

CITY OF APPLE VALLEY
Dakota County, Minnesota
February 12, 2015

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held February 12, 2015, 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, Police Captain Bermel, Parks and Recreation Director Bernstein, Public Works Director Blomstrom, Planner Bodmer, Assistant City Administrator Grawe, Human Resources Manager Haas, City Planner Lovelace, Community Development Director Nordquist, Liquor Operations Director Swanson, 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 Hooppaw, seconded by Bergman, 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.

Mr. Ed Kearney, Chamber of Commerce President, commented on improvements in their office and invited everyone to the Home and Garden Show.

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 item 4.N be moved to the regular agenda.

MOTION: of Grendahl, seconded by Bergman, moving item 4.N – Adopt Resolution Awarding Contract for Apple Valley Liquor Store #2 Interior Remodeling and City Hall Reception Counter Remodeling Project to the regular agenda, and approving all remaining items on the consent agenda. Ayes - 5 - Nays - 0.

CONSENT AGENDA ITEMS

CITY OF APPLE VALLEY

Dakota County, Minnesota

February 12, 2015

Page 2

MOTION: of Grendahl, seconded by Bergman, approving the minutes of the regular meeting of January 22, 2015, as written. Ayes - 4 - Nays - 0 - Abstain - 1 (Grendahl).

MOTION: of Grendahl, seconded by Bergman, approving a change in officer for D & D of Minnesota, Inc., d/b/a Famous Dave's BBQ Shack, in connection with the On-Sale Wine and 3.2 Percent Malt Liquor Licenses, at 7593 147th Street W., naming John Perry Beckman as CEO/President; as described in the City Clerk's memo. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the 2015 excavation permit for commercial sand and gravel mining operations by Fischer Sand & Aggregate, LLP, as described in the City Planner's memo dated February 9, 2015. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, receiving the Cemetery Advisory Committee's 2014 annual report. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, receiving the Traffic Safety Advisory Committee's 2014 annual report. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-16**, approving the Reallocation of Special Assessment Roll Nos. 605 and 607, for Embry Place Development Area. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the Quit Claim Deed transferring the City's interest in the ground lease at Apple Valley High School to the School District, as attached to the Finance Director's memo dated February 4, 2015, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the reduction of financial guarantee for Regent's Point from \$50,000.00 to \$10,000.00, as listed in the Community Development Department Assistant's memo dated February 12, 2015. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-17** approving a site plan for Menard's Seasonal Outdoor Garden Sales Center, as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving Second Amendment to Lease Agreement with Verizon Wireless, LLC, for property located at 4851 McAndrews Road (Valleywood Reservoir), as attached to the Public Work's Superintendent - Utilities memo, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving Third Amendment to Lease Agreement with Sprint Spectrum Realty Company, L.P., for property located at

7738 128th Street W. (Palomino Lattice Tower), as attached to the Public Work's Superintendent - Utilities memo, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-18** approving plans and specifications for AV Project 2014-129, Sanitary Sewer Lift Station 3 Replacement, and authorizing advertising for receipt of bids, at 10:00 a.m., on March 12, 2015. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-19** approving plans and specifications for AV Project 2015-115, 2015 Utility Improvements, and authorizing advertising for receipt of bids, at 10:00 a.m., on March 12, 2015. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the Joint Powers Agreement with the City of Burnsville for implementation of 2015 water quality improvements projects in Alimagnet Lake, Keller Lake, and Lac Lavon Lake, as attached to the Natural Resources Coordinator's memo, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the Professional Services Agreement Related to Subsurface Sewage Treatment Systems with the City of Rosemount, in an estimated amount of \$5,000.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the Joint Powers Agreement with Dakota County for use of Sentenced to Service Program Work Crews for 2015, as attached to the Park Superintendent's memo, and authorizing the Mayor and Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the Agreement for Architectural Services to prepare plans and specifications for Municipal Center window repairs with Encompass, Inc., in an amount not to exceed \$10,450.00, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the Agreement for NovusAGENDA Services with Inobbar, LLC, d/b/a Novusolutions, and authorizing the Mayor and City Clerk to sign the same. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving Change Order No. 4 and 5 to the contract with Alpha Video and Audio, Inc., for High-Definition Video and Audio Telecast Systems, in the amount of an additional \$2,255.00. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting High-Definition Video and Audio Telecast Systems, as complete and authorizing final payment on the agreement with Alpha Video and Audio, Inc., in the amount of \$5,007.25. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting Liquor Store Walk-in Cooler Fan Motors and Controls Project, as complete and authorizing final payment on the agreement with Energy Consulting Partners, in the amount of \$13,214.81. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting AV Project 2014-101, 2014 Street Improvements, as complete and authorizing final payment on the contract with McNamara Contracting, Inc., in the amount of \$200,145.55. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting AV Project 2014-102, 2014 Street and Utility Reconstruction, as complete and authorizing final payment on the contract with McNamara Contracting, Inc., in the amount of \$266,599.68. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, by Bergman, approving hiring the part time employee, resignation of employee, and retirement of employee, as listed in the Personnel Report dated February 12, 2015. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

LIQUOR STORE #2 INTERIOR/RECEPTION COUNTER REMODELING PROJECT

Mr. Grawe stated approximately \$85,000 of the total bid for the Liquor Store #2 Interior Remodeling and City Hall Reception Counter Remodeling Project is for the Liquor Store.

Mr. Swanson noted the intent of the project is to refresh the store and maintain the City's assets.

Discussion followed.

MOTION: of Goodwin, seconded by Hooppaw, adopting **Resolution No. 2015-20** awarding the contract for Apple Valley Liquor Store #2 Interior Remodeling and City Hall Reception Counter Remodeling Project, to Parkos Construction Company, the lowest responsible bidder, in the total amount of \$116,100.00. Ayes - 5 - Nays - 0.

CARIBOU COFFEE DRIVE THRU WINDOW CUP

Ms. Bodmer reviewed the request by Caribou Coffee Company, Inc., for a Conditional Use Permit and a site plan review/building permit authorization to allow construction of a drive-thru lane at 14638 Cedar Avenue. The Planning Commission reviewed this item on October 15, 2014, and January 7, 2015.

Discussion followed.

MOTION: of Goodwin, seconded by Hamann-Roland, adopting **Resolution No. 2015-21** approving a Conditional Use Permit to allow a drive-thru window in connection

with a Class III restaurant on Lot 2, Block 1, Cedar Marketplace Addition (14638 Cedar Avenue), for Caribou Coffee, with conditions as recommended by the Planning Commission.

Councilmember Bergman expressed concern with the traffic flow.

Councilmember Grendahl stated she has to take public safety into account and that has to come first.

Councilmember Goodwin noted the new design is nicely improved and adds four parking spaces.

Discussion continued.

Vote was taken on the motion: Ayes - 3 - Nays - 2 (Bergman and Grendahl).

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2015-22** approving the site plan and authorizing issuance of a building permit to allow construction of a drive-thru window at 14638 Cedar Avenue, subject to conditions as recommended by the Planning Commission. Ayes - 3 - Nays - 2 (Bergman and Grendahl).

THE SPRINGS AT APPLE VALLEY APRTMENTS

Mr. Lovelace reviewed the request by Continental Fund 313, LLC, for an amendment to the 2030 Land Use Map re-designating Outlot B, Fischer Market Place, from "C" (Commercial) to "HD" (High Density Residential/12+ units per acre); the rezoning of Outlot B, Wensmann 13th Addition, from "PD-746/Zone 1" (Planned Development) and Outlot B, Fischer Market Place, from "D-646/Zone 3" (Planned Development) to "PD-746/Zone 3" (Planned Development); a subdivision of land by preliminary plat; and a site plan/building permit authorization to allow for construction of a 280-unit apartment project. The property is located between 145th and 147th Streets West and Foliage and Flagstaff Avenues.

Mr. Eric Thom, of Continental Properties Company, Inc., said the pedestrian access that crosses the pipeline may be a challenge, but they are willing to work with staff on the other locations.

Mr. Lovelace continued with his staff report.

Discussion followed.

Councilmember Hooppaw asked if additional authorization is needed from the City if the developer wanted to change the accesses to this neighborhood in the future.

Mr. Peter Beck, for Continental Properties, noted this is a planned development and additional approval would be needed.

City Attorney Hills concurred.

Mr. Eric Thom, of Continental Properties Company, Inc., presented additional information regarding the project.

Councilmember Goodwin asked for clarification regarding upscale amenities.

Mr. Eric Thom spoke about the interior materials.

Mr. Jeremy VanMinsel, of Kahler Slater, commented on the interior design and finishes.

Discussion continued.

MOTION: of Grendahl, seconded by Hooppaw, adopting **Resolution No. 2015-23** amending the 2030 Land Use Map of the Comprehensive Plan re-designating Outlot B, Fischer Market Place Addition from "C" (Commercial) to "HD" (High Density Residential/12+ units per acre). Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, passing **Ordinance No. 981** rezoning Outlot B, Fischer Market Place, from "PD-646/Zone 3" (Planned Development) to "PD-746/Zone 3" (Planned Development), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Hooppaw, passing **Ordinance No. 982** rezoning Outlot B, Wensmann 13th Addition, from "PD-746/Zone 1" (Planned Development) to "PD-746/Zone 3" (Planned Development), as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Hooppaw, seconded by Goodwin, adopting **Resolution No. 2015-24** approving the preliminary plat of The Springs of Apple Valley Addition, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

MOTION: of Bergman, seconded by Goodwin, adopting **Resolution No. 2015-25** approving the site plan and authorizing issuance of a building permit to construct a 280-unit apartment complex on Lot 1, Block 1, The Springs of Apple Valley, with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

ORDINANCE REGULATING ELECTRONIC DELIVERY DEVICE LIQUIDS

Ms. Gackstetter gave the first reading of an ordinance amending Chapter 115 of City Code entitled "Tobacco Regulations" regulating the sale of electronic delivery device liquids. The ordinance makes it unlawful to sell electronic delivery device liquids that are not contained in child-resistant packaging. Because Tobacco and Tobacco Product licensees are already required to comply with this requirement under state law, staff is recommending waiving of the second reading. The ordinance was prepared by the City Attorney's office.

MOTION: of Hooppaw, seconded by Bergman, waiving the procedure for a second reading and passing **Ordinance No. 983** amending Chapter 115 of City Code entitled “Tobacco Regulations” regulating the sale of electronic delivery device liquids. Ayes - 5 - Nays - 0.

ORDINANCE AMENDING CHAPTER 150 REGULATING BUILDING CONSTRUCTION

Mr. Blomstrom and gave the second reading of an ordinance amending Chapter 150 of the City Code regulating building construction by amending Section 150.01 regarding adoption of the Minnesota State Building Code. The ordinance was prepared by the City Attorney’s office. There have been no comments since the first reading.

Discussion followed.

MOTION: of Goodwin, seconded by Hooppaw, passing **Ordinance No. 984** amending Chapter 150 of the City Code regulating building construction by amending Section 150.01 regarding adoption of the Minnesota State Building Code. Ayes - 5 - Nays - 0.

PLANNING COMMISSIONER RESIGNATION

Ms. Gackstetter reviewed her memo, dated February 9, 2015, regarding the resignation of Planning Commissioner Brian Wasserman, creating a vacancy on the Planning Commission with a term expiring March 1, 2017. She recommended the Council extend an invitation to individuals interested in serving on the Planning Commission to submit an application to her by March 31, 2015. An appointment could then be made in April.

MOTION: of Grendahl, seconded by Hooppaw, accepting the resignation of Planning Commissioner Brian Wasserman and thanking him for his dedicated service to the City of Apple Valley; and directing staff to post the Planning Commission vacancy and inviting individuals interested in serving on the Commission to submit an application to the City Clerk by March 31, 2015. Ayes - 5 - Nays - 0.

COMMUNICATIONS

Councilmember Goodwin commented about weapons in public buildings.

Mayor Hamann-Roland said there will be a STEM Fair at Eastview High School on February 23, 2015, from 6:30 p.m. to 8:30 p.m.

Mayor Hamann-Roland and Councilmember Hooppaw thanked the Parks and Recreation Department staff for a fun Mid-Winter Fest celebration.

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 February 9, 2015, 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 January 28, 2015, in the amount of \$1,591,313.40, February 5, 2015, in the amount of \$518,284.82, and February 11, 2015, in the amount of \$1,174,404.70. Ayes - 5 - Nays - 0.

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

The meeting was adjourned at 8:46 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 2-26-15.