

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, NOVEMBER 22, 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 Brad Wiersum, Jan Callison, Terry Schneider, Al Thomas, Tony Wagner, Bob Ellingson and Karen Anderson were present.

4. APPROVAL OF AGENDA.

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

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

5. APPROVAL OF MINUTES: November 8, 2004 regular council meeting

Schneider moved, Wagner seconded a motion to approve the minutes of the November 8, 2004 Minnetonka City Council meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Minnetonka Community Action Recognition Award.

Anderson presented the Community Action Recognition Award to Bill Lurth for his volunteer efforts for the Senior Program, especially the Wednesday lunch and the volunteer attorney service. Lurth also served as a volunteer van driver. Lurth appreciated being recognized and said the recognition made him feel that what he does is worthwhile.

B. Certificate of Achievement to Minnetonka Heights.

Dina Grazhdankina, Minnetonka Heights' onsite manager; Abdullah Kiatamba, Legacy Management; and Joanne Robinson, Minnetonka Height's Programs Coordinator, who is an employee of Ridgedale YMCA, were present to receive a Certificate of

Achievement from the city for programs at Minnetonka Heights. Anderson noted that Colleen Klingelhutz of the police staff, and Elise Souders of Community Development, work closely with Minnetonka Heights on these programs.

Callison provided the background information for the recognition. Minnetonka Heights was built in 1976 and rehabilitated in 1999. Its townhomes and apartments are all affordable units. Legacy Management has implemented procedures recommended by the Minnetonka Police Department, including background checks for potential residents and responsiveness to noise issues. Three of their four employees live on site. In 2001, the city provided start-up funds for on-site programs. Legacy Management partnered with the YMCA, and hired a coordinator. Callison listed the programs that have been provided. She noted that the program's success was due to multiple collaborations and partnerships.

Anderson presented a Certificate of Achievement to Minnetonka Heights. Robinson expressed appreciation for the certificate and said the program's success is due to the multiple collaborations.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported that the next regular council meeting will be held on December 6, 2004, and will include the annual Truth in Taxation hearing.

Anderson noted that Police Chief Joy Rikala received Hennepin County's Community Leadership Award. She said that the award was a great honor, and said that Rikala was deserving of it.

Anderson also congratulated the Minnetonka High School Girls Cross Country team for winning the State title.

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

Jeff Beck, 5645 Green Circle Drive, asked for information about WHAHLT and affordable housing.

Schneider, who is on WHAHLT's Board of Directors, provided information about affordable housing and WHAHLT's operation. Anderson noted that WHAHLT is a private non-profit organization that provides only a small percentage of the area's affordable housing. Callison suggested that Beck contact WHAHLT directly if he needs additional information.

9. BIDS AND PURCHASES:

- A. Consideration of quotes for the purchase of Global Positioning System equipment.**

Gunyou provided the background information for this item.

Wiersum moved, Callison seconded a motion to authorize the purchase of the Leica GPS equipment from Leica Geosystems, Inc. in the amount of \$43,494. All voted "yes." Motion carried.

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

A. Claims for council authorization – November 22, 2004.

Wiersum moved, Wagner seconded a motion to approve the November 22, 2004 claims list, including checks numbered 185705 through 185979, totaling \$1,863,613.22. All voted "yes." Motion carried.

B. Preliminary plat to divide the properties at 13709 and 13717 Inverness Road into three lots for Stephen Longman and Eric Barstad.

Wiersum moved, Wagner seconded a motion to give preliminary approval to the INVERNESS MILLS plat, date-stamped October 25, 2004. 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) 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.
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - b. Pay the city a park dedication fee of \$2,375.00.
- 2) The following items must be submitted to the city before the city releases the final plat:
 - a. An electronic CAD file of the final plat in microstation or DXF.
 - b. 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) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that

- have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
- These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
- c. Any other requirements included with final plat approval.
- 3) The following must be submitted to the city before the city issues a building permit:
- a. The homes on Lots 1 and 2 must be in substantial compliance with the proposed preliminary plat, date stamped October 25, 2004.
- b. There may be no grading within 15 feet of the northernmost 34-inch oak on Lot 2.
- c. A grading and tree preservation plan for each lot, subject to staff approval. The plans must be in substantial compliance with agreed building areas as required with the final plat. The sewer and water services must be shown to minimize impact to the significant trees.
- d. A temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
- e. A copy of the recorded plat and any easement or covenants required to be recorded.
- f. A hookup fee for sanitary sewer and water.
- g. 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.
- 4) The abandoned utility services on Lot 3 must be disconnected at the main.
- 5) The existing drainage and utility easement located on proposed Lot 2 must be vacated, if any building is proposed on the easement area.
- 6) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
- 7) 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 ½ 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.

8) 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.

C. Ordinance approving an amendment to Ordinance 2003-018, an amended PID master development plan for 408 Parkers Lake Road.

Wiersum moved, Wagner seconded a motion to adopt Ordinance No. 2004-35 amending Ordinance 2003-018 approving an amended PID master development plan for 408 Parkers Lake Road to increase the sales price for the affordable housing units. All voted "yes." Motion carried.

D. Approve an amendment to the Line of Credit agreement between the City and the West Hennepin Affordable Housing Land Trust.

Wiersum moved, Wagner seconded a motion to approve an amendment to the Line of Credit agreement with WHAHLT. Wiersum, Schneider, Thomas, Wagner, Ellingson and Anderson voted "yes." Callison abstained. Motion carried.

E. Resolution approving a pond maintenance agreement with MnDOT for the Nine Mile Creek Watershed District Water Quality Improvements Project.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2004-144 approving Agreement No. 87220 with the Minnesota Department of Transportation as it pertains to the maintenance of Pond #567-3, as part of Nine Mile Creek Watershed District Water Quality Improvements Project, City Project No. 4653. All voted "yes." Motion carried.

F. Resolution receiving a petition for storm sewer improvements and authorizing the preparation of a feasibility report.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2004-145 receiving a petition for storm sewer improvements and authorizing the preparation of a feasibility report. All voted "yes." Motion carried.

G. Resolution adopting the 2005 meeting schedule for the Minnetonka City Council.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2004-146 adopting the 2005 Minnetonka City Council meeting schedule. All voted "yes." Motion carried.

H. Consent to Assignment of TIF Note from Minnstar Builders (Ron Clark) to St. Stephen State Bank.

Wiersum moved, Wagner seconded a motion to approve the Consent to Assignment of the TIF note from Minnstar Builders (Ron Clark) to St. Stephen State Bank. All voted "yes." Motion carried.

I. Approval of Labor Agreement between the City of Minnetonka and LELS (Public Safety Dispatchers).

Wiersum moved, Wagner seconded a motion to approve the 2004 – 2005 labor agreement between the City of Minnetonka and LELS (public safety dispatchers). All voted "yes." Motion carried.

11. Items requiring Five Votes:

A. Applications for renewed on-sale and off-sale 3.2 percent malt liquor licenses for 2005.

Schneider moved, Wagner seconded a motion to approve the renewed licenses for on-sale and off-sale 3.2 percent malt liquor licenses for calendar year 2005 for the following:

On-sale 3.2 Percent Malt Liquor Licensees:

Beijing Restaurant, 4773 County Road 101
Bunker Indoor Golf Center, 14900 State Highway 7
Chin's Asia Fresh, 11300 Wayzata Boulevard, Suite G
Crossroad Delicatessen, 2795 Hedberg Drive
Davanni's Pizza & Hot Hoagies, 15200 State Highway 7
Glen Lake Golf & Practice Center, 14350 County Road 62
Gold Nugget Restaurant, 14401 Excelsior Boulevard
Istanbul Bistro, 15718 Wayzata Boulevard
Lund's Deli Style Restaurant, 11400 State Highway 7
Marsh (The), 15000 Minnetonka 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.

B. Applications for renewed on-sale and Sunday on-sale intoxicating liquor licenses, off-sale intoxicating liquor licenses, and on-sale wine licenses for 2005.

Schneider moved, Wagner seconded a motion to approve renewed on-sale and Sunday on-sale intoxicating liquor, off-sale intoxicating liquor, and on-sale wine licenses for calendar year 2005, provided that no license shall actually be issued unless the applicant has filed an appropriate Certificate of Insurance with the city for the following:

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

Applebee's Neighborhood Grill and Bar, 12653 Wayzata Boulevard

Bacio, 1571 Plymouth Road

Big Bowl, 12649 Wayzata Boulevard

Big Buck Roadhouse, 17805 State Highway 7 – new

Champps Americana, 1641 Plymouth Road

Don Pablo's, 11544 Wayzata Boulevard

Famous Dave's BBQ Shack, 14601 State Highway 7

Lake Shore Grill, 12411 Wayzata Boulevard (Ridgedale)

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

Origami West, 12401 Wayzata Boulevard (Ridgedale)

Redstone American 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 State Highway 7

Wanderer's Garden, 13059 Ridgedale Drive

Off-Sale Intoxicating Liquor Licensees:

Barrel Wine and Sprints, 15400 State Highway 7

Byerly's Wines & Spirits, 13081 Ridgedale Drive

Cellars Wine & Spirits, 11333 Highway 7

Cost Plus World Market Wine Shop, 11240 Wayzata Boulevard, Suite B

Glen Lake Liquors, 14704 Excelsior Boulevard

Haskell's, 12900 Wayzata Boulevard

Liquor Barrel, 11048 Cedar Lake Road

MGM Wine & Spirits, 17730 State Highway 7

Sundial Wine & Spirits, 5757 Sanibel Drive

Tonka Bottle Shop, 17616 Minnetonka Boulevard

On-Sale Wine Licensees:

Beijing Restaurant, 4773 County Road 101

Chin's Asia Fresh, 11300 Wayzata Boulevard, Suite G

Crossroads Delicatessen, 2795 Hedberg Drive

Gold Nugget Restaurant, 14401 Excelsior Boulevard

Istanbul Bistro, 15718 Wayzata Boulevard

Lund's Deli Style Restaurant, 11400 State Highway 7

The Marsh, 15000 Minnetonka Boulevard

All voted "yes." Motion carried.

12. INTRODUCTION OF ORDINANCES: None.

13. PUBLIC HEARINGS:

A. Applications for a bank with drive-up windows at 14816 State Highway 7 and 14800 Highwood Drive for Minnwest Corporation and the City of Minnetonka.

Olson provided the staff report.

In response to Callison's request, Planning Director Geoff Olson reviewed the landscaping and screening for the residential properties to the north. He noted that engineering will hold a neighborhood meeting within the next two weeks to discuss the plantings.

In response to Anderson's question, City Engineer Lee Gustafson explained how access will change for the first house north of the new intersection. The change will provide a safer access for that property, and there will also be screening along the frontage road. Staff will continue its negotiations with that property owner.

Gustafson also explained the extent of the peninsula landscaping. It will stop just before the first townhome on Woods Way at the request of that property owner.

Anderson opened the public hearing at 7:08 p.m. No one spoke and the hearing was closed.

Thomas supported providing as much of a buffer as possible due to the visibility of that area. He was pleased that the Total Station was demolished, and said that this project will greatly improve the intersection. He noted that one neighbor complained about the parking and smell from the proposed project. Thomas said that the site could have been used for a 24-hour gas station with lights and associated traffic, and that this was a much better use.

Schneider agreed. He also asked staff to consider changing the requirements for stacking distance for drive-up lanes to a sliding scale. Stacking for six cars could be required if there would only be one lane, but with additional lanes, the number could be reduced.

Anderson was hopeful that the success of the new frontage road could lead to a future extension of the frontage road to the west.

Thomas moved, Wiersum seconded a motion to:

- 1) Adopt Resolution No. 2004-147 approving a guide plan amendment from amending the guide plan from LDR, low-density residential to O, office, at 14800 Highwood Drive. This resolution is based on the following findings:
 - a. The guide plan change would be consistent with the adjacent land uses to the south and west.
 - b. With the realignment of Highwood Drive, this property is now located on the south side of the road.
 - c. The guide plan change would be consistent with the public health, safety, and welfare.
- 2) Adopt Ordinance No. 2004-36 rezoning 14800 Highwood Drive from R-1, low-density residential, to B-1, office, for Minnwest Corporation. 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 and west.
- 3) Adopt Resolution No. 2004-148 approving a conditional use permit a bank with drive-up windows at 14816 State Highway 7. Approval is based on the following findings:
 - a. With the exception of the stacking space requirement, the proposal meets the required conditional use permit standards.
 - b. The proposal meets the required standards for a variance, because:
 - (1) There is a unique hardship to the property caused by the following: the narrow width of the lot, the utility easement that runs through the center of the lot, the restrictive front yard or street setbacks on all sides, and city staff requiring the entrance to the site to line up with Highwood Drive.
 - (2) The variance would meet the intent of the ordinance because there would be adequate on-site parking and stacking area for a corporate bank.

Approval is subject to the following conditions:

- a. Record this resolution with the county before the city issues a building permit.
- b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- c. If there are any congestion problems due to the stacking lanes, the property owner must bring options

forward to correct the problem to the city council for consideration.

- d. 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.
 - e. The applicant must agree to the above conditions in writing.
- 4) Approve the site and building plans with a parking space variance from 62 to 51 spaces, a parking lot setback variance from 20 to 9 feet, and a building setback variance from 40 to 10 feet for Minnwest Bank at 14816 State Highway. 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 the roadway realignment, the location of sewer and water lines through the middle of the site, and the required roadway setbacks on all sides.
 - (2) The variance would meet the intent of the ordinance because the building would be located 70 feet from the paved surface of Highway 7 and as a corporate bank, the number of parking spaces required by code would not be needed.

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 date stamped October 5, 2004.
 - Grading plan dated June 10, 2004.
 - Landscaping plan dated June 14, 2004.
 - Building elevations dated June 14, 2004.
- b. Before starting any site work or obtaining a grading permit, complete the following work:
 - (1) The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing must be installed, subject to review by the city's environment resources coordinator.
 - (2) Submit final site, grading, drainage, utility, and erosion control plans for staff approval.

- (3) Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
 - (4) If required, submit copies of the watershed district permit. The city may require revisions to the approved plans to meet the district's requirements.
 - (5) Submit a construction management plan for staff approval.
- c. 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. The landscape plan must include additional plantings along the frontage road to provide additional screening from the residential property to the north and west.
 - (2) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
 - (3) An illumination plan for staff approval. The lighting must not exceed .5 foot-candles at the lot line along the frontage road. The light source cannot be visible from adjacent properties. The illumination plan must meet all zoning ordinance requirements.
 - (4) All required hook-up fees.
 - (5) The property owner is responsible for replacing any required landscaping that dies.
 - (6) 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.
 - (7) Approval does not include the signs shown on the drawings. Separate permits are required from staff. All signage must meet the sign ordinance.
 - (8) Spaces shown as proof-of-parking may not be paved, unless approved by the city upon showing of a demonstrated need for these spaces.
 - (9) The building must be built with an automatic fire sprinkler system.

- (10) Construction must begin by December 31, 2005, unless the planning commission grants a time extension.
- d. A fire hydrant must be installed close to the main entrance.
- e. No certificate of occupancy will be issued until the parking lot is paved including the curbing.
- 5) Give preliminary and final approval to the HIGHWOOD DRIVE ADDITION, date stamped November 15, 2004. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to completing the following before the city releases the final plat:
 - a. An electronic CAD file of the final plat in microstation or DXF.
 - b. The developer must submit the signed Improvement agreement as drafted by the city.
 - c. Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
- 6) Adopt Resolution No. 2004-149 vacating the public right-of-way subject to:
 - a. Retaining drainage and utility easements; and
 - b. Retaining a temporary road easement until October 31, 2005.

All voted "yes." Motion carried.

14. **OTHER BUSINESS:** None.

15. **APPOINTMENTS and REAPPOINTMENTS:**

A. **Appointment to the Minnetonka School District's Community Education Advisory Council.**

Anderson moved, Thomas seconded a motion to appoint Janis Callison to the Minnetonka School District's Community Education Advisory Council as the city of Minnetonka representative. All voted "yes." Motion carried.

16. **ADJOURNMENT.**

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:14 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk