

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, March 25, 2002**

**1. CALL TO ORDER.**

Acting Mayor Callison called the meeting to order at 6:30 p.m.

**2. PLEDGE OF ALLEGIANCE.**

All joined in the Pledge of Allegiance.

**3. ROLL CALL.**

City Clerk Kathleen Magrew called the roll. Council members Al Thomas, Ken Tauer, Dick Allendorf, Terry Schneider, Linda Koblick, and Jan Callison were present. Karen Anderson was excused.

**4. REORDERING THE AGENDA.**

City Manager John Gunyou advised that there was an addendum concerning item #10D. The addendum corrected the term of the conditional use permit to three years in condition #9.

Koblick moved, Schneider seconded a motion to approve the agenda with the addendum. All voted "yes." Motion carried.

**5. MINUTES.**

Allendorf moved, Thomas seconded a motion to approve the minutes of the March 4, 2002 regular council meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS.**

**A. Recognition of Minnetonka Park Board Member Mary Russ.**

Council member Thomas recognized Mary Russ for her years of service on the Minnetonka Park Board. Ms. Russ thanked the council for the opportunity of serving and praised the park board and staff.

**B. Proclamation declaring April as "National Child Abuse and Neglect Prevention Month" in the City of Minnetonka.**

Council member Tauer read a proclamation declaring April as "National Child Abuse and Neglect Prevention Month" in the City of Minnetonka.

**7. REPORTS FROM THE CITY MANAGER AND COUNCIL MEMBERS.**

City Manager John Gunyou reported that there will be a council study session on April 1 where the transit opt-out and housing needs assessment will be discussed. The next regular council meeting will be held on April 8. The April 15 study session will be devoted to a review of the 2003-2007 Capital Improvements Program.

Callison congratulated the Hopkins High School Boys' Basketball Team for winning the State Championship.

**8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA.** No one appeared.**9. BIDS AND PURCHASES.****A. Consideration of bids for the construction of a new Operations & Maintenance facility.**

Gunyou introduced the item, noting that ten very aggressive bids had been received for this project. The bids (\$5 million) were considerably less than the architect's estimate (\$7 million), which is likely a result of the recession. Gunyou said that staff was recommending the second lowest bidder, CM Construction, as a result of a qualifying process for bidders.

Allendorf asked for an explanation of the qualifying process. Gunyou said that due to the project's complexity, a qualifying process was used. City Attorney Desyl Peterson said that as a general rule, the lowest responsible bidder is selected. The qualifying process provided a system to determine the lowest responsible bidder. She said because this project called for a specialty building where phasing and timing were critical, it was important to find a contractor who had similar experience and whose job superintendent also had similar experience. Peterson said that points were deducted from contractors who did not meet project deadlines. She said that the lowest bidder did not have enough similar experience and had missed deadlines on prior projects.

Callison noted that the council has had significant discussion about whether or not Community Investment Funds (CIF) should be used for the Operations & Maintenance facility. She asked if less CIF contribution would be needed due to the favorable bids. Gunyou said that the project was bid with a number of alternatives due to tight budget estimates. Staff recommended that the council accept the bids with the recommended alternatives. Gunyou said that staff would bring recommendations concerning other alternatives and funding to the April 15<sup>th</sup> study session discussion about the Capital Improvements Program.

Schneider asked about the exterior materials for the buildings. Director of Operations & Maintenance Brian Wagstrom said that the base bid included Spancrete panels. The first alternate would have provided a less expensive option, but there were questions about whether the manufacturer could meet the construction schedule. Schneider was pleased to hear that the exterior finish would improve the quality of the project and lengthen the life of the exterior. He asked for additional architectural details, and said that he might support some additional expenditure to enhance the building's exterior appearance.

Tauer moved, Allendorf seconded a motion to award the bid to CM Construction in the amount of \$5,066,200 (base bid plus six alternates). All voted "yes." Motion carried.

**10. CONSENT AGENDA (Items Requiring a Majority Vote):**

**A. Claims for council authorization.**

Koblick moved, Tauer seconded a motion to approve checks numbered 165059 through 165379 totaling \$832,220.02. All voted "yes." Motion carried.

**B. Claims for council authorization.**

Koblick moved, Tauer seconded a motion to approve checks numbered 165380 through 165730 totaling \$1,251,341.11. All voted "yes." Motion carried.

**C. Approval of Addendum to AT&T Lease for the Ridgedale Water Tower.**

This item was pulled from the consent agenda by Koblick who asked if staff considered the antenna load on this tower and public safety communications issues. Peterson said that the application was reviewed by the Operations & Maintenance Department. Staff did not anticipate problems, and there are provisions in the lease to deal with any interference problems that arise. Wagstrom noted that the antennas are located in the indentations of the corrugated exterior of the tower's stem so the appearance of the tower will not be unduly affected. The antennas will give AT&T a better spectrum of signals. He said that the tower was getting close to its maximum load, but future requests would be dependent on the antennas proposed.

Koblick moved, Allendorf seconded a motion to approve the addendum to the antenna lease agreement with AT&T Wireless for the Ridgedale water tower. All voted "yes." Motion carried.

**D. Resolution approving a three-year conditional use permit to allow temporary nursery sales at 17501 Minnetonka Boulevard for Holasek Greenhouses.**

Koblick moved, Tauer seconded a motion to adopt Resolution 2002-030 approving a three-year conditional use permit to allow temporary nursery sales at 17501 Minnetonka Boulevard for Holasek Greenhouses. Approval is subject to the general and specific conditions of the ordinance plus the following conditions:

1. Record the resolution with the county within 30 days of city council approval.
2. This three-year conditional use permit is only good during the last weekend in April through the second weekend in June of each year.
3. The city council may reasonably add or revise conditions to address any future unforeseen problems.
4. The location of the nursery must be in the area indicated on Attachment A.
5. The hours of operation will be from 9:00 a.m. to 8:00 p.m., seven days a week.
6. The water supply for the greenhouse and nursery materials may not be from a fire hydrant.
7. The temporary greenhouse must be made of flame retardant materials.
8. No smoking is allowed within the greenhouse and no smoking signs must be posted.
9. This conditional use permit will expire on June 14, 2005.
10. The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**11. Consent Agenda (Items requiring Five Votes). None**

**12. INTRODUCTION OF ORDINANCES.**

**A. Ordinance amending the conditional use permit standards for utility poles, transmission lines and substations.**

Gunyou gave a brief introduction of the item, noting that this ordinance would make the interim ordinance permanent. Allendorf asked if the ordinance would be used if Xcel submits its application as scheduled. Peterson said that it would.

Allendorf moved, Thomas seconded a motion to introduce an ordinance amending the conditional use permit standards for utility poles, transmission lines and substations and refer it to the planning commission. All voted "yes." Motion carried.

**B. Ordinance approving a rezoning from R-1, low density residential, to R-2, low density residential, for two twin homes at 14800 Margaret Place for Lynmore, LLC.**

Planning Director Geoff Olson briefly reviewed the proposal. Allendorf asked about the effect of this proposal on Xcel's desire to use this site for a substation. Olson said that this site is Xcel's low-cost option site, and they plan to submit it with their application. Olson anticipates that the council will find that the site does not meet the city's ordinance and will then narrow the field to the four sites the council recommended. Olson said that Xcel could reach an agreement to purchase the site, but there is a contractor ready to start construction on the twinhomes once the land use approvals have been granted. Peterson added that the rezoning would likely increase the value of the property.

Koblick moved, Allendorf seconded a motion to introduce an ordinance approving a rezoning from R-1, low density residential, to R-2, low density residential, for two twin homes at 14800 Margaret Place for Lynmore, LLC. All voted "yes." Motion carried.

**C. Ordinance authorizing the sale of 15701 Minnetonka Boulevard to the West Hennepin Affordable Housing Land Trust (WHAHLT).**

Gunyou said that this property was purchased with the intent of conveying it to WHAHLT in support of the city's affordable housing goals.

Tauer asked if all of WHAHLT's acquisitions would be channeled through the city. Peterson said that was not the expectation, and that they will likely make direct purchases.

Callison said that she would abstain from the vote due to a conflict of interest.

Allendorf moved, Tauer seconded a motion to introduce an ordinance authorizing the sale of 15701 Minnetonka Boulevard to the West Hennepin

Affordable Housing Land Trust (WHAHLT). Thomas, Tauer, Allendorf, Schneider and Koblick voted "yes." Callison abstained. Motion carried.

### 13. PUBLIC HEARINGS:

#### A. Public hearing to consider an application by Bacio, Inc. granting on-sale and Sunday on-sale intoxicating liquor licenses to Bacio restaurant, located at 1571 Plymouth Road.

Gunyou briefly reviewed the information in the staff report.

Tauer asked about the impact on the Bonaventure parking situation. Olson said that staff reviewed the parking and found that it meets the city's parking requirements.

Callison opened the public hearing at 7:01 p.m. No one spoke and the hearing was closed.

Schneider moved, Koblick seconded a motion to continue the application for on-sale and Sunday on-sale intoxicating liquor licenses for Bacio restaurant, located at 1571 Plymouth Road to April 22, 2002. All voted "yes." Motion carried.

#### B. Public hearing to consider a resolution relating to issuance of revenue bonds to finance residential group home facilities for Fraser, a nonprofit corporation.

Gunyou briefly reviewed the information in the staff report for this item. He noted that this project posed no financial risk to the city.

Callison opened the public hearing at 7:03 p.m. No one spoke and the hearing was closed.

Koblick moved, Allendorf seconded a motion to adopt Resolution No. 2002-031, relating to the issuance of revenue bonds to finance residential group home facilities for Fraser, a nonprofit corporation. All voted "yes." Motion carried.

### 14. OTHER BUSINESS:

#### A. Items concerning a water tower at 4537 Williston Road (Tower Hill Park) for the City of Minnetonka:

- 1) Resolution approving a conditional use permit.

## 2) Site and building plan review.

Callison reviewed the process that would be used for this discussion.

Gunyou reviewed the history of the project, which calls for the construction of a 500,000-gallon water tower on the west side of Tower Hill Park. He said that there was little dispute about the need for a water tower since there have been problems with water pressure and supply in that area. A water distribution report was prepared four or five years ago, and the city has been making a number of improvements in response to needs identified in that study. Gunyou said that this area experiences the most difficulty with water supply in the summer and has experienced decreased pressure during peak hours. This also poses a threat to public safety because sustained water pressure is needed to fight fires.

Gunyou said that a number of sites were identified, but the alternates were quickly reduced to two viable options. In February, 2000, the council directed staff to focus on the Tower Hill site due to costs and engineering efficiency. Area neighbors were invited when the council again discussed the issue in June 2001. Although the neighbors adjacent to both sites expressed similar concerns regarding impacts of the tower, they generally supported its need. At that time, the council again indicated that the Tower Hill site was the most appropriate site.

Discussions continued through subsequent planning commission review and neighborhood meetings. Staff re-examined the two sites in view of the comments at the planning commission meeting and the neighborhood meetings, and confirmed that the Tower Hill site was still the most appropriate location.

Gunyou said that staff continues to recommend the Tower Hill Site for the following reasons:

- Size – a tower at Baker Road would need to be 50 percent larger than one at Tower Hill – a 500,000 gallon versus 750,000-gallon tank.
- Cost - the cost would also be greater - the Baker Road site would cost \$1.3 million, and the Tower Hill site would cost \$900,000. In addition, the Tower Hill site would allow for the removal of the Forest Hill water tower, which would save about \$50,000 in maintenance cost over five years. Also, removal of that tower would allow for the sale of its lot which would likely bring in about \$100,000 to \$150,000 in revenue.
- Engineering – the Baker Road site would not be as efficient. The Tower Hill site is more centrally located in the South High Service Zone, so it would work better from an engineering standpoint.
- Benefit – the Tower Hill neighborhood has the most problems with existing pressure and supply, so it makes sense to locate the tower where the most benefits are derived.
- Public Safety Radio Communications – there is a need for improved police and fire communications within their departments and to outside agencies.

The city currently plans to place an antenna on top of the new water tower, and that antenna will work better at the Tower Hill site.

Allendorf asked if staff had refreshed the information due to the length of time from the previous study. Gunyou said that they had, and the information had been re-confirmed with the city's consultant.

Tauer asked about the placement of the tower in the park, and asked staff to review the acquisition of the site and the grading. Gunyou said that they were two separate, coincidental projects.

Olson then presented information related to the land issues for the project. Gunyou noted that the agenda incorrectly indicated the necessary votes for project approval. He said that five votes would be needed for the conditional use permit as a result of the interim ordinance, and the site plan would require four votes.

Tauer asked if any auxiliary buildings would be required with the hydro-pillar design. Olson said that none would be needed with that design. He said that auxiliary buildings would be needed for the antenna equipment with an ellipsoid design.

Allendorf asked about screening on the frontage side. Olson said that landscaping could be provided as part of the site plan. He said that staff had more aggressively pursued trees to screen along Williston Road. Allendorf asked that additional screening be considered at the base of the tower.

Thomas asked staff to review why an underground system was not recommended. Wagstrom said that staff's main concern with pressure systems was reliability. They are susceptible to power outages and pump failures. Wagstrom said that water towers are almost 100 percent reliable.

Thomas was concerned that the neighbors who appeared at the planning commission meetings and neighborhood meetings opposed the tower, but did not give any input on design options. He asked if there would be a mechanism for their input if the site plan were approved. He thought they might want input on a possible trail. Gunyou suggested that the neighbors provide their input on tower design at this meeting so their sentiments could be incorporated into the motion. He suggested treating the park and trail issue separately, referring them to the park board for their discussions about parks renewal. Thomas said that it would have been appropriate for the neighbors to give input on the site, and he regretted that the council would have to decide on the tower design without their input.

Callison noted that the staff report indicated that the tower would shadow the businesses to the north. She asked if that meant that the tower would not cast shadows on the residences to the south. Gunyou said that was correct.

Callison asked about the effect on radio transmissions. Wagstrom said that he had looked into the matter but did not have a definitive answer because the city's radio consultant was not available. Wagstrom said that a repeater could be placed on the tower for ham radio operators, if one were needed. This issue would be the same regardless of the tower's siting.

Callison asked if there were any changes since the 2000 water distribution report. Wagstrom said that the good news is that due to water conservation efforts, water usage is down by about four percent from a peak in 1998-1999. However, he said that water use is affected by weather. The South High Service Zone still has needs that must be addressed because there is only a 150,000-gallon tower currently serving this area.

Callison invited public comment.

Chuck Regenold, 4512 Williston Road, said that moving the tower to the east would reduce the height of the tower by 40 feet. He lives to the north and the west of the proposed tower site, and said that the tower will cause shadowing at his house and block his view of the sunrise. He said that a trail could run under the tower's drip line. In response to the comments that costs would increase by moving the tower to the east, Regenold said that the lot acquisition and grading could have funded that move. If cost were not a factor, he asked why the tower could not be moved up the hill to the south. Regenold also wished that the neighbors could be polled regarding the design of the tower. They had assumed at the other meetings that there was a possibility that the tower would not be built. He indicated that the neighbors had not been invited until the project was a "done deal." Regenold preferred the ellipsoid design.

Callison asked Wagstrom to address Regenold's suggestion to move the tower within the site. Wagstrom said that significant grading had already occurred on the site because of the frontage road realignment. The tower was shifted to the west because a location to the east would require a much longer and more expensive driveway, increasing the cost by at least \$100,000. There would also be tree loss.

Callison asked staff to review the notifications sent to the neighbors. Olson said that notices were mailed in June to property owners within 400 feet of the site. Wagstrom noted that for the study session discussion the city exceeded this requirement and included some properties north of Highway 7 across from the Baker Road and the Tower Hill sites. Olson said that for the planning commission meeting, properties within a quarter-mile range were notified, which is considerably more than is usual.

In response to Callison's request, Wagstrom reviewed the shadowing chart. He said that shadowing is an effect of the date and the time of day, not the design.

Judell Anderson, 14512 Moonlight Hill Road, said that she and most of her neighbors preferred the hydro-pillar design to camouflage the antennas. She asked for additional information on the possibility of using cement for the stem. Wagstrom said that the Eden Prairie water tower with the clock uses a cement stem. This design has not been around for long, and Wagstrom was concerned about maintenance and operation. He was particularly concerned about repairs, because a steel stem can be welded, but he was not sure how a cement stem would be repaired.

Thomas said that for future city public works projects, he would suggest notifying an area greater than 400 feet from the site. He said that the council could discuss this at a later date, but asked that the request be noted in the minutes. Gunyou agreed that was an excellent suggestion, and one which staff had already discussed. He said that a much larger area was notified for the planning commission meeting, and agreed that the neighbors were correct in raising this issue.

Tauer said that he could not deny that the water tower will look huge. He noted repeated comments from neighbors about the project being a "done deal" before the public was involved or that other factors drove this project. He said that his decision would not have changed. The grading of the Tower Hill lot had to do with the alignment of the frontage road, not the tower. Tauer noted that there were notices in the papers of opportunities for public input and the project was planned for a long time.

Tauer said that the big factor was putting the tower where it is needed. The water system is part of the city, just like streets. No matter where the tower is placed, it will impose on someone. The Baker Road site would be more visible. Tauer supported putting the tower in the area it will most benefit, and noted that there will be a 300-foot setback to the nearest home. He also noted that there are trees in place to screen, except for the homes to the west. Tauer found the site to be ideal and said that no more tree removal will be required. Cost was only one of the factors he considered, but the proposal will save \$500,000 to \$600,000. It is the right plan, it saves dollars and the location is better. He noted that water towers do not pose a noise intrusion. He preferred the hydro-pillar design to camouflage the antennas.

Koblick also supported placing the tower where the need is greatest. She also supported the hydro-pillar design.

Thomas said that his original preference was for the Fingerhut site until the difficulties arose with costs and land acquisition. He said that water towers help

identify cities. Thomas was very concerned because a number of residents were at previous meetings, but there were few at this meeting. He said that it was unfortunate that the road, intersection and grading happened in close proximity to the tower project. In the future, he hoped that people would clearly understand that these were two separate projects. As the Ward 4 representative, he saw the need within his ward through information provided in the study. He was concerned when he learned that firefighting could be adversely impacted by water supply problems, and saw health and safety issues as the main reason to support the project. He said that it was unfortunate that the neighbors were not taking an active role in this discussion.

Thomas moved to table the conditional use permit and site and building plan review of the water tower to allow time to review alternate sites one more time. Thomas said that he had promised the neighbors he would introduce this motion. The motion failed for lack of a second.

Allendorf said that he would have supported the motion if during staff's review of the previous studies, new information had come forward. He said that this is the right site for the water tower. Allendorf thanked Ms. Anderson for her input at the study session meeting and this meeting, and for staying informed. He said that the project was not a "done deal" earlier on, and the grading of the site related to the road project, which was needed for safety. He also wished more neighbors would have appeared at this meeting. Allendorf saw many advantages for the city and the neighbors in the hydro-pillar design, especially because antennas could be camouflaged. He did not want to see auxiliary buildings. He supported the proposal not just for cost reasons, but also aesthetics.

Allendorf wanted to ensure that staff would look at screening of the base for traffic along the frontage road.

Schneider also supported the project and concurred with Allendorf's suggestion regarding screening. He wanted to make the site look as pleasant as possible. He said that the hydro-pillar design would best hide antennas. He was cognizant of the shadowing effects from a large structure, but said that the shadow would move as the sun moves.

Callison also supported the proposal because it was better from the perspectives of cost, meeting water system needs, and being less visible to the general public. She thought the hydro-pillar was the better design choice, because people won't see the base and no auxiliary buildings would be required. She would not support delaying the approval for more neighborhood input and said it was time to move on. She also supported screening the base. She could not see a benefit in moving the tower within the site.

Koblick said that the screening provided by utility companies is woefully inadequate. She suggested that the city should set the standard it wants others to follow with the screening. She suggested a variety of plantings.

Thomas also supported landscaping and the hydro-pillar design. He had offered the motion to table to keep his promise to the neighbors. He said that once the council received information about the alternate sites, he began to support the Tower Hill site and he has expressed that opinion to the neighbors during their meetings.

Koblick moved, Tauer seconded a motion to:

A. Adopt Resolution No. 2002-032, approving a conditional use permit to erect a 130-foot-tall water tower at 4537 Williston Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Record this resolution with the county within one year of approval date of this resolution.
- 2) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 3) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- 4) Compliance with the approved site and landscape plans.
- 5) The applicant must agree to the above conditions in writing.

B. Approve the site plan for the water tower at 4537 Williston Road, subject to the following conditions:

- 1) The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan dated February 20, 2002
  - Grading plan dated February 20, 2002
  - Landscaping plan dated February 20, 2002
  - Structure elevations dated August 25, 1992, using the hydro-pillar design
- 2) The following work must be completed before the city issues a grading permit or before starting any site work:

- a. Fence all trees to be preserved and install erosion control measures.
  - b. Submit copies of the watershed district permit if required.
  - c. Submit final site, grading, drainage, utility and erosion control plans for staff approval.
  - d. Submit a construction management plan for staff approval.
  - e. Follow the proper procedures to check the site for archeological significance
- 3) A final landscape plan must be prepared, subject to the review and approval of the city forester and environmental resources coordinator. The landscape plan must include native plantings with low maintenance materials randomly planted and additional landscaping for screening along the proposed frontage road, north of the water tower.

All voted "yes." Motion carried.

## 15. APPOINTMENTS.

### A. Appointment of Advisors for 2002 Local Board of Review.

Tauer moved, Allendorf seconded a motion to appoint Jim Ryan, Tom Selseth, Joel Shields, and Terry Hullsiek as Advisors for the 2002 Local Board of Review. Callison noted that the Board of Review will meet on April 10, 2002 and April 24, 2002. All voted "yes." Motion carried.

## 16. ADJOURNMENT.

Koblick moved, Thomas seconded a motion to adjourn the meeting at 8:22 p.m.  
All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk