

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, APRIL 26, 2004**

**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.**

Councilmembers Al Thomas, Tony Wagner, Bob Ellingson, Brad Wiersum, Jan Callison, and Karen Anderson were present. Councilmember Terry Schneider was excused.

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou reviewed the items in the addendum:

- Item #5A, April 12 minutes: The recommendations of the EDA concerning this project were discussed at the meeting, but had been omitted from the conditions.
- Item #13C, Car Wash at 3864 Hopkins Crossroads: A new rezoning ordinance and resolutions for the guide plan change and CUP were provided with revised legal descriptions to reflect recent platting of the property.

Wagner moved, Callison seconded a motion to accept the agenda with the addendum. All voted "yes." Motion carried.

**5. APPROVAL OF MINUTES.**

**A. April 12, 2004 regular council meeting.**

Callison moved, Thomas seconded a motion to approve the minutes of the April 12, 2004 Minnetonka City Council meeting as amended in the addendum. All voted "yes." Motion carried.

**B. April 14, 2004 Board of Review meeting.**

Callison moved, Thomas seconded a motion to approve the minutes of the April 14, 2004 Minnetonka Board of Review meeting as submitted. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:**

**A. Recognition of employees reaching milestone years of service.**

Raymond Johnson, Fire Maintenance Technician, was recognized by Callison for 25 years of service.

Ron Schwartz, Recreation Program Manager II, was recognized by Ellingson for 30 years of service.

Wendy Anderson, Administration Manager, was recognized by Wagner for 30 years of service.

Virg Herrmann, Project Engineer, was recognized by Wiersum for 35 years of service.

Anderson thanked the employees and their families who were present.

**B. Mary Hill Smith - Met Council Update.**

Smith reported on the following:

- The Met Council's biggest project is completion of the regional framework for 2030. Once that is completed, the policy plan will also be updated. Invitations will be extended to discuss the plans and framework.
- The opening of the Light Rail Transit line has been delayed, It should open in June.

Anderson thanked Smith for her work, and for her assistance with Minnetonka's transit services. Smith suggested that the city continue to talk with its legislators. She noted that Representative Ron Abrams has been supportive of the Met Council's work, and the business community has recognized that transit is an important part of a community.

Smith also thanked the city for the service of Councilmembers Schneider and Thomas on Met Council committees.

**C. Proclamation designating Friday, April 30, 2004 as Arbor Day in Minnetonka.**

Thomas read a proclamation designating Friday, April 30, 2004 as Arbor Day in Minnetonka.

Anderson invited the public to a related event on May 13.

**7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.**

Gunyou reviewed the schedule of upcoming City Council and Board of Review meetings.

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

Joe Jurusik, 3021 Atwater Street, thought that final approval of his plat should have been on the consent agenda. Staff agreed to check on this.

**9. BIDS AND PURCHASES:**

**A. Authorization to enter into Enterprise agreement with Microsoft Corporation.**

Gunyou provided the staff report for this item.

Callison moved, Wiersum seconded a motion to approve the Microsoft Enterprise agreement. All voted "yes." Motion carried.

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

**A. Claims for council authorization – April 26, 2004.**

Wiersum moved, Wagner seconded a motion to approve the April 16, 2004 claims list, including checks numbered 181560 through 181819 totaling \$962,776.26. All voted "yes," with Callison abstaining as to check #181609." Motion carried.

**B. Ordinance amending City Code Section §915.031(2) regarding public safety alarms.**

Wiersum moved, Wagner seconded a motion to adopt Ordinance No. 2004-15 amending City Code Section §915.031(2) regarding public safety alarms. All voted "yes." Motion carried.

**C. Proposed Order for Liquor License Stipulation for Mr. Du Bui, sole proprietor, dba Liquor Barrel (formerly Cedar Hills Liquors) at 11048 Cedar Lake Road.**

Wiersum moved, Wagner seconded a motion to issue the Finding of Fact, Conclusion, and Order for Mr. Du Bui, the sole proprietor of Liquor Barrel (formerly Cedar Hills Liquors) at 11048 Cedar Lake Road. All voted "yes." Motion carried.

**D. Temporary signs advertising multiple church functions at 15915 Excelsior Boulevard for All Saints Lutheran Church.**

Wiersum moved, Wagner seconded a motion to approve the requested temporary signs for All Saints Lutheran Church for 2004. All voted "yes." Motion carried.

**E. Temporary banner at the Rakhma Community Shared Homes for the Elderly at 5126 Mayview Road for Rakhma, Inc.**

Wiersum moved, Wagner seconded a motion to approve the temporary banner as requested at 5126 Mayview Road. All voted "yes." Motion carried.

**F. Final approval of the IMPERIAL ACRES plat at 3323 Shores Boulevard for Imperial Development Investors Group.**

Wiersum moved, Wagner seconded a motion to approve the IMPERIAL ACRES final plat that was received on March 30, 2004, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and
- 2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat. All voted "yes." Motion carried.

**G. Approval of a supplemental agreement for the Carlson Parkway/Cheshire Parkway signal installation.**

Wiersum moved, Wagner seconded a motion to approve the supplemental agreement with Ridgedale Electric, Inc. in the amount of \$5,387.50 for the Carlson Parkway/Cheshire Parkway Signal Project No. 4901. All voted "yes." Motion carried.

**H. Final approval of the TIMBERLINE KNOLL plat at 11610 and 11600 Timberline Road for James R. Tice, Jr.**

Wiersum moved, Wagner seconded a motion to approve the TIMBERLINE KNOLL plat that was received on January 29, 2004, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and
- 2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.
- 3) Prior to issuance of a building permit, the builder/homeowner must submit for staff approval a plan for permanent stabilization of the slope if the grading is within 15 feet of the conservation easement.

All voted "yes." Motion carried.

11. **Items requiring Five Votes:** None.

12. **INTRODUCTION OF ORDINANCES:** None.

13. **PUBLIC HEARINGS:**

**A. Resolution authorizing an increase in municipal water and sanitary sewer rates.**

Gunyou presented the staff report. Anderson invited public comment during the public hearing. Hearing none, she closed the hearing. Anderson noted that information about the increases had been previously published in the *Minnetonka Memo*.

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2004-036 providing for a changes in the municipal water and sanitary sewer rates. All voted "yes." Motion carried.

**B. Public hearing to consider a resolution vacating excess right-of-way at 14201 Excelsior Boulevard for GL Development, LLC.**

Gunyou presented the staff report. Anderson invited public comment during the public hearing. Hearing none, she closed the hearing.

Callison moved, Thomas seconded a motion to adopt Resolution No. 2004-037 vacating excess right-of-way at 14201 Excelsior Boulevard for GL Development, LLC. All voted "yes." Motion carried.

**C. Items concerning a proposed car wash at 3864 Hopkins Crossroad for LMV Corporation.**

Olson presented the staff report, and reviewed the information in the addendum. Anderson invited public comment during the public hearing. Hearing none, she closed the hearing.

Callison moved, Wagner seconded a motion to:

- 1) Hold the public hearing and adopt Resolution No. 2004-038 vacating the remainder of an existing right-of-way at 3864 Hopkins Crossroad.
- 2) Adopt Resolution No. 2004-039 approving a guide plan amendment from O, office, to C, commercial at 11208 Minnetonka Mills Road. This resolution is based on the following findings:
  - a. The guide plan change would be consistent with the adjacent land uses to the east west and south.

- b. With the realignment of Minnetonka Mills Road, this property is now located on the south side of the road.
  - c. The land use pattern would be all-commercial on the south side of Minnetonka Mills Road.
  - d. The guide plan change would be consistent with the public health, safety, and welfare.
- 3) Adopt Ordinance No. 2004-16 rezoning from B-1, office, to B-2, limited business, at 11208 Minnetonka Mills Road. This ordinance is based on the following findings:
- a. The rezoning would be consistent with the city's guide plan.
  - b. The rezoning would be consistent with the public health, safety, and welfare.
  - c. The rezoning would be consistent with adjacent land uses to the south, east and west.
- 4) Adopt the Resolution No. 2004-040 approving a conditional use permit to allow the car wash at 3864 Hopkins Crossroad and 11208 Minnetonka Mills Road. Approval is based on the following findings:
- a. The proposal meets the required conditional use permit standards.
- Approval is subject to the following conditions:
- a. Record this resolution with the county before the City of Minnetonka issues a building permit.
  - b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - c. The car wash doors must remain closed during all cycles of the wash.
  - d. A double row of spruce trees must be planted along Minnetonka Mills Road. Final landscape plan shall be subject to review and approval of city staff.
  - e. 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.
  - f. The applicant must agree to the above conditions in writing.
- 5) Approve the site and building plans for the car wash, with front yard setback variances from 50 feet to 33 feet off Hopkins Crossroad and from 50 feet to 28 feet off Minnetonka Mills Road; and drive aisle setback variances from 20 feet to 1 foot and 20 feet to 10 feet variance.
- Approval is based on the following findings:
- a. The proposal would meet the required standards and ordinances for a site and building plan approval.
  - b. The proposal would meet the required standards for a variance, because:

- (1) There is a unique hardship to the property caused by reconfiguration of Minnetonka Mills Road, the utility easements located in the middle of the site, and Hennepin County have taken additional right-of-way for roadway improvements to Hopkins Crossroad.
- (2) The variance would meet the intent of the ordinance because the proposed building would be setback further than the existing building.

Approval of the site and building plans is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan dated February 2, 2004
  - Landscaping plan dated February 5, 2004
  - Building elevations date stamped February 9, 2004
- b. The following must be submitted to the city before the city issues a building permit:
  - (1) A final landscape and irrigation plan for staff approval. Plans must include a double row of spruce trees planted along Minnetonka Mills Road.
  - (2) Submit a final grading plan subject to review and approval of the city engineer. The plans must include on-site ponding in the green space area south of the car wash. Additionally, catch basins or trench drains must be located at the car wash exit.
  - (3) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
  - (4) An illumination plan for staff approval.
  - (5) All required hook-up fees.
- c. The property owner is responsible for replacing any required landscaping that dies.
- d. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
- e. Approval does not include the signs shown on the drawings. Separate permits are required from staff.

- f. Construction must begin by December 31, 2005, unless the planning commission grants a time extension.

All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Approval of Park Renewal Concept Plans for Elmwood-Strand Park.**

Recreation Program Manager Perry Vetter provided an overview of the Elmwood-Strand Park concept plan.

In response to Callison's question, Vetter said that fencing was discussed at the neighborhood meetings. They did not want a fence, but one could be added later.

Anderson invited public comments. There were none.

Wiersum moved, Thomas seconded a motion to approve the Master Plan for Elmwood-Strand Park and direct staff to proceed with plans and specifications. All voted "yes." Motion carried.

**B. Approval of Park Renewal Concept Plans for Purgatory Park.**

Vetter provided an overview of the concept plan for Purgatory Park.

In response to Thomas' questions, Vetter said that the neighbors did not express much concern about vandalism. Public Works Director Brian Wagstrom added that there have been acts of vandalism, and there are periodic occurrences of graffiti, but these incidents have not increased. Anderson appreciated staff's prompt response to graffiti.

In response to Wiersum's concerns, Vetter said that the bridge structures in the park are in very good shape. The crossboards and railings are the issue. Vetter said that staff would review the areas where the trail washes out, and might use asphalt in those areas.

Jerry Hermstad, 16603 Lakeland Drive, asked if the city had plans to deal with the increasing numbers of dogs-at-large in the park. He was concerned that someone could be bitten by a loose dog. Anderson said that dogs are allowed to run in natural areas if they are under voice control.

City Attorney Desyl Peterson said that dogs are allowed in undeveloped parks off leash under voice command. The legal and

police staff are looking at changes to those ordinances for the council to consider. Peterson said that dogs on the trail must be on a leash not longer than six feet.

Anderson noted the difficulty in enforcing the law. Peterson added that owners must pick up the droppings from their dogs.

Dave Paulson, 16929 Creek Ridge Place, uses the park frequently. He did not have a problem with dogs-at-large in the park. The park is a great resource that could use more neighborhood access for pedestrians whose property doesn't border the park.

Anderson said his request supported getting trails built with new developments, and noted the difficulty of adding them later.

Vetter noted an existing trail easement on the south end of the park. That connection would be very costly, and construction would be difficult.

Anderson said that the best place for access is through privately owned property and the homeowners are not interested in those connections.

Paulson was encouraged to hear that the city has approached property owners about access. Anderson said that there might be value in asking again.

John Symchych, 16979 Stodola Road, lives near the southeast entrance to the park. He noted erosion problems, and areas of the trail that become muddy. Vetter said that this area, and the western access, would be looked at.

Thomas moved, Wiersum seconded a motion to approve the Master Plan for Purgatory Park and direct staff to proceed with plans and specifications. All voted "yes." Motion carried.

**C. Approval of Park Renewal Concept Plans for Jidana Park.**

Vetter reviewed the park concept plans for Jidana Park.

In response to Anderson's questions, Vetter said that two day camp sites would be sufficient. Road improvements are needed before the gate, but there will still be a drive to the base of the hill. The road is rarely used. Anderson hoped that the roadway would not be expanded, and Vetter said that it will not. The entrance gate will prevent access for all but city vehicles.

Callison asked if there were plans to provide a larger trail, perhaps a loop through the park. Vetter said that was discussed with the neighborhood. The consensus was to leave the trails as they are, because there is ready access throughout the park. Anderson noted that the neighbors preferred that the informal trails remain natural.

Wiersum asked if the camp sites are available to residents for overnight camping. Recreation Services Director Dave Johnson said that camping is prohibited by ordinance in Minnetonka. Organized groups can obtain permits, but families who wish to camp in the park are directed to regional parks.

Anderson invited public comments, and there were none.

Wiersum moved, Callison seconded a motion to approve the Master Plan for Jidana Park and direct staff to proceed with plans and specifications. All voted "yes." Motion carried.

**D. MERIT Organizational Component.**

Gunyou gave a presentation on the organizational MERIT program. He noted that this is a report card on how the city is achieving its strategic goals. The ratings are based on reviews by the city council, advisory boards, and the community survey. The ratings answer the question: "How are we doing as a city?"

Gunyou then reviewed the ratings for the seven strategic goals and quality of life. He noted that Minnetonka's ratings for value of services is at the top of the chart compared with other cities. Even in today's anti-tax climate, the percentage of people willing to increase their taxes to maintain services has steadily increased.

Based on the overall organizational rating of A, performance pay will be awarded to staff at the rate of \$485 or \$97 per employee, depending on their work group. Gunyou noted that almost all employees are now eligible for the program, including both unrepresented and union workers.

Anderson thanked staff. She noted that this program is rare for governmental units, especially those with unions. She suggested looking for opportunities to submit applications for an award.

Gunyou thanked the city council for their strong support of the program.

**E. Added Item: Final approval of JURUSIK PARK plat at 3113 Atwater Street for Joseph Jurusik.**

After item #14A, Gunyou reported that Jurusik's request was routine, and it was the city's mistake that it was not on the agenda. He recommended that council approve the item.

Wiersum moved, Callison seconded a motion to amend the agenda to add consideration of a final plat at 3021 and 3113 Atwater Street for Joe Jurusik. All voted "yes." Motion carried.

Olson provided the staff report for this item. He noted that two lots were being subdivided into three, and the city council had already approved the preliminary plat.

Wagner moved, Thomas seconded a motion to approve the JURUSIK PARK final plat that was received on March 16, 2004, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and
- 2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

All voted "yes." Motion carried.

**15. APPOINTMENTS and REAPPOINTMENTS:** None.

**16. ADJOURNMENT.**

Wiersum moved, Thomas seconded a motion to adjourn the meeting at 8:38 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk