

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, AUGUST 26, 2002**

**1. CALL TO ORDER.**

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

**2. PLEDGE OF ALLEGIANCE.**

All joined in the Pledge of Allegiance.

**3. ROLL CALL.**

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

**4. REORDERING THE AGENDA.**

Koblick moved, Thomas seconded a motion to approve the agenda  
City Manager John Gunyou advised the council of minor changes to item #13B. The makers of the motion agreed to those changes. All voted "yes."  
Motion carried.

**5. MINUTES.**

Allendorf moved, Schneider seconded a motion to approve the minutes of the August 12, 2002 regular council meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS.**

**A. Proclamation of the month of September 2002 as National Alcohol and Drug Addiction Recovery Month.**

Allendorf read a proclamation declaring the month of September 2002 as National Alcohol and Drug Addiction Recovery Month in the City of Minnetonka.

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

City Manager John Gunyou said that there will not be a council meeting on September 2, due to the Labor Day holiday. City offices will be closed that day. The next regular council meeting will be held on September 9, 2002.

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

No one appeared.

**9. BIDS AND PURCHASES.****A. Consideration of bids for the Gray's Bay Dock Construction Project No. 4721-D.**

Gunyou reported that this was another in a series of construction components for this project. He said that six favorable bids were received. The bids were below the project estimate, and staff recommended awarding of the bid.

Koblick moved, Allendorf seconded a motion to award the bid for the Gray's Bay Dock Construction Project No. 4721-D to L.S. Black Constructors, Inc., in the amount of \$248,690.

Koblick asked for a project update. Gunyou reported that applications for the boat slip lottery closed on August 23<sup>rd</sup>, and 238 applications were received. The lottery will be held at the September 4 park board meeting, which will be cablecast live. Gunyou noted that the odds of winning the slip lottery were better than one in ten.

City Engineer Lee Gustafson said that the dock work would occur between mid-September and November 15. During that time, landscaping and sidewalk work will continue. The final wear course will not be installed on the parking area until approximately June 1 to ensure that any work that might damage the surface is completed. When the wear course is installed and striping is done, the entire parking lot will be closed for two to three days. The DNR and other participating agencies have been advised of this schedule.

Callison asked about the schedule for closing of the headwaters boat launch area. Gustafson said that the closing of the headwaters and causeway areas would likely occur around ice out in the spring.

All voted "yes." Motion carried.

**10. CONSENT AGENDA (Items Requiring a Majority Vote):****A. Claims for council authorization.**

Allendorf moved, Koblick seconded a motion to approve the August 19, 2002 claims list, including checks number 168638 through 168958 totaling \$2,172,369.60.- All voted "yes." Motion carried.

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

Allendorf moved, Koblick seconded a motion to adopt Resolution No. 2002-097, approving the following traffic control devices at various locations within the City of Minnetonka:

1. Authorizing Hennepin County to install a "No Right Turn on Red 4 p.m. to 6 p.m." for southbound Baker Road (CSAH 60) at Excelsior Boulevard (CSAH 3).
2. "No Parking" on the new cul-de-sac on the south end of Yorkshire Avenue South.
3. "No Parking 8 a.m. to 3 p.m. School Days" on the north and east sides of Cedar Bend and Cedar Hills Boulevard.

All voted "yes." Motion carried.

**C. Resolution accepting plans and specifications and authorizing the advertisement for bids for the Woodhill Circle Sewer and Water Improvement Project No. 4983.**

Allendorf moved, Koblick seconded a motion to adopt Resolution No. 2002-098, accepting plans and specifications and authorizing the advertisement for bids for the Woodhill Circle Sewer and Water Improvement Project No. 4983. All voted "yes." Motion carried.

**D. Approval of Joint Powers Agreement for prosecution services with the cities of Minnetrista and St. Bonifacius.**

Allendorf moved, Koblick seconded a motion to approve a Joint Powers Agreement for Prosecution Services with the Cities of Minnetrista and St. Bonifacius for an additional year. All voted "yes." Motion carried.

**E. Final approval of the Fretham 2nd Addition plat at 2845 Plymouth Road for Curtis J. Fretham.**

Allendorf moved, Koblick seconded a motion to approve the FRETAM 2ND ADDITION final plat that was received on August 12, 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.

**F. Resolutions ordering the abatement of nuisance conditions existing at 3022 Gizmo Lane.**

Community Development Director Ron Rankin advised that as of the date of the council meeting, the front yard of the subject property had been mowed, but the backyard had not.

Allendorf moved, Koblick seconded a motion to adopt Resolution No. 2002-099, ordering the abatement of the nuisance conditions existing at 3022 Gizmo Lane. All voted "yes." Motion carried.

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

**12. INTRODUCTION OF ORDINANCES.**

**A. Ordinance amending city code section 300.10, subd. 5(h)(2)(b) regarding variances for lot width on public right-of-way.**

Gunyou provided brief background information for this item.

Koblick moved, Allendorf seconded a motion to introduce an ordinance amending city code section 300.10, subd. 5(h)(2)(b) regarding variances for lot width on public right-of-way, and refer it to the planning commission. All voted "yes." Motion carried.

**B. Ordinance amending city code section 1200.040(4) regarding signs for exceptions to sprinkling ban.**

Gunyou provided a brief staff report for this item and displayed the new sign. In response to Callison's questions, he said that the new signs would be available from the city for people with registered private wells. He also noted that there was no appropriate board or commission for the council to refer the draft ordinance to.

Koblick asked for a reminder of the sprinkling restrictions. Rankin said that sprinkling was not allowed from 11 a.m. to 5 p.m. any day, and during other times on an odd/even basis.

Koblick moved, Allendorf seconded a motion to introduce an ordinance amending city code section 1200.040(4) regarding signs for exceptions to sprinkling ban. All voted "yes." Motion carried.

### 13. PUBLIC HEARINGS.

#### A. Continued public hearing to consider a resolution authorizing the use of the Community Investment Fund for improvements to the Ice Arena "B" facility.

Gunyou reviewed the additional information provided in response to the city council's comments at the first public hearing. He said that a history of the use of CIF was provided. Additional information was provided about the cost effectiveness of the concrete floor. Gunyou noted that staff proposed to bid the concrete floor as an alternate so better cost information would be available for a decision on whether to include the concrete floor in the project.

Callison noted that the public hearing was still open and invited public comment. No one spoke, and the hearing was closed at 6:50 p.m.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2002-100, authorizing the use of the Community Investment Fund for improvements to the Ice Arena "B" facility. All voted "yes." Motion carried.

#### B. Items concerning Coffee Creek restaurant located at 11313 Highway 7:

- 1) Continued public hearing to consider applications for on-sale wine and on-sale 3.2 percent malt beverage liquor licenses to Jobil Coffee, Inc. for use at Coffee Creek restaurant.
- 2) Resolution approving a conditional use permit for outdoor seating; and site and building plan review for an outdoor eating area.

Planning Director Geoff Olson provided the staff report regarding the conditional use permit, and Rankin provided the staff report concerning the liquor licenses. Rankin reminded the council of the information in the addendum about restrictions on the consumption of alcohol outdoors.

Allendorf asked why outdoor alcohol service and consumption would be prohibited in this case when it is allowed in others. Rankin said that when the city allows outdoor alcohol service and consumption, it is in situations where the outdoor area has controlled access. This allows waitstaff to ensure that identifications are checked for those being served alcohol.

Callison noted previous concerns about the safety of pedestrians due to the width of the sidewalk. Olson said that the location of the tables and the roped area is a condition of the conditional use permit, and the city could take enforcement action if the condition is violated. He assumed that staff would only need to advise the applicant if a violation occurred.

Callison noted that the public hearing remained open and invited public comment.

Shari Musoke, the applicant, thanked the council for consideration of the request. She noted that her customers are very interested in the granting of the liquor license and having an outdoor eating area.

Callison closed the public hearing at 6:59 p.m.

Schneider moved, Allendorf seconded a motion to:

- 1) Grant on-sale wine and on-sale 3.2 malt beverage liquor licenses to Jobil Coffee Inc., subject to the following condition:
  - a. Liquor may not be served or consumed in the outdoor café area, and signage must be posted informing customers of this.
  
- 2) Approve a conditional use permit for outdoor seating and a restaurant with intoxicating liquors, and to approve the site and building plan for Coffee Creek restaurant located at 11313 Highway 7, subject to the following conditions:
  - a. Record this resolution with the county within one year from the date of city council approval.
  
  - b. The existing bike rack on the east side of the building be moved further north on the sidewalk, away from the outdoor seating area.

- c. The outdoor café area must be equipped with refuse containers and periodically patrolled for litter pick-up.
- d. Must not have speakers or audio equipment in the outdoor café area.
- e. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- f. Liquor may not be served or consumed in the outdoor café area, and signage must be posted informing customers of this.
- g. A pedestrian walkway, of a minimum of 3.5 feet, must be maintained at all times through the orientation of the tables and the placement of ropes.
- h. The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**C. Public hearing to consider resolutions for the special assessment of 2001-2002 projects.**

Gunyou provided a brief staff report on this item.

Allendorf moved, Koblick seconded a motion to adopt the following resolutions for the special assessment of 2001-2002 projects:

1. Resolution No. 2002-102 adopting assessments for 2001-2002 sewer and water improvement projects.
2. Resolution No. 2002-103 adopting assessment for Street Reconstruction Project. No. 5008R.
3. Resolution No. 2002-104 adopting assessment for Nuisance Abatement Project No. 4894N-2.
4. Resolution No. 2002-105 adopting assessments for Nuisance Abatement Project Nos. 4894N-4, 4894N-7, 4894N-8, and 4894N-9.
5. Resolution No. 2002-106 adopting assessment for Nuisance Abatement Project No. 4894N-6.

6. Resolution No. 2002-107 adopting assessments for Nuisance Abatement Project No. 4896.

7. Resolution No. 2002-108 adopting assessments for Fire Sprinkler Project Nos. 4874F-2 and 4874F-3.

Allendorf referred to project no. 4894N-2, noting that it was being assessed for \$102,000 for completion of a residential structure. He asked if the city was at risk to lose the money.

Rankin said that the project called for completion of the exterior portion of a residential addition and the work was done with the mutual consent of the owner. He said that special assessment levies stand high in the collection ranking because they are collected with the property taxes.

City Attorney Desyl Peterson said that she did not know if there were outstanding mortgages against the property. If the property owner defaulted on the property taxes, the property could be sold through the tax forfeit process. She said that taxes are higher legal priorities than mortgages.

All voted "yes." Motion carried.

#### **14. OTHER BUSINESS:**

##### **A. Review of park renewal concept plans for Meadow Park.**

Gunyou provided introductory comments, noting that this was the latest in a series of parks renewal projects, and this was the first community park project. He noted that the process took longer for this park because of the greater number of park users, and staff learned a great deal through the process. He noted that at a later date, the council would be asked to consider the bids for this work.

Recreation Program Manager Perry Vetter reviewed the information in the staff report.

Bruce Stillman, 2400 Sherwood Hills Road, suggested that the playground area not be moved. He did not support the turnaround area where proposed, and suggested an area closer to the shelter. He questioned the validity and accuracy of the information staff had provided. He noted the support for keeping the park natural, and suggested that the tennis courts not be moved. Stillman, a sculptor, reiterated his request that a non-profit organization be organized to

bring creativity to the park. He had previously proposed a sculpted golf course, but felt that staff was not receptive to his idea. He asked if the old playground equipment would be recycled, and said that he would support a shuffleboard area, which could be accomplished for little cost. He also asked for a confirmation of the actual project budget.

In response to Stillman's questions, Gunyou said that the project budget remains at \$550,000. That figure has not varied through the process, and no significant changes were anticipated pending the results of the bids.

Callison noted that significant public input opportunities had been provided throughout the planning process. This project was originally slated for earlier council consideration, but that was postponed to allow for more public input. She noted that the project had three hearings before the park board. Callison was not overly concerned that every resident should support the plan. She noted that issues were raised with the first plan, and the project was sent back for revisions. Staff worked very hard to address all concerns raised by residents.

In response to Callison's question, Gunyou said that only about 10 of the park's 111 acres would be developed.

Callison asked Gunyou to address Stillman's comments about art in the park. Gunyou said that Stillman's viewpoint was well known to both staff and the park board; he had been provided several opportunities to share his ideas, including a formal presentation to the park board. Stillman has not been happy with the decisions that were made about his suggestions. The park board conducted a full hearing on the issue of artwork and decided that they wanted to look at it in a functional way.

Callison confirmed that the plan does not call for relocation of the tennis court.

Gunyou referred to Stillman's comments that staff's information was misleading. He said that the park board and other residents were fully satisfied with the accuracy of the information staff provided throughout the process. He suggested that the council discount Stillman's unfounded aspersions.

Allendorf asked about the public attendance at the previous meetings. Park Maintenance Manager Craig Sinclair said that 25 to

30 people attended each meeting, and the majority of the people agreed on the design decisions.

Gunyou indicated that the vast majority of the participating residents approved of the design all along, and that the latest revisions had satisfactorily addressed the few issues that had been raised. The issue of children's safety was addressed through the addition of ornamental fencing at the parking area. Gunyou disagreed with Stillman's characterization of the neighborhood response as negative. He said that the neighbors support the plan, and want the project to move forward.

Allendorf asked if any other city parks have a turnaround similar to the one proposed for Meadow Park. Sinclair said there is one in Covington Park and it is well accepted.

Thomas said that he was not comfortable micro-managing the decisions of the neighbors. His main issue was that the park went through the process where a majority of those participating were in favor of the design decisions, because the park is in their neighborhood and they will be the users. He said that this project was on the right track, and the plan was good after its revisions. He said that ample time was allowed for Stillman to go through the process. He noted that the park board was serving the purpose the council has for its boards and commissions.

Koblick asked about the cost for a shuffleboard court. Sinclair said that there would be minimal cost for a flat surface, but shuffleboard did not score well in the survey. Gunyou noted that adding an additional hard court would add even more hard surface, which the neighborhood did not want.

Thomas moved, Allendorf seconded a motion to approve the park renewal concept plan for Meadow Park as recommended by the Park Board. All voted "yes." Motion carried.

## **15. APPOINTMENTS.**

### **A. Appointment of Sandal Hart to the Planning Commission, effective October 1, 2002, to complete the term of Terri Yearwood.**

Callison moved, Koblick seconded a motion to approve the appointment of Sandal Hart, 5450 Sanibel Drive, to the planning commission to complete Terri Yearwood's term of office, effective

October 1, 2002 and expiring on January 31, 2004. All voted "yes."  
Motion carried.

Koblick expressed appreciation for Yearwood's service on the planning commission.

**16. ADJOURNMENT.**

Thomas moved, Koblick seconded a motion to adjourn the meeting at 7:35 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk