

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, OCTOBER 28, 2002**

1. CALL TO ORDER.

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

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL.

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

4. REORDERING THE AGENDA.

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

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

5. MINUTES.

Allendorf moved, Callison seconded a motion to approve the minutes of the October 14, 2002 regular council meeting. Anderson and Schneider noted minor corrections. All voted "yes." Motion carried.

6. SPECIAL MATTERS.

A. Proclamation declaring Tuesday, November 5, 2002 as "Election Judge Appreciation Day."

Schneider read a proclamation declaring Tuesday, November 5, 2002 as "Election Judge Appreciation Day."

B. Community Action Recognition Awards.

Koblick acknowledged Wendy Steinmetz's efforts for the new Sunrise Ridge Park and a trail along Orchard Road. Callison acknowledged the Outdoor Classroom Project (The Giving Tree) at

Groveland Elementary School. Anderson presented Community Action Recognition Awards for both efforts, and noted how these projects improved the lives of Minnetonka residents.

7. REPORTS FROM THE CITY MANAGER AND COUNCIL MEMBERS.

City Manager John Gunyou reported that tiered water rates and undergrounding of utilities would be discussed at the November 4 city council study session. City Hall will be closed for Veteran's Day on November 11, and the next regular city council meeting will be held on Tuesday, November 12. On November 18, the city council will hold its 2003 Budget review study session.

Gunyou provided an update on the General Election process due to changes in the U.S. Senate race. Schneider suggested a link from the city's Web site to the Secretary of State's Web site.

Callison reported that she and Koblick attended the annual meeting of Minnetonka Community Education Services, where they received a commemorative poster.

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

Kari Rotman, 5576 Nantucket Road, asked how the city would address sidewalk and street issues if the Minnetonka School District's referendum fails and more children are required to walk to school.

Anderson thanked her for raising the concern, and said that the city has been discussing this issue with the school district. Gunyou reported that this issue has been discussed at the regular monthly meetings between the district and the cities in that district. Off-duty police officers currently direct traffic in problem areas. The issue continues to be discussed with the district and with the Minnetonka Police Department.

9. BIDS AND PURCHASES.

A. Authorization of purchase agreement with Lora Jones to purchase the property at 13418 Minnetonka Boulevard.

Gunyou reported that this was the first purchase agreement to acquire property with open space referendum funding. Additional purchase agreements will be brought to the city council as they are reached.

Callison moved, Thomas seconded a motion to authorize the purchase agreement with Lora Jones to purchase the property at 13418 Minnetonka Boulevard. All voted "yes." Motion carried.

B. Consideration of proposals to provide new lighting and dimming system in council chambers.

Gunyou provided the introduction for this item.

Callison noted that Norcostco did not provide the lowest price, and asked if this was allowed. City Attorney Desyl Peterson responded that formal bids were not required because the project did not exceed \$50,000, so staff had greater discretion. She said that staff had provided a reasonable basis for its recommendation.

Allendorf moved, Tauer seconded a motion to authorize an agreement with Norcostco in the amount of \$30,560 for installation of new lights and dimming system in the Council Chambers. 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 21, 2002 claims list, checks numbered 169890 through 170306 totaling \$2,280,411.09. All voted "yes." Motion carried.

B. Consideration of project change order No. 2 for the city's public works facility.

Tauer moved, Koblick seconded a motion to approve change order no. 2 for the city's public works facility in the amount of \$178,774. All voted "yes." Motion carried.

C. Authorization to enter into an agreement with LHB Engineers & Architects for architectural services provided for the Ice Arena B renovation project.

Tauer moved, Koblick seconded a motion to authorize the Mayor and City Manager to enter into an agreement for Ice Arena B design services with LHB Engineers and Architects. All voted "yes." Motion carried.

D. Resolution approving a conditional use permit for a 1,040 square foot detached garage with height of 14.7 feet at 5219 Scott Court for Craig Stephens.

This item was pulled from the consent agenda by Anderson, who was concerned about the large size of the proposed garage, and the objection of some neighbors. Principle Planner Cary Teague said that the complaints from neighbors were made prior to the planning commission discussion. Since then, the applicant met with staff and the neighbor, and agreed to plant five additional trees. The project meets standards for conditional use permits, and the planning commission recommended approval.

Callison said that she was also surprised by the size of the garage, but said that it seemed appropriate for the topography.

Callison moved, Tauer seconded a motion to adopt Resolution No. 2002-126. This resolution approves a conditional use permit for construction of a 26-foot by 40-foot accessory structure with height of 14.7 feet. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Plant five, 7-foot black hills spruce trees as indicated on the site plan dated September 19, 2002. The applicant is responsible to replace any tree that dies within five years of planting.
- 2) Tree protection/erosion control fencing must be installed and maintained throughout the construction process.
- 3) The site must be graded so as to minimize impact to adjacent properties.
- 4) The structure may not be used for commercial activity.
- 5) The structure may not be converted to a dwelling used for residential occupancy.
- 6) Record this resolution with the county before the city issues a building permit.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.

8) 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.

9) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

E. Ordinance amending the political sign requirements.

Tauer moved, Koblick seconded a motion to adopt Ordinance No. 2002-26. Callison, Thomas, Tauer, Allendorf, Schneider and Anderson voted "yes." Koblick abstained. Motion carried.

F. Proposed orders for tobacco license stipulations for:

- 1) **Byerly's Wines and Spirits, 13081 Ridgedale Drive**
- 2) **Cedar Lake Market, 11064 Cedar Lake Road**
- 3) **Cooper's Super Valu, 17501 Minnetonka Boulevard**
- 4) **Sinclair Station #22051, 12415 Wayzata Boulevard**

Tauer moved, Koblick seconded a motion to issue Findings of Fact, Conclusions, and Orders for:

- 1) Byerly's Wines and Spirits, 13081 Ridgedale Drive
- 2) Cedar Lake Market, 11064 Cedar Lake Road
- 3) Cooper's Super Valu, 17501 Minnetonka Boulevard
- 4) Sinclair Station #22051, 12415 Wayzata Boulevard

All voted "yes." Motion carried.

G. Resolution adopting the city council's meeting schedule for 2003.

Tauer moved, Koblick seconded a motion to adopt Resolution No. 2002-127 establishing the 2003 city council meeting schedule. All voted "yes." Motion carried.

H. Adoption of an ordinance amending Section 710 of the City Code regarding food, lodging and swimming pool license and inspection fees; and certain planning fees.

Tauer moved, Koblick seconded a motion adopting Ordinance No. 2002-27, 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.

I. Approve a line of credit agreement between the city and the West Hennepin Affordable Housing Land Trust (WHAHLT).

Tauer moved, Koblick seconded a motion to approve the credit agreement between the City of Minnetonka and the West Hennepin Affordable Housing Land Trust (WHAHLT). Thomas, Tauer, Allendorf, Schneider, Koblick and Anderson voted “yes.” Callison abstained. Motion carried.

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

12. INTRODUCTION OF ORDINANCES. None

13. PUBLIC HEARINGS.

A. Public hearing to consider a resolution vacating part of a drainage easement to allow for the construction of a cantilevered deck at 5575 County Road 101 for Dream Home Development.

Teague provided an introduction for this item.

Anderson said that cantilevered decks do not normally require posts, and asked why there are posts and additional footings at this site. Teague said that the deck would be more properly termed an elevated deck. He said that the vacation would apply only to the area under the deck.

Anderson asked for clarification of the area that would be filled. Teague said that the site had not yet been graded to the plan. He said that additional fill will be removed.

Anderson noted that some council members had not supported the previous request to allow fill to create a buildable lot, and she was concerned about another change to the request.

Callison asked if the house placement was a result of the setbacks from the front, and Teague said they were. Callison asked how the city would determine if the applicant had more fill than the city authorized. Teague said that there would be an engineering inspection after the grading is completed, or at the time the certificate of occupancy is issued.

Anderson opened the public hearing at 7:20 p.m.

Dave Gollenberger and Walt Donahue spoke as representatives of the applicant. Gollenberger said that a temporary occupancy permit had been issued and someone was living in the house.

Donahue said that additional fill was needed to create a ramp for the driveway, and they intend to create a drainage pond. He said that there is quite a bit of fill to be removed, and they were in the process of removing it when the stop work order was issued. Donahue said that they would fill under the deck to create level land with a gradual slope away from the house. They would not add more fill in that area, and would haul away the fill.

Anderson closed the public hearing at 7:24 p.m.

Callison said that she did not support the project the first time. She disliked the complications that resulted due to the small site. The only good result was that trees would not be lost. She was uncertain if she would support the request.

Tauer said that it was a difficult issue, and that there should have been more forethought. Although not ideal, the project did follow the floodplain rules.

Schneider agreed, and said that it was not desirable to make decisions after the fact. He said that the corrections were being made after the fact. He noted that the project complied with the storage areas adopted by the city council, and the request seemed reasonable.

Tauer moved, Schneider seconded a motion to adopt Resolution No. 2002-128. This resolution vacates the drainage and utility easements. Approval is subject to completing the following condition:

Before releasing the vacation resolution, a letter of credit or cash escrow for \$1,500 to cover the cost of the grading and restoration must be submitted to the city. Once the grading and restoration is completed to the city's satisfaction, the city will release the letter of credit or cash escrow.

Anderson said that she would not support the request because it was made after the fact. She noted that she had not supported the previous request due to the fill that was needed to create a buildable lot. She asked that staff monitor this site to ensure compliance.

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

14. OTHER BUSINESS. None

15. APPOINTMENTS. None

16. ADJOURNMENT.

Thomas moved, Tauer motion to adjourn the meeting at 7:28 p.m. All
voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk
