

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JULY 8, 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 Linda Koblick, Jan Callison, Al Thomas, Ken Tauer, Terry Schneider and Karen Anderson were present. Council member Dick Allendorf was excused.

4. APPROVAL OF THE AGENDA.

City Manager John Gunyou advised the council of two changes to the agenda. A corrected report was provided for item 10B regarding administrative hearings for liquor violations. Item 14B, regarding tobacco violations at two Oasis Markets, was pulled from the agenda at the request of Oasis.

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

5. MINUTES.

Koblick moved, Schneider seconded a motion to approve the minutes of the June 24, 2002 regular council meeting as submitted. All voted "yes." Motion carried.

6. SPECIAL MATTERS. None

7. REPORTS FROM THE CITY MANAGER AND COUNCIL MEMBERS.

City Manager John Gunyou reported that the July 15, 2002 council study session will focus on the city's emergency communications system. The next regular council meeting will be held on July 22, 2002.

Mayor Anderson thanked staff and volunteers for the success of the Summer Festival.

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

No one appeared.

9. **BIDS AND PURCHASES.** None

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

A. Claims for council authorization.

Tauer moved, Schneider seconded a motion to approve the July 01, 2002 claims list, including checks numbered 167538 through 167872 totaling \$1,156,206.43. All voted "yes." Motion carried.

B. Scheduling of Administrative Hearing regarding alleged liquor violations.

Tauer moved, Schneider seconded a motion to schedule administrative hearings regarding the liquor licenses of Big Bowl, Chi Chi's, Lone Spur, and Stuart Anderson's Cattle Company as the last items of business for the city council meeting of August 12, 2002. All voted "yes." Motion carried.

C. Resolutions pertaining to levying the 2002 special assessments:

- 1) **Declaring costs.**
- 2) **Scheduling a public hearing at 6:30 p.m. on August 26, 2002.**

Tauer moved, Schneider seconded a motion to adopt the following resolutions:

- 1) Resolution No. 2002-073 declaring costs for sewer and water projects to be specially assessed in 2002 and preparation of proposed assessment rolls.
- 2) Resolution No. 2002-074 declaring costs for privately installed sewer and water improvement projects to be specially assessed in 2002 and preparation of proposed assessment rolls.
- 3) Resolution No. 2002-075 declaring costs for street reconstruction projects to be specially assessed in 2002 and preparation of proposed assessment rolls.
- 4) Resolution No. 2002-076 declaring costs for nuisance abatement projects to be specially assessed in 2002 and preparation of proposed assessment rolls.

- 5) Resolution No. 2002-077 declaring costs for fire sprinkler system projects to be specially assessed in 2002 and preparation of proposed assessment rolls.
- 6) Resolution No. 2002-078 calling for a public hearing on August 26, 2002 at 6:30 p.m. on the proposed special assessments of sanitary sewer, water main, street improvements, nuisance abatement, diseased tree removals, and fire sprinkler system projects.

All voted "yes." Motion carried.

D. Temporary sign at 16023 Minnetonka Boulevard for Minnetonka Lutheran Church.

Tauer moved, Schneider seconded a motion to approve one temporary banner on the Minnetonka Lutheran Church during July 2002. All voted "yes." Motion carried.

E. Floodplain Alteration Permit at 3330 Fairchild Avenue for Thomas Bren Homes.

This item was pulled from the consent agenda by Koblick and Callison. Koblick asked for a staff report on the item. Gunyou and Planning Director Geoff Olson reviewed the background information for this item.

Anderson noted that although excavation and compensatory filling are allowed, they usually occur within close proximity to each other. In this case the excavation will occur in Tonka Bay and the storage in Minnetonka. Olson explained that the owner of the Tonka Bay property is friends with the owner of the Minnetonka property.

In response to Anderson's request, Assistant City Engineer Jennifer Posma said that the proposed excavation of 1,925 cubic feet was roughly equal to a rectangle 100 feet by 20 feet and one foot deep.

Anderson asked about the potential for loss of trees, noting that there are many undesirable trees on the property. Posma said that she and Jo Colleran, the city's environmental resource coordinator, walked the site, and found an area where the storage could occur without damaging significant trees.

Callison had asked to pull the item because it was unusual to involve two cities. She asked if the process was authorized by state law or by the city's ordinances. Olson said that the process is allowed by state law and by the city's floodplain ordinance, which has no specific reference to location. Olson said that the watershed

district had also reviewed the request and approved it subject to the approval of the Minnetonka City Council.

In response to Anderson's question, Olson said that the city requires that compensatory fill not adversely affect trees. The applicant had changed their original plan in order to comply with this requirement.

Tom Bren, the applicant, said that his request would result in more wetlands than currently exist. He also said that buckthorn will be removed from the Minnetonka property.

Koblick moved, Tauer seconded a motion to approve a floodplain alteration permit at 3330 Fairchild Avenue for Thomas Bren Homes subject to the following conditions:

- 1) Submit a grading permit with an erosion control plan.
- 2) No grading may take place below the 929.4 wetland elevation.
- 3) The perimeter of the floodplain mitigation area must be staked for staff review prior to issuance of a grading permit.
- 4) The installation and maintenance of erosion control and tree protection fencing must be installed subject to review and approval of the city's environmental resources coordinator.
- 5) Obtain approval from all appropriate agencies before construction.
- 6) Re-vegetate all disturbed areas with appropriate vegetation.

All voted "yes." Motion carried.

F. Resolutions ordering the abatement of nuisance conditions existing at:

- 1) **2549 Cedar Hills Drive**
- 2) **15012 State Highway 7**
- 3) **4232 Highview Place**

Community Development Director Ron Rankin advised that the properties at 2549 Cedar Hills Drive and 15012 State Highway 7 had been brought into compliance.

Tauer moved, Schneider seconded a motion to adopt Resolution No. 2002-079 ordering the abatement of nuisance conditions existing at 4232 Highview Place. All voted "yes." Motion carried.

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

12. **INTRODUCTION OF ORDINANCES.** None

13. **PUBLIC HEARINGS.**

A. **Continued public hearing to consider applications for on-sale and Sunday on-sale intoxicating liquor licenses to SID Minnetonka, LLC, for use at Sidney's restaurant, located at 15600 Highway 7.**

Rankin provided the staff report to introduce the item.

Anderson invited public comment during the continued public hearing. No one spoke and the hearing was closed at 6:55 p.m.

Callison moved, Tauer seconded a motion to grant on-sale and Sunday on-sale intoxicating liquor licenses to SID Minnetonka, LLC, for use at Sidney's restaurant, located at 15600 Highway 7. All voted "yes." Motion carried.

14. **OTHER BUSINESS:**

A. **Preliminary plat to create four lots of 3545 and 3539 Shady Oak Road for David and Rose Schlueter.**

Olson reviewed the staff report to introduce this item.

Anderson noted that the plat would not require any variances and the proposed pond would not be required until Lot 4 is developed. She also noted that each lot provides at least 4,000 square feet of buildable area. Noting the trend to build larger homes, she asked if the city could expect to receive variance requests when these lots develop. Olson said that the lots were designed for building without a variance, and there was no reason why they could not be built upon with the buildable area provided in the plat. Anderson said that she wanted that information on the record.

Anderson noted the neighbors' complaints about the poor condition of Orchard Lane. She concurred with their assessment and asked if Orchard Lane was scheduled for reconstruction. She hoped that if it were, that the reconstruction would not occur until after at least the first of these homes is built. Posma said that there are no plans to reconstruct Orchard Lane based on the city's parameters for street

reconstruction. The condition of the road is a result of flat areas and standing water. The city's maintenance crew has been asked to patch the streets. Posma said that staff is working with the neighbors on other drainage issues which may result in the addition of storm sewer. If that occurs, the street might be reconstructed with that project. Anderson noted that the process would require a storm sewer petition.

Anderson asked if this subdivision would lead to more subdivisions of other longer lots in that area. Olson said that staff looked at the area one-quarter to one-half mile around the proposed subdivision. Staff could not find any other lots with the potential to subdivide without variances. Olson noted that the city has approved some variances for lots behind lots. Olson said that the council recently denied a request for a lot division in that area because it was not in keeping with the character of the neighborhood.

Koblick asked if staff had checked into a report from a neighbor that the developer was removing trees a week ago. Olson said that staff found that one dead tree and some smaller brush and branches had been removed. Staff determined that no significant trees had been removed.

Callison asked if the lots would meet the 22,000 minimum square foot requirement after the seven additional feet of right-of-way required by Hennepin County. Olson said that they would.

Anderson invited public comment. No one spoke.

Koblick noted the neighbors' concerns about loss of trees and drainage. They have been used to living next to open space, but the owner has the right to develop his property, especially with no variances being required and the lots meeting the city's standards. She appreciated staff's efforts to rework the driveway to save trees and their work with the neighbors. Koblick asked that staff respond to a neighbor's comment, on page 161 of the packet, for information about the impact of the subdivision on a request for a multiple animal permit. Gunyou said that staff will follow-up on that request.

Anderson noted her support for the applicant continuing to work with the neighbors on a construction management plan. She noted the parking and debris problems in that area during other construction, which resulted in a drainage problem.

Tauer said that he understood the neighbors' concerns, and noted the city's prior denial of a variance request in that area because of its impact on the character of the neighborhood.

Anderson noted that Minnetonka's 22,000 minimum square foot requirement is the largest lot standard in the developed portion of the metropolitan area. She said that this standard keeps Minnetonka green because it allows for lots of trees. She supported the plat.

Schneider moved, Tauer seconded a motion to approve the preliminary plat for David and Rose Schlueter, date-stamped May 17, 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) The proposed home on Lot 2 must connect to the existing sewer and water lines for the existing home on Lot 3.
 - (4) New sewer and water services for Lot 3 must come off Orchard Lane in a location along the existing driveway. Private easements must be established over the final location of these lines.
 - (5) An additional seven feet of right-of-way along Shady Oak Road and a corresponding readjustment of the lot lines to meet code requirements.
 - b. Pay the city a park dedication fee of \$1,100.
 - c. 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. An electronic CAD file of the final plat in microstation or DXF.
 - d. 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.
 - e. 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) Private driveway easements. These easements must allow the drive for Lot 3 over Lot 2 and a common access point for Lots 2 and 3. If the adjacent property owner agrees, the drive for Lot 4 must use the adjacent property owner's drive along the north property line. The easements must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
 - (3) If applicable, provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

- (4) A storm water pond maintenance agreement, established over Lots 3 and 4, subject to approval of the city engineer. 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 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 and tree preservation plan for each lot, subject to staff approval. The plans must be in substantial compliance with 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 and approval of the city's environmental resources coordinator.
 - c. A copy of the recorded plat and any easements or covenants required to be recorded.

- d. A hookup fee for sanitary sewer and water.
- e. 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.
- 5) Tree loss and grading must be kept to a minimum on Lot 4. The trees along the south lot line must be maintained; therefore, the garage must be located to face the shared driveway or west property line. The garage may not face the south or east lot lines.
- 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, storm water pond, utility lines 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.

All voted "yes." Motion carried.

B. Administrative Hearing regarding the tobacco licenses of Twin Cities Stores, Inc. d/b/a Oasis Market #524 and #563.

This item was pulled at the request of Twin Cities Stores. City Attorney Desyl Peterson advised that no council action was needed at this time. The item will be rescheduled to a future city council agenda.

C. Review of Park Renewal Concept Plans for Ford Park.

Gunyou provided a brief introduction to the item. He noted that the city council recently reviewed the first set of parks scheduled for renewal, including Orchard, Mini-Tonka and Victoria/Evergreen

Parks. The process for Ford Park took a little longer because the project needed to be coordinated with the city of St. Louis Park.

Project and Event Manager Perry Vetter reviewed the information in the staff report, explaining the neighborhood meeting process. He also noted that the 1968 agreement with St. Louis Park would need to be revised. The Minnetonka City Council will be asked to review and approve the revised agreement in the future, and that agreement will establish Minnetonka's share of the renewal costs.

Candace Amberg of Brauer and Associates reviewed the concept plan. The plan calls for keeping most areas natural, with development focused along Ford Road. Signage would be changed to increase the park's visibility, and the number of parking spaces increased to nine plus one handicapped space. She noted that ADA improvements were planned, as well as loop trails.

In response to Anderson's question, Amberg explained that recreation standards suggest separate play areas for different age groups for safety reasons. The different play areas would be separated by sidewalks.

Anderson noted that the proposed cost estimates of \$355,000 to \$375,000 did not include any storm water improvements. Amberg said that the engineers are discussing the improvements. Gunyou said that staff set aside funding for storm water improvements associated with park renewal projects through the storm water fund. He noted that the Ford Park improvements were substantial, because of the deep ravine in the park.

Gunyou said that the purpose of this discussion was for the council to review the general plan for the park. The next step would be to prepare bid specifications, and the bids would be brought to the council for approval. Gunyou confirmed that any storm water improvements would also require council approval of the bids.

Tauer noted that the topography of the park created some access issues. He asked that care be given to ensure that there are no side slopes steeper than two percent. Amberg said that they intended to keep side slopes at less than one and one-half percent.

Tauer noted that people slide on the hill that faces Highway 169. He suggested that trees only be planted toward the top of that slope. Amberg said that the concept plan calls for the area to be planted with native grasses and wildflowers.

Tauer noted that someone is dumping grass clippings over the fence and into the park. He questioned why the backstop was being

removed, because he supports keeping amenities that do not have a negative value. Amberg said that the backstop needed to be removed because it is located where the play area is planned.

Callison asked about tree removal at the entrance to the park. Amberg said that the evergreens would be removed to improve the park's visibility. Smaller trees and flowers would replace the evergreens, and the sign would be repositioned.

In response to Callison's question, Amberg said that a trail to access the neighborhood to the south could still be added to the plan. Tauer suggested that Preston Trails might be interested in connecting their private trail to access the park. He asked if trails were required as part of the Enclave development. Gunyou said that Vetter is checking into the Preston Trails, and will also inquire about trails in the Enclave development.

Anderson was excited about the plan because the park has not been inviting. She predicted that park usage will increase after the renewal project. Gunyou explained that staff selected a mix of parks for each year's projects—some large, some small, some minor, and some major. Ford Park is a major project. Staff hopes that it will offer an effective before and after example for residents elsewhere in the city as they plan their future park projects.

Anderson noted that the council's role at this point was to review and comment on the plan.

Barbara Cook, 2318 Cedarwood Ridge, said that they are very interested in the project. They appreciate that buckthorn will be removed, and hope that the park will attract birds and butterflies. She also appreciated that benches would be provided along the trail. Cook asked when construction would occur. Amberg responded that the project would be bid in late summer to early fall, and construction is expected to occur in late fall or next spring. Anderson said that by next summer, the neighbors can expect a new park.

15. APPOINTMENTS.

A. **Appointments to the Hennepin County Southwest Corridor Policy Advisory Committee.**

Anderson provided the background information for this item. She noted that Callison and Tolliver were willing to serve.

Anderson moved, Tauer seconded a motion to approve the appointment of Jan Callison as the Minnetonka City Council

representative to the Hennepin County Southwest Corridor Policy Advisory Committee with Luann Tolliver, 14801 Wychewood Road, Minnetonka, as alternate.

Tauer thanked Callison for her willingness to serve, and said it was good we were willing to look at all options with the crowded roadways and lack of road construction funding.

Anderson noted the concern of residents in the southwest portion of the city, but said that the study is needed in order to make informed decisions. She noted that a trail will be included in the plan.

All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Koblick seconded a motion to adjourn the meeting at 7:52 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk