

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, SEPTEMBER 23, 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 Terry Schneider, Linda Koblick, Jan Callison, Al Thomas, Ken Tauer, Dick Allendorf, and Karen Anderson were present.

**4. REORDERING THE AGENDA.**

City Manager John Gunyou advised that item 14B, regarding the sign at Adath Jeshurun, had been postponed at the applicant's request. The applicant intended to revisit their request with staff and the planning commission before the item returns to the city council.

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

**5. MINUTES.**

Allendorf moved, Thomas seconded a motion to approve the minutes of the September 9, 2002 regular council meeting as submitted. Schneider, Koblick Thomas, Tauer, Allendorf and Anderson voted "yes." Callison abstained. Motion carried.

**6. SPECIAL MATTERS.**

**A. Recognition of employee certificate achievements.**

Anderson noted that several city staff members were being recognized for completion of educational programs resulting in certificates, as follows:

- ❖ Amy Cheney was recognized by Callison for receiving a supervision certificate from the University of Minnesota.

- ❖ Liz Berger was recognized by Schneider for receiving a public management certificate from the Inver Grove Community College.
- ❖ Janice Struthers was recognized by Koblick for receiving a public management certificate from the Inver Grove Community College.
- ❖ Pat Kehr, Bo Powell, and Kathy Magrew were recognized by Allendorf for receiving public service management certificates from Metropolitan State University.

**B. Recognition of Community Action Award Recipients.**

Anderson introduced this item, providing background information about this newly created award. The following awards were given:

- ❖ Koblick recognized Ken Johnson for his 10-year commitment to the Adopt-a-Road program. He has coordinated a senior group's care of Minnetonka Boulevard.
- ❖ Thomas recognized Robert Schmidt who created a mini-park behind the Hennepin County Library near Highway 101 and Excelsior Boulevard.
- ❖ Anderson and Callison recognized the members of the Tonka Tale Tellers program for the reading program they provide for children. Members of the group honored included: Marvilla Bruhm, Marjorie Douville, Mitzi Koch, Margaret Nelson, George Schwartz, Marci Schwartz, Joy Smith Les Smith and Doreen White. Emogene Gibbon and Lucy McNulty were not present.

Anderson noted the importance of recognizing these extra efforts, and the benefit two of these projects had for children.

**C. Proclamation declaring Tuesday, October 8, 2002 as the day of the Minnetonka Fire Department and City Wide Open House.**

Schneider read a proclamation declaring Tuesday, October 8, 2002 as the day of the Minnetonka Fire Department and City Wide Open House.

**D. Proclamation declaring October 2002 as National Breast Cancer Awareness Month and October 18, 2002 as National Mammography Day.**

Callison read a proclamation declaring October 2002 as National Breast Cancer Awareness Month and October 18, 2002 as National Mammography Day.

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

City Manager John Gunyou invited the public to the upcoming Fire Department and City-wide Open House on October 8. He also reviewed the discussion topics for the September 30, 2002 study session, and said that the next regular council meeting would be held on October 14.

Callison reported that she attended a fifth anniversary celebration at Excelsior Court, a project partially funded with Community Development Block Grant funds.

Koblick reported that she attended a 25-year anniversary celebration at Greenbriar Apartments. She noted the association's request for polling place information to post on their premises.

Anderson invited the public to attend Heritage Day on September 28.

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

No one appeared.

**9. BIDS AND PURCHASES.****A. Consideration of bids for the Woodhill Circle Sewer and Water Improvement Project No. 4983.**

Gunyou provided a brief introduction for this item.

Callison moved, Thomas seconded a motion to award the bid for the Woodhill Circle Sewer and Water Improvement Project No. 4983 to Metro Utilities, Inc., in the amount of \$52,615. 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 September 16, 2002 claims list, including checks 169236 through 169495 totaling \$2,650,286.81. All voted "yes." Motion carried.

**B. Preliminary and Final Plat of 4530 Highland Road for Promised Land Development, LLC, represented by Scott Sirovy.**

This item was pulled from the consent agenda by Koblick, who suggested that both conservation easements be referenced as a condition of the plat. Planning Director Geoff Olson said that the

easement along Highway 7 was required. The developer was willing to grant the second conservation easement, along the southerly border, but did not want to stipulate to a legal description for that easement prior to determining the placement of the house. Olson suggested that staff work with the developer for a voluntary easement through the building permit process.

Callison noted the high priority for conservation easements on this property.

Scott Sirovy, 750 Acorn Drive, Chanhassen, spoke as the applicant. He said that the southerly easement was optional and he was amenable to granting it when the development is completed. In response to Koblick's inquiry, Sirovy said he would support an easement similar to one he showed the council, which was smaller in area than the one in the agenda materials.

Anderson supported including a reference to the easement in the motion. She was not concerned about the present owner, but wanted a reference to the easement on the record for future owners.

Olson suggested requiring the southerly easement as a condition of the building permit, and Sirovy was agreeable to that. Anderson clarified that the city would not hold Sirovy to the exact configuration shown in the packet.

Callison also supported amending the language for the motion. She asked for background information about the open space program with respect to this property.

Assistant City Manager Geralyn Barone said that more than 50 areas that met the criteria in the council's open space policy were included in a list of potential properties for open space. These parcels were prioritized on the basis of the policy. The subject property met the visual buffering criteria along Highway 7. Barone said that a conservation easement would provide a satisfactory resolution to deliver some of the open space project goals.

City Attorney Desyl Peterson asked Koblick to state her goal regarding the southerly easement so that staff could provide the appropriate wording. Koblick said that the southerly easement should be required as a condition of the building permit.

Koblick moved, Callison seconded a motion to approve the preliminary and final plat of 4530 Highland Road. Approval is based

on the finding that the plat meets the required standards and ordinances and is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases the final plat:
  - a. If applicable, evidence of watershed district approval.
  - b. The following documents for the city attorney's approval:
    - (1) Conservation easements protecting the tree line along Highway 7. A drawing and description of the easements for the approval of the city attorney must be submitted. The easements and drawing must be recorded with the resolution approving the lot division.
    - (2) A 34-foot wide private driveway easement running through the subject property and the adjacent two properties to provide future access to the western lots that is acceptable to the city attorney. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal. These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.
  - c. Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
- 2) The following must be completed before the city issues a building permit:
  - a. A grading and tree preservation plan must be submitted to the city for each lot, subject to staff approval. Trees along the north and south lot lines should be preserved. The plans must be substantially in compliance to the agreed building areas as required with final approval. The sewer and water services must be shown to minimize impact to the significant trees. This plan will be subject to the planning director's approval.

- b. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed subject to review and approval of the city's environmental resources coordinator.
  - c. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the city.
  - d. A hook-up 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.
  - f. Minimum floor elevation for homes on both lots must be at least 1024.9.
  - g. Payment of the park dedication fee of \$550.00.
  - h. If necessary, approval of a MNDOT drainage permit.
  - i. Conservation easements protecting the tree line along southerly property line. A drawing and description of the easements for the approval of the city attorney must be submitted.
- 3) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 4) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- 5) The property owner is responsible for maintenance of the water drainage basin.
- 6) The lowest elevation of the driveway must be above the 100-year stormwater elevation.

All voted "yes." Motion carried.

**B. Resolutions pertaining to tax-forfeited land within the City of Minnetonka:**

- 1) **Approving the classification of non-conservation tax-forfeited land.**
- 2) **Requesting the conveyance of certain tax-forfeited land to the City of Minnetonka for right-of-way purposes.**

Tauer moved, Callison seconded a motion to adopt the following resolutions pertaining to tax-forfeited land within the City of Minnetonka:

- a. Resolution No. 2002-113, approving the classification of non-conservation tax-forfeited land.
- b. Resolution No. 2002-114, requesting the conveyance of certain tax-forfeited land to the City of Minnetonka for right-of-way purposes.

All voted "yes." Motion carried.

**D. Resolution approving a conditional use permit for installation of wireless telecommunication antennas and equipment at 5125 County Road 101 for AT&T Wireless Services.**

Tauer moved, Callison seconded a motion to adopt Resolution No. 2002-115, approving a conditional use permit for installation of wireless telecommunication antennas and equipment at 5125 County Road 101 for AT&T Wireless Services.

Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Record this resolution with the county before the city issues a building permit.
- 2) The site must be developed and maintained in substantial conformance with the plans dated August 1, 2002

- 3) Exterior surface of the antennas and equipment must be painted a non-contrast color consistent with the surrounding area such as blue, gray, brown, or silver.
- 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 5) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- 6) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**E. Proposed Order for Liquor License Stipulation for D&D of Minnesota, Inc., d/b/a Famous Dave's BBQ Shack.**

Tauer moved, Callison seconded a motion to issue the Finding of Fact, Conclusion, and Order for D & D of Minnesota, Inc., d/b/a Famous Dave's BBQ Shack. All voted "yes." Motion carried.

**F. Resolution authorizing the police department to enter into a grant agreement with the Division of Traffic Safety in the Minnesota Department of Public Safety.**

Tauer moved, Callison seconded a motion to adopt Resolution No. 2002-116, authorizing the police department to enter into a grant agreement with the Division of Traffic Safety in the Minnesota Department of Public Safety. All voted "yes." Motion carried.

**G. Approval of the Landmark recognition program updates.**

This item was pulled from the consent agenda by Anderson, who asked that paragraph #8 of the revised policy state that the council would officially acknowledge designation at a regular council meeting.

Anderson moved, Tauer seconded a motion to authorize the changes to the Landmark Program as recommended by the community heritage commission, with the addition language suggested by the Anderson. All voted "yes." Motion carried.

**H. Designation of voting and alternative voting delegates for annual Congress of Cities Conference.**

Tauer moved, Callison seconded a motion to confirm the following voting delegates for the 2002 Congress of Cities conference:

Voting Delegate #1: Mayor Karen Anderson

Voting Delegate #2: Council member Terry Schneider

Alternate Voting Delegate: Council member Linda Koblick

All voted "yes." Motion carried.

**I. Resolutions ordering the abatement of nuisance conditions existing at:**

- 1) **12516 Orchard Road**
- 2) **3512 Hopkins Crossroad**
- 3) **5800 Covington Terrace**
- 4) **14413 Excelsior Boulevard**
- 5) **14434 & 14436 Stewart Lane**

Community Development Director Ron Rankin provided an update on the subject properties, which were reflected in the motion.

Tauer moved, Callison seconded a motion to:

- 1) Adopt Resolution No. 2002-117 ordering the abatement of nuisance conditions existing at 12516 Orchard Road.
- 2) Adopt Resolution No. 2002-118 ordering the abatement of nuisance conditions at 3512 Hopkins Crossroad, noting that the roof had been repaired.
- 3) Adopt Resolution No. 2002-120 ordering the abatement of nuisance conditions at 5800 Covington Terrace.
- 4) Adopt Resolution No. 2002-119 ordering the abatement of nuisance conditions at 14413 Excelsior Boulevard, noting that the lawn had been mowed, but the fence was still in disrepair.

Rankin said that the nuisance conditions at 14434 and 14436 Stewart Lane had been corrected. All voted "yes." Motion carried.

**11. Consent Agenda (Items requiring Five Votes).**

**A. Resolution approving a conditional use permit, with setback variances, for a coffee shop in the Westridge Market shopping center at 11201 Fairfield Road for Caribou Coffee Company, Inc.**

Allendorf moved, Koblick seconded a motion to adopt Resolution No. 2002-121, approving a conditional use permit with variances for

a restaurant at 11201Wayzata Boulevard. This resolution is based on the following findings:

- 1) Apart from setback and parking standards, the proposal meets the required conditional use permit standards
- 2) Strict enforcement of the ordinance would cause undue hardship because of circumstances unique to this property.
  - a. The applicants are proposing to use their property in a reasonable manner, which though prohibited by code, meets the intent of the Westridge Market master development plan.
- 3) The variances would be consistent with the spirit and intent of the Westridge master development plan and city ordinance for the following reasons:
  - a. The proposal would not impose any negative impacts on the surrounding residential properties. A coffee shop is considered a neighborhood-retail, service-commercial use. Such uses are generally considered acceptable transition uses between residential and more-retail oriented uses.
  - b. The proposed Caribou coffee shop would have three outdoor tables and peak use during the morning hours. The required setbacks are more pertinent when applied to restaurants serving full meals, alcohol, and evening and weekend peak use.
  - c. The proposal would not impose any negative impacts on existing parking conditions. A parking demand study conducted for the shopping area indicates that existing parking at the site can accommodate the proposed coffee shop.

Approval is subject to the following conditions:

- 1) This resolution does not approve any signs. Separate sign permit applications must be submitted for staff review. All proposed signs must meet conditions outlined in the Westridge Market sign covenants.
- 2) The proposed rear entrance must have a sign indicating it is a customer entrance.

- 3) Record this resolution with the county before the city issues a building permit.
- 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 5) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- 6) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**12. INTRODUCTION OF ORDINANCES.** None

**13. PUBLIC HEARINGS.** None

**14. OTHER BUSINESS:**

**A. Resolution approving a two-lot subdivision, with lot width and lot area variances, at 5409 Woodland Road for RAM Construction.**

Gunyou provided a brief introduction to this item, and Olson briefly reviewed the changes that had been made to the application in response to council concerns.

Callison moved, Tauer seconded a motion to adopt Resolution No. 2002-122, approving the proposed lot division, with lot area and lot width variances. This resolution is based on the following findings:

- 1) The proposal meets the required standards for a variance, because:
  - a. Strict enforcement would cause undue hardship, as the applicant are proposing to use their property in a reasonable manner.
  - b. The variances would be consistent with the spirit and intent of this ordinance, as the proposed lot division represents an extension of neighborhood characteristics.

Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases this resolution:
  - a. The following documents for the city attorney's approval:
    - (1) A 15-foot drainage and utility easement along the north property line of both Parcels A and B.
    - (2) A drainage and utility easement over the northeastern part of Parcel B. The easement must cover all that part of Parcel B lying within a triangle lying northeasterly of a line drawn from a point on the north property line of Parcel B, distant 50.00 feet west of the northeast corner of Parcel B to a point on the east line of Parcel B distant 50.00 feet south of the northeast corner of Parcel B.
    - (3) A drainage and utility easement on both Parcels A and B below the 947.0 elevation.
    - (4) Except as noted above, a 10-foot-wide drainage and utility easement next to any public street right-of-way and a seven-foot-wide drainage and utility easement along all other lot lines.
  - b. A park dedication fee of \$550.00.
  - c. Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the lot split resolution.
  - d. Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants must include the conditions below that have not been met as of the release of the resolution. These covenants must first be submitted for the approval of the city attorney.
- 2) The following must be completed before the city issues a building permit:

- a. The installation and maintenance of a temporary rock driveway and fencing for erosion control and tree protection must be installed, subject to review and approval of the city's environmental resources coordinator.
  - b. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the city.
  - c. A hook-up 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.
  - e. The applicant or contractor must meet with the environmental resources coordinator on the site to verify grading limits. If feasible, the environmental resources coordinator may require the preservation of significant trees within the grading area.
  - f. Verification from a structural engineer that the footings are designed to act as a retaining wall for the adjacent storm water holding area.
3. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  4. This resolution must be recorded by the county within one year, unless the city council approves a time extension. If the council does not approve the extension, the lot division approval will be void.

All voted "yes." Motion carried.

**B. Appeal of variances to build a monument sign at 10500 Hillside Lane for Imaginality, Inc., on behalf of the Adath Jeshurun Congregation:**

- 1) **A copy and graphic area variance from 30 to 40 square feet; and**
- 2) **A monument size variance from 75 to 168 square feet.**

This item was removed from the agenda at the applicant's request.

**C. Review of park renewal concept plan for Sunrise Ridge Park.**

Gunyou provided a brief introduction to this item, and Recreation Program Manager Ron Schwartz provided an overview of the process leading to the recommended concept plan for Sunrise Ridge Park.

Allendorf asked what would happen if the park and ride site were developed by Hennepin County. Schwartz said that if a park and ride is ever built, it would be north of the park, across Minnetonka Drive. The park would be on city land so it would not be lost to any future development. Staff had involved the Minnesota Department of Transportation in the discussions to ensure that the park would not be touched in any future expansion of I-494. Allendorf confirmed that the park would remain no matter what happens on adjacent properties. Schwartz said that this park and ride site is a very low priority for grant funding.

Anderson noted the concerns of the neighbors in the past about development of the park and ride site. Schwartz said that if a grant had been awarded last January, it would still have taken five years to construct.

Wendy Steinmetz, 3707 Sunrise Drive East, thanked the staff and park board for working with the neighborhood on this park. The neighborhood includes 50 houses in which 40 plus children live. Those children and visiting grandchildren and guests will benefit from the park. She said that the park will be a welcome addition to the neighborhood.

Koblick said that she had attended the planning meetings and was impressed with the thoughtful input.

Koblick moved, Allendorf seconded a motion to approve plans as recommended by the park board for Sunrise Ridge Park. All voted "yes." Motion carried.

Gunyou said that the next step will be selection of equipment for the park. He noted that this exercise has been popular for children and grandchildren, and said that the neighborhood would be notified when that will occur.

**15. APPOINTMENTS. None**

**16. ADJOURNMENT.**

Thomas moved, Allendorf seconded a motion to adjourn the meeting at 7:38 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk

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