

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, SEPTEMBER 9, 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 Dick Allendorf, Terry Schneider, Linda Koblick, Al Thomas, Ken Tauer, and Karen Anderson were present. Council member Jan Callison was excused.

4. REORDERING THE AGENDA.

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

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

5. MINUTES.

Allendorf moved, Koblick seconded a motion to approve the minutes of the August 26, 2002 regular council meeting as submitted. Allendorf, Schneider, Koblick and Thomas "yes." Tauer and Anderson abstained. Motion carried.

6. SPECIAL MATTERS.

A. Recognition of retiring Officer William Roth for 17 years of service.

Council member Thomas recognized Officer William Roth's 17 years of service as he retired. Thomas and Anderson presented Roth with a plaque in recognition of his service. Roth thanked the city council and city for a great career, and recognized the support of his wife and colleagues.

B. Proclamation of September 11, 2002 as "ALWAYS REMEMBER 9-11 DAY."

A moment of silence was observed in remembrance of the events of September 11, 2001. Anderson read a proclamation declaring September 11, 2002 as "ALWAYS REMEMBER 9-11 DAY." in the City of Minnetonka.

Police Chief Joy Rikala noted the special reception and presentation the Hopkins School Board held for the public safety departments of Minnetonka, Hopkins and Golden Valley. She thanked the school board for their partnership.

Rikala then related the events that Minnetonka city staff will observe on September 11. An oak tree will be planted at the City Hall, with a dedication ceremony at 10 a.m. Employees will be offered red, white, and blue ribbons to wear on September 11, and the city's employee assistance program will offer counseling. Rikala also noted that Minnetonka police staff participated in the planning of a metropolitan service prior to the Twins baseball game at the Metrodome.

Anderson noted that the one positive effect of the event was the heightened state of safety and security that has resulted throughout the country, largely due to the efforts of local government units. Most of this has occurred without federal assistance, and with only some state assistance. She thanked the city's public safety staff for their efforts every day.

7. REPORTS FROM THE CITY MANAGER AND COUNCIL MEMBERS.

City Manager John Gunyou reminded residents that September 10 is Primary Election day. He encouraged everyone to vote as one of the most meaningful ways to demonstrate their patriotism. He provided resources for residents who need to know their polling place, and for Minnetonka election results.

Gunyou advised that there would be no September 16 council meeting in observance of Yom Kippur, and the next regular council meeting will be held on September 23.

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

James Galvin, 10521 Cedar Lake Road, presented a petition on behalf of 333 of the 462 residents of the Greenbriar condominiums. Galvin said that since the school district started charging a \$40 parking fee for students at

the high school, students had been parking along Greenbriar Drive, creating safety concerns. He noted that a temporary police no parking order had been issued, but the residents would like the prohibition to be permanent. Anderson noted that the city has instituted no parking areas in a number of locations near schools, and asked Galvin to give the petition to staff so the city engineer could respond.

Galvin also invited the city council and the public to a celebration on September 14 from 2 p.m. to 5 p.m. to commemorate Greenbriar's 25th anniversary.

Nancy Countryman, a Deephaven resident, advised the council of the dedication of a new football stadium on September 11th at Blake School in honor of Gordon Aamoth, a victim of the September 11 terrorist attack.

9. BIDS AND PURCHASES.

A. Consideration of bids for the construction of a new 500,000-gallon water tower.

Gunyou provided the staff report for this item.

Allendorf asked what would happen to the Forest Circle and Fingerhut water towers when the new tower is completed. Operations & Maintenance Director Brian Wagstrom said that they could both be demolished. He noted that the owner of the property adjacent to the Fingerhut tower was interested in purchasing the property if the city would sell it. Wagstrom said that the Forest Circle site could be sold.

Allendorf noted that the bids received were slightly over the engineer's estimate for the project. He asked if the proceeds from any sale of those properties could offset that overrun. Wagstrom said that they could. Wagstrom also noted that the engineer's estimate was from 1997 or 1998, so inflation had an effect. In response to Allendorf's question, Wagstrom said that the conditional use permit for the new water tower did not address the sale of the two towers and possible subsequent reuse of the land.

Thomas asked that staff monitor the water tower construction to avoid noise violations. Wagstrom said that there will be a pre-construction meeting before construction begins, and the contractor will be advised of the regulations regarding noise and load limits. Gunyou said that information about this project will be publicized through staff's new notice methods, including the Hot Topics section of the city's Web site.

Allendorf moved, Thomas seconded a motion to award the bid for the construction of a new 500,000-gallon water tower to Caldwell Tanks, in the amount of \$1,082,700. All voted "yes." Motion carried.

B. Bennett Family Park financial agreements.

Gunyou provided the staff report for this item.

Chris Gabler, President of Bennett Family Park, said that the board was not comfortable with the discussion at the previous council meeting. Their board wants to ensure a positive relationship with the city in the future, and felt that the new proposal was a win/win situation for both the city and the park.

Schneider agreed, and said that this proposal would be easier to explain to residents who might question city dollars contributing to a private park.

Koblick also supported the proposal and expressed appreciation for the city and Bennett Family Park working together to find the solution.

Schneider moved, Tauer seconded a motion to approve the park and open space easement and license agreement between the city and Bennett Family Park. All voted "yes." Motion carried.

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

A. Claims for council authorization.

Tauer moved, Thomas seconded a motion to approve the September 3, 2002 claims list, including checks 168959 through 169235 totaling \$606,832.57. All voted "yes." Motion carried.

B. Approval of project change order No. 1 for the new Operations & Maintenance facility.

Tauer moved, Thomas seconded a motion to approve Change Order No. 1 for the new Operations & Maintenance facility in the amount of \$136,938.00. All voted "yes." Motion carried.

C. Adoption of an ordinance amending city code section 1200.040(4) regarding signs for exceptions to sprinkling ban.

This item was removed from the consent agenda at the request of Schneider, who stated that he would not support the ordinance.

Koblick moved, Tauer seconded a motion to adopt Ordinance No. 2002-22, amending city code section 1200.040(4) regarding signs for exceptions to sprinkling ban. Allendorf, Koblick, Thomas, Tauer and Anderson voted "yes." Schneider voted "no." Motion carried.

D. Authorization of permit application to Hennepin Parks requesting winter use of the SWLRT Trail Corridors within the City of Minnetonka.

Tauer moved, Thomas seconded a motion to authorize a permit application to Hennepin Parks requesting winter use of the Southwest Regional LRT Trail Corridors within the City of Minnetonka. All voted "yes." Motion carried.

E. Proposed Order for Liquor License Stipulation for Sundial Wine & Spirits, Inc.

Tauer moved, Thomas seconded a motion to issue the Finding of Fact, Conclusion, and Order for Sundial Wine & Spirits, Inc. All voted "yes." Motion carried.

F. Final approval of the Striker Addition at 2112 Meeting Street for Myron H. and Sandra M. Striker.

Tauer moved, Thomas seconded a motion to approve the STRIKER ADDITION plat that was received on August 29, 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.

G. Amendment to agreement with the City of Deephaven for water service.

This item was pulled from the consent agenda at the request of Koblick who asked staff to provide a background report. Gunyou related the history of the discussions with the city of Deephaven about water service. He noted that an old agreement had been

found which allegedly committed Minnetonka to providing water service to St. Therese. He subsequently negotiated that the service would be limited to emergency fire needs only. He said that the agreement for these services needed to be between the two cities to ensure payment.

Koblick clarified that only emergency use service would be provided. Gunyou confirmed that understanding, and noted that the cost of the service would be paid by St. Therese.

Jim Hoben, former mayor of Deephaven, provided a history of the agreement. He said that the agreement occurred as part of Minnetonka acquiring two lots from St. Therese for ponding purposes.

Allendorf asked if the amendment to the agreement would preclude Deephaven from seeking additional water services. Gunyou said that although the amendment was only for water service for emergency uses, St. Therese could later make another request.

City Attorney Desyl Peterson said that there were questions about the enforceability of the old agreement. She suggested that the current amendment was a reasonable compromise, but said that Minnetonka may have some basis to decline requests for further services.

Allendorf asked if this would be the appropriate time for those discussions. Gunyou agreed that it would be, but that St. Therese was not willing to stipulate to that restriction.

Koblick said that this request was similar to past requests for water service that the city granted. She viewed this request as separate and distinct from past requests from the City of Deephaven regarding the St. Therese site, and supported it.

Tauer moved, Koblick seconded a motion to approve the amendment to the agreement with the City of Deephaven for water service.

Allendorf asked that at a later date, staff provide the council with alternatives regarding this issue. Peterson said that because that information would include her strategy in the event of future litigation, the information would be provided to the council in a confidential format.

Tauer supported the compromise and dealing with future requests as they occur.

Anderson supported the amendment and said that it was a good compromise. She said that the service would meet St. Therese's needs, and would not overburden the city's water system.

All voted "yes." Motion carried.

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

- 1) **2500 Wellington Circle**
- 2) **3639 Sunrise Drive West**

Community Development Director Ron Rankin advised that the properties were not in compliance.

Tauer moved, Thomas seconded a motion to adopt:

- 1) Resolution No. 2002-109 ordering the abatement of nuisance conditions existing at 2500 Wellington Circle.
- 2) Resolution No. 2002-110 ordering the abatement of nuisance conditions existing at 3639 Sunrise Drive West.

All voted "yes." Motion carried.

I. Approval of labor agreement between the City of Minnetonka and Teamsters Local 320 (Police Officers).

Tauer moved, Thomas seconded a motion to approve a two-year agreement between the City of Minnetonka and Teamsters Local 320 (police officers). All voted "yes." Motion carried.

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

12. INTRODUCTION OF ORDINANCES.

A. Ordinance amending the political sign requirements.

Planning Director Geoff Olson provided the staff report for this item.

Tauer referred to changing the setback to five feet from the right-of-way. He noted that there would be no restriction on the size of signs. He suggested that a greater setback distance would be appropriate for larger signs, and asked if the setback requirement could be 10 feet for larger signs. Peterson said that state law precludes cities from regulating the size or timing of sign

placement, in even numbered years. However, cities may regulate setbacks.

Allendorf said that in Callison's absence, she had asked him to bring forward her concern that the unlimited size of signs could lead to clutter. She asked that the planning commission take a good look at this issue and bring back a recommendation to the city council.

Anderson noted that the city cannot regulate the size of signs in even year elections. The reality is that a sign of any size could be posted regarding non-commercial opinions. Peterson reminded the council that they could establish different regulations for city elections. Anderson noted the difficulty in enforcing different regulations for state or city elections.

Schneider asked if the ordinance should reference the specific state statute to avoid including a placement date that might become obsolete. Peterson said that including the date in the city's ordinance gave better notice and met an educational purpose.

Tauer agreed that the requirements should be the same for all elections. He suggested that the city address the size of signs if there is an issue in the future. Anderson noted that the recommendation is to refer the ordinance to the planning commission for their review.

Allendorf moved, Thomas seconded a motion to introduce an ordinance amending the political sign requirements, and to refer the ordinance to the planning commission.

Anderson noted that signs don't vote, people vote. She said that political signs are a freedom of speech issue, and they are only posted for eight to ten weeks each year.

Allendorf, Schneider, Thomas, Tauer and Anderson voted "yes." Koblick was absent for the discussion and vote. Motion carried.

Gunyou noted that the night before an election is often a busy time for political signs. He said that the city moves political signs out of the right-of-way, but only removes signs if they are posted on public property.

13. PUBLIC HEARINGS.

- A. Continued public hearing to consider an application by Du Bui and Dat Chau, as individuals, for an off-sale intoxicating liquor**

license to be used at Liquor Barrel located at 11048 Cedar Lake Road, Minnetonka Minnesota.

Rankin provided the staff report on this item.

Koblick moved, Tauer seconded a motion to grant an off-sale intoxicating liquor license to be used at Liquor Barrel located at 11048 Cedar Lake Road to Du Bui and Dat Chau.

Anderson invited public comment. Hearing none, she closed the public hearing at 7:39 p.m.

All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Items relating to the Preliminary Budget for 2003:

- 1) Resolution setting a preliminary tax levy for the year 2003 and adopting a preliminary budget for the year 2003 for Truth-in-Taxation purposes.**
- 2) Resolution setting a preliminary tax levy for the Bassett Creek Watershed Management Tax District for 2003.**

Anderson noted that the council discussed the proposed 2003 budget at a study session last month, and would hold another study session in November. The budget would be formally adopted in December. Anderson said that the city could reduce the levy when the budget is formally adopted, but could not increase the levy from this preliminary levy.

Gunyou gave a presentation on the budget. He noted that the budget is designed to provide quality services at a reasonable price. The proposed levy would hold the city's property tax increase to only 3.7 percent, despite an expected loss of \$1 million in state aid.

Gunyou reviewed the positions that would be eliminated—half positions in fire and environmental health, and whole positions in planning and O & M. An additional police officer would be added for the Minnetonka School District. These were the first position cuts in over a decade.

Gunyou noted that younger firefighters are being priced out of the Minnetonka housing market, but the department has been able to maintain a full complement of firefighters so far. He also noted that utilities are funded by user fees, and are not funded by property

taxes. Gunyou said that the ice arena, Williston Center, and the Gray's Bay Marina fully cover their operating expenses through user fees. Recreation programs cover two-thirds of their costs. Existing staff is handling the parks renewal project.

Gunyou said that efforts have been made to reduce costs in the development services area. He noted the excellence of the assessing staff. Gunyou said that with the elimination of one planning position, staff's focus will shift to emphasize follow-up and enforcement of approval conditions. Engineering workload remains high for street projects. Recent technology improvements have allowed inspectors to keep up with the workload.

Gunyou reviewed the general services area, noting that it represents the smallest portion of the budget. Automation and Web security projects are planned. He noted the loss of cable revenue due to a recent federal court decision about Internet access services. He said that the city's low staff turnover rate saves money by reducing recruitment costs. Gunyou said that the prosecution workload has increased, and audit fees are higher.

Gunyou noted that if the city were to make up the entire \$1 million loss in state aid, property taxes would need to increase by six percent. However, with the city's responsible fix, the increase was limited to only 3.7 percent. The proposed budget would not shift the burden forward, and future budgets could be maintained at around the rate of inflation.

Gunyou said that more than half of all city property tax dollars go toward police and fire services, and another 25% go for street maintenance. Parks use about 16 percent of the property tax budget, and everything else takes only 7 percent. He noted that when residents pay their property taxes, they are buying police, fire and park services.

Gunyou said that the impact of the 3.7 percent increase on an average (\$275,000) priced home in Minnetonka would be about \$29. In addition to this amount that the city controls, the parks referendum voters approved last year will add \$22, or 2.9%.

State property tax changes compounded by market impacts will increase average property taxes by about \$64. Gunyou noted that the legislature's many changes effectively shifted more of the property tax burden onto residential properties when commercial property rates were lowered. This occurred at a time when there has been low growth in commercial values, so the total estimated

property tax increase for an average home will be about \$115, with 11.2% of the overall 14.9% increase beyond the city's control.

Gunyou noted that other agencies are setting their levies now, so the final figures are not yet known. The City of Minnetonka only accounts for about one-fourth of the total property tax bill, with schools now a similar percentage, and over 40% of property taxes going for the Hennepin County budget. He noted the confusion over the legislature's changes regarding funding for schools—the state only took over general funding for schools, and does not fund many other activities, such as transportation.

Gunyou noted that Minnetonka's property taxes are among the lowest in the entire metropolitan area, which has traditionally been the case. City services remain a good value.

Gunyou said that there will be information about the budget in the October and November *Minnetonka Memo's*, and also on the city's Web site. Greater detail on property taxes will be available in November, when the levies of other agencies are known. Gunyou said that the city is proud of their record of responsible financial management, and wanted its residents to understand the budget. He invited residents to call him or the city's finance director, Dale Eggenberger, with any questions.

Anderson thanked Gunyou and Eggenberger for their work on the preliminary budget. Schneider concurred.

Schneider moved, Tauer seconded a motion to adopt:

1) Resolution No. 2002-111 setting the city's preliminary tax levy for 2003 for Truth-in-Taxation purposes.

2) Resolution No. 2002-112 setting the Basset Creek Watershed District's preliminary tax levy for 2003 for Truth-in-Taxation purposes.

Anderson noted for the record, that the city's 2003 proposed budget would be \$19,718,195, and Bassett Creek's proposed budget would be \$18,581.

Allendorf said that the 3.7 percent increase was amazing, and that the city had done a good job of managing expenditures. He felt that residents would have difficulty understanding the effect of the state's property tax changes and would look at the bottom line. He encouraged staff to make an effort to explain the changes.

Anderson said that the proposed budget puts the city in a solid position to respond to the expected major state cuts.

Koblick said that the proposed budget was reasonable and respectful. She noted that Minnetonka does not specially assess for road projects, which is very unusual. She said that citizens get a good value, and the city tries to keep costs down.

All voted "yes." Motion carried.

B. Ordinance that increases the park dedication fees.

Gunyou provided the staff report for this item.

Schneider said that staff had done a credible job of laying out the options and alternatives. He felt that the city has traditionally had a basic philosophy to keep park dedication fees at a modest level. The fees should provide some income, but parks should be funded through tax revenues, similar to the way streets are funded. From his personal professional perspective, he was concerned that a \$1,000 increase in park dedication fees, could ultimately result in a \$4,000 to \$5,000 increase in the price of a home through mark ups, and the land/house value relationship.

Schneider was concerned about abandoning this philosophy and putting Minnetonka on the same basis as surrounding cities. He suggested that original owners would be reimbursed through increased values of their homes when they sell, and new buyers would be paying that increase through those inflated values. He said that Minnetonka values have been higher because of the city's parks and trails. He would not support the recommended increase, but would support periodic increases, perhaps in the \$800 to \$1,000 range.

Tauer was concerned about development projects in progress, because a developer could experience an unexpected increase in costs. He suggested a lower increase and a phase in. He was concerned about the effect on the affordability of homes.

Regarding affordability of homes, Anderson noted that the council would have the authority to waive fees for affordable housing projects. She clarified that the fees were on a per unit basis. Planning Director Geoff Olson said that park dedication fees would be charged only for subdivisions, and not where a unit was built on an existing lot.

Allendorf said that he could understand Schneider's argument to keep park dedication fees lower to develop more land. He had trouble understanding the argument to spread the increase over time. He felt that Minnetonka's lower fees were a result of the city not keeping up. He noted that in the previous two weeks, he had received three calls from developers looking for multi-family sites in Minnetonka. He would support the city making incremental increases on a periodic basis, but supported the recommended increase to \$2,375. He would have been troubled by that increase had he not understood that the city had not increased the fee for some time. He did not think the increase would impede development. Allendorf thought the increase was reasonable.

Thomas supported the increase. He noted that the fees had not been increased for six years, since he was on the park board. He said that Minnetonka's fees were low then, and they still would be. He said that the park dedication fund creates a value that creates the demand for Minnetonka properties. Without the fund, the city would not have the parks and their intrinsic value. The fund is a valuable tool and has provided sufficient funding to expand the city's parks. Thomas noted that when he was on the park board, townhome developers would ask for a neighborhood park for their development. At that time, the city did not have the money to provide the requested parks. Thomas said that the park dedication fund adds value to the community and increases land values. The parks make Minnetonka the city that it is. Thomas suggested that the fees be reviewed at least every three to four years as the cost of land and infrastructure increase.

Anderson also supported the proposal. She did not recall a city council philosophy to keep park dedication fees artificially low. She did not think the council had been presented as good a justification to increase the fees in the past. She viewed the issue as one of fairness. The proposal would allow new residents to pay their fair share of the parks that were developed for their benefit. She noted that the fees were still on the low end of justifiable fees.

In response to Tauer's question, Olson clarified that state law only allows cities to collect park dedication fees when subdivisions occur.

Allendorf moved, Thomas seconded a motion to adopt Ordinance No. 2002-23, adopting revised park dedication fees.

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

15. APPOINTMENTS. None

16. ADJOURNMENT.

Thomas moved, Koblick seconded a motion to adjourn the meeting at 8:41 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk
