

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, TUESDAY, NOVEMBER 12, 2002**

**1. CALL TO ORDER.**

Mayor Anderson called the meeting to order at 6:34 p.m.

**2. PLEDGE OF ALLEGIANCE.**

All joined in the pledge of allegiance.

**3. ROLL CALL.**

Assistant City Manager Geralyn Barone called the roll. Council members Al Thomas, Ken Tauer, Dick Allendorf, Terry Schneider, Linda Koblick, Jan Callison, and Karen Anderson were present.

**4. REORDERING THE AGENDA.**

City Manager John Gunyou presented an addendum to item 10C.

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

**5. MINUTES.**

Koblick moved, Thomas seconded a motion to approve the minutes of the October 28, 2002 regular council meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS.**

**A. Special Recognition of Bill Ewald, store manager, and Cub Foods as an outstanding corporate citizen of Minnetonka.**

Police Chief Joy Rikala read the special recognition certificate awarded to Bill Ewald, store manager, and Cub Foods, as an outstanding corporate citizen of Minnetonka. Mr. Ewald said he has been in Minnetonka for 18 years and enjoys the support of the community.

Callison thanked Mr. Ewald and Cub Foods for all its support of community fundraisers over the years, such as car washes and hot dog sales, and for raising awareness on homelessness. Anderson concurred.

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

Gunyou reported the council would meet in a study session on November 18, 2002 to review the 2003 budget. The next regular council meeting is set for November 25, 2002 and will be held in the boards and commissions room due to council chamber construction.

Callison said she attended facility dedications of TSP Architects and Sojourner. She noted that both are nice facilities and are now operational.

Anderson recognized the election of Koblick to the Hennepin County Board of Commissioners, District 6, effective in January 2003. She extended congratulations and thanks to Koblick for her service.

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

No one appeared.

**9. BIDS AND PURCHASES.** None**10. CONSENT AGENDA (Items Requiring a Majority Vote):****A. Claims for council authorization.**

Tauer moved, Koblick seconded a motion to approve the November 4, 2002 claims list, including checks numbered 170307 through 170600 totaling \$1,166,419.80. All voted "yes." Motion carried.

**B. Amendment to Antenna Agreement with AT&T for the Ridgedale Water Tower.**

Tauer moved, Koblick seconded a motion to approve the amendment to the antenna agreement with AT&T for the Ridgedale Water Tower. All voted "yes." Motion carried.

**C. Resolution amending the council policy on liquor licenses.**

City Attorney Desyl Peterson directed the council to page 65 of their agenda packet. She recommended changing the age in the second column to be consistent with the new Best Practices age of 40 and younger.

Tauer moved, Koblick seconded a motion to adopt Resolution No. 2002-129, amending the council policy on liquor licenses with the change noted by the city attorney. All voted "yes." Motion carried.

- D. Authorization to publish a summary of the 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 to authorize the publication of the summary of the 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.

- E. Proposed order for liquor license stipulation for Scoreboard, Inc.**

Tauer moved, Koblick seconded a motion to stay the sanctions for one year, on the condition that the licensee [Scoreboard, Inc.] has no other sales to underaged buyers. If another violation occurs within this time, the sanctions will be imposed. All voted "yes." Motion carried.

- F. Approval of a contract for \$29,500 with the Hennepin Conservation District (HCD) to perform the Minnesota Land Cover Class System (MLCCS).**

Tauer moved, Koblick seconded a motion to approve the contract for \$29,500 with the Hennepin Conservation District (HCD) to perform the Minnesota Land Cover Class System (MLCCS). All voted "yes." Motion carried.

- G. Performance pay for the city manager.**

Tauer moved, Koblick seconded a motion that the city manager, in recognition of his performance since May 21, 2001, is hereby granted a lump sum merit pay amount of .94% of his base salary. All voted "yes." Motion carried.

**11. CONSENT AGENDA (Items requiring Five Votes).**

- A. Resolution approving a conditional use permit and site plan review, with variance, to install an environmental quality monitoring station near the intersection of Creek Ridge Trail and Scenic Heights Drive for the Riley-Purgatory-Bluff Creek Watershed District.**

Callison said the site is very stark and asked if there is better structural material besides green fiberglass for the monitoring

station. Principal Planner Cary Teague responded the applicant was not aware of an alternative. However, as a condition of approval, additional screening may be required once the structure is built. Callison said there should be another solution, and Anderson agreed.

Koblick also agreed and asked if the city has any legal capability to require a better exterior, such as shingles. Peterson said the city could require certain aesthetics as part of the site plan approval.

Chris Bonick of Barr Engineering, representing the applicant, said it would be possible to change the painted color to brown. He noted that this is a semi-permanent station, so brick or shingles would not be appropriate. He added the watershed district has six such structures, including one on Valley View Road in Eden Prairie. Anderson requested that the locations be provided.

Koblick expressed a preference for a themed architectural improvement. Tauer noted the building is very functional and expressed concern that if the structure is enlarged to enhance its beauty, it may become more visible.

Callison moved, Allendorf seconded a motion to postpone action until November 25, 2002 on a resolution approving a conditional use permit and site plan review, with variance, to install an environmental quality monitoring station near the intersection of Creek Ridge Trail and Scenic Heights Drive for the Riley-Purgatory-Bluff Creek Watershed District and to direct staff to work with the applicant to improve the aesthetics of the station. All voted "yes." Motion carried.

## **12. INTRODUCTION OF ORDINANCES.**

### **A. Introduction of an Ordinance Amending City Code §300.34(4)(a)(3) Regarding Telecommunications Facilities.**

Allendorf moved, Callison seconded a motion to introduce the ordinance and refer it to the planning commission. All voted "yes." Motion carried.

## **13. PUBLIC HEARINGS.**

### **A. Public Hearing to consider the renewal of a Minnesota Currency Exchange License for 2003 for Action Check Cashing, 11503 Excelsior Blvd.**

Anderson opened the public and no one requested to speak.  
Anderson closed the public hearing.

Callison moved, Thomas seconded a motion to approve the issuance of a renewed Minnesota currency exchange license for Action Check Cashing, located at 11503 Excelsior Boulevard. All voted "yes." Motion carried.

#### 14. OTHER BUSINESS.

##### A. Applications for renewed on-sale and Sunday on-sale intoxicating liquor licenses, off-sale intoxicating liquor licenses and on-sale wine licenses for 2003.

Rankin provided an overview of the renewals. He noted an audit found that food and liquor sales had been reported satisfactorily for Romano's Macaroni Grill and Minneapolis Marriott Southwest, so their approval was no longer subject to this condition.

Schneider moved, Allendorf seconded a motion to approve renewed on-sale and Sunday on-sale intoxicating liquor, off-sale intoxicating liquor, and on-sale wine licenses of the following establishments for the 2003 calendar year, provided that no license is actually to be issued unless the applicant has filed an appropriate Certificate of Insurance with the City.

##### **On-sale and Sunday On-sale Intoxicating Liquor Licensees:**

Applebee's Neighborhood Grill and Bar, 12653 Wayzata Boulevard

Bacio, 1571 Plymouth Road

Big Bowl Restaurant, 12649 Wayzata Boulevard

Boundary Waters Restaurant & Bar, 12411 Wayzata Boulevard

Champ's Americana, 1641 Plymouth Road

Chi-Chi's Mexican Restaurant, 15550 Wayzata Boulevard

Don Pablo's, 11544 Wayzata Boulevard

Famous Dave's, 14601 State Highway 7

Lone Spur Grill & Bar, 11032 Cedar Lake Road

Market Bar-B-Que, 15320 Wayzata Boulevard

Minneapolis Marriott Southwest, 5801 Opus Parkway

Old Chicago, 17790 Highway 7

Redstone Grill, 12501 Ridgedale Drive

Romano's Macaroni Grill, 11390 Wayzata Boulevard

Scoreboard Bar & Grill, 5765 Sanibel Drive

Sheraton Minneapolis West Hotel, 12201 Ridgedale Drive

Sidney's, 15600 Highway 7

Stuart Anderson's Cattle Company Restaurant, 10600 Wayzata Boulevard

Wanderer's Garden, 13059 Ridgedale Drive

**Off-Sale Intoxicating Liquor Licensees:**

Byerly's Wines & Spirits, 13081 Ridgedale Drive

Cellars Wine & Spirits, 11333 Highway 7

Cost Plus World Market Wine Shop, 11240 Wayzata Blvd, Ste B

Glen Lake Liquors, 14704 Excelsior Boulevard

Haskell's, 12900 Wayzata Boulevard

Liquor Barrel, 11048 Cedar Lake Road

MGM Liquor Warehouse, 17730 Highway 7

Sundial Wine & Spirits, 5757 Sanibel Drive

Tonka Bottle Shop, 17616 Minnetonka Boulevard

**On-Sale Wine Licensees:**

Beijing Chinese Restaurant, 4773 County Road 101

Coffee Creek, 11313 Highway 7

Crossroads Delicatessen, 2795 Hedberg Drive

Gold Nugget Restaurant, 14401 Excelsior Boulevard

Lund's Deli Style Restaurant, 11400 Highway 7

The Marsh, 15000 Minnetonka Boulevard

Zaroff's Delicatessen Restaurant, 11300 Wayzata Boulevard

All voted "yes." Motion carried.

**B. Applications for renewed on-sale and off-sale 3.2 percent malt liquor licenses for 2003.**

Koblick moved, Thomas seconded a motion to approve the renewed licenses for on-sale and off-sale 3.2 percent malt liquor licenses for calendar year 2003 for all of the following establishments, and on-sale wine licenses for calendar year 2003 for the following establishments listed with an asterisk (\*):

**On-sale 3.2 Percent Malt Liquor Licensees:**

Beijing Chinese Restaurant, 4773 County Road 101

Bunker Indoor Golf Center, 14900 Highway 7

Coffee Creek, 11313 Highway 7

Crossroad Delicatessen, 2795 Hedberg Drive

Davanni's Pizza & Hot Hoagies, 15200 Highway 7

Glen Lake Golf & Practice Center, 14350 County Road 62

Gold Nugget Restaurant, 14401 Excelsior Boulevard

Lund's Deli Style Restaurant, 11400 Highway 7

Marsh (The), 15000 Minnetonka Boulevard

Zaroff's Delicatessen, 11300 Wayzata Boulevard

**Off-sale 3.2 Percent Malt Liquor Licensees:**

Glenn's 1-Stop, 12908 Minnetonka Boulevard  
Target Store T-1356, 4848 County Road 101

All voted "yes." Motion carried.

**C. Discussion of filling the council vacancy to occur in Ward 3.**

Gunyou acknowledged and thanked the city's IT staff for broadcasting this evening's meeting in the boards and commissions room under far less favorable conditions than usual.

Gunyou noted the upcoming vacancy in Ward 3 due to Koblick's election to the county commission. He said there are legal and procedural issues the council must address. The council has the option of either holding a special election or appointing someone to serve through the end of Koblick's term.

Gunyou said the vacancy officially occurs when Koblick resigns, presumably close to the date she is sworn in as county commissioner. This date is January 6, 2003, and staff has suggested a process and a schedule that would allow the selection of a replacement by this date.

Gunyou indicated the council has 30 days from the date of vacancy to appoint a replacement. If the council fails to do so, the mayor has seven days to appoint someone. If the mayor does not appoint someone within that timeframe, a special election must be held within 60 days.

Gunyou said if the council approves the process, efforts would begin next week to broadcast the vacancy and solicit interest from Ward 3 residents. Information would be provided in the local newspapers and on the city's website. Additionally, a postcard announcing the vacancy would be mailed to all Ward 3 residents. Another option is to publicize in the *Minnetonka MEMO*, although due to its publication date, response time will be limited.

Gunyou suggested a deadline for receiving applications of December 5, 2002. Council could screen the applications at its December 9, 2002 meeting and interview finalists on December 16, 2002. He noted this would be an open process where all council discussions would be held at public meetings and televised on cable TV. The council could select a replacement on January 6, 2003 when the position is vacant, and the new council member could be sworn in on January 13, 2003 or an alternate date.

Allendorf said someone might say it is presumptuous not to have an election and asked what the cost of a special election is. Gunyou replied it is in the \$4,000 to \$5,000 range, covering the expenses of paper ballots and election judges. Allendorf questioned the need for holding a special election with its problems and costs when a fair selection process is an alternative.

Gunyou noted the city's Charter requires if someone were appointed, he or she would have to run in the Fall 2003 election. Callison clarified that the individual would not have to run, but could choose to run.

Allendorf said he is not aware that postcards are sent for anything else the city does. He noted the *Minnetonka MEMO* is sent to every household in the city and is considered the #1 source for information. He asked if the timing of the process might be delayed for a few weeks to allow publicity in the *MEMO*. Anderson pointed out delaying the process could require extra meetings around the holidays.

Thomas favored holding a special election and expressed discomfort in appointing someone.

Tauer agreed that having an election is usually the better way, but he favored the appointment process.

Callison noted there is a question on the application about whether or not an applicant intends to run for election to the position. She was not sure how helpful that information is. Callison pointed out that postcards are not sent for a regular election and was unsure how this situation differed. She agreed there is some merit in reviewing the schedule.

Anderson suggested that extraordinary notification is needed in this circumstance. She said sending postcards is one more way to make the process clear.

Schneider said he supports the democratic process, and the Charter allows the appointment process to occur. He noted there is often low turnout for a regular election, and he feared with a special election in February, voter turnout could be very low. He prefers to appoint a qualified candidate now and let the regular fall election determine the long-term outcome.

Schneider said mailing an announcement to all ward residents seems the most effective method to publicize the vacancy. He

suggested sending a letter with a special notice envelope rather than a postcard, since people usually open a letter, but might not read a postcard.

Koblick concurred with sending a postcard and suggested a color such as goldenrod to gain attention.

Gunyou described an alternative schedule if the council wished to promote the vacancy in the *MEMO* rather than with a postcard. This would result in a selection date of January 27, 2003, delaying the appointment of a new council member by three weeks. Anderson said even if the process were delayed, she still preferred a special mailing announcing the vacancy.

The council discussed the impacts of delaying the process and what would occur at specific meetings. Schneider expressed concern about sending information to residents around the holidays.

Callison suggested if the postcards are being sent anyway, the original schedule should be approved. Gunyou said staff could attempt to push up the production of the *MEMO* and deliver it to the post office earlier than usual. He noted plans to provide information on the city's web site.

Anderson said Thomas is the only one who supports a special election; she did not hear support for doing so from any other council members.

Tauer asked that the web site information include details about the number of scheduled meetings and compensation for a council member. He requested that in the application, a third choice of "Undecided" should be added to the question about whether or not the applicant intends to run for office. He said he could support the schedule as originally proposed.

Allendorf asked what the council should do with the information on whether or not someone plans to run for council. He felt applicants would not know what answer the council wants. Schneider said he would value the answer, and if it is not in the application, he will ask it during the interviews.

Anderson said knowing this will make a difference when all of the other qualifications are taken into consideration. Koblick was not supportive of including the question.

Schneider said the question could be removed because he would ask it later. Tauer asked that it be left on since not everyone will be interviewed.

Peterson commented that she had suggested the question to the city manager. She pointed out that an incumbent is perceived as having an advantage, and some on the council may not want to give someone that advantage.

Thomas said he does not support the appointment process and agreed the person would have the advantage of being the incumbent. He said this is unfair.

Anderson suggested that might be true if the position were to be filled for more than one year. She added that if there were to be a special election, someone would have to run twice in one year.

Thomas asked what happened in the past. Tauer said he had run for council unopposed and was appointed in September. He does not believe the council would have done this if he had not been unopposed. Rankin provided an example of a previous council appointment many years ago. In this case, the appointment was made on the condition that the resident not run again.

Anderson summarized that there appears to be agreement by the council to have an appointment process according to the original schedule outlined by staff. A notice will be published in the *Minnetonka MEMO* and a postcard mailing or letter (at staff's discretion) will be mailed to all Ward 3 residents. On the application, a third category of "Undecided" will be added to the question on whether the applicant intends to run again or not.

Koblick wondered why the application includes a question asking if the applicant is a city employee or board or commission member. Peterson said this question is on the boards and commissions application. She noted if an employee were appointed, he or she would have to take a leave of absence.

Koblick asked why it is relevant if a family member is employed by the city. Peterson said the city's nepotism policy does not allow a member of the council's immediate family to be employed.

Allendorf preferred to leave the question on the application. He noted former council member Dennis Burke's mother was a city employee. Peterson responded if someone were already employed and an immediate family member was elected to council, the city

would not fire the employee. She added the concern is usually the other way; the city would not hire a council member's family member.

Schneider suggested after the council identifies the finalists, staff should offer them an orientation about the city. Peterson noted this has been done in the past for candidates and it could be replicated.

Anderson noted if the schedule is adopted, there are three weeks between the interviews and appointment. She thought this could leave the council open to lobbying and campaigning by candidates, and asked if there were any concerns about this possibility. None were expressed.

Peterson responded by saying the council needs to be vigilant about keeping the process open. Anderson concurred, noting the process should be as open and inclusive as possible. She added it is likely there will be more applicants for appointment than there would have been candidates for a special election.

Schneider moved, Tauer seconded a motion establishing the process and schedule for filling the upcoming council vacancy as recommended by staff. Allendorf, Anderson, Callison, Koblick, Schneider and Tauer voted "yes." Thomas voted "no". Motion carried.

Koblick requested that publicity be posted on the city's web site and cable bulletin board as soon as possible. She said she knows the city manager will field calls from interested parties, and she is happy to talk with anyone interested in the position.

Anderson thanked the IT staff for its extra effort in televising this evening's meeting.

**15. APPOINTMENTS.** None

**16. ADJOURNMENT.**

Thomas moved, Koblick seconded a motion to adjourn the meeting at 8:04 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Geralyn R. Barone  
Assistant City Manager