MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JULY 22, 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. REORDERING THE AGENDA.

City Manager John Gunyou reported that there were no changes to the agenda.

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

5. MINUTES.

Schneider moved, Koblick seconded a motion to approve the minutes of the July 8, 2002 regular council meeting as submitted. Callison, Thomas, Tauer, Schneider, Koblick and Anderson voted "yes." Allendorf abstained. Motion carried.

6. SPECIAL MATTERS.

A. Presentation of a Metropolitan Council grant award to the West Hennepin Affordable Housing Land Trust by Metropolitan Council Member Mary Hill Smith.

Metropolitan Council Member Mary Hill Smith presented a grant award of $100,000 for the West Hennepin Affordable Housing Land Trust. Smith said the grant was one of seven grants being given in the metropolitan area. Anderson asked Schneider and Callison, who served on the WHAHLT Task Force, and WHAHLT President Terry Egge, to accept the award. Smith said that she was proud of Minnetonka for starting this effort. Anderson noted that the program is being emulated in other areas.

7. REPORTS FROM THE CITY MANAGER AND COUNCIL MEMBERS.

Gunyou reported that the next regular city council meeting will be held on August 12, and there will be no study sessions in the next two weeks. National Night Out will be held on August 6, and neighborhoods are invited to participate.

Gunyou also noted that the Army Corps of Engineers recently designated a portion of the Meadowwoods Golf Course property as wetlands. The city will host a neighborhood meeting on July 24th to share this information.

Allendorf asked for a status report on the Xcel Energy substation project. Gunyou said that staff contacts Xcel periodically to inquire as to their progress, but they have not yet submitted their application. The last word from Xcel was that the application would be submitted by late July.

Anderson thanked those who assisted with the recent National League of Cities Annual Board meeting. Tauer thanked Anderson for bringing people from around the country to Minnetonka and for making the city proud.

Anderson offered congratulations to Gunyou and Finance Director Dale Eggenberger because the city recently learned that it retained its Aaa bond rating from Moody's. She noted the importance of this rating in issuing bonds.

Anderson congratulated the Minnetonka Explorer Post for their recent successes in national competition in Arizona. In addition to certificates of achievement, the post took third place in the emergency field first aid category.

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

No one appeared.

9. BIDS AND PURCHASES.

A. Resolution awarding the sale of $5,000,000 General Obligation Open Space and Park Improvement Bonds, Series 2002A; fixing their form and specifications; directing their execution and delivery; and providing for their payment.

Gunyou said that the referendum had authorized the issuance of $15 million in bonds. Only $5 million would be sold now to meet the needs for the upcoming year and to reduce the overall interest costs.

Al Erickson of Springsted advised the council that nine bids were received, which indicated a strong interest in Minnetonka's bonds. The low bid of 3.97% for 15 years was submitted by Legg Mason Wood Walker, Inc., an established east coast firm that recently opened a Minnesota office.

Erickson noted that when the estimate was prepared one month ago, an interest rate of 4.44 was predicted. The lower interest rate will save the city $220,000 from the estimate. Erickson said that Minnetonka's Moody rating is the highest possible. The rating reflects Minnetonka's stable economic status, low debt and history of sound financial decisions. He recommended that the city council accept the low bid.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2002-080, awarding the sale of $5,000,000 General Obligation Open Space and Park Improvement Bonds, Series 2002A; fixing their forma and specifications; directing their execution and delivery; and providing for their payment. All voted "yes." Motion carried.

B. Consideration of bids for the 2002 Mill and Overlay Project No. 4420.

Gunyou introduced this item, noting that the project represents a new approach to milling and overlays. The bids were higher than the estimate as a result of the uncertainty of oil prices, and they are higher than the amount budgeted. However, staff believes that the capital improvements program can be adjusted to cover the additional expense, so staff recommended awarding the bid.

Anderson asked that staff consider options that would allow bids to be based on actual oil prices. City Engineer Lee Gustafson said that he was not aware of such a process being used, but said that he would research those options.

Callison moved, Tauer seconded a motion to award the bid for the 2002 Mill and Overlay Project No. 4420 to Midwest Asphalt Corporation in the amount of $419,884.20. All voted "yes." Motion carried.

C. Consideration of bids for the CSAH 73/TH 7 Intersection Improvement Project No. 4887R.

Gunyou introduced this item. Staff recommended that the bids be rejected and the city council authorize rebidding. He explained that this was a cooperative project involving the State of Minnesota,

Hennepin County, and the cities of Hopkins and Minnetonka. The state and county contributions were fixed, and the bids were over the budgeted amount. Staff believed that better bids could be obtained by rebidding the project.

Callison moved, Thomas seconded a motion to reject the bids for the CSAH 73/TH 7 Intersection Improvement Project No. 4887R, and to authorize staff to re-bid the project. All voted "yes." Motion carried.

D. Consideration of bids to bury fiber optic cable from the civic center campus to the new Operations & Maintenance facility.

Gunyou introduced the item, noting that the city council recently directed that this project be re-bid because only one bid had been received, and that bid was not responsive. With the re-bidding, additional bids were received, and staff recommended awarding the bid.

Koblick moved, Tauer seconded a motion to award the bid for installation of fiber optic cable between the city hall and the operations & maintenance facility to Underground Piercing in the amount of $70,975.

Allendorf referred to the city council's recent study session discussion about microwaving, and asked if that would be an option for this connection. Gunyou said that this connection was better served by fiber due to the capacity of fiber and timely need for a connection. Magrew added that voice signals transmit better via microwave, while data transmits better via fiber optic lines.

Anderson added that the microwave option was for city-wide transmissions. She was pleased with the low bid, and hoped that the consultant was capable.

All voted "yes." Motion carried.

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

A. Claims for council authorization.

Tauer moved, Callison seconded a motion to approve the July 15, 2002 claims list, including checks numbering 167873 through 168202 totaling $1,553,108.63. All voted "yes." Motion carried.

B. State cap on local government salaries.

Tauer moved, Callison seconded a motion to authorize a waiver application to the Minnesota Department of Employee Relations (DOER) for the city manager position. All voted "yes." Motion carried.

C. Resolution receiving feasibility report, ordering the improvements in, authorizing the preparation of plans and specifications, and authorizing easement acquisition for the Woodhill Circle Sewer and Water Project No. 4983.

Tauer moved, Callison seconded a motion to adopt the Resolution No. 2002-081 receiving the feasibility report, ordering the improvements in, authorizing the preparation of plans and specifications, and authorizing easement acquisition for the Woodhill Circle Sewer and Water Improvement Project No. 4983. All voted "yes." Motion carried.

D. Final approval of the HIGHWOOD FOREST plat at 15416 Highwood Drive for Advance Masonry.

Tauer moved, Callison seconded a motion to approve the HIGHWOOD FOREST final plat that was received on June 11, 2002, subject to the following conditions:

1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and

2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

All voted "yes." Motion carried.

E. Resolution adopting the second amendment to the Joint and Cooperative Agreement regarding the local government Information Systems (LOGIS).

Tauer moved, Callison seconded a motion to adopt Resolution No. 2002-082 amending the LOGIS joint powers agreement to provide for the administration of a group health, life, accident, and other insurance and personnel benefits for its members. All voted "yes." Motion carried.

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

1) 2804 Saddlebrooke Circle

2) 16612 Minnetonka Boulevard
3) 4328 Williston Road
4) 5208 Woodhill Road
5) 5108 Valley View Road
6) 14920 Woodruff Road

Community Development Director Ron Rankin advised that the properties at 2804 Saddlebrook Circle and 5208 Woodhill Road had been brought into compliance.

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

1) Resolution No. 2002-083 ordering the abatement of the nuisance conditions at 16612 Minnetonka Boulevard.

2) Resolution No. 2002-084 ordering the abatement of nuisance conditions at 4328 Williston Road.

3) Resolution No. 2002-085 ordering the abatement of nuisance conditions at 5108 Valley View Road.

4) Resolution No. 2002-086 ordering the abatement of nuisance conditions at 14920 Woodruff Road.

All voted "yes." Motion carried.

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

12. INTRODUCTION OF ORDINANCES. None

13. PUBLIC HEARINGS.

A. Public hearing to consider a resolution vacating part of a public drainage easement at 4829 Williston Road for William and Holly Dornbach.

Planning Director Geoff Olson provided a brief introduction for this item.

Anderson opened the public hearing at 7:02 p.m. No one spoke, and the hearing was closed.

Koblick moved, Tauer seconded a motion to adopt Resolution No. 2002-087, vacating part of a public drainage easement at 4829 Williston Road. All voted "yes." Motion carried.

B. Public hearing regarding the use of Community Investment Fund for improvements to Ice Arena "B".

Gunyou noted that this project had been in the Capital Improvements Program for several years. It was originally budgeted at $2.8 million, but that amount had been reduced to $1.6 million by limiting the project to its basic elements. The project is proposed to be funded through the Community Investment Fund.

Recreation Director Dave Johnson noted that Ice Arena B replaced a bubble structure in 1989, and had received no improvements since then. The project would replace the existing refrigeration system (which is 30 years old), upgrade the mechanical systems, and repair ceiling leaks. No major changes were proposed, and the project would extend the life of the facility by 20 years.

Anderson asked staff to provide the cost for a concrete floor versus a sand floor. Ice Arena Manager John Heckmann said that the concrete floor would cost an additional $118,000. He said that a concrete floor would make the structure suitable for other uses that could generate annual revenues in the $6,000 to $18,000 range. The revenue would help repay the added cost of the floor.

Anderson asked staff to provide a summary of projects slated for CIF funding so the city council could see how Ice Arena B fits into that list.

Allendorf asked that staff expand on the options for other uses of the facility. He asked why such uses could not occur in Ice Arena A. Heckmann responded that Ice Arena A has a sand floor. Possible uses for Ice Arena B include BMX racing, trade shows, and sports leagues such as Lacrosse, soccer and roller hockey. He said that the concrete floor would facilitate the installation of an ice sheet quickly, which could also generate more revenue. Allendorf asked that this information be included in the packet when this item is considered again by the city council.

Anderson also asked that staff comment on whether those uses would be better served by turf, rather than concrete.

Callison asked the city manager to review the balance in the CIF. Gunyou responded that the fund balance is between $18 and 19 million. The city only spends the interest, which had been about $1 million each year. With reduced interest earnings, that annual figure has been reduced to about $800,000. The city traditionally budgets the available funds fully and makes changes based on the current

interest rates. Current projects include a portion of the new Operations & Maintenance facility, and open space acquisition.

Anderson opened the public hearing at 7:12 p.m. There were no comments.

Allendorf moved, Callison seconded a motion to continue the public hearing to August 26, 2002. All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Items concerning a proposed three-phased senior rental development called Fairfield Rolling Estates at 801 Sunset Drive and 12701 Fairfield Road for Myron Kunin:

1) Ordinance adopting a PID master development plan and approving final site and building plans for Phase 1.

2) Preliminary plat.

Gunyou noted that this project was continued from a previous agenda because the city council wanted staff to discuss affordable housing options with the applicant.

Koblick asked about the style for the structure. Garth Rockcastle, the applicant's architect, said that the style is common for areas where different densities and scales come together.

Callison asked the applicant to clarify their intentions regarding affordable housing. Rockcastle said that the question is what would be required of the owner in Phase 1. The owner felt that affordable housing should not be mandated if the remaining phases are for townhouses, rather than a tower. Rockcastle said that a recent newspaper article indicated that the owner was interested in providing affordable housing in this phase, and that was not true. He said that the owner has not received information about what support the city might provide for affordable units.

Callison noted the previous council discussion in which the council understood that affordable housing was not likely in Phase 1. There seemed to be a possibility that affordable housing could be included in a future phase and the city council wanted to ensure that occurred. Based on Rockcastle's comments, Callison felt that the applicant was only willing to talk about future possibilities, rather than commit to providing affordable housing in the future phases.

Rockcastle responded that there was no logical way to include affordable housing in the current phase. The owner would welcome the opportunity to help build affordable units elsewhere. He said

that the owner was not unwilling to provide affordable units, but the circumstances would not facilitate that.

Callison asked staff to clarify their understanding about the affordable units. Olson said that the applicant has been willing to talk about affordable units, but is not willing to make such a commitment now. The plans for future phases are too tenuous for the owner to make a commitment at this time. Staff would recommend that some kind of affordable housing component occur if a tower is built with Phase 3. Olson said that such a proposal would not be exclusive of any affordable component in earlier phases.

Callison noted that the council would be voting on Phase 1 at this meeting, and asked if the city council would need to approve Phase 2. Olson responded that the council would be granting conceptual approval, which would authorize either option for Phase 3. At this meeting, the council would be granting construction approval for only Phase 1, and site and building plan approval would be required for later phases.

Allendorf asked Rockcastle if the owner was seeking financial incentives from the city for affordable housing. Rockcastle said that staff had indicated that there might be tools and resources available.

Anderson asked for clarification that the affordable component must be part of the discussion for Phase 2, and for Phase 3 if it is to be a high rise. She asked what would happen if State law changed to require some kind of affordable housing. City Attorney Desyl Peterson said that it was likely that State law would supercede because the plans had not been approved. She suggested that stipulation #4 be amended to include a statement requiring the final site and building plans for Phases 2 and 3 to come before the city council. Under existing requirements, they would only be required to be submitted to the planning commission.

Callison noted that the stipulations require that at a minimum, affordable housing must be included with a Phase 3 tower. Rockcastle said that there were two other conditions that would generate affordable housing options: 1) the existing towers, and 2) another alternate that had not yet been defined. He said that Phase 2 will likely be almost identical to Phase 1, and Phase 3 will likely generate a request for higher density. Callison clarified that when Phase 3 is submitted, if there is a tower, there must be an affordable housing component. Rockcastle said that there are no guarantees because there had been no discussions. Allendorf said

that the council was trying to remove the ambiguity from the situation.

Anderson said that the council was asking that affordable housing be included with Phase 3, and was not dictating where it would occur.

Allendorf said that he wanted the applicant to understand that affordable housing must be provided if Phase 3 includes a tower. Rockcastle said that if there is a tower, affordable housing would be provided in one of the three methods he had outlined.

Allendorf asked how affordable housing could be incorporated into Phase 1. Rockcastle said that he had no idea, but the applicant was open to suggestions. Allendorf said that may be something the applicant will have to figure out. Rockcastle responded that he thought he and the council had the same understanding.

Anderson noted that there is a real threat that unless cities and current developers step up to the plate on affordable housing, the state or others will mandate it. Minnetonka does not support such mandates so the city is strongly encouraging voluntary efforts. She said that voluntary efforts are to everyone's advantage. She believes that everyone will lose if there are mandates.

Rockcastle gave assurances that he and the owner embrace and support the goals and objectives of affordable housing. The owner has inquired about what can be done to build projects with affordable housing. He said that for the subject project, they tried to incorporate the buildings with the neighborhood.

Anderson expressed appreciation for the owner's willingness to discuss affordable housing. She believes that it is possible to incorporate affordable units into townhouses, and noted that has occurred in other areas of the city. She said that the city is not looking for affordable housing within this phase of the project.

Koblick agreed that affordable units are not feasible in Phase 1. She noted that the city can offer a variety of tools, in addition to financial tools, to help with affordable housing, including land use and road configurations. If the Phase 3 density increases, the city will want affordable components. It seems to make more sense to rehabilitate existing units.

Callison said that she will support the project because Phase 2 provides some opportunity for affordable units. Also, the stipulation states that at a minimum, Phase 3 will include an affordable

component. She urged the owner and the architect to lead the way in Minnetonka and include affordable units in more than just the high rise units.

Tauer moved, Koblick seconded a motion to adopt Ordinance No. 2002-19, approving the proposed PID master development plan, with final site and building plans for Phase 1, at 801 Sunset Drive. This ordinance is based on the following findings:

1) The proposal would meet the required standards for a site and building plan approval.

Approval is 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:

Option 1—82 units
- Site plan, dated April 5, 2002
- Tree mitigation plan, dated April 5, 2002
- Grading plan, dated April 5, 2002
- Erosion control plan, dated April 5, 2002
- Landscaping plan, dated April 5, 2002
- Phase 1 building elevations, dated April 5, 2002

Option 2—36 units
- Site plan, dated April 5, 2002
- Tree mitigation plan, dated April 5, 2002
- Grading plan, dated April 5, 2002
- Erosion control plan, dated April 5, 2002
- Landscaping plan, dated April 5, 2002
- Phase 1 building elevations, dated April 5, 2002

The above plans are hereby adopted as the master development plan and as site and building plans for Phase 1—the eight units on Sunset Drive.

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 final site, grading, drainage, tree mitigation, utility and erosion control plans for staff approval. The

following changes must be incorporated into the plans:

- The guest parking spaces must be changed to 90 degree parking.
- The rain gardens must not be in the street right-of-way.
- Storm water in the northwest corner of the site must be directed into the storm sewer system in the street.
- Soils information must be submitted for staff review.

c. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.

d. If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.

e. Submit a construction management plan for staff approval.

f. Submit a revised wetland delineation. A wetland certificate of no loss or exemption form must be completed and mailed to the appropriate parties.

3) The following must be submitted to the city before the city issues a building permit:

a. A final landscape and irrigation plan for staff approval. The revised plan must:

1) extend the shrub plantings in front of the guest parking spaces to screen the parking from the street,

2) include compensatory replacement landscaping for any tree removal above and beyond that shown in the approved tree mitigation plan, and

3) details of the plantings in the rain gardens.

b. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.

c. An illumination plan for staff approval.

d. All required hook-up fees.

e. Record this ordinance with the county.

4) Before the city approves the final site and building plans for Phase 2, an affordable housing component must be discussed for the development and/or the existing Ridgepointe towers. At a minimum, an affordable housing component must be included with the Phase 3, 6-story tower. Such housing component may be included in the proposed 6-story tower, the existing Ridgepointe towers or another alternative, subject to approval of the city. Final site and building plans for Phases 2 and 3 must be submitted to the city council for approval.

5) The property owner is responsible for replacing any required landscaping that dies.

6) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.

7) Approval does not include the signs shown on the drawings. Separate permits are required from staff.

8) Construction must begin by December 31, 2003, unless the planning commission grants a time extension.

B. Recommend that the city council give preliminary approval to the Fairfield Rolling Estates plat, date stamped April 5, 2002. Approval is based on the findings 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) Drainage and utility easements over wetlands and storm water ponds, as determined by the city engineer. The easement over the storm water holding areas near Chatham Field Road must have a clause that permits a private trail within the easement, but holds the city harmless of any liability for the trail, its use or maintenance.

(3) All of Lot 1, Block 1, MARION FIRST ADDITION.

b. If required, submit evidence of watershed district and Pollution Control approval. The city may require revisions to the preliminary plat to meet the requirements of these agencies.

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

a. Submit title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before final city council approval.

b. Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants shall 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.

3) Provide common access easements for the proposed development across the existing RidgePointe property to Marion Lane.

4) The following must be submitted to the city before the city issues a building permit:

a. A copy of the recorded plat and any easements or covenants required to be recorded must be submitted before issuing a certificate of occupancy.

b. A park dedication fee of $500 per unit.

c. A hookup fee for sanitary sewer and water.

d. 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.

e. The existing easements must be vacated.

f. The developer must petition the city to construct the public improvement of Fairfield Road as described in the Benshoof report, dated May 21, 2002, and the city council must order the improvements before issuing a building permit for Phase 2. The developer will be responsible for the cost of the improvement.

5) 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 shall be void.

All voted "yes." Motion carried.

B. Consideration of an agreement with Faith Presbyterian Church for the construction and operation of a new park on Nelson Road.

Johnson provided the background information for this item.

Anderson noted that the park would only be 1.8 acres in size, and asked for a comparison to Mini-Tonka Park. Johnson said that Mini-Tonka Park is slightly less than one acre in size.

Callison asked why the agreement would terminate after 16 years. Assistant Facilities Manager Jennifer Garvey said that the term reflected the life expectancy of the playground equipment. She said that the arrangement could be revisited when the agreement expires.

Koblick asked how the playground will be separated from the church. Garvey said that the park is located across the street from the church and will have a park sign. Peterson said that the street provides a fairly distinct separation. Assistant City Manager Geralyn Barone said that the proposed park property used to have two houses on it, so it is more adjacent to the neighborhood.

Tauer asked if the park will have a typical Minnetonka park sign. Garvey said that the signage has not been decided. Gunyou said that staff intends to operate this park like all other city parks.

Peterson said that the agreement calls for the parties to agree on the park's name before money is spent on design. Staff wants to ensure that the name is not too closely related to the church.

Scott Erickson, a member of the church, said that Pioneer Park has been proposed as the name, reflecting the pioneers who settled in the area and established the church, nearby Pioneer Road, and the fact that this is a pioneering cooperative project. Anderson said that was a great suggestion, which should be discussed.

Callison moved, Allendorf seconded a motion to authorize the Mayor and City Manager to execute an agreement with Faith Presbyterian Church for a new park on Nelson Road. All voted "yes." Motion carried.

Tauer thanked the church for donating the land. Erickson said that the church was motivated by the neighborhood's outreach for a park.

15. APPOINTMENTS. None

16. ADJOURNMENT.

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

Respectfully submitted,

Kathleen Magrew
City Clerk