

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, OCTOBER 14, 2002**

**1. CALL TO ORDER.**

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

**2. PLEDGE OF ALLEGIANCE.**

All joined in the Pledge of Allegiance.

**3. ROLL CALL.**

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

**4. REORDERING THE AGENDA.**

City Manager John Gunyou advised the council of two changes to the agenda. Item 9A was being added regarding bids for the new Sunrise Ridge Park. Two administrative changes were proposed by staff for the wetland buffer ordinance, item 14B.

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

**5. MINUTES.**

Koblick moved, Thomas seconded a motion to approve the minutes of the September 23, 2002 regular council meeting as submitted. All voted "yes." Motion carried.

**6. SPECIAL MATTERS.**

**A. Proclamation of KIDS VOTING USA**

Callison read a proclamation declaring the participation of the City of Minnetonka in the KIDS VOTING USA program. She noted that the Minnetonka School District is seeking volunteers to help with the program. Anderson added that the Hopkins School District would also likely welcome volunteers.

**B. Proclamation of National League of Cities' Hometown Security Day on October 22, 2002.**

Anderson read a proclamation declaring the participation of the City of Minnetonka in the National League of Cities' recognition of October 22, 2002 as Hometown Security Day.

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

City Manager John Gunyou reported that about 5,600 people attended the October 8th Fire and City-wide Open House. Anderson thanked staff for their work and coordination of the event. Tauer said that his four-year old granddaughter accompanied him, giving him his first child's viewpoint of the event. He said the function also serves as a career day, and he was amazed at the variety of activities available for children.

Gunyou reported that there will be a council study session on October 21, and the next regular council meeting will be held on October 28.

Allendorf distributed a brochure prepared by the I-494 Corridor Commission, a joint powers group including cities along the I-494 corridor. The group is making efforts to move state-funded projects forward.

Allendorf also reported that the police advisory committee met two weeks ago and came up with an innovative idea to better communicate with citizens. The idea is based on the existing block captain system, and would provide for general city and police information to be given to them to distribute. This project would reactive neighborhood ties, because with the low crime rate, some crime watch groups have no contact except for the annual National Night Out. Allendorf asked the city manager to ensure follow through on this idea.

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

No one appeared.

**9. BIDS AND PURCHASES.**

**A. Consideration of Bids for Construction of Sunrise Ridge Park.**

Gunyou reported that this item was added to the agenda because the contractor with the lowest bid could start the work immediately, or would have to delay the project by a month due to a prior commitment to an out-of-state project.

Gunyou advised that the engineer's estimate for this portion of the project was \$40,000. Two bids were received, with the low bid from Nadeau Construction in the amount of \$38,250. Gunyou said that staff recommended that the council award the bid.

Allendorf moved, Tauer seconded a motion to award the bid for the construction of Sunrise Ridge Park to Nadeau Construction in the amount of \$38,250. All voted "yes." Motion carried.

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

**A. Claims for council authorization.**

Tauer moved, Koblick seconded a motion to approve the October 14, 2002 claims list, including checks numbered 169496 through 169889 totaling \$1,726,002.34. All voted "yes." Motion carried.

**B. Resolution authorizing the certification of delinquent water and sanitary sewer charges to the Hennepin County Auditor.**

Tauer moved, Koblick seconded a motion to adopt Resolution 2002-123, authorizing the certification of delinquent water and sanitary sewer charges to the Hennepin County Auditor. All voted "yes." Motion carried.

**C. Resolution authorizing election judges for the 2002 General Election.**

Tauer moved, Koblick seconded a motion to adopt Resolution 2002-124, appointing the election judges for the November 5, 2002 General Election. All voted "yes." Motion carried.

**D. Authorization of the 2002/2003 Insurance policies.**

Tauer moved, Koblick seconded a motion to authorize the 2002/2003 renewal of the city's insurance policies through LMCIT for package policies and workers' compensation with the following options:

- \$25,000/\$100,000 deductible for the package policies
- \$10,000 deductible for workers' compensation
- 80/20 Open Meeting Law coverage
- No waiver of statutory limits

All voted "yes." Motion carried.

**E. Approval of an agreement with N.A.R.S.**

Tauer moved, Koblick seconded a motion to approve an agreement with N.A.R.S. for deer removal services. All voted "yes." Motion carried.

**F. Approval of a temporary sign for the Montessori Children's Workshop at 600 County Road 73 (Oak Knoll Lutheran Church) advertising their Harvest Festival.**

Tauer moved, Koblick seconded a motion to grant a five-year approval for the temporary display of a Harvest Festival sign at Montessori Children's Workshop 600 County Road 73 (Oak Knoll Lutheran Church). The display of the sign would be permitted for two weeks each fall. All voted "yes." Motion carried.

**G. Ordinance amending the standards for lot width at the public right-of-way variances.**

Tauer moved, Koblick seconded a motion to adopt Ordinance No. 2002-24, amending the standards for lot width at the public right-of-way variances. All voted "yes." Motion carried.

**H. Approval of a preliminary plat for a two-lot subdivision at 30 Plymouth Road for Karen and Dan Lone.**

Tauer moved, Koblick seconded a motion to approve the preliminary plat at 30 Plymouth Road for Karen and Dan Lone. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
  - a. Show the following on the final plat:
    - (1) At least ten-foot-wide drainage and utility easements next to any existing public street right-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
    - (2) A 10-foot wide utility easement centered over proposed sewer and water lines serving Lot 2 must be established on Lot 1. This would allow maintenance of these utilities.

- b. Pay the city a park dedication fee of \$550.
- 2) The following items must be submitted to the city before the city releases the final plat:
  - a. An electronic CAD file of the final plat in microstation or DXF.
  - b. The following documents for the city attorney's approval:
    - (1) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
    - (2) If applicable, provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.

- 3) The following must be submitted to the city before the city issues a building permit:
  - a. A grading and tree preservation plan for the new lot, subject to staff approval. The plans must be in substantial compliance with the agreed building areas as required with the final plat. The sewer and water services must be shown to minimize impact to significant trees.
  - b. The installation and maintenance of a temporary rock driveway, erosion control and tree protection fencing must be installed, subject to review and approval of the city's environmental resources coordinator.
  - c. A copy of the recorded plat and any easements or covenants required to be recorded.

- d. A hookup fee for sanitary sewer and water.
  - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
  - f. A driveway permit from Hennepin County.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  - 5) A driveway turnaround must be constructed within the driveway to ensure that cars do not back out onto Xenium Lane South.
  - 6) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad, utility lines and driveway area. The trees must be primarily species native to the area. They must be at least 2 ½ 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.
  - 7) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

All voted "yes." Motion carried.

**I. Approve the First Amendment to the agreement for loan of Minnesota Investment Fund (Cargill Dow).**

Tauer moved, Koblick seconded a motion to approve the first amendment to the agreement for loan of the Minnesota Investment Fund (Cargill Dow). All voted "yes." Motion carried.

**J. Resolution ordering the abatement of nuisance conditions existing at 14317 McGinty Road W.**

Tauer moved, Koblick seconded a motion to adopt Resolution 2002-125, ordering the abatement of the nuisance conditions existing at 14317 McGinty Road W. All voted "yes." Motion carried.

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

12. **INTRODUCTION OF ORDINANCES.**

A. **Ordinance amending Section 710 of the city code regarding food, lodging and swimming pool license and inspection fees; and certain planning fees.**

Gunyou provided a brief introduction to this item. Community Development Director Ron Rankin reviewed the proposed changes. A reinspection fee is proposed and would be used where several reinspections are needed to ensure a restaurant is in compliance. Reinspection fees are charged by many cities and by Hennepin County. A fee would also be charged to schools for kitchen inspections, but they would not be subject to a reinspection fee. School inspection fees are charged by Hennepin County. Rankin noted that the schools do a very good job of complying.

Tauer asked if schools would be inspected by the city and the county, and face double fees. Rankin said that the county does not do inspections in cities that have local inspectors.

Callison moved, Allendorf seconded a motion to introduce an ordinance amending Section 710 of the city code regarding food, lodging and swimming pool license and inspection fees; and certain planning fees. All voted "yes." Motion carried.

13. **PUBLIC HEARINGS.** None

14. **OTHER BUSINESS:**

A. **Ordinance amending the political signs requirements.**

Gunyou provided a brief introduction to this item. Planning Director Geoff Olson provided an update on the planning commission's discussion of this issue.

Tauer expressed a preference for consistency between odd and even years, and for a greater setback for larger signs, but said that he would defer to the council on these issues.

Callison expressed concern about eliminating the size restriction for campaign signs during local elections. She said that the city has the right to restrict the signs and has a history of doing so. She did not support unnecessarily relinquishing that right, and felt that the city would be served by smaller election signs. Callison noted that the

proposed ordinance provides for other differences between odd and even years.

Anderson asked if the size requirement differed for local streets or major thoroughfares.

Tauer agreed with Callison's suggestion to restrict the size of signs for local elections.

Anderson noted that candidates for municipal positions receive a packet of information from the city, so it would be easy to advise them of size restrictions.

Schneider supported the current size restrictions for local elections, and asked if the restrictions would apply to school elections. Anderson noted that the candidate's packet is not sent to candidates for school elections.

Gunyou advised the council that the current size requirements for real estate signs is three square feet or less. The current size limit for political signs is five square feet for local streets and 32 square feet for major streets.

Koblick advised that she was abstaining from the discussion of this matter and the vote because she is currently a candidate for an elected office.

Callison said that the current size limits for campaign signs were generous as opposed to those allowed for real estate. She would support further limiting the size of political signs.

Allendorf noted that he has been on the school board or city council for the past 16 years and he has not been aware of a problem with signs.

Schneider had difficulty envisioning a five square foot sign. His understanding was that signs would be the standard size. He noted that signs have worked in the past.

Callison moved to adopt the proposed ordinance amending the political signs requirements with a modification to retain the current restrictions for sign size in local elections, including school board elections.

Gunyou clarified that the critical factor was whether the election was in even or odd years, not the level at which elections occur.

Peterson further explained that the city could place restrictions on any election that occurred in an odd-numbered year, including special elections. Even-numbered year elections are governed by state law.

Callison said that she was only interested in imposing the sign size restriction for city races in odd numbered years. Anderson said that she was uncomfortable with the motion because it included school district races. She said that school districts include other cities, and different restrictions in one city could cause problems.

Allendorf seconded the motion.

Tauer asked for clarification about the time period governing even numbered year elections. Peterson said that the law only applies to elections held between August 1 and 10 days after the general election. She noted that the City Charter generally favors city elections occurring during the November time period.

Anderson commented on the difficulty of keeping the process simple.

Olson asked if the motion would address only the size of signs or if it would also address setbacks. Callison said that her intent was only to address the size of signs. She said that a five foot setback made good sense, and supported the draft language.

Peterson expressed concern about the council adopting the motion with changes that they had not viewed in writing. She preferred time to draft the changes to see how the changes interplayed with the ordinance. She suggested that the council adopt a motion to direct staff to redraft the ordinance.

Callison and Allendorf withdrew their motion.

Callison moved, Allendorf seconded a motion to direct staff to redraft the ordinance, incorporating the changes discussed at the meeting. All voted "yes." Motion carried.

**B. Ordinance amending the wetland overlay district, including requirements for wetland buffer areas, which would increase building setbacks around "preserve" wetlands from 35 feet to 60 feet.**

Anderson noted that the city council has been discussing this ordinance for two years. Gunyou reviewed the two changes

submitted by staff in the addendum packet. Peterson suggested that instead of the language in the addendum, the following sentence should be added to 5(h)(1):

Permission must be obtained from the city before implementing buffer management strategies, which may include mowing, burning, and the use of herbicides.

Olson then reviewed the staff report on this item, including a review of the planning commission's discussion of the ordinance. He further explained the two changes in the addendum.

Environmental Resources Coordinator Jo Colleran presented information about the environmental aspects of a wetland buffer ordinance. She explained the functions of wetland buffers, including filtration of runoff of nutrients, stabilization of soils, modification of micro climates, provision of habitat for fish and wildlife, and protection from human encroachment through compaction of soils, and lawn care practices. She noted that buffer areas also deter geese. She said that regulations help protect each wetland complex.

Colleran noted that the recent phosphorous legislation will take effect in January, 2004. At that time, homeowners in the seven county metropolitan area will no longer be able to use products that contain phosphorous without a test showing their soil needs it, or to establish a new lawn. Colleran noted that phosphorous cannot be totally eliminated from the environment because it is naturally found in grass clippings, animal feces, etc.

Colleran said that staff looked at the classifications of wetlands in the city's water management plan to determine the most effective methods to positively affect water quality and the wetland environments. Three categories of wetlands are present in the city: Manage 1, Manage 2, and Preserve. Buffers were suggested for each of the three categories, appropriate to the level of quality of those areas. Colleran said that the goal was to avoid any impact to Preserve areas. She referred to a 1994-1995 study by Tom Schuler that indicated human encroachment on wetlands is effectively deterred with a 50 foot buffer area.

Colleran said that in making its recommendations, staff looked at the benefits buffers provide, and also looked at what other cities do. She said that staff will work on educational efforts, and will work with residents to obtain appropriate plants. Information will be

distributed through cable television, the *Minnetonka Memo*, and the city's Web site.

Anderson was surprised to see the map showing the city's wetlands. Most of the Preserve areas are very small, and are often less than one-quarter acre in size. She asked Colleran to clarify the definition of a Preserve wetland. Colleran said that 478 wetland areas were inventoried, and 29 of them were classified as Preserve. She said that the Preserve areas had no direct stormwater impacts because there were no pipes draining into them. Anderson asked if Manage 1 or 2 wetlands would all have drainpipes flowing into them. Colleran said that they would.

Tauer asked if the city had tested the quality of the water in Preserve areas. Colleran said that the water quality in Preserve areas had not been measured. She said that the goal was to avoid direct stormwater discharge into Preserve areas. She said that the wetlands classified as Preserve presented a potential for better quality.

Callison said that there are five instances where buffer areas would be required. These areas included commercial, multi-family, and new or redeveloped residential areas. Callison asked why single-family residences had been excluded from marking requirements. Colleran said that markers were proposed for multi-family and commercial areas because they are frequently maintained by lawn care companies, or the areas are in common areas. The signs would serve an educational purpose in defining the wetland buffer area. Staff proposed that buffer areas be memorialized in the chain of title for single family properties by indicating their existence with a conservation easement or a description of the buffer limits.

Callison noted that the city's report discussed dual silt fencing, and asked if they would be of benefit. Colleran responded that the proposed ordinance would require one line of silt fencing upland from the buffer's edge. Placement upslope would prevent additional disturbance to the wetland. Silt fencing can be effective if it is properly maintained, but if it is not maintained, it can be run over, or topple due to the trapped sediment. Colleran said that there are different viewpoints on the efficacy of silt fencing trapping fine sediments. She said that there is potential for double silt fencing, but first the city must enforce single layers. She said that staff believes that a single layer of silt fencing would be sufficient for now.

Allendorf said that the buffer delineation sign was well thought out and a good size. He was concerned about regulating the quality and size of these signs, and suggested that the city provide them.

Allendorf noted that the discussions of the past two years had considered property rights regarding the width of the buffer area. The new draft would restrict driveways in the setback area. He asked if staff knew the impact of this restriction. Olson said that staff did not know how many properties would be affected by the driveway restriction. Olson said that driveways would not be prohibited. He said that staff would review variances on a case-by-case basis. Allendorf said he would like discussion of how a hardship would be defined, especially if trees might be affected.

Tauer said that the variance requirements may be too harsh. He noted that driveways would be needed, and that a variance process would probably work. Tauer asked about the Builder's Association's reference to the buffer required with a steep slope. He also asked for the basis of the 16.5 foot size, stressing the need for simplicity.

Olson said that the reference to steep slopes was not in the current draft of the ordinance, although it was in earlier versions. Colleran said that the 16.5 foot size is an industry standard equal to a rod or the length of a standard canoe. Tauer would support a 15 or 20-foot size for simplicity. Olson said that the 16.5-foot size is the minimum standard set by the watershed district. He noted that there was some thought given to maintaining consistency with their requirements.

Anderson liked the buffer delineation sign, and would support a standard sign being supplied by the city for a nominal fee. She asked if residential property owners could display the signs on a voluntary basis. Olson said that they could

Anderson supported restricting driveways within setback areas except by variance. Anderson noted that driveways would not be prohibited within the setback areas, just in wetland areas.

Schneider said that he was not aware that the wetland areas had not been tested. He was concerned about maintaining Preserve areas, and said that preserving them may require actions prohibited under the Wetland Conservation Act. He noted the natural evolutionary process that affects wetlands, and said that cannot be stopped without active management. Colleran said that there is natural filling in of wetlands, and the rate that occurs depends on a number of factors. This process could take 30, 300 or 3,000 years,

depending on those factors. The proposed ordinance would slow down that process by offsetting human impacts.

Koblick supported consistency of signs. She shared Allendorf's concern about the number of properties the driveway restrictions might affect. She said that the ordinance provided a proactive, thoughtful approach.

Tauer said that overall he was very supportive of the ordinance. He had some concern about requiring a 50 foot buffer for Preserve areas. He suggested allowing best management practices as an alternative, if they would accomplish the same goal. He was willing to look at options to reduce the setback if the quality of the Preserve area would not be sacrificed.

Schneider agreed, and presented draft language to amend the ordinance. Schneider saw preservation of water quality as meeting a public purpose, but suggested that the other benefits from wetland buffers should be left to individual property owners to decide after they receive education. He noted that the environment can change within the required setback area, especially when steep slopes exist. Schneider said he would be comfortable with saying that preservation of water quality was the primary public purpose of the ordinance. His amendment would provide a more flexible approach. He was concerned about deviating too far from the public purpose. Schneider said that he would introduce his draft language as an amendment when the motion was made. He suggested that his amendment would provide a common sense approach.

Anderson expressed concern about changing the primary purpose of the ordinance by leaving out the other benefits of preserving wetlands. She would not support the amendment.

Callison said that the challenge of drafting the ordinance was to provide for a process that was effective without impacting private property owners. She said that the variance process was not always tailored to existing circumstances. She agreed with Anderson's concerns, and was also concerned about recording the buffer in the chain of title. She noted that most people are advised of items in the title when they purchase a property, and then they never visit them again. She did not see sentiment to expand the restrictions to residential properties, and said that it made some sense to limit the restrictions to new developments and redevelopments. She said that Schneider's amendment could result

in an ordinance that did not accomplish much, and she wanted an ordinance that would have some impact.

Allendorf said that the impact on driveways had been discussed since 1999. He said that the result of those discussions is that a small change had been made restricting driveways in setback areas. He would be willing to live with the variance procedure, but questioned how to weigh the hardship issue between a driveway and trees.

Callison clarified that driveways could not be located within 20 feet of an overlay district, but they could be in the setback area of Manage 2 wetlands.

Olson, responding to Allendorf's concerns, said that the assurance was in the process itself. He said that the planning commission regularly discusses trees as a hardship and questions which amenity to value greater. He said that the decision would be affected by the quality of the trees and the quality of the wetland. Olson noted that the city is 96 percent developed, and the requirements would not be effective until a new home was being constructed next to a wetland. He said that it would be difficult to identify the number of properties that might be affected without knowing the design of the proposed home or its placement. He said that the ordinance would provide an opportunity for staff to work with homeowners to avoid negative impacts.

Allendorf said that the driveway reference had not been part of the discussion thus far. Anderson said that the ordinance has been evolving. Colleran said that this recommendation came from her. As she read the ordinance, Colleran looked for ways to improve the city's wetlands. Colleran said that eight to 12 foot driveways should not be allowed in buffer areas. She said that the ordinance would allow staff to look at each circumstance on a case-by-case basis.

Tauer thought that there was another reference in the city's ordinance to variance softening. He thought the language referred to granting a variance if other physical amenities are impacted more than the wetland.

Anderson said that the ordinance had evolved a long way. She was concerned about emasculating it. She had supported earlier drafts of the ordinance that were more stringent. She based her position on input from the city's residents and said that the one natural resource they value most is protection of wetlands. She noted that Minnetonka had one of the first wetland ordinances in the state.

She said that the city had a Natural Resources Commission in the 1970s. Minnetonka residents expect that wetlands will be protected and are surprised when they suspect development has occurred in a wetland area. The public discussion has included references to buffers, and people understand that. The issue has been raised at open houses on the ordinance and other meetings. There were some objections about the rights of private property owners, but those objections have not been made during the later drafts with the exception of comments from one very special interest group. She could not in good conscience say that a 16.5-foot buffer should apply to all wetlands.

Tauer respectfully disagreed and did not feel the amendment would emasculate the ordinance. He said that the amendment would allow a property owner to propose an extraordinary option to reduce impacts.

Anderson said that the amendment only referred to water quality. She said that the wetlands have not been tested so their quality is not known, and there would be no way for the city to refute proposals that purport to improve water quality.

Allendorf moved to adopt Ordinance No. 2002-25, amending the wetland overlay district, with the following changes:

Delete section 6.b.7 and change section 5.h.1, so that section to read:

h) The affected property owner or homeowner association that is responsible for the maintenance must:

1) maintain and repair damage to buffer areas from such activities as mowing, cutting, grading or other prohibited activities, unless mowing is approved by the city as a buffer management strategy. Permission must be obtained from the city before implementing buffer management strategies, which may include mowing, burning, and the use of herbicides.

Amend section 8.1.5, to read:

All structures must have a minimum basement floor elevation not less than two feet above the 100-year flood elevation.

Amend section 12(a) to delete the references to the requirements for markers, and instead say that uniform signs will be provided by the city an appropriate cost.

Callison seconded the motion.

Callison also suggested that the three provisions referencing the requirements for the buffer signs be deleted. Allendorf accepted this as a friendly amendment to his motion, so the language would read:

When new development or redevelopment results in multifamily residential or a business use, the developer must place markers at the upland boundary of the wetland buffer edge at least every two hundred feet. The developer must use uniform markers provided by the city. The city will charge a reasonable cost for the markers.

Anderson said that she would not follow Roberts Rules of Order in this case, and would not require a vote on the friendly amendment.

Schneider said that best management practices would allow for other options that might work. The criteria could be recorded in the chain of title.

Peterson said that the purpose of recording the best management practices in the title was to put future property owners on notice, and it would also require them to comply with the requirements.

Schneider moved, Tauer seconded a motion to add the following sentence at the end of Section 300.23, 5.d. (buffer widths):

The city may reduce the buffer to a minimum of 16.5 feet if the city determines that other best management practices will obtain the same level of water quality treatment as the required buffer and a document is recorded in the property's chain of title requiring compliance with these best management practices.

Tauer suggested changing the language in the last paragraph to read: “. . . to obtain the same *or better* level of water quality treatment. . . “

Schneider accepted Tauer's suggestion. He suggested that it would be possible to determine the quality and quantity of water coming into a wetland off a particular property. He agreed that this would place a greater emphasis on water quality versus the additional wetland buffers benefits. He said that the amendment would not require staff to approve reducing the buffer to 16.5 feet, it would just say that the buffer could not be reduced below that without a variance. Schneider suggested that the

difference between the practical buffer and the required buffer could be made up in best management practices. This would bring common sense to the ordinance, and would not emasculate it. He said that future councils would not know about the dialogue of this council.

Koblick said that she was leaning toward supporting the amendment. She suggested deleting the language within the parenthesis. Colleran said that language was redundant and could be deleted.

Allendorf said that the ordinance as proposed is objective. He questioned the ability to determine the effect of best management practices in the field. He wondered if best management practices had been sufficiently defined. Colleran said that best management practices generally refer to things that negate the impact to water quality, such as rain gardens, and infiltration systems. The Minnesota Pollution Control Agency has established best management practices to minimize the negative impacts impervious surfaces have on water quality.

Callison asked if the same results could be accomplished from a 16.5-foot buffer with best management practices as with a 50 plus 10-foot buffer. Colleran said that in her opinion, best management practices could prevent degradation of the quality of a wetland. Callison said that buffers provide a simple tool because they keep people from mowing. She suggested that best management practices could be more complex. Colleran said that some best management practices are simple, like buffers, but others, such as sediment traps in catch basins, are more complex and require regular maintenance.

Callison said that she was not comfortable focusing the ordinance solely on water quality. The number of Preserve areas is small, and the impact would not be huge. The proposed ordinance has fairly minor impacts to properties, and she would not support the amendment.

Tauer said that the amendment would allow the city to reduce the buffer if it was determined that there was a better way. The amendment did not require the buffer to be reduced to 16.5 feet. Schneider suggested amending the language to read: "The City may reduce the buffer width to *be in no case less than* a minimum of 16.5 feet . . . "

Thomas said that he would not support the amendment. He would have supported making the ordinance stronger. He said that the city knows that all of the wetlands are degraded, which is apparent by just driving by them and observing their color. He said that water quality is only one issue. The key to the ordinance is the other benefits it provides to stabilize steep slopes, prevent erosion, filter nutrients, and provide a diverse eco-system for plants and wildlife.

Schneider said that the amendment would not weaken the ordinance but it would change the focus somewhat. As a practical matter, if a property will accommodate a 50 feet buffer, staff would require it. If the property won't support that, staff would grant best management practices. He said that staff would make the final determination.

Anderson said that the amendment would put staff in a difficult position to negotiate any buffer requirement in excess of 16.5 feet. She trusts staff to understand the intent of the council, but said that the ordinance would outlive the present council and staff. She was concerned about a lack of consistency in expectations. She was also concerned about precedent being set if staff granted variances.

Peterson said that the language in the amendment did not give staff the authority to reduce the size of the buffer. Such requests would need to be brought to the city council.

Schneider interpreted the amendment as a way to permit best management practices without a variance, in a simple, staff-controlled process. Peterson said that she interpreted it as something that would be brought to council, but would not require the hearings and notices required for a variance. Schneider agreed with the council reviewing these requests.

Schneider clarified the language for the amendment, and Tauer, as seconder of the motion, agreed to the proposed language.

Koblick moved, Allendorf seconded a motion to amend to delete the following language from paragraph 7(a): "(if a wetland and the buffer area is not disturbed).

On the vote on the amendment to the ordinance proposed by Schneider, Koblick, Tauer, and Schneider voted "yes." Callison, Thomas, Allendorf, and Anderson voted "no." Motion failed.

On the vote on the amendment to remove the language in section 7(a), proposed by Koblick, all voted "yes." Motion carried.

On the vote on the adoption of Ordinance No. 2002-25, including the amendments in Allendorf's motion and Koblick's suggestion, Koblick, Callison, Thomas, Thomas, Allendorf, and Anderson voted "yes." Schneider voted "no." Motion carried.

Anderson noted that the discussion of this ordinance was good, and recognized the work that went into the process over the past years.

**15. APPOINTMENTS.****A. Reappointment to the Minnetonka Police Advisory Committee.**

Anderson moved, Allendorf seconded a motion to reappoint Melissa Hill, 11100 Cedar Hills Blvd., Apt. #325, the Police Advisory Committee, to serve a one year term of office effective October 14, 2002 and expiring on October 1, 2003. All voted "yes." Motion carried.

Koblick encouraged interested residents to apply for other vacancies on the committee.

**16. ADJOURNMENT.**

Thomas moved, Tauer seconded a motion to adjourn the meeting at 9:03 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk

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