

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, DECEMBER 6, 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 Jan Callison, Terry Schneider, Al Thomas, Tony Wagner, Bob Ellingson, Brad Wiersum, and Karen Anderson were present.

4. APPROVAL OF AGENDA.

Assistant City Manager Geralyn Barone reported that there were no changes to the agenda.

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

5. APPROVAL OF MINUTES: November 22, 2004 regular council meeting.

Callison moved, Wagner seconded a motion to approve the minutes of the November 22, 2004 Minnetonka City Council meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Recognition of retiring employee, Captain Mike Olson.

Wiersum recognized Captain Mike Olson for his more than 23 years of dedicated service to the City of Minnetonka. Anderson presented Captain Olson with a plaque. Olson thanked the present and past police chiefs for the opportunities they gave him.

B. Presentation of Deed for Shady Oak Lake Cemetery.

Anderson invited representatives of the Shady Oak Lake Cemetery Association to the podium. She noted that the discussions that resulted in this transfer have been going on for some time, and this is the first time Minnetonka will own a cemetery. She noted that this

transaction will add land to Lone Lake Park, and extend the life of the cemetery.

Gene Herzan, the ownership transfer coordinator, introduced the association's representatives who were present: George Holasek, Joe Holasek, Joanne Dudycha, Joe Dudycha and Irvin Dvorak. He noted that all are of Czech heritage. Herzan said that the association was transferring not only its assets and property, but also its firm commitment and duty to maintain and preserve the cemetery to the more than 400 individuals buried in the cemetery over the past 129 years, and also to them for a fitting final resting place next to their family members. The association has full confidence that the city will honor their commitment and assume the duty in perpetuity.

George Holasek presented the deed to Mayor, who thanked the association. She was honored to accept the responsibility for the cemetery on behalf of the city, and said that their work will continue to be carried out to their high standards through the terms of the agreement. Anderson also noted the city's appreciation for their cash assets to help with the maintenance and preservation costs. Anderson said that the transaction was a win: win for all involved.

City Attorney Desyl Peterson provided the staff report for this item.

Thomas was glad that the transfer occurred, and first toured the cemetery when Herzan called him about the possibility of the transfer. He noted that the names on the headstones reflect many of the city's street names. Thomas complimented Herzan for his work on this matter.

Schneider suggested that a plaque be erected between the parking area and the cemetery to highlight the history of the cemetery. He suggested a process involving representatives from parks, history, and the association.

Callison moved, Thomas seconded a motion to adopt Resolution No. 2004-150 accepting the donation of the Shady Oak Lake Cemetery. All voted "yes." Motion carried.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Barone reported on the upcoming council meeting schedule.

Anderson congratulated the Minnetonka Senior High Football team for winning the State 5A championship. This was the first time a Minnetonka High School team won the state championship.

Anderson also noted that Wagner, Wiersum, and she attended the National League of Cities Congress of Cities. The meeting provided an excellent opportunity to learn about concerns of cities throughout the country, and also to learn about best practices and leadership. She noted the NLC president's initiative for the coming year to better use technology to share information. She referred people to NLC's new Web site www.nlc.org.

Wiersum said that the meeting provided tremendous opportunities to learn how to better serve the city and its constituents. The networking offered a chance to learn from the experience of the group.

Wagner also appreciated the experience and the opportunity to attend sessions on development, transportation and affordable housing. He was struck by the level of respect other cities have for Minnetonka due to Anderson's work with the NLC.

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. General services agreements with consulting engineering firms for the period of 2005-2007.

Wiersum moved, Thomas seconded a motion to authorize the mayor and city manager to enter into general services agreements for the three-year period of 2005-2007 with the following firms:

General Municipal and Traffic Engineering and Transportation Planning

- Hansen Thorp Pellinen Olson Inc.
- Short Elliott Hendrickson Inc.
- SRF Consulting Group, Inc.
- WSB & Associates, Inc.

Water Resources and Environmental Engineering

- Barr Engineering Company
- SECOR International Inc.

Electrical Engineering

- Kaeding and Associates, Inc.

Geotechnical Engineering and Materials Testing

- Braun Intertec Corporation
- Gale-Tec Engineering, Inc.
- GME Consultants, Inc.
- STS Consultants, Ltd.

Planning, Landscape Design, and Ecological Services

- Applied Ecological Services, Inc.
- Brauer & Associates, Ltd.

All voted "yes." Motion carried.

B. Items relating to the T H 7/Williston Road North Frontage Road Project.

Wiersum moved, Thomas seconded a motion to approve the Improvement Agreement related to the TH 7/Williston Road North Frontage Road, and to authorize the Mayor and City Manager to execute deeds outlined within Agreement. All voted "yes." Motion carried.

C. Resolution authorizing the police department to enter into a cooperative grant agreement with the Office of Justice Programs in the MN Department of Public Safety.

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2004-151 authorizing execution of cooperative grant agreement with the Office of Justice Program for the Minnesota Department of Public Safety. All voted "yes." Motion carried.

D. Resolution authorizing the issuance, sale, and delivery of housing revenue refunding bonds (Brier Creek Apartments Project).

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2004-152 authorizing the issuance, sale, and delivery of its variable rate demand housing revenue refunding bonds (Brier Creek Apartments Project), Series 2004; payable solely from revenues pledged to the bonds; approving the form of and authorizing the execution and delivery of the bonds and the related documents; and providing for the security, rights and remedies with respect to the bonds. All voted "yes." Motion carried.

11. Items requiring Five Votes:

12. INTRODUCTION OF ORDINANCES:

A. Ordinance establishing electric franchise fees.

Barone provided the staff report for this item. She noted that the city is required to give Xcel 60 days' notice before the ordinance could be adopted. The second reading of this ordinance will be scheduled for the February 14, 2005 council meeting, and the proposed fees would not be collected until April, 2005. The recommended fee would be \$2 per month for commercial and

residential properties. Notice of the February 14th meeting will be given in the *Minnetonka Memo*.

Wagner asked about the criteria for the program. City Engineer Lee Gustafson referred to the council's November 4, 2002 discussion. At that time, staff recommended priority rankings of all city streets. During that discussion, the city council realized that the ranking system would relate to county and municipal state aid streets, so burial of overhead utilities lines should be restricted to those streets, and not neighborhood streets. This was in accordance with community survey results in which there was support for burying lines along major streets.

In response to Callison's question, Barone said that the monthly rate was based on the revenue necessary for the costs of projects scheduled over the next five years. If more revenue is collected than the \$3 million limit, Xcel would stop collecting franchise fees.

Schneider was comfortable with focusing on major thoroughfares. He noted that heavier duty lines are more expensive to bury than residential lines. He also noted the council's previous comments about the impact to trees from wires crossing streets. Gustafson said that staff will look at each project on a case-by-case basis to determine the cost-benefit. He noted that for the upcoming CSAH 101 project, only the lighter duty distribution lines would be buried.

Schneider did not feel the issue had been resolved as to the costs for private homeowners who might have to upgrade their electrical service to make the underground connection. Gustafson said that this issue is relevant to the CSAH 5/73 project. For that project, staff's approach has been to leave the decision to make the underground connection to the private property owner. Staff has been working with Xcel because a service pole would be required for those properties that do not make the underground connection. Staff would also work with Xcel to remove those poles from the rights-of-way to improve the aesthetics. Staff did not propose any subsidy for individual service burials.

Schneider suggested keeping an open mind, particularly where a whole new service is needed. He noted that the city offered a \$500 subsidy for these types of connections for the Williston Road project. He would not want to see a situation where \$300,000 is expended to bury the lines, but 17 poles remain, when an additional smaller expenditure might have allowed them to be removed. Gustafson said that staff would provide information on whether that was an allowable use of franchise fee revenue.

Barone noted that the franchise fees must be used specifically for burying cable underground and could not be used for general operating costs.

In response to Wiersum's question, Barone said that the franchise fee will raise \$600,000 annually. Peterson said that the franchise fee will only be in effect as long as the franchise agreement is effective. The city is currently in year six of the 20 year franchise agreement.

Callison asked about opportunities for public comment. Barone said that the February 14, 2005 meeting will be announced in the January *Memo*, and the mayor usually offers the opportunity for people to speak at meetings. She also invited people who have questions to call the city.

Mike Loisel, 5108 Birch Road, lives near Spring Hill Park. He noted safety concerns with the overhead lines in that park. Barone said that the focus of the undergrounding effort has been on roadways, and there has been no discussion about parks. Staff could explore that option if the council was interested. She said that the issue may have been raised at the neighborhood park renewal meetings but it was not discussed at a park board meeting.

Callison thought it would be appropriate to consider undergrounding lines in parks where there are safety issues.

Joyce Fiedler, 14335 Coronet Drive, asked about Xcel's responsibilities for paying part of the cost to underground lines. City Attorney Desyl Peterson said under Xcel's tariff with the state, they are only required to install the standard service, which is above ground. If underground service is desired, Xcel may collect the additional cost by increasing rates or charging the city. Xcel does not like underground service.

Anderson noted that in past discussions, Xcel has said that underground lines are more expensive and are more difficult to access when repairs are needed.

In response to the issue of lines in parks, Peterson said additional research would be needed to determine if the lines are covered by the franchise.

Wagner moved, Callison seconded a motion to introduce an ordinance establishing an electric franchise fee. All voted "yes."
Motion carried.

B. Ordinance rezoning 1927 Essex Road from R-1, low density residential, to PUD, planned unit development.

Thomas moved, Wiersum seconded a motion to introduce an ordinance rezoning 1927 Essex Road from R-1, low density residential, to PUD, planned unit development. All voted "yes." Motion carried.

13. PUBLIC HEARINGS:

A. Truth-in-Taxation Hearing.

Anderson provided background information, noting that the council would take no official action at this meeting.

Barone introduced Finance Director Merrill King.

The key points of King's budget presentation were:

- Minnetonka has a history of long-term financial management to provide quality services at a reasonable price.
- Over the last several years, the city has faced a number of budget pressures—most related to state funding cuts. The city lost \$950,000 in state revenue in 2003, and \$800,000 in 2004 when levy limits were also imposed. These cuts had an impact on basic city services, like public safety, streets and park maintenance.
- In the area of public safety, there have been growing service demands, and higher insurance premiums. Reimbursements for school liaison officers have declined, and a new liaison officer is needed for the new district. There has also been a revision of the firefighter pension, and increased workload for the prosecution staff.
- In the areas of parks, forestry, trails, and street maintenance, there have been growing expectations about maintenance. An institutional crew was added as a cost-efficient way to meet some of those demands. A new parks and trail worker is added in the 2005 budget. The city also believes that there is a need for greater citizen outreach. The numbers of diseased trees have increased, which has also increased costs. The city has adopted new technology for street patching in partnership with Hennepin County.
- Nine out of every 10 new 2005 budget dollars will go toward public safety, street and parks. The bottom line budget increase is \$876,000. To fund the increase, decisions must be made about property taxes and service charges. Minnetonka has adopted a financially prudent method of

making annual inflationary increases to our service charges. The other major revenue source, property taxes, is affected by the state's market value credit program.

At this time, the city does not yet know if it will receive the state's promised market value credit (MVC) contribution for 2005. The MVC program is a state program, and over the past two years, the state has required cities to fund this state program. Minnetonka is scheduled to receive \$800,000 this year from the state to pay for the program. However, the state is still facing a \$1.4 billion shortfall, so there is a chance cities won't receive the credit. Cities won't know the answer until the end of the legislative session, well into 2005. It would not be responsible for the city to budget for the credit when there is such uncertainty about whether the credit will be received.

A 4.5 percent property tax increase is proposed - 0.5 percent for city services, and the remaining 4 percent to deal with the uncertainty about the state's market value credit payment. If the credit is received, it will be considered in the following budget year (2006). Among comparable cities, Minnetonka's proposed increase is among the lowest.

- For a Minnetonka home of average value, the 4.5% increase translates to \$4 for city services and \$34 for the market value uncertainty. An additional 2.3% (\$20) is added to cover the voter-approved park bond.
- Over the past several years, the market values of commercial properties have not increased as fast as the values of residential properties, so more burden is being shifted onto residential homeowners.
- The figures represent only Minnetonka's share of the property tax, and do not reflect taxes for other governments, such as the county and school districts.
- There has been a phase out of the limited market value.

In summary, King said that Minnetonka continues to provide quality services at a reasonable price. State cuts have impacted our basic services. Nine out of every ten new dollars will go toward public safety, parks and streets. The city's tax increase of 4.5% is among the lowest in the region, and 4% of that increase is needed to pay for the state's market value credit program.

Anderson noted that individual homeowners may experience an increase greater than 4.5%, and asked King to explain. King said that increases for individual properties would vary depending on the school district, special taxes, and the market value change. The

state's decision to phase out the limited market value credit could cause significant increases in an individual property's value.

Wiersum noted that over half of the typical property increase would be attributable to changes in state funding. Barone said that other legislation also changed the way the state applied the property taxes. King said that staff calculated that up to 81% of the increase is due to changes in state law.

Anderson opened the public hearing.

Dorothy Janssen, 12709 Burwell Drive, asked about the phase out of the limited market value. Community Development Director Ron Rankin said that the limited market value credit would be phased out by 2007.

Jeff Schultenover, 13424 Maywood Curve, said his taxes will go up by 40%, and his overall value by 33%, due to the average sale of homes in his neighborhood. He asked what he could expect for the additional taxes he will be paying. Anderson said that challenges to the property value should be brought to the city council in April when they serve as the Board of Review. Anderson said that most of the increase in his property bill is due to the increase of the value of his home.

Callison said that there are two factors affecting his increase - some increase of the city budget, as well as a shift of the property tax burden from commercial to residential properties. As a result of market and state law changes, the relationship of values between his property and others have changed, so he will now pay a larger share.

King noted cost pressures associated with the loss of federal funding for police officers, the change in reimbursement for school liaison officers, park and trail maintenance expectations, citizen outreach, diseased trees, and street patching.

Schultenover said that his neighborhood was built in 1949. There are lots of potholes and diseased trees. He hoped to see some improvements in those areas. Anderson suggested that he call staff about particularly bad potholes. Schneider also suggested that he talk with the engineering staff about the timetable for street rehabilitation in his area.

Schneider noted that Minnetonka is one of the only cities that funds street rehabilitation through general property taxes, and does not assess those costs against individual properties.

Bob Klemenhagen, 16501 Elm Drive, questioned shifting the tax burden from commercial to residential. Anderson explained that the value of commercial properties has not been increasing as quickly as the value for residential properties. In addition to this market change, the state legislature also made the decision to shift more of the burden onto residential.

Rankin explained that the legislature decided a few years ago to reduce taxes on commercial properties. During the recession, commercial values have not increased, and some have declined, although there has been some turnaround in the past few months.

In response to Klemenhagen's question, Rankin said that commercial values are based on comparable sales and also on the revenue the property generates. Anderson said that this shift in the burden is happening throughout the state, and it is a function of the market over the last few years, as well as the state-wide law changes that went into effect four years ago. Klemenhagen said that the commercial value decline does not speak well of the economy.

Anderson said that the business community worked hard to lower their property tax rates. The commercial property tax rates in Minnesota were higher than in other states, and the change made Minnesota more competitive.

Wiersum said that with the economy, there were more empty commercial spaces, which lowered their value. During the recession, interest rates dropped, which increased the value of residential properties. The environment was one in which residential property values were rapidly increasing, while commercial values were declining.

Klemenhagen works with the Senior Federation on property taxes. He noted that property tax increases tend to drive seniors and low-income people from their homes.

Schneider also noted that the state's fiscal disparity program requires cities with healthy commercial tax bases to share their taxing capacity with cities without that base. That policy assumes that people in expensive homes can afford to bear that burden, but the program also affects people with limited incomes.

Anderson appreciated Klemenhagen's work with the Senior Federation and said they disseminate good information.

Bodey Perl, 3701 Cardinal Road, said that he built his home 45 years ago, and plans to live there until he dies. He said that taxes

are out of control, and that trend needs to stop. His taxes have increased by \$1,100 in the past three years. He loves it in Minnetonka, and appreciates the police protection and snowplowing. Residents pay for all the other services: garbage, sewer and water, utilities, and home maintenance. Perl questioned Governor Pawlenty's no new tax pledge, and said the effect is being felt elsewhere. Perl felt that there were people who are bleeding the state's funding. Anderson said that the system is complicated and interrelated.

Bill Cullen, 5036 Norman Drive, said his taxes increased by 15%. He asked where he could get more details about the budget. King said that the information should be available on the city's Web site, and Anderson said that he could also come to city hall where staff could answer his questions.

Schneider said that the city council welcomes independent eyes looking at the budget, and would appreciate any input. Anderson said that King provides a fresh eye on our budget and fiscal situation. She has made good recommendations about how to better present the budget to the city council and to residents, making it more user friendly. She is also looking for ways to merge the budget and the Capital Improvement Program process to give a better overall view of the budget.

Dave Schilling, 2203 Springwood Road, asked if the city made any program cuts. King noted that the city no longer pays for removal of diseased trees from private properties. Anderson said that the city used to fully fund private diseased tree removals, but phased that program out over time. The costs to remove trees from city-owned property have increased.

Schneider said that the city does not have a lot of programs, and that its primary services are fire, police, and street maintenance, like snowplowing. The majority of the city's costs relate to employees, who provide the services. He has been on the council since 1991, and the first thing he reviews with each proposed budget is any staffing changes. There have been few staff added since 1991, and those were primarily for environmental resources or to meet legislative requirements. The city looks at efficiency. For example, the pavement management program provides for the systematic review of roads. Although technology costs increased, technology makes the city more efficient and reduces the need to hire more staff.

Barone said that the Responsible Fix was the city's response to the changes in the city's financial situation. The city has done belt-tightening and has delayed projects in the CIP by changing

priorities. The city has taken the budget impacts seriously. Some of the 2005 increases reflect the demands from residents for better service and maintenance. Anderson said that the city did eliminate some staff positions over the past couple of years. She noted that staffing is 75 percent of the budget. By shifting funding between departments as priorities change, two positions were added back this year.

Wiersum noted that health care costs are increasing, and like many employers, the city provides this benefit for its staff. As costs increase, the employee's share of the cost has also increased. Wiersum also noted that the school liaison program is a tremendous asset, but schools only pay for nine months of the officer, and the city must cover the remaining three months of that salary.

Barone noted that within the past week, the engineering department eliminated one-full time position due to technology. Technology allows the city to do more at more reasonable costs.

Thomas was pleased with the discussion, and said that there were more people at the Truth in Taxation hearing this year than there had been for years. He noted that the council starts the budget process much earlier in the year, but said that people don't get excited about the budget until they get their tax statements.

Thomas said that this council looks at the budget line-by-line, and compares costs to the previous years. The council asks for the reason for any increases, and it does not necessarily agree with all of them. The council also uses the feedback from the annual citizen survey to decide what is important to residents. Enterprise funds are required to cover their expenses or even make money.

Thomas said that he has always been amazed that so few people attend the meetings about the budget. He said that the council welcomes input from citizens to make sure the city is on the right track. He noted that the property taxes of council members also increase, so the council makes sure the required services are provided and there is no fluff.

Wagner said that the biggest challenge for the 2005 budget was the \$800,000 market value credit. The city council made a long term fix, and if those funds come through, they will be used for the 2006 budget.

Joyce Fiedler, 14335 Coronet Drive, hoped that the city council let the governor know that Minnetonka is expecting those dollars. She did not buy the Governor's no new taxes claim when all cities are

being forced to raise their taxes. She expected state and national leaders to come through with the funding they have promised. Anderson said that the city is trying to do that. Callison said that it would be helpful if residents did the same.

Mike Loisel, 5108 Birch Road, agreed with Fiedler. Every community is feeling the impact of the state's budget cuts, and it's unfortunate. He noted the increase in property taxes for his summer home, and said that small community also had to raise property taxes.

Anderson appreciated that those who attended the meeting were so well informed.

Lois Parrish, Plymouth Road, is a retired school teacher who has lived in Minnetonka for 29 to 30 years. She related the difficulty in staying in her home due to the increases in taxes and the costs of other services. She does not have health insurance.

Schneider said that there are a few state programs that provide some relief. He said that some seniors are using reverse mortgages. Callison noted that Hennepin County allows property owners to work off some of their property tax bill. Thomas suggested putting a link on the city's Web site for seniors to access that information.

Wiersum said that the community has a vested interest in providing information about programs that help people stay in their homes as long as possible.

Dorothy Janssen cautioned that people should get good advice before using reverse mortgages. She said that CASH can provide some advice.

Bob Klemenhagen said that seniors should be made aware of property tax refund programs and state level deferrals. Anderson noted that our senior center provides assistance.

Chad Bacon, 5007 West Mill Road, appreciated the hearing. He said that taxes are challenging, and he appreciated the work the city council is doing. He said that Governor Pawlenty's no new tax pledge just moved the dollars from one pocket to another.

Anderson said that it was good to have interested, concerned and informed people attend the hearing. She asked residents to help the city. She said that the city's Web site continues to improve, and more information should be available in the future.

Anderson said that the city council relies heavily on the community survey feedback to provide direction for the city. This is our city and we are all in it together. She thanked those present for their help with the decisions.

Anderson closed the public hearing. She noted that the council will take formal action on the budget on December 20. She encouraged those with concerns about property values to watch for the Board of Review notices early next year.

Barone said that the city council will take formal action on the budget and levy on December 20.

B. Continued 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.

Anderson noted that this action was required due to a change in ownership. Anderson invited comments during the continued public hearing. No one spoke and the hearing was closed.

Thomas moved, Wiersum seconded a motion to grant the on-sale and Sunday on-sale intoxicating liquor licenses to Dayton's Iron Horse, Inc., for use at 12411 Wayzata Boulevard. All voted "yes." Motion carried.

14. **OTHER BUSINESS:** None.
15. **APPOINTMENTS and REAPPOINTMENTS:** None.
16. **ADJOURNMENT.**

Wiersum moved, Thomas seconded a motion to adjourn the meeting at 8:39 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk