

CITY OF APPLE VALLEY
Dakota County, Minnesota
December 10, 2015

Minutes of the regular meeting of the City Council of Apple Valley, Dakota County, Minnesota, held December 10, 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 Dougherty, Acting City Engineer Anderson, Parks and Recreation Director Bernstein, Planner Bodmer, Police Captain Francis, Assistant City Administrator Grawe, Human Resources Manager Haas, Finance Director Hedberg, City Planner Lovelace, Community Development Director Nordquist, Police Chief Rehtzigel, Public Works Director Saam, 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 led by Boy Scouts Kevin Barringer, Luke Barringer, Josh Collotzi, Nate Doty, Bryson Flake, Russell Ostler, James Peterson, and Sium Solomon from Troop 508.

APPROVAL OF AGENDA

MOTION: of Bergman, seconded by Hooppaw, removing item 4.J - Adopt Resolution Approving Parkside Village Galante Final Plat and Development Agreement from the agenda, rescheduling item 5.A - Proclaim December 10, 2015, as "Steve Mattson Day in Apple Valley" to later in the agenda, renumbering item 5.B.1 - Adopt Resolution Approving Eagle Ridge Business Park Second Addition Preliminary Plat to 5.C.2, and renumbering item 5.H - Adopt Resolution Approving Site Plan/Building Permit Authorization and Building Setback Variances to Construct 7,512 Sq. Ft. Retail Building on Lot 4, Block 3, Valley Commercial Park 1st Addition to 5.D.3, 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. Randy Bailey, 14372 Euclid Avenue, commented on the Kids 'n Kinship bike program and said they are in need of bike-friendly storage space.

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

CONSENT AGENDA ITEMS

MOTION: of Grendahl, seconded by Bergman, approving the minutes of the regular meeting of November 24, 2015, as written. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-173** accepting, with thanks, the donation of \$100.00 in gift cards from Rascals Bar & Grill, for use by the Parks and Recreation Department. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving issuance of a lawful gambling exempt permit, by the State Gambling Control Board, to Sons of the American Legion, Squadron 1776, for use on February 13, 2016, at the Apple Valley American Legion, 14521 Granada Drive, and waiving any waiting period for State approval. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving renewal and issuance of On-Sale and Off-Sale 3.2 Percent Malt Liquor Licenses for 2016, as attached to the City Clerk's memo. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, setting the 2016 City Council meeting schedule, in accordance with adopted policy on the second and fourth Thursdays of each month unless the following Friday is a holiday, as listed in the City Clerk's memo. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-174** supporting Cedar Avenue Transitway 2015 Implementation Plan Update (IPU). Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, authorizing submittal of a letter to the Metropolitan Council supporting change to Regional Bike Trail Network (RBTN), as attached to the Parks and Recreation Director's memo. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-175** establishing a stop sign on 146th Street W. at Garrett Avenue. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-176** nullifying the Oak Wilt and Dutch Elm Disease Cost Share Program and Policies. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting Project 2013-160, 2013-2014 TEGG Inspections, as complete and authorizing final payment on the agreement with Master Electric Co., Inc., in the amount of \$2,558.00. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting Project 2015-124, 2015 Sod Replacement Services, as complete and authorizing final payment on the agreement with Jirik Sod Farms, Inc., in the amount of \$1,285.00. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting Project 2015-140, AVFAC Pool Shell Repair, as complete and authorizing final payment on the agreement with Horizon Chemical Company, Inc., d/b/a Horizon Commercial Pool Supply, in the amount of \$49,100.00. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, accepting Project 2015-146, 2015 Ash Tree Injections, as complete and authorizing final payment on the agreement with S & S Tree Specialists, in the amount of \$2,700.00. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, adopting **Resolution No. 2015-177** appointing MG Trust Company, LLC, as trustee of HRA Accounts within REBA IV Trust. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, authorizing the Mayor to sign letter of direction and acceptance of successor trusteeship, regarding REBA III Trust, as attached to the Human Resources Manager's memo. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving hiring the seasonal and part time employees, promotion of employee, and resignation of employee, as listed in the Personnel Report dated December 10, 2015. Ayes - 5 - Nays - 0.

MOTION: of Grendahl, seconded by Bergman, approving the claims and bills check registers dated, November 18, 2015, in the amount of \$728,092.04 and November 24, 2015, in the amount of \$435,567.99. Ayes - 5 - Nays - 0.

END OF CONSENT AGENDA

ISD 196 TRANSPORTATION HUB FACILITY

Ms. Bodmer reviewed the request by Independent School District (ISD) 196 to construct a bus operations and maintenance facility on the northeast corner of Johnny Cake Ridge Road and Upper 147th Street W. Consideration of the following land use actions are requested: preliminary plat of Eagle Ridge Business Park Second Addition; a Conditional Use Permit to construct a 60,000 sq. ft. transportation hub facility on Lot 1, Block 1, Eagle Ridge Business Park Second Addition; a Conditional Use Permit to construct a 2,700 sq. ft. storage area for a maximum of 6 buses on Lot 1, Block 1, Eagle Ridge Business Park Second Addition; and site

plan/building permit authorization for a 60,000 sq. ft. transportation hub facility on Lot 1, Block 1, Eagle Ridge Business Park Second Addition. The facility would include a bus garage for storage of 84 buses, four bus maintenance bays, office, fenced temporary storage, and a free-standing bus wash and fueling area. She reviewed the site design, bus facility operations, and noise study findings. The plan includes the installation of a 12 ft. tall and nearly one-quarter, mile-long fence to visually screen the facility and provide noise attenuation for single family residential properties to the north. She then commented on traffic and the traffic study.

City Council held discussion.

The Planning Commission voted unanimously to recommend approval of the transportation hub facility with conditions at its December 2, 2015, meeting. Ms. Bodmer then highlighted conditional use standards and various observations. She noted the site is constrained because of the Magellan pipeline easement.

Councilmember Bergman asked about bus usage during extracurricular activities and future expansion on the site.

Discussion followed.

Councilmember Hooppaw commented on the choice of an 8 ft. or 12 ft. fence height, noting the height selected may be problematic to future residents.

Mr. Nordquist presented an image depicting large available properties within the City, one of which might serve as an alternative site. He noted drivers will need to toot the bus horn in connection with pre-trip safety checks.

Mr. Nino Pedrelli, of State Street Realty Advisors, representing the land owners, addressed the Council and commented on the history of the site.

Mr. Scott McQueen, of Wold Architects, responded to questions regarding the future expansion of the site.

Mr. Randy Dukek, Transportation Coordinator for ISD 196, spoke about the fleet.

Discussion continued.

Mr. McQueen stated the maximum number of additional buses which could be housed on the site is 40.

Mr. David Braslau, of David Braslau Associates, the firm which conducted the noise study, responded to questions regarding noise.

Mr. Mike Erdmann, 5936 144th Street W., read a prepared statement on behalf of the neighborhood. Primary concerns with the facility include noise, air pollution, impact on traffic

to the surrounding area, fuel smells, plans for future expansion, and the resulting decrease in property values. In alignment with the 108 residents previously petitioned, he requested the City Council deny approval of the bus and transportation hub at this proposed location.

Councilmember Goodwin asked about the timeline of this project, the \$500,000 potential savings, and job creation.

Mr. Jeffrey Solomon and Mr. Randy Dukek, of ISD 196, responded.

Discussion followed.

Councilmember Hooppaw pointed out approval of a Conditional Use Permit must not be materially injurious to properties or improvements in the vicinity. Even though the school district is trying to mitigate impacts from this site with a 12 ft. high, one-quarter mile long fence, it is still not mitigated. If that much effort is put into mitigating the site and the noise impact and several of the other impacts are not mitigated, it makes him question if it is the right location.

Councilmember Bergman agreed that the noise mitigation for this site has not been accomplished. He believes it is too much for this confined area.

Councilmember Hooppaw said the project does not fit on this site due to the pipeline easement.

Mayor Hamann-Roland said the City Council seeks to find win-wins solutions. She added that the Council strongly supports the school district savings of one-half million dollars. She believes the site itself produces conflicts as a truly good site for the bus garage. It is troublesome that 84 buses will be entering and leaving the site Monday through Friday. She believes the school district could find a better site. She said that as a result of the many challenges faced with this site, the City Council needs to look at denying this application.

Councilmember Grendahl said it is hard to move the denial, but she does not see this as a fit.

Mayor Hamann-Roland asked counsel about the process to deny.

Mr. Dougherty said if it is the will of the City Council to deny the application, there should be a motion directing staff to prepare a resolution of denial. The resolution will be prepared and then the City Council can consider the resolution later in the meeting.

MOTION: of Grendahl, seconded by Hooppaw, directing staff to prepare a resolution listing the findings of fact, conclusions, and decision regarding the ISD 196 bus operation and maintenance facility Conditional Use Permit and site plan review/building permit authorization.

Councilmember Bergman stated he wants his concerns about the buffer and the noise included in the findings of fact.

Mayor Hamann-Roland summarized the findings of fact as identified by the City Council including the fact that the proposed fence is an unacceptable noise attenuation solution and activity buffer; there is not a design or building placement solution offered to remove bus activity from the north property line; because of the location of the Magellan pipeline traversing the property, the building and activities and buffers must be located along the north property line and there is insufficient room to construct an effective buffer; desirable uses in employment areas should consist of the kind of head of household jobs the City is seeking (such as office, office-showroom, services, medical, health care, research and development, and forms of light industrial land use); at intermittent times, north property line owners may experience a 10 dBA increase in noise levels that are considered intrusive even with the height of the fence; significant bus driving activity at the north property line on a daily basis would be seen as well as the overhead doors and that is inconsistent with a friendly neighborhood; 84 buses will enter the building from the north garage doors at least one time per day which will impact the neighborhood; and ultimate build-out plans have not been submitted to determine possible impacts to adjacent properties and City streets, those impacts recognize the potential of 40 additional buses. She added that the City Council is responsible to deny a conditional use permit application when a particular use is found not to be suitable in the zoning district or that the conditions set forth in said regulations have not been met.

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

Mayor Hamann-Roland called a recess at 8:33 p.m.

Mayor Hamann-Roland resumed the meeting at 8:40 p.m.

EVENDALE WAY RIGHT-OF WAY AND EASEMENTS VACATION

Ms. Bodmer stated the petitioner is interested in withdrawing this item.

Mr. Nino Pedrelli, of State Street Realty Advisors, representing the land owners, requested this item be withdrawn.

STEVE MATTSON DAY PROCLAMATION

Mayor Hamann-Roland read the proclamation proclaiming December 10, 2015, "Steve Mattson Day in Apple Valley" and presented Steve Mattson's wife and son with the proclamation.

Mr. Bill Tschohl commented on Mr. Mattson's fund raising activities and service to the community.

MOTION: of Hamann-Roland, seconded by Hooppaw, proclaim December 10, 2015, "Steve Mattson Day in Apple Valley". Ayes - 5 - Nays - 0.

VALLEY COMMERCIAL PARK 1ST ADDITION

Mr. Lovelace reviewed the request by 7525 Cedar, LLC, for a vacation of drainage and utility easements over and across Lot 4, Block 3, Valley Commercial Park 1st Addition.

Discussion followed.

Mayor Hamann-Roland called the public hearing to order, at 8:56 p.m., to consider vacating drainage and utility easements over and across Lot 4, Block 3, Valley Commercial Park 1st Addition. The Mayor asked for questions or comments from the Council and the public. There were none and the hearing was declared closed at 8:57 p.m.

MOTION: of Goodwin, seconded by Grendahl, adopting **Resolution No. 2015-178** completing the vacation of drainage and utility easements over and across Lot 4, Block 3, Valley Commercial Park 1st Addition, authorizing the City Clerk to record the necessary documents. Ayes - 5 - Nays - 0.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2015-179** approving the site plan and building setback variances of 16 feet from Cedar Avenue and 10 feet from 147th Street West and authorizing issuance of a building permit for construction of a 7,512 sq. ft. retail building on Lot 4, Block 3, Valley Commercial Park 1st Addition (7525 147th Street West), with conditions as recommended by the Planning Commission. Ayes - 5 - Nays - 0.

2016 CITY BUDGET AND PROPERTY TAX LEVY

Mr. Hedberg presented the 2016 proposed budget and tax levy. He reviewed the budget development process, on-going challenges, budget objectives and highlights. All properties in the City received mailed notice of the Truth-in-Taxation meeting and the notice included the proposed property taxes for 2016 based on preliminary budgets and tax levies approved in September. The impact of the property tax levy on the 2016 median valued home of \$218,000, that experienced a 4.76% increase in market value, will result in the City's portion of property taxes increasing approximately \$39. The General Fund revenues and expenditures are \$30,283,220. Mr. Hedberg stated the final property tax levy for 2016 is \$24,058,000, which is an increase of 4% or \$924,000 from 2015.

Councilmember Goodwin pointed out Apple Valley's budget includes funding for the annual street maintenance program.

Discussion followed.

Councilmember Bergman left the meeting at 9:42 p.m.

Councilmember Bergman returned at 9:43 p.m.

Councilmember Goodwin left the meeting at 9:43 p.m.

Councilmember Goodwin returned at 9:44 p.m.

Mayor Hamann-Roland opened the public comment portion of the Truth-in-Taxation hearing at 9:50 p.m. She asked for questions or comments from the public.

Mr. Randy Bailey, 14372 Euclid Avenue, said it is very clear this is a well-run City and he is here to say thank you. He stated he is happy to pay his taxes.

The hearing was declared closed at 9:52 p.m.

MOTION: of Goodwin, seconded by Hooppaw, adopting **Resolution No. 2015-180** approving setting the City tax levy collectible in 2016 at \$24,058,000 and approving 2016 budgets with total revenue of \$65,111,793 and expenditures of \$71,703,174.

Councilmember Grendahl said that at a preliminary meeting she asked staff to sharpen the pencil and she does not believe that happened. She then commented on various areas of concern.

Discussion followed.

Vote was taken on the motion. Ayes - 4 - Nays - 1 (Grendahl).

ISD 196 TRANSPORTATION HUB FACILITY - Continued

Mr. Dougherty distributed the resolution approving the findings of fact, conclusions, and decision regarding the Independent School District 196 bus operation and maintenance facility Conditional Use Permit and site plan review/building permit authorization.

MOTION: of Goodwin, seconded by Hooppaw, adopting **Resolution No. 2015-181** approving the findings of fact, conclusions, and decision regarding the Independent School District 196 bus operation and maintenance facility Conditional Use Permit and site plan review/building permit authorization. Ayes - 5 - Nays - 0.

TRANSFER FROM LIQUOR FUND TO GENERAL FUND

MOTION: of Hooppaw, seconded by Bergman, adopting **Resolution No. 2015-182** approving the transfer of \$600,000.00 from the Liquor Fund to the General Fund for 2015. Ayes - 5 - Nays - 0.

2016 FEE SCHEDULE

Ms. Gackstetter reviewed the proposed Fee Schedule. 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, 2016. 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 *Engineering News Record* cost index. No comments from the public have been received regarding the proposed changes.

Mayor Hamann-Roland called the public hearing to order at 10:13 p.m. to consider the Fee Schedule which sets fees and charges for various products and services effective January 1, 2016. The Mayor asked for questions or comments from the Council and the audience. There were none and the hearing was declared closed at 10:14 p.m.

MOTION: of Goodwin, seconded by Bergman, adopting **Resolution No. 2015-183** approving the 2016 Fee Schedule, by adjusting certain fees and charges effective January 1, 2016. Ayes - 5 - Nays - 0.

ORDINANCE AMENDING CANDIDACY FILING FEES

Ms. Gackstetter gave the first reading of an ordinance amending Chapter 30 of the City Code entitled "City Council", by adding Section 30.06 regulating municipal office candidacy filing fees. The ordinance sets the filing fee at \$40.00. The proposed ordinance was prepared by the City Attorney. The Council accepted the first reading. The second reading is tentatively scheduled for December 22, 2015.

CALENDAR OF UPCOMING EVENTS

MOTION: of Bergman, seconded by Grendahl, approving the calendar of upcoming events as included in the Deputy City Clerk's memo, and noting that each event listed is hereby deemed a Special Meeting of the City Council. Ayes - 5 - Nays - 0.

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

The meeting was adjourned at 10:16 o'clock p.m.

Respectfully Submitted,

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

Approved by the Apple Valley City Council on 12-22-15.