms. Gackstetter reviewed her memo, dated November 22, 2013, regarding the resignation of Parks and Recreation Advisory Committee Member Darrell Retka, creating a vacancy on the Committee with a term expiring March 1, 2015. She said the Council may wish to extend an invitation to individuals interested in serving on this Committee to submit an application to the City Clerk by December 31, 2013. An appointment could then be made in January.

MOTION: of Bergman, seconded by Hooppaw, accepting the resignation of Parks and Recreation Advisory Committee Member Darrell Retka and thanking him for his dedicated service to the City of Apple Valley, directing staff to post the Parks and Recreation Advisory Committee vacancy, and inviting individuals interested in

serving on the Committee to submit an application to the City Clerk by December 31, 2013. Ayes - 5 - Nays - 0.

COMMUNICATIONS

Fire Chief Thompson reminded everyone to stay off thin ice.

Mayor Hamann-Roland wished everyone a Happy Thanksgiving.

Councilmember Bergman noted Firefighter David Kennedy and Police Captain Mike Marben are resigning from their positions and thanked them for their public service.

CALENDAR OF UPCOMING EVENTS

MOTION: of Hooppaw, seconded by Grendahl, approving the calendar of upcoming events as included in the City Clerk's memo dated November 26, 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 Bergman, seconded by Grendahl, to pay the claims and bills, check registers dated November 14 2013, in the amount of \$695,959.08, November 21, 2013, in the amount of \$865,400.99, and November 26, 2013, in the amount of \$1,739,299.09. Ayes - 5 - Nays - 0.

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

The meeting was adjourned at 8:16 o'clock p.m.

Respectfully Submitted,

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

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