

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, MAY 6, 2002**

**1. CALL TO ORDER.**

Mayor Anderson 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 Jan Callison, Al Thomas, Ken Tauer, Dick Allendorf, Terry Schneider, Linda Koblick, and Karen Anderson were present.

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou advised the council that an unfunded project related to the historic Town Hall was proposed for the Capital Improvements Program, item 14C. He also advised that the applicant requested that item 14B be pulled from the agenda and postponed.

Koblick moved, Allendorf seconded a motion to approve the agenda as amended. All voted "yes." Motion carried.

**5. MINUTES.**

Tauer moved, Callison seconded a motion to approve the minutes of the April 22, 2002 regular city council meeting. Callison, Thomas, Tauer, Allendorf, Koblick and Anderson voted "yes." Schneider abstained. Motion carried.

Callison moved, Tauer seconded a motion to approve the minutes of the April 24, 2002 Board of Review meeting. Callison, Thomas, Tauer, Schneider and Koblick voted "yes." Allendorf and Anderson abstained. Motion carried.

**6. SPECIAL MATTERS.**

**A. RECOGNITION: Jim Ryan, 1995 – 2002 Advisor to the Board of Review**

Anderson recognized Jim Ryan's eight years of service as an Advisor to the Board of Review. Ryan thanked the city for providing the process and expressed appreciation for the staff. Anderson noted that cities may opt to have the county perform their assessing duties.

**B. Presentation of the Community Survey Results by Dr. Bill Morris.**

Gunyou advised that the city has contracted with Decision Resources to complete surveys for a number of years. The survey provides an important validation of what the city does right and what we need to work on. He noted that the council and staff only routinely hear from those who contact city hall, so the survey keeps things in perspective by providing insight into the opinions of the entire community.

Dr. Bill Morris reviewed the slide presentation included in the packet, adding the following comments:

- Minnetonka residents are very satisfied with their quality of life. Minnetonka received the second highest excellent rating in this category among metropolitan communities.
- Minnetonka's value for service rating is at the top of the charts. The only negative area is pavement repair, but Minnetonka did far better than the metro area norm. Traffic, including roads and congestion, is the major issue in the metro area. In response to Allendorf's comments, Morris said that it was not surprising that calls about this issue have increased. He said that the calls reflect the intensity of feelings on this issue.
- This was the first Minnetonka survey with a question about community planning. Minnetonka did well. Morris noted that in other communities, fewer than half of the responders even had an opinion on this topic.
- Minnetonka's recreation program mirrors the experience in other communities—participation is down because of people's lack of time and interest.
- Recycling participation in Minnetonka is similar to the metro area norm.
- There were very few negative ratings on senior services. Only 32% of the responders could rate this program.
- The norm for negatives for snowplowing is 25%, so Minnetonka's 10% negative rating is quite good.
- A new question asked what the city could change or improve to get an excellent or good rating. This question was posed to

those who gave a lower ranking. The most frequent response was to fix potholes.

- When asked about taxes to maintain city services, the responders were split down the middle, with 46% in favor of increasing taxes, and 44% opposed. This is virtually the same rating as in 2000; in 2001 a little more than 50% favored increasing taxes. In response to Callison's comments, Morrison said that they have observed no decline in tax hostility yet.
- Residents are generally pleased with the environmental protection undertaken by the city. Minnetonka's 68% rating that the city is at the right level on this issue is among the highest in the metro area; and the 13% rating that the city is doing too little is very low. The negative ratings for wetlands dropped by two-thirds, and the forest area negative rating dropped by one-third.
- The facility ratings focused on the Williston Center and the Senior Center. More people were able to rate the Williston Center. The Williston Center's negative rating increased by 50%--that rating reflected dissatisfaction with what is in the facility and did not reflect upkeep and maintenance. This rating should be watched in the next survey. The senior center received very positive ratings for both the facility and programs.
- There was a 27% drop in participation in recreation programs, a major drop from last year. This is in line with the suburban norm, and there is speculation that last year's unusually high rating was influenced by respondents who included other programs in their answer (summer fest, ect.).
- A new question was added about balancing environmental issues with property owners' rights. Three-fourths of the responders felt that the city was very or somewhat successful in this area. This represents a 6 to 1 ratio, which is the best in the metro area. Equally significant, two-thirds of the responders felt that they had an appropriate opportunity to provide input about zoning issues.
- Asked about the value of city services, 81% said that they felt the value for their tax dollars was excellent or good - the highest in the metro area. 30% rated our value as excellent (double the number from last year's survey), and only 11% assigned a low ranking - at the low end of other suburbs. Residents are very pleased with the value they receive.
- 69% rated their interactions with city staff as positive--this represents a 7 to 1 ratio, which is among the strongest in the metropolitan area. There has been a significant increase in the excellent rating, which is now at 21%. This puts Minnetonka in the top five rated cities in the metro area. The number of people having contact with city hall has dropped, but those who rated us gave the experience an extraordinarily high rating. The city

surpassed an 80% rating in all areas of customer service quality – this is the rating used by the private sector to establish a high quality of services.

- 41% had observed our police in action, which is higher than the 30% norm. 90% gave the police an excellent or good rating on how they handle situations, which is also among the highest ratings in the metro area. Only 8% thought there were unsafe areas in the city. The 92% who did not think there were unsafe areas were among the highest in the metro area - Minnetonka is tied with Lakeville.
- When responders were asked about their greatest public safety concern, 26% had none, which is a very high rating. Their major concern is speeding in residential areas, a critical issue for suburbs. This issue began to emerge two years ago and it has become a major issue. There was no significant deviation in the rating among wards.
- 61% said that the Minnetonka Memo was their primary source for information about the city. This is very atypical and unique. In the 30 cities polled, newsletters usually received a 30 to 40% rating. The Minnetonka Memo is also the source residents would choose to receive their information. The Minnetonka Memo is one of the most effective pieces across the metropolitan area -- 94% recall receiving it, 92% rank the content as excellent or good, and 91% rank the format as excellent or good.
- Only 56% read the From City Hall piece in the newspaper. The recreation brochure, at 82%, also has a very large readership. Awareness of the Minnetonka Mike program has slipped among seniors.
- 72% of the responders subscribe to cable. 27% frequently or occasionally watch council meetings. The 7% who said they frequently watch are among the highest numbers in the metro area. There were a surprisingly high number of responders who view the cable bulletin board. Minnetonka is going against the trend in this area. Statistics indicate that cable as a source of information is dropping off.
- 88% of our residents have access to the Internet, so this is a good potential communications device. 24% of the responders have used Minnetonka's Web site, which is the highest access level Morris has found in two years—normally this is at 10%. For ease of use, there was a 91% positive ranking, and people found the site very easy to use. 12% have used on-line registration. Because this is a recent option, that's an excellent rating. 8 to 1 found the process clear and easy to use. 55% would like to use the Website to pay bills or for other programs.

Overall, Minnetonka had some of the highest service satisfaction ratings in the metro area. Residents are enthusiastically pleased with the quality of life. There are two changes in attitude which should be monitored: the polarized tax climate limiting spending for certain purposes, and increasing concerns about traffic speed in residential areas. Overall the responses indicate stability and a high level of satisfaction with the community, and the way the city conducts business.

In response to Anderson's question, Morris said that they survey 60 suburban communities, and have surveyed 30 in the past eight months. As to frequency, Lakeville and Woodbury are on a two-year cycle; Crystal is on a five-year cycle. Frequency depends on the community, but the norm is to do the survey every three years. Areas with high growth generally survey more frequently than stable cities.

Morris also said that the some of the same questions are posed in multiple cities.

Anderson noted that speeding is a concern in suburbs throughout the country and asked if Morris was aware of any successful innovations in this area. Morris said that there has not been enough time to measure the success of test programs. He noted that St. Louis Park has implemented new speeding signs, but it is too soon to evaluate their success.

Schneider asked if the speeders came from within neighborhoods or if they were people passing through. Morris said they are both, and can represent people avoiding major arteries. Gunyou noted that the police department is researching who the speeders are during stops so they can focus their educational efforts appropriately. Tauer noted that photo cops have been successful in the Washington, D.C. area. Schneider said that legislation to allow photo cops in Minnesota has been considered but has not been passed.

Anderson thanked Dr. Morris and the staff. Gunyou said that arrangements are being made to have Morris make this presentation to staff groups.

**C. Presentation regarding the MERIT Organizational Component.**

City Manager John Gunyou presented a review of the MERIT Organizational Component. He noted that the rating system was significantly changed this year to reflect the city's strategic goals.

He thanked the council for their support of this program and noted that employees take it very seriously.

Tauer thanked the excellent staff and said that they make the council look good. He noted that a later item on the agenda will amend the city manager's employment contract so that he also participates in this program, and he applauded that change.

Anderson noted the danger of "resting on our laurels" and said that she was very encouraged by the rating. She is proud to be the mayor of this city. She thanked the staff and asked the city manager to let the council know what it can do to support the prevailing attitude of employees. She noted that even people who call with a complaint frequently comment on how well they are treated by staff. Gunyou said that staff is very focused on customer service and truly wants to help.

Schneider was pleased that people answer the phone at Minnetonka as opposed to other cities where a voice mail system answers. Anderson said that voice mail answering systems are becoming more prevalent in other cities and she does not find them friendly. She asked that Minnetonka not consider that type of system.

#### **D. PROCLAMATIONS:**

**1) Declaring May 2002 as "Asian Pacific American Heritage Month".**

Schneider read a proclamation proclaiming May as Asian Pacific American Heritage month.

**2) Declaring May 13-16, 2002 as "National Police Week".**

Allendorf read a proclamation declaring May 13-16, 2002 as "National Police Week."

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

Gunyou said that the topics for the May 13 study session will be no fault sewer back-up coverage, transit opt out, and tiered water rates. The next regular council meeting will be held on May 20, and there will be no council meeting the week of May 27 due to the Memorial Day holiday.

Gunyou reported that the planned nuisance enforcement efforts began the previous weekend. They resulted in the removal of more than 100 signs,

and citation of 16 illegally displayed vehicles. Community Development Director Ron Rankin reported that as of the meeting, all but one of those vehicles had been removed. Rankin said that more than 20 calls were received from realtors who asked that the ordinance be reviewed.

At Anderson's request, City Attorney Desyl Peterson reviewed the regulations regarding signs. She noted that there is a state law that prohibits signs being posted in the right-of-way, and Minnetonka's ordinance follows that law.

Anderson asked if signs would be allowed if they were off the right-of-way. Peterson said that they would be allowed if they relate to the property where they are displayed. If they provide direction to another site, they are considered a billboard, and not allowed. This provision is a city requirement.

Anderson asked the council if they wished to review the ordinance in response to the calls from realtors.

Tauer supported removing the signs related to vacancies that are posted by homeowner associations and for condominiums. These are frequently posted two to three miles away from the building they advertise. He was not so concerned with realtors' signs. Gunyou said that the ordinance does not currently make such a distinction.

Schneider was concerned about being fair and consistent. He might support setting guidelines for open house signage on major roads, and some flexibility.

Callison said that when the council considered the nuisance enforcement effort, there was an expectation that staff would forward any feedback to the council. The council said that it would look at any issues raised.

Peterson said that staff had not been enforcing garage sale signs because they are sporadic. The focus has been on professionals who know the ordinance requirements.

Schneider said that homes are only sold sporadically and was concerned about consistency. He suggested developing a policy that would allow a little of both types of signs.

Thomas agreed with Callison that there would be a review if there were excessive calls to the council and staff. He was also concerned with consistency and said this issue might need to be discussed again.

Allendorf said that he was looking forward to receiving feedback, and thought the city might have overreacted. He had spoken with Mr. Ryan before the meeting. Ryan noted a distinction regarding signs that create clutter. He would hope that feedback would help define clutter and the expectations of the community.

Tauer said that it was too soon to have enough feedback. He noted that some realtors take down competitors' signs when they violate the ordinance, and some realtors follow the law. He could support a distinction for single-family homes.

Anderson was concerned about distinctions due to content. Gunyou added that selective enforcement is difficult for staff. Staff is now enforcing the ordinance that was in place for years. The goal is to find something council was comfortable with that staff could enforce.

Allendorf also reported on the last police advisory committee meeting. He said that the group is lively. He thinks they will give good recommendations to the council.

#### **8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA.**

Chuck Regenold, 4512 Williston Road, related his continuing concerns about security issues for the new water tower on Williston Road and Highway 7. He said that the neighbors did not receive notice of the discussions, and their input was not solicited.

Anderson referred his questions to staff and asked that they respond to him. Gunyou said that he and other staff have spoken with Regenold on many occasions and also provided a written response. He felt that the answers had already been provided to Regenold.

Anderson noted that the city cannot discuss specific security measures in a public forum because to do so would defeat the purpose of the security. She said that the city will share some of this information with others on an individual basis.

Allendorf took issue with Regenold's comments and said that citizens were informed and their input was solicited. He said that the process took three years and there were public meetings.

Tauer said that Regenold's continuing efforts seemed to be more related to his opposition of the water tower being built near his home. He said that the site was chosen after several neighborhood meetings. The city has addressed all of the issues and the water tower is as secure as possible.

Regenold said that he would like the water tower to be illuminated and fenced.

Thomas agreed with Allendorf's comments, and said that he had attended two public meetings. He said that the neighbors at those meetings only opposed the water tower and would not provide input regarding siting or design. He suggested that Regenold provide a letter to the city manager specifically stating what he would like done with the water tower to raise his comfort level. Thomas said that the bottom line was that the water tower location would not change.

Regenold felt that a professional consultant should have been involved in the placement of the water tower. He suggested delaying building the tower until Homeland Security Director Tom Ridge's report was released.

Anderson said that Regenold's personal recollections of the process did not match hers. She said that the council was satisfied with the response Regenold received.

Dave Moore of Edina Realty suggested some additional training of the nuisance enforcement staff concerning the distance from the roadway for placement of signs. Anderson thanked him for his constructive feedback.

**9. BIDS AND PURCHASES:**

**A. Items pertaining to the Gray's Bay Public Access Project No. 4721:**

- 1) Consideration of bids for general construction.**
- 2) Consideration of bids for landscaping.**
- 3) Consideration of bids for concrete pavers/pedestrian improvements.**
- 4) Consideration of bids for attendant building.**
- 5) Authorization for the city manager to execute an agreement with Xcel Energy for the burial of utility lines along Gray's Bay Boulevard.**

Gunyou briefly introduced the item, noting that the bids were within the budget. City Engineer Lee Gustafson reviewed the information in the council report.

Callison said that clocks on the exterior of buildings often do not work. Gustafson said that staff would work with the architect to ensure that a quality clock is installed.

At Anderson's request, Peterson noted that a letter was received opposing Applied Ecological Services as the subcontractor on one of the landscaping bids.. She responded to that letter and has heard nothing further.

Callison moved, Thomas seconded a motion to approve items pertaining to the Gray's Bay Public Access Project No. 4721:

- 1) Awarding the bid for the general construction: parking lot, utility, and street construction, to Northwest Asphalt Corporation in the amount of \$842,829.05.
- 2) Disqualifying the bid of All Seasons Landscape Design and awarding the bid instead for the landscaping phase to Dick Henning Enterprises, Inc. in the amount of \$98,691.96.
- 3) Awarding the bid for the pre-cast concrete pavers and miscellaneous pedestrian improvements to Global Specialty Contractors, Inc. in the amount of \$56,620.25.
- 4) Awarding the bid for the attendant building to Parkos Construction Company, including all five alternates, in the amount of \$140,000.00.
- 5) Authorizing the city manager to execute the agreement with Xcel Energy for the burial of utility lines along Gray's Bay Boulevard.

All voted "yes." Motion carried.

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

- A. Claims for council authorization. None.**
- B. Adoption of an ordinance amending City Code Section 845 regarding Public Nuisances.**

This item was pulled from the consent agenda by Tauer who asked about researching ownership of vehicles. Rankin said that this is not difficult to do.

Tauer asked for clarification about exempted garden trailers. Peterson said that the intent of this provision was to exempt small garden type trailers that are not intended and not licensed for road use. Larger trailers which were not licensed would still fall within the ordinance.

Peterson also clarified that 24 hour notice would be provided to the owners of vehicles illegally displayed for sale prior to the vehicle being towed.

Thomas asked if the city would tow when there were too many vehicles on a property. Peterson said that was not the intent. Towing would be used when there was a vehicle parked at an abandoned gas station, for example.

Tauer moved, Koblick seconded a motion to adopt Ordinance No. 2002-10, amending City Code Section 845 regarding public nuisances.

Gunyou said that towing would more likely be used when an owner refused to comply, similar to other nuisance abatement situations.

Callison, Tauer, Allendorf, Schneider, Koblick and Anderson voted "yes." Thomas voted "no." Motion carried.

**C. Approval of addendum to the city manager's employment agreement authorizing the city manager's participation in the city's MERIT performance management program.**

Tauer moved, Thomas seconded a motion to approve the addendum to the city manager's employment agreement authorizing the city manager's participation in the city's MERIT performance management program. All voted "yes." Motion carried.

**D. Items pertaining to the CSAH 73/TH 7 Intersection Improvement Project No. 4887R:**

- 1) Resolution accepting plans and specifications and authorizing the advertisement for bids.**
- 2) Resolution prohibiting parking on the west side of CSAH 73 from TH 7 to Oakvale Road South.**
- 3) Resolution establishing just compensation for the partial acquisition of three parcels of land.**

This item was pulled from the consent agenda by Callison who asked that staff consider removing the "no right turn on red" sign at the corner of westbound Highway 7 to northbound CSAH 73. Gustafson responded that the project may provide the traffic gaps that the sign was intended to provide. He suggested postponing removal of the sign so staff could evaluate the impact of the road

project. Callison said that the sign is visual clutter, and is not very visible, so people often ignore it. She supported its removal.

Koblick concurred and said that although she stops for the sign, other motorists often honk when she does not turn right on the red light.

Anderson asked that staff bring a recommendation on this issue to the council because removal of the sign would require a resolution.

Tauer moved, Thomas seconded a motion to adopt resolutions pertaining to CSAH 73/TH 7 Intersection Improvement Project No. 4887R:

- 1) Resolution No. 2002-044 accepting plans and specifications and authorizing the advertisement for bids.
- 2) Resolution No. 2002-045 prohibiting parking on the west side of CSAH 73 from TH 7 to Oakvale Road South.
- 3) Resolution No. 2002-046 establishing just compensation for the partial acquisition of three parcels of land.

All voted "yes." Motion carried.

**E. Resolution ordering the abatement of nuisance conditions existing at 6101 Eden Prairie Road.**

Tauer moved, Thomas seconded a motion to adopt Resolution No. 2002-047, ordering the abatement of the nuisance conditions at 6101 Eden Prairie Road. All voted "yes." Motion carried.

**F. Resolution authorizing the installation of traffic control devices at various locations within the City of Minnetonka.**

Tauer moved, Thomas seconded a motion to adopt Resolution No. 2002-048 authorizing the installation of traffic control devices at the following locations:

- 1) "No Parking 7 a.m. to 5 p.m. Monday-Friday" on the south side of Delton Avenue, east of Old Excelsior Boulevard.
- 2) "No Parking" on the south side of Pioneer Road, from Nelson Drive to 30 feet east.

3) Stop sign on southbound Whitegate Lane at Gleason Lake Road (County Road 15).

4) Stop sign on Timber Woods Lane at Highwood Drive.

All voted "yes." Motion carried.

**G. Preliminary approval of the Archwood Addition plat at 10707 Crestridge Drive and the vacant lot at the northeast corner of Crestridge Drive and Archwood Road for Archwood Associates.**

Tauer moved, Thomas seconded a motion to preliminary approval to the Archwood Addition, dated February 26, 2002. Approval is based on the finding that the plat meets the required standards and ordinances.

Approval is subject to the following conditions:

1. Complete the following before final plat approval:
  - a. Show the following on the final plat:
    - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines
    - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer
    - (3) Drainage and utility easements over wetlands, floodplains and storm water ponds, as determined by the city engineer.
    - (4) A 20-foot easement is required along the north property line of Lot 5, Block 1, over the storm sewer pipe.
    - (5) The drainage and utility easement shown over the proposed pond on Lots 1 and 2 of Block 1 must be revised to run along the 916.6 contour, which is the edge of the wetland. The pond would be considered private, and must be

maintained by a homeowners association or the homeowners of Lots 1 and 2, Block 1.

(6) The drainage and utility easement on Lot 3, Block 2, must be revised to cover the storm sewer pipe from Welland Avenue.

(7) Provide a drainage and utility easement over Lot 2, Block 2 to the 939.4, the 100-year elevation for the adjacent wetland.

(8) Vacation of the 10-foot-wide strip on the west side of Crestridge Drive.

b. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.

c. If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.

2) The following items must be submitted to the city before the city releases the final plat:

a. An engineering/utility inspection fee.

b. A subgrade inspection fee, as required by ordinance.

c. Payment for traffic signs and installation, as required by the city engineer.

d. An electronic CAD file of the final plat in microstation or DXF.

e. If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.

f. The existing building within the Welland Avenue right-of-way must be removed.

g. The following documents for the city attorney's approval:

- (1) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
- (2) Conservation easements over the area 25 feet outward from the edge of the wetland on Block 1 and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final plat.
- (3) Conservation easements over the area 16.5 feet outward from the edge of the wetland on Lot 2, Block 2, and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final plat.
- (4) Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas, common drives, the required drainage pond and any other required drainage improvements approved by the city. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits.

These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.

3) The following must be completed before the city issues a grading permit or any site work is started:

- a. Final grading, drainage, and erosion control plans must be submitted for staff approval. If the developer is building the streets and utilities, the developer must submit final street and utility plans for staff approval.
  - b. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and to restore the site must be submitted to the city. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway, and grading have been completed according to the plans approved by the city.
  - c. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.
  - d. A construction management plan must be submitted for staff approval.
- 4) The following must be submitted to the city before the city issues a building permit:
- a. A grading, tree preservation and erosion control plan for each lot, subject to staff approval. The plans must be substantially in compliance to the agreed building areas as required with the final plat. The sewer and water services must be shown to minimize impact to the significant trees.
  - b. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review by the city's environment resources coordinator
  - c. A copy of the recorded plat and any easements or covenants required to be recorded.
  - d. A park dedication fee of \$4,400.
  - e. A hookup fee for sanitary sewer and water.
  - f. A letter from the surveyor stating that boundary and lot stakes have been installed as required by

ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.

- g. All homes must be elevated 2 feet above the 100-year flood plain; therefore, minimum basement elevation for homes in Block 1 is 918.6 and 942.1 for homes in Block 2.
- 5) The building pad for Lot 1, Block 1, must be shifted to the east to preserve the large oak trees on this lot. The developer or owner of this lot must work with city staff to establish a buildable area on this site to protect these trees.
- 6) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 7) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- 8) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension, or the preliminary approval will be void.
- 9) Any damaged vegetation located in the conservation easement must be replaced.
- 10) The homeowners' association will be responsible for maintaining the conservation easement.

All voted "yes." Motion carried.

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

12. **INTRODUCTION OF ORDINANCES.**

- A. **Ordinance amending a master development plan for a three-phased senior rental development called Fairfield Rolling Estates and approving final site and building plans for phase 1 at 801 Sunset Drive and 12701 Fairfield Road West for Myron Kunin.**

In response to Allendorf's question, Planning Director Geoff Olson explained that there are no specific height requirements in the I-394 district, but there are setback restrictions. Staff has retained a traffic consultant to study both alternatives due to traffic concerns. At the neighborhood meeting, the neighbors preferred the townhouse concept versus the six-story building.

Anderson asked that the next council packet on this item include the heights of other buildings in that area.

Tauer expressed concern about stairs if these units are for seniors. Olson responded that they are geared toward younger seniors. Tauer said that the council previously expressed support for life-cycle housing. He felt that one-level units would better meet that need and suggested that the developer be asked about this at the planning commission.

Callison suggested that the EDA be integrated into the review of this project to ensure that the developer is encouraged to provide the type of housing identified in the housing needs report. Gunyou said that Rankin has been involved in discussions about affordable housing for this project. Rankin said that the plan is to make these units available to younger seniors in a campus environment, so that people could move into Ridge Point as their needs dictate. He said that affordable housing could be incorporated into the current or the third phase of the project. The EDA could be involved in the process.

Anderson said that EDA input could be beneficial if time allows. Olson felt that the timing could accommodate that and will work with Rankin. Anderson said that this project presents an ideal opportunity for a few affordable units and she would be interested in that occurring.

Allendorf moved, Callison seconded a motion to introduce an ordinance amending a master development plan for a three-phased senior rental development called Fairfield Rolling Estates and approving final site and building plans for phase 1 at 801 Sunset Drive and 12701 Fairfield Road West for Myron Kunin, and refer the ordinance to the Planning Commission. All voted "yes." Motion carried.

- B. Ordinance amending city code section 230.025 regarding the community investment fund.**

Gunyou provided a brief introduction to this item.

Koblick moved, Allendorf seconded a motion to introduce an ordinance amending city code section 230.025 regarding the community investment fund. All voted "yes." Motion carried.

**C. Ordinance amending city code section 925 regarding animal regulations.**

Gunyou noted that the proposed ordinance had been reviewed by the Police Advisory Committee. Peterson introduced the item, reviewing the material in the council report. She clarified that cats would not be required to wear tags.

Thomas asked how a multiple animal location permit (formerly known as "hobby kennel permit") could be revoked. Peterson said that sites with permits are inspected annually as part of the permit renewal process. The city could choose not to renew a permit. Revocation of a permit would be more difficult because it would require a hearing. A procedure is provided in the ordinance to revoke any license or permit the city grants. She said that the city has not revoked a permit in the past.

In response to Tauer's request for clarification of the changes, Peterson said that the two major changes are including a time period for neighbor input on multiple animal location permits, and requiring rabies vaccinations for cats.

Allendorf asked who has the authority to grant permits. Police Chief Joy Rikala said that one community service officer is assigned the animal control responsibility due to the training and certification requirements. Two additional community service officers can assist. Rikala said that Community Service Officer Deeann Bloom currently has this responsibility. Her decisions are subject to the review of her supervisor and the police chief. Allendorf questioned if this was too much responsibility for one person. Rikala said that it is important to have the responsibility assigned to a person who has the skills and training. She said that there are 30 hobby kennel permits currently in the city, so the burden is not great.

Thomas said that it is difficult for one person to bear the responsibility for these judgment calls. Rikala said that is how the existing system works. The intent of the ordinance amendment is to expand the time for public input. Rikala said that if violations occur after a permit is granted, there are other existing ordinances that

would apply. Peterson said that the city has the authority to modify permits after they are issued if circumstances change.

In response to Tauer's question, Peterson confirmed that the normal barking dog ordinance applies to kennels.

David Hajicek, 14824 Glendale Road, said that he had sent an e-mail concerning this issue to the mayor. He appreciated the clarification he received from the city attorney. Hajicek said that there are a large number of dogs at a kennel in his immediate neighborhood. All of the surrounding neighbors have signed a petition stating their opposition to this kennel where six dogs and two cats are kept. Hajicek supported the city imposing a maximum limit for animals, such as two dogs and two cats, or two dogs per half acre. His primary concern was barking at night.

Anderson asked Hajicek if he calls the police when there is barking. Hajicek said that he does not. Anderson said that it would be appropriate for him to call the police. She noted that if only two dogs and two cats were allowed, the city would not need a multiple animal permit. Hajicek suggested a more rigorous process for obtaining a kennel permit.

Sandy Hajicek, David Hajicek's wife, said that they couldn't call the police because they do not know the source of the barking. She said that having to call the police makes them feel like they are the ones in the wrong. Peterson said that people do not need to know the source of the noise to call the police. Anderson noted that people should call when dogs are barking because the dog could be in danger. Peterson clarified that the ordinance prohibits unreasonable barking, which is defined as barking that continues for 10 minutes.

Thomas said he has heard from others who feel that they are the guilty party when they call to report a dog barking. He noted that dogs can stop barking by the time the police arrive. Anderson noted that in most cases, the dog is still barking when the police arrive.

Schneider said that there are other options to calling the police, such as reporting the matter to Minnetonka Mike. He said that the police will follow up if there is a pattern.

Bob Trojan, 5653 Glen Avenue, spoke as an 11-year resident of Minnetonka. He lives next to the kennel Hajicek spoke about and it impacts his ability to enjoy his home. He said that 25 homeowners signed a petition opposing the kennel. He said that the

administrative process for issuing permits was flawed, and resulted in an unfortunate situation. He supported using the term "hobby kennel" because it is a common nomenclature that people understand. He supported increasing the period for public comment to 15 days. Trojan said that in other cities, when the neighbors object, the city council becomes involved. He said that a greater numbers of dogs can increase the noise volume. He stated this was the largest kennel permit in the city. He also supported setting a maximum limit on the number of dogs, and setting specific measures on which the kennel would be evaluated. He realized that he would have to live with his situation until the dogs die or he moves. Trojan suggested that the council conduct a survey to find out the right number for a maximum limit. He also suggested that the council be involved in these reviews. He suggested setting vegetative covering standards.

Bloom clarified that there are four other Minnetonka permits where six dogs are kept. She noted that this is the largest hobby kennel in the city if the two cats are counted.

Schneider asked about the criteria staff uses in assessing a permit. Bloom said that she inspects the areas where the dogs will sleep and eat. Dogs in these situations are typically kept inside a house. She also verifies when and how the animals go outside, and checks to see if the outdoor area is churned up, an indication that there are too many dogs for the area.

Schneider asked if buffering to the neighbors and distance separation are considered. Bloom said that those issues are not listed in the city's criteria. The city has required ground cover and could require a fence.

Callison noted that the existing process has the flexibility to require ground cover and fencing. She did not support redoing the system, and Anderson agreed. She wondered if the issue related more to this neighborhood, rather than the city's criteria.

Gunyou said that as a result of the Hajicek/Trojan dispute, staff agreed to look at the ordinance to see if it met the city's needs, or if changes were needed. Staff reviewed what was working and what was not, and recommended changes they thought were reasonable. Staff did not recommend setting a maximum limit on the number of dogs.

Anderson asked about the process for the ordinance. Gunyou said that the Police Advisory Committee had already reviewed it. They

accepted most of the staff's recommendations and rejected one. Anderson appreciated that staff had not been overzealous with the ordinance.

Anderson asked that notice of the ordinance changes be sent to current permit holders before the next meeting.

Allendorf said that he had been involved in the Glen Avenue process early on. He said that there was a process problem. He wondered if there should be a review process or more than one employee involved if a neighbor objected to a kennel. These people could look at the objections and identify a management plan to make the kennel more palatable to the neighborhood. He thought this would be a helpful change, and said that it would give the neighbors a process to air their grievances.

Peterson said that an informal review process was used for this application including Rikala, Peterson, Bloom, and Bloom's supervisor, Mark Raquet. As a result of that review, Bloom issued a written management plan requiring fencing and woodchips for ground cover. Anderson noted that this was allowed under the existing ordinance.

Allendorf said that the neighbors felt that the permit was approved prior to the review board. He called a meeting which led to a suspension of the permit and then the review panel was established. He asked that the review process occur before the permit is issued to avoid the appearance of a "done deal" to the neighbors.

Anderson said that she had no problem providing for a review panel if objections are voiced during the 15-day period.

Koblick said that the issue is the process and the opportunity for neighborhood input. It requires balancing of the rights of the neighbors and the kennel owner. She would support a review panel. She questions allowing puppies to remain until they are six months old.

Thomas asked if neighbors could object to a permit just because they don't want a kennel in their neighborhood. Peterson said that the city could not deny a permit solely on that basis. The city cannot delegate its authority to grant licenses to another party. The city must be responsible for the decision.

Tauer said that he recently acquired a puppy so he understands the barking issue. People have the right to do what makes them happy on their property provided it does not offend the neighbors. He thinks that someone has the right to live on their property without six dogs barking at them when they come outside. He would support a change referring to persistent or repeated disturbances to the neighbors. He did not think that a dog owner should have the right to disturb their neighbors all of the time. He felt strongly about neighbors having respect for each other.

Anderson said that in her time on the council her only regret was that she voted for the large animal ordinance, which resulted from a neighborhood issue. The city cannot legislate common sense. She said that staff's proposal was wise and not overly burdensome. It leaves some gray areas, but would allow for the steps Allendorf supported. She would not support setting a maximum limit on the number of dogs. She said that common sense is required, and the community service officer can make those tough decisions.

Schneider felt that the ordinance did not factor in criteria that should be there. All the criteria used relates to the dogs rather than the neighbors. He noted that buffering and fencing is required as part of the planning process and felt that it should be included in this process. The current ordinance and administrative process is lacking in these areas. He suggested an appeal to the city council if a specific number of people object. He would prefer an appeal process but would also support an administrative review board.

Gunyou said that there are several ordinance requirements that are factored into the administrative decision-making process. He encouraged the council to consider that there has only been one hobby kennel objection in the past 18 years, and the ordinance was reviewed in response to that objection. He suggested that the council not base any revisions on this single example, since the ordinance has a history of working.

Callison noted that the existing ordinance does not have a checklist. She would be reluctant to have the council serve as the review board, because it would politicize the process. She said that there was review in this case, but the neighbor did not want the fence. She would not support rewriting the ordinance.

Gunyou suggested that an internal staff review could constitute the review board, rather than the council.

Allendorf did not see a major conflict. He supported staff review and Schneider's checklist concept, and did not feel these items needed to be included in the ordinance. Anderson noted that the council had not objected to the changes proposed.

Tauer said that he did not oppose the ordinance as written. He supported a checklist and some type of review. He asked about the purpose of obtaining the neighbors' signatures if it has no impact. He suggested that neighbors' objections should trigger the review.

David Hajicek agreed with Tauer. He wondered about the point of obtaining signatures if that is not factored into the permit decision. He also objected to the term "multiple animal location."

Thomas had an issue with setting a maximum limit of dogs. He noted that the fence proposed in Trojan's neighborhood was plywood, so it was unsightly. It would have been at the bottom of a hill, so it would not have done any good. He said that this was an unfortunate situation in a residential neighborhood.

Peterson said that the purpose of the neighbors' signatures is not to approve or disapprove the permit. The signature process serves as notification to neighbors of the application, and is no different from the notice provided for zoning issues. It tells them something is about to happen, and gives them an opportunity to provide input. Peterson said that the city needs to take into account the facts, not the beliefs of the neighbors, but the neighbors can provide facts that are used in the decision-making.

Thomas asked why they have to sign an acknowledgement form for a kennel when they do not for an adjacent building. Peterson said that when she was hired by the city, the ordinance said that neighbors had to give their permission. That was not legally correct, so the process was changed to the neighbors acknowledging the permit. The process provides a good opportunity for face-to-face conversation between people, and makes the matter more personal.

Callison moved, Allendorf seconded a motion to introduce an ordinance amending city code section 925 regarding animal regulations.

Peterson said that the only new issue she heard was the review panel. Callison said that could be left out of the ordinance but used as a process. Anderson said that a review board could be used but should not be required. Allendorf said that the intent was that if the

neighbors object, they would have an avenue for recourse. Tauer noted that the additional criteria issue would also not be included in the ordinance. Anderson said that the ordinance already says that staff may include conditions, so she would be against changing it. Schneider said that the desired end result is adequate conditions so the applicant knows the measures on which their kennel will be evaluated. Anderson did not want kennel permits to rise to the level of conditional use permits. She wanted some flexibility to remain. Tauer said that the ordinance could refer to the staff setting the criteria.

Peterson said that the council will consider the ordinance again on May 20, 2002.

On the vote on the motion, all voted "yes." Motion carried.

**13. PUBLIC HEARINGS.** None.

**14. OTHER BUSINESS:**

**A. Items concerning development of two twin homes at 14800 Margaret Place for Lynmore, LLC:**

- 1) Ordinance rezoning from R-1, low density residential, to R-2, low density residential.**
- 2) Resolution approving a lot division with a lot width at the setback variance, and lot area variance.**
- 3) Building and site plan review and resolution approving a front yard setback variance from 25 feet to 12 feet.**

Olson provided the staff report on this item.

In response to Tauer's question, Olson said that the city would not immediately widen Margaret Place. However, the city would acquire one-half of the required additional right-of-way from the property now, in case the roadway needed to be widened in the future.

Callison expressed concern that the elevation facing Williston Road looked like the rear of the twinhomes. She also asked about the park dedication fee being reduced. Olson said that the garages had been moved to the rear to avoid additional access points on Williston Road. He said that the park dedication fee was reduced to give credit for the original house that was on the site.

Dave Moore, Vice President of Lynmore, LLC, spoke as the applicant. He said that they had moved the driveway access due to

staff's safety concerns about access points onto Williston Road. He is still considering a possible change to provide walk-outs to the Williston Road side. A fence is planned between the units, and the applicant is also considering a 3-1/2 to 4 foot berm between Williston Road and the units.

Olson clarified that the council was being asked to grant final site and building approval. If the applicant decides to make significant changes to the plan, he would have to apply through the process again.

Callison said that a rear view of the units did not fit along Williston Road. Olson said that staff was looking for a front appearance facing Williston Road, with the garage and asphalt facing to the rear. There should be green and a front look to the Williston Road side.

Callison suggested postponing the item to allow time for the applicant to work with staff. Olson said that the deadline for this item was June 10.

Moore explained his conversations with Cary Teague of the planning department. Anderson again explained the council's desire to have the Williston Road elevation have the appearance of the front of a home. Moore said that he was limited in alteration possibilities because the home was built for people with disabilities.

Allendorf objected to the view of the rear of the units along Williston Road. Moore said that he could not figure out how to design the structures differently.

Schneider offered some minor changes that could change the appearance of the east elevation to that of the front of a building. He questioned how much authority the city has to require such changes. Anderson said that the council was only asking the applicant to work with staff to see what was possible. Tauer was reluctant to dictate this requirement, but thought it was appropriate to discuss the options.

Moore said that a delay could affect his transaction. Anderson noted that he had previously said that other issues were still open.

Callison said that she felt strongly that the view from Williston Road should look like the front of a house.

Callison moved, Koblick seconded a motion to continue this item, directing the applicant to work with staff to make the elevation facing Williston Road look like the front of a house. Allendorf made a friendly amendment to postpone the item to a date certain of the special council meeting on May 13, 2002. The friendly amendment was accepted by the motioner and seconder.

All voted "yes." Motion carried.

**C. Consideration of a resolution adopting the 2003-2007 Capital Improvements Program.**

Due to the lateness of the hour, Gunyou made only brief comments about this item. Anderson noted the addition of the Town Hall project as an unfunded project.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2002-049, adopting the 2003-2007 Capital Improvements Program, included the Town Hall project. All voted "yes." Motion carried.

**15. APPOINTMENTS.** None.

**16. ADJOURNMENT.**

Thomas moved, Koblick seconded a motion to adjourn the meeting at 11:16 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk