

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, NOVEMBER 8, 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 Bob Ellingson, Brad Wiersum, Jan Callison, Terry Schneider, Al Thomas, Tony Wagner, and Karen Anderson were present.

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou reviewed the addendum. Additional information was submitted by Kathleen Nelson's attorney for item #10H, nuisance properties. The correct staff report was provided for item #14A, an ordinance regarding license, permit and planning fees.

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

**5. APPROVAL OF MINUTES: October 18, 2004 regular council meeting**

Wiersum moved, Schneider seconded a motion to approve the minutes of the October 18, 2004 Minnetonka City Council meeting. Wiersum noted two places where the reference to I-494 should have been to I-394. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:**

**A. Presentation of CenterPoint Energy Community Partnership Grant.**

Connie Hargest of CenterPoint Energy and Fire Chief Joe Wallin were present. Anderson noted that CenterPoint Energy was giving \$2,338 to the Minnetonka Fire Department to acquire multi-gas atmospheric monitoring equipment and would also provide training. This equipment will improve safety at emergency scenes and allow the fire department to better serve its citizens. Anderson thanked CenterPoint Energy for making the community safer.

Wallin thanked CenterPoint Energy for their generosity. He said that they have been a good partner over the years. The equipment will be used quite frequently, especially during below grade events or in confined spaces. Wallin noted that CenterPoint Energy also responds to emergencies.

Hargest, who is a Minnetonka resident, was pleased to present the check to the city. This grant program allows them to contribute up to 50 percent of the cost of public safety programs. The company places high priority on public safety. Hargest said that the Minnetonka Fire Department is one of the best in the state, and she acknowledged the generosity of the paid on call firefighters who so generously give of their time. She noted the fire department's quick response when she had a fire at her home 10 years earlier.

**B. Proclamation declaring November 13-20 as Housing Awareness Week.**

Callison read a proclamation declaring November 13-20, 2004 as Housing Awareness Week.

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

Gunyou reported on the following items:

- After many years, the Total Station at T.H. 7 and Williston Road was finally demolished today.
- Minnetonka's 85% voter turnout exceeded the state average. The Hopkins and Minnetonka School Districts offered Kids Voting—2,200 students voted in Minnetonka, and 2,600 in Hopkins. Both resulted in the same percentages: 61 percent for Kerry, and 36 percent for Bush.
- City offices will be closed on November 11 in observance of Veterans Day.
- The council will hold a budget study session on November 15, and their next regular meeting will be held on November 22.

Anderson noted that Minnesota typically has the highest voter turnout in the nation. She said that she and Wagner attended the re-opening of the Barnes & Noble renovated store in Ridgehaven.

Callison reported that she filled-in for the mayor at the Marsh's Turkey Trot last Saturday.

Anderson reported that the Minnetonka Fire Department received a \$292,000 FEMA grant to replace self-contained and supplied-air breathing apparatus. This equipment is needed to keep the department up to safety standards. She also reported that the police department would receive a

\$30,000 local law enforcement block grant that will be used to purchase digital video systems for squads.

Anderson also congratulated the fire department for taking first place overall in the Emergency Medical Service Olympic competition.

**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 – October 25, 2004.**

Wiersum moved, Wagner seconded a motion to approve the October 25, 2004 claims list, including checks numbered 185111 through 185464, totaling \$1,698,241.52. All voted “yes” except that Callison abstained as to check number 185158. Motion carried.

**B. Claims for council authorization – November 8, 2004.**

Wiersum moved, Wagner seconded a motion to approve the November 8, 2004 claims list, including checks numbered 185465 through 185704, totaling \$1,105,000.39. All voted “yes” except that Callison abstained as to check number 185697. Motion carried.

**C. Conditional use permit for 1,330 square feet of accessory buildings at 18516 South Lane for Jerry Rasmusson.**

Anderson pulled this item from the consent agenda to note that when she visited the site, the garage construction had already begun. Planning Director Geoff Olson said that the normal process is that the permit is issued after the council grants the CUP. He was not aware that construction had begun, but said that when construction begins before the issuance of a permit, the applicant is charged a double fee.

Julie Gilbertson, 7220 Sierra Court, Chanhassen, is Mr. Rasmusson’s daughter. He was out of town and asked her to appear as his representative. She had no direct knowledge as to why the work began before the permit was issued. She thought that the permit had been approved and that she should pick it up the next day.

Anderson asked staff to proceed with this property as it would with any other property.

Schneider moved, Wiersum seconded a motion to adopt Resolution No. 2004-138 approving a conditional use permit for 1,330 square feet of accessory buildings at 18516 South Lane. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) The gazebo/sunroom must be set back 15 feet from the west property line and must not exceed 12 feet in height as defined by city code.
- 2) No additional curb cuts are allowed.
- 3) The building must not be used for commercial activities.
- 4) The building must be architecturally consistent with the principal structure.
- 5) Record this resolution with the county before the city issues a building permit.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) 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.
- 8) The applicant must agree to the above conditions in writing.

Thomas supported the request, and imposing a double permit fee.

All voted "yes." Motion carried.

**D. Resolution authorizing the certification of fire alarm response fees to the Hennepin County Auditor.**

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2004-139 authorizing the certification of delinquent fire alarm response charges to the Hennepin County Auditor. All voted "yes." Motion carried.

**E. Resolution authorizing the certification of an expired special assessment deferment at 5735 County Road 101.**

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2004-140 authorizing the certification of an expired special assessment deferment at 5735 County Road 101. All voted "yes." Motion carried.

**F. Approval of 2004 performance pay for City Manager.**

Wiersum moved, Wagner seconded a motion to grant a lump sum merit pay amount of \$1,071.28 to the city manager in recognition of his performance. All voted "yes." Motion carried.

**G. Approval of an encroachment agreement granting T-Mobile a permit to install a telecommunications cable.**

Wiersum moved, Wagner seconded a motion to authorize the mayor and city manager to execute an encroachment agreement with T-Mobile, for the purposes of installing a telecommunications cable. All voted "yes." Motion carried.

**H. Resolutions ordering the abatement of nuisance conditions.**

Anderson pulled one of these items, 2504 Bantas Point Lane.

Wiersum moved, Wagner seconded a motion to:

- 1) Adopt Resolution No. 2004-141 ordering the abatement of nuisance conditions existing at 15171 Victor Lane.
- 2) Adopt Resolution No. 2004-142 ordering the abatement of nuisance conditions existing at 17200 Grays Bay Boulevard.

All voted "yes." Motion carried.

Community Development Director Ron Rankin reported that the city council acted on the same set of circumstances regarding the Bantas Point property last year. Staff had difficulty procuring a painting contractor last fall. When the issue was re-visited this year, the property had changed ownership. Staff member John Weinand spoke with the current owner, Kathleen Nelson, and advised her of the past actions, and she was aware of the need to paint the house. She had agreed to complete this work, but did not comply.

Anderson noted the letter from Nelson's attorney in the addendum. She asked about the timing for compliance efforts. Rankin said that it usually takes about 10 days to serve the resolution on a property owner.

In response to Callison's question, Rankin said that the painting would occur this fall if weather conditions allow. Otherwise, the house would be painted first thing in the spring.

In response to Ellingson's questions, Rankin said that he did not know if the house was occupied. He also said that there are extensive problems with paint peeling from the wood surfaces of the house. Contractors typically like to prime immediately following the stripping of the paint.

Thomas asked why last year's enforcement action had not succeeded. Rankin said that there was a different owner last year, then cold weather was encountered in the fall. There was great

difficulty finding a painting contractor that would do this work, and when one was located, the ownership had changed.

City Attorney Desyl Peterson said that the notice for last year's action was sent to the prior owner. Nelson raised the issue that she had not received notice. To accommodate her, staff ceased the previous enforcement action to give her an opportunity to complete the work.

Thomas supported enforcement action. He asked if city had to use a painting contractor. Peterson said that staff is not required to use painting contractors. Rankin said that staff had found a retired city employee who was willing to do this smaller painting job.

Schneider had some reservation enforcing the painting for this fall, but supported the action as long as it remains in force and is implemented when the weather permits.

Schneider moved, Callison seconded a motion to adopt Resolution No. 2004-143 ordering the abatement of nuisance conditions existing at 2504 Bantas Point Lane. All voted "yes." Motion carried.

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

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance rezoning 14800 Highwood Drive from R-1, Low Density Residential, to O, Office, for Minnwest Corporation.**

Gunyou provided brief background comments for this item.

Callison moved, Wagner seconded a motion to introduce an ordinance rezoning 14800 Highwood Drive from R-1, Low Density Residential, to O, Office, for Minnwest Corporation. All voted "yes." Motion carried.

**B. Ordinance amending Ordinance 2003-018 approving an amended PID Master Development Plan for 408 Parkers Lake Road.**

Rankin provided a brief staff report for this item.

Wiersum noted that 2004 is nearly over, and asked if the council would be asked to take a similar action if the index goes up in 2005. Rankin said that the developer has commenced pre-sales and has at least one affordable unit ready for sale. He did not expect that the developer would seek other changes.

Wagner moved, Thomas seconded a motion to introduce the ordinance amending Ordinance 2003-018 approving an amended PID Master Development Plan for 408 Parkers Lake Road to increase the sale price for the affordable housing units. All voted "yes." Motion carried.

**13. PUBLIC HEARINGS:**

**A. Public hearing to consider the renewal of a Minnesota Currency Exchange License for 2005 for Action Check Cashing, 11503 Excelsior Boulevard.**

Gunyou provided a brief staff report. Anderson opened the public hearing at 7:10 p.m. No one spoke and the public hearing was closed.

Schneider moved, Wiersum 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.

**B. Public hearing to consider applications by Dayton's Iron Horse Liquors, Inc., for on-sale and Sunday on-sale intoxicating liquor licenses for the Lake Shore Grill, 12411 Wayzata Boulevard.**

Gunyou provided the staff report. In response to Wiersum's question, Rankin said that this establishment does not participate in the Best Practices Program. Wiersum suggested that staff encourage them to join the program.

Anderson opened the public hearing at 7:13 p.m. No one spoke.

Callison moved, Wagner seconded a motion to continue the hearing to consider applications by Dayton's Iron Horse Liquors, Inc., for on-sale and Sunday on-sale intoxicating liquor licenses for the Lake Shore Grill, 12411 Wayzata Boulevard to December 6, 2004. All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Ordinance amending Section 710 of the City Code regarding building, electrical, plumbing, and mechanical permit fees, certain planning fees, other related fees, and authorization to publish a summary of the ordinance.**

Rankin provided the staff report, noting the fees proposed for grading permits and a per hour fee for plan reviews. These changes reflect additional staff time required for larger grading projects and for additional plan reviews.

Rankin also noted how the fee increases had been publicized to provide notice to those affected. He said that publishing a summary would convey the information to the public at a lower cost to the city.

Thomas noted the fee required for a permit to install a water softener. Rankin said that State law changed two years ago to limit the fee for permits for appliance installations to \$15. Thomas thought that the public might not be aware of the requirement for a permit for these types of installations. Rankin said that the city publicizes this information. A permit is required because this is an installation to a residential plumbing system. Inspection is most critical for new installations, but replacements probably occur without the city's knowledge. Rankin noted that major residential installers, such as Culligan, are aware of the permit requirement and do comply.

Anderson said that major installers are well aware of the need for permits. She thought that homeowners would be less likely to install a water softener than an appliance that just plugs in.

Wiersum asked about the city's recourse for work that has been completed without a permit. Gunyou said that the city encourages property owners to comply for their own protection to ensure that items are properly installed. Rankin added that neighbors and other contractors report to the city when they observe work occurring without a permit. Wiersum said that he wants people to comply for their own protection, and for consistency.

Schneider moved, Callison seconded a motion to adopt Ordinance No. 2004-33 amending City Code Section 710.005 regarding fees for licenses, permits, and planning fees, and to make a finding that the title and summary of the ordinance will clearly inform the public of the intent and effect of the ordinance, approve the text of the enclosed summary, and authorize its publication. All voted "yes." Motion carried.

**B. Ordinance amending the non-conforming use section of the zoning ordinance.**

Gunyou provided the staff report. Anderson noted that changes were made to the ordinance by the planning commission.

Wiersum moved, Thomas seconded a motion adopt Ordinance No. 2004-34 amending city code section 300.29 regarding non-conforming uses. All voted "yes." Motion carried.

**15. APPOINTMENTS and REAPPOINTMENTS:**

**A. Appointments to the community heritage commission.**

Anderson moved, Callison seconded a motion to:

- Appoint David Hakensen, 3626 Baker Road, to the community heritage commission to serve a two-year term, effective November 8, 2004 and expiring on January 31, 2007.
- Appoint Teresa Schmanski, 5778 Glen Moor Circle, to the community heritage commission to serve a two-year term, effective November 8, 2004 and expiring on January 31, 2006.

All voted "yes." Motion carried.

**16. ADJOURNMENT.**

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:28 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk