

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, OCTOBER 27, 2003**

1. CALL TO ORDER.

In Mayor Anderson's absence, Acting Mayor Schneider 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 Al Thomas, Jan Callison, Dick Allendorf, Ken Tauer, Brad Wiersum, and Terry Schneider were present. Karen Anderson was excused.

4. APPROVAL OF AGENDA.

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

Callison moved, Wiersum seconded a motion to accept the agenda as submitted. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES.

Schneider asked that the conditions listed on page 16 for approval of the air conditioner for the Randall's variance be consolidated to better reflect the council's action.

Allendorf moved, Callison seconded a motion to approve the minutes of the October 13, 2003 Minnetonka City Council meeting as amended. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Proclamation declaring November 15-22, 2003 as "Housing Awareness Week."

Schneider read a proclamation proclaiming November 15-22, 2003 as Housing Awareness Week.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou introduced Brett Stursa, the new local reporter for the *Lakeshore Weekly News*.

Gunyou provided information about the General Election to be held on November 4, 2003. He noted that Minnetonka is one of four cities in the State of Minnesota that will be testing new voting technology. He also thanked the city's election judges for their hard work.

Gunyou reported that the November 3 study session had been cancelled, and the next regular city council meeting will be held on November 10.

At the request of Anderson, Schneider congratulated Julia Colleran, a senior at Minnetonka High School who led the recent Minnesota YMCA Youth in Government program in Mankato. More than 1,000 students attended that event.

Schneider also noted that this month marked the 30th anniversary of the Minnetonka Music Association. Anderson and Callison attended the anniversary concert.

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

Nora Davis, Director, and Kirsten Elverum, President, of the Hopkins/Minnetonka Family Resource Center, conveyed their board's appreciation for the Minnetonka City Council's support as they celebrate their 10th anniversary. Schneider thanked the center for their work.

9. BIDS AND PURCHASES: None.

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

A. Claims for council authorization.

Tauer moved, Wiersum seconded a motion to approve the October 27, 2003 claims list, including checks numbered 177894 through 178272 totaling \$1,633,720.75. All voted "yes." Motion carried.

B. Ordinance declaring certain zoning ordinance violations to be public nuisances.

Tauer moved, Wiersum seconded a motion to adopt Ordinance No. 2003-25 declaring certain zoning ordinance violations to be public nuisances. All voted "yes." Motion carried.

C. Consideration of street light request at County Road 101 and Tamarack Drive.

This item was pulled from the consent agenda at the request of the petitioner, Victoria Kasdan, 18101 Tamarack Drive, who said that she represented the 40 homeowners of the Tamarack development.

Kasdan said that she was aware of CSAH 101 when she bought her home, but since then traffic has increased due to population increases and recent commercial additions (such as the Target Superstore). Kasdan said that a streetlight is needed at this intersection because it is the only access point for the Tamarack subdivision. She said that the lights on the wall near the entrance are meant to illuminate the entrance, not the street. The association pays for the cost to operate those lights, and they are not illuminated throughout the night. Kasdan said that this busy intersection is becoming hazardous, and questioned the need for unanimous approval from the neighbors when there are safety issues. She suggested that the opposing neighbor could install blinds.

Callison questioned whether the opposing neighbors might support a light on the other side of the street.

Allendorf noted the e-mail in the packet from the police officer that observed the intersection at night, indicating that the lighting was sufficient. Allendorf asked why the association did not keep their lights on throughout the night. Kasdan responded that the neighbors do not agree with the officer's observations.

Allendorf also noted the officer's observation that globe lights at that intersection were not lit. Kasdan said that she was not aware of them, and was not sure they would light the street.

Tauer said that in certain instances safety issues would overrule the need for unanimous approval. He thought it was callous to suggest that the dissenting neighbor install blinds. He was not convinced that the lack of lights was harmful, and said that the headlights and taillights of vehicles would provide warning to other motorists. He had viewed the intersection at 5:15 to 5:30 p.m., prior to the meeting. He found the four lights on the corner to be fairly bright. He noted that the association has options to improve the lighting through using higher wattage lamps, and reducing the cloudiness of the globes. He felt that the association had not made

its best efforts to work on the issues. He supported the city's policy on streetlights.

Callison said that she is usually more inclined to approve streetlights in areas where they are needed. She said that CSAH 101 is one of those areas. She also viewed the intersection prior to the meeting. She had thought that the issues related to identifying the entrance, but learned that safe entry and exit were concerns. She referred to the police officer's finding that there was not a safety issue at the intersection. If there were, she would find it appropriate to ignore the dissenting vote.

Schneider asked if a third turn lane would be added when CSAH 101 is upgraded in that area. City Engineer Lee Gustafson said that the section is scheduled for upgrade in 2007 to 2008. At a minimum, a turn lane would be added, as well as dedicated right turn lanes. Schneider said that those changes would improve the safety regardless of the lights. Gustafson said that the changes would greatly improve the intersection. He added that the subject intersection has great sight lines. He wished that all the intersections along CSAH 101 had such good sight lines.

Schneider concurred with Callison. He said that the council should consider revisiting the street light policy to state that when there are safety issues, 100 percent approval of the neighbors is not required. Schneider noted that while Kasdan said there are safety issues, the police determined that there are not, so staff recommended against the streetlight.

Allendorf said that there are several self-help options available to the association. He felt that the next step would be for the association to determine why the existing lights are not lit, and if brighter lights might help.

Allendorf moved, Tauer seconded a motion to deny the request for a streetlight at County Road 101 and Tamarack Drive. All voted "yes." Motion carried.

D. Approval of a general services agreement with Edwards and Kelcey, Inc. for local street improvements associated with the County Road 101 improvement project.

Tauer moved, Wiersum seconded a motion to approve the general services agreement with Edwards and Kelcey, Inc. for local street improvements associated with the County Road 101 improvement project. All voted "yes." Motion carried.

E. Preliminary plat to subdivide two lots into three lots at 11600 and 11610 Timberline Road for James Tice Jr.

Tauer moved, Wiersum seconded a motion give preliminary approval to Timberline Knoll, dated September 25, 2003. 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) All of 11610 Timberline Road must be included in the plat. The triangular part of the lot not included in the preliminary plat must be added to proposed Lot 3 or platted as an outlot.
 - (2) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven foot-wide drainage and utility easements along all other lot lines
 - (3) Utility easements over existing or proposed public utilities, as determined by the city engineer
 - b. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
 - c. Submit evidence of Bassett Creek Watershed District approval. The city may require revisions to the preliminary plat to meet the district's requirements.
 - d. Pay the park dedication fee of \$2,375.
- 2) The following items must be submitted to the city before the city releases the final plat:
 - a. An engineering/utility inspection fee.
 - b. An electronic CAD file of the final plat in microstation or DXF.
 - c. 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) Conservation easements over the wooded slope on proposed Lot 3 and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final plat.

- d. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
- 3) The following must be submitted to the city before the city issues a building permit:
 - a. Minimum lowest floor elevation for any new home is 924.0.
 - b. A grading and tree preservation plan, subject to staff approval.
 - c. The conservation easement must be staked and signed in the field.
 - d. A temporary rock driveway, erosion control, and tree protection fencing must be installed, subject to staff review and approval.
 - e. An amended utility plan showing water service adjacent to proposed sewer service as illustrated on preliminary plat dated September 25, 2003. The plan and utility connections are subject to review and approval of the city engineer
 - f. An estimated utility hook up fee of \$2,832.54 for sanitary sewer and water.
 - g. A copy of the recorded plat and any easements or covenants required to be recorded.
- 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) Trees must be planted to compensate for significant trees removed from the 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 must replace the required trees if they die within one year after installation.
- 6) 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.

F. Revision of a plat condition requiring a common driveway for 2350 and 2360 Crosby Road for Michael and Irina Tobak.

Tauer moved, Wiersum seconded a motion to change condition 4 of the conditions of approval for the "Grandma's Acres" subdivision as follows:

4. Shared access Access for Lots 2 and 3 must be from Crosby Road.

All voted "yes". Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES.

A. Introduction of an ordinance rezoning 18605 Old Excelsior Boulevard from B-1, office, to PUD, planned unit development, for a three-story, 64-unit senior assisted living facility.

Gunyou noted Anderson's concerns that the design of this project should relate better to the neighborhood.

Callison moved, Thomas seconded a motion to introduce an ordinance rezoning 18605 Old Excelsior Boulevard from B-1, office to PUD, planned unit development, for a three-story, 64-unit senior assisted living facility, and to refer the ordinance 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 2004 for Action Check Cashing, 11503 Excelsior Boulevard.

Gunyou provided a brief introduction to this item. He noted that staff found no issues that would warrant denial of the license renewal.

Schneider opened the public hearing at 7:17 p.m. No one spoke, and the hearing was closed.

Tauer moved, Wiersum seconded a motion to approve the issuance of a renewed Minnesota Currency Exchange License for Action Check Cashing, 11503 Excelsior Boulevard. All voted "yes." Motion carried.

B. Public hearing to consider a resolution approving a housing development and redevelopment project for an affordable housing grant at The Sanctuary, near Minnetonka Boulevard and County Road 101.

Callison, who is the Executive Director of the West Hennepin Affordable Housing Land Trust, excused herself from the discussion due to a conflict of interest.

Gunyou provided a brief overview of this item, noting that the city approved the Sanctuary project with four affordable housing units. The city is eligible for a county grant to further write-down the prices of those units, and the council action would approve a grant application. Gunyou said that this action would not alter the council's previous approval of that project.

Schneider opened the public hearing at 7:19 p.m. No one spoke, and the public hearing was closed.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2003-105 approving a housing development and redevelopment project for an affordable housing grant at The Sanctuary, near Minnetonka Boulevard and County Road 101.

Thomas, Allendorf, Tauer, Wiersum, and Schneider voted "yes." Callison was excused. Motion carried.

14. OTHER BUSINESS:

A. Preliminary plat for a seven-lot subdivision, with lot width variance and wetland alteration permit, at 2501 Plymouth Road for Lecy Construction, Inc.

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

In response to Tauer's questions, Olson said that there would be a private drive to serve the two back lots. A turnaround would be provided for those residents, but it would not accommodate emergency vehicles. The fire marshal required that the two back homes have sprinkler systems.

Peter Knaeble of Terra Engineering spoke on behalf of the owner, Lecy Construction. He said that they will do custom design/builds for all of the homes in the development. They concur with staff's recommendations, and think that the project provides the best use of the property. He said that the project meets the goals of the official mapping for the site. Knaeble said that Lecy Construction accepts the fire marshal's recommendation for sprinkling.

Callison moved, Thomas seconded a motion to give preliminary approval to the Emerald Trail 4th Addition dated August 15, 2003. Approval is based on the following findings:

- 1) With the exception of the lot width variance for Lot 1, Block 1, the proposal meets the required standards and ordinances for a preliminary plat.
- 2) The proposal meets the required standards for a variance, because:
 - a. There is a unique hardship to the property caused by the existing width of this lot.
 - b. The lot configuration is consistent with the "Official Map" of this area, which references the need for a lot width variance for this lot.

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 or proposed public street right-of-ways and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (3) Drainage and utility easements over storm water ponds, as determined by the city, including the stormwater pond on Lot 1, Block 1.
 - b. Pay the city a park dedication fee of \$14,250.
 - c. Submit evidence of watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
 - d. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- 2) The following items must be submitted to the city before the city releases the plat:
 - a. An engineering/utility inspection fee.
 - b. An electronic CAD file of the final plat in micro-station or DXF.
 - c. If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This

agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.

d. 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) Conservation easements over the areas identified on the preliminary plat, and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final plat.
- (3) 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.
- (4) Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA.
- (5) Submit a special assessment waiver, in recordable form acceptable to the city attorney, agreeing to pay half of the cost of constructing a public street connecting Woodbridge Trail to Emerald Trail; the total construction costs not to exceed 125% of the city's current estimate, which will be increased annually for inflation. The waiver will bind all parcels in the subdivision, and the special assessments will be spread equally on each of them.

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 completed before the city issues a grading permit or any site work is started:

- a. A construction management plan must be submitted for staff approval. The plan must include installation and maintenance of a temporary rock driveway, erosion control, and tree and wetland protection fencing. The plan is subject to review by the city's environmental resources coordinator.

- b. The items listed in the construction management plan must be installed and inspected by the city's environmental resources coordinator.
- c. Final grading, drainage, and erosion control plans must be submitted for staff approval. The revised plan must include the following:
 - (1) Provide a minimum of 1-foot freeboard between the 100-year storm elevation and the emergency overflow at the pond.
 - (2) Provide a control structure and piped outlet from the mitigated wetland.
 - (3) Rather than grading a 1% temporary swale along the north side of the future Woodbridge Trail, a storm sewer pipe must be installed now.
- d. Final utility plan must be submitted for staff review and approval. If the developer is building the streets, the developer must submit final street plans for staff approval. The revised plans must include the following:
 - (1) Sanitary sewer pipe must be 8 inches rather than 6 inches.
 - (2) Two manholes are needed on each side of Plymouth Road for the sanitary sewer.
 - (3) Add two catch basins on the storm sewer line between catch basin 1 and existing catch basin 8.
 - (4) Must use city standard casting on catch basin R-3250-1.
 - (5) Provide new sewer and water services for Lots 2 and 3, Block 2, and abandon the existing services along Plymouth Road.
- e. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, road, and grading have been completed according to the plans approved by the city.
- f. Submit a letter of credit or cash escrow, or other form acceptable to the city attorney for the estimated cost to restore the wetlands, including the wetland plantings, and the upland forest. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.

- 4) The following must be submitted to the city before the city issues a building permit:
 - a. A grading and tree preservation plan for each lot subject to staff approval.
 - b. The installation and maintenance of a temporary rock driveway, erosion control, wetland, and tree protection fencing where applicable, for each lot 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, covenants, and any other homeowners' document required to be recorded for the development.
 - d. All required hookup fees for 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.
 - 5) Minimum house elevation for Lots 1-4, Block 2 must be two feet above the overflow elevation for the wetland. (976.2.) Minimum house elevation for Lots 1-3, Block 1 must be 979.3.
 - 6) The private driveway entrance must be revised to one entrance off Emerald Trail.
 - 7) The homes on Lots 2 and 3, Block 2, must be constructed with indoor sprinkler systems.
 - 8) The conservation easements must be maintained in accordance with a conservation plan approved by the city.
 - 9) During construction, the streets must be kept free of debris and sediment, and the wetland and tree protection fencing, and erosion control fencing must be maintained.
 - 10) Existing driveways off Plymouth Road must be removed, and seeded or sodded.
 - 11) All existing structures must be removed from the site.
 - 12) 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.
 - 13) 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.
- B. Approve the wetland replacement plan application and the wetland alteration permit subject to the following conditions:

- 1) Obtain approval from all appropriate agencies, including the Technical Evaluation Panel (TEP), as assigned by the Wetland Conservation Act; and meet any conditions that would be required.
- 2) Submittal of a plan for re-vegetation of the buffer area around the wetland. The plantings shall be subject to review and approval of the city's environmental resources coordinator.
- 3) Erosion control fencing must be installed and maintained until the area has vegetated.

All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS.

Appointment and reappointments to the Community Heritage Commission.

Schneider moved, Allendorf seconded a motion to:

Appoint Duane Hassig, 5342 Mayview Rd., to the Community Heritage Commission representing Ward 1 and to serve the balance of a two-year term of office, effective October 27, 2003 and expiring on January 31, 2005.

Reappoint Joan George, 15245 Lynn Terrace, to the Community Heritage Commission representing Ward 4 and to serve a two-year term of office, effective October 27, 2003 and expiring on January 31, 2006.

Reappoint Art Nicol, 2921 Bay Street, to the Community Heritage Commission representing Ward 3 and to serve a two-year term of office, effective October 27, 2003 and expiring on January 31, 2006.

All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 7:29 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk