

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, JANUARY 24, 2005**

**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, Terry Schneider, Jan Callison, Al Thomas, Tony Wagner, Bob Ellingson, and Karen Anderson were present.

**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: January 3, 2005 regular council meeting.**

Wagner moved, Schneider seconded a motion to approve the minutes of the January 3, 2005 Minnetonka City Council meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:**

**A. 2005 Reflections Awards.**

Anderson provided background information about the awards. The Reflections Award is given every two years. It is named after the sculpture in front of the community center, and recognizes people who reflect the special nature of our community .

All of the council members participated in recognizing the following nominees:

- Terri Bonoff, community volunteer
- Rivel Greenberg, Walker Art Center volunteer
- Hugh Kurtzman, Minnetonka Y's Men Service Club
- Mark Johnson, Cub Foods
- Dagmer Locke and Jean McSwiggen, Over 50 and Fit

- Kris Newcomer and Julie Woolfrey, Hopkins Education Foundation
- Lynda Summerville, Children's Hospital and Clinics volunteer

Anderson then presented the 2005 winners of the Reflection Award:

- Karen Hoyt, who has worked for 10 years as a therapeutic horseback instructor for children with disabilities through the We Can Ride Program.
- Michael Kelly and Ruth Kloser, owners of Great Harvest, who have provided baked goods and fundraising opportunities through their business to the benefit of the community.

Anderson expressed the city's appreciation for their efforts and said that they were well-deserving recipients.

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

Gunyou reported on the schedule for upcoming council meetings, and announced Kids Fest.

Anderson recognized two community members for their accomplishments. Jonathan Kent served as Youth Governor for the YMCA's Youth in Government Program. Pat Allar, director of the Williston Center's tennis program, was honored as female coach of the year in the Northern Division by the United States Pro Tennis Association. Anderson congratulated both of them.

Anderson also recognized two scout troops in the audience: Troop 207, St. David's Episcopal Church, and Troop 208, Oak Knoll Lutheran Church.

**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 – January 10, 2005.**

Wiersum moved, Wagner seconded a motion to approve the January 10, 2005 claims list, including checks numbered 186673 through 186905, totaling \$693,295.31. All voted "yes." Motion carried.

**B. Claims for council authorization – January 24, 2005.**

Wiersum moved, Wagner seconded a motion to approve the January 24, 2005 claims list, including checks numbered 186906 through 187198, totaling \$2,223,527.30. All voted "yes." Motion carried.

**C. Resolution authorizing a tax-exempt trust for an employee health expense reimbursement plan.**

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2005-004 authorizing a tax-exempt trust for an employee health expense reimbursement plan. All voted "yes." Motion carried.

**D. 2005 grant request from Homes Within Reach.**

Wiersum moved, Wagner seconded a motion to approve the grant request from Homes Within Reach for \$200,000. All voted "yes." Motion carried.

**E. Approval of an agreement with Senior Community Services for the 2005 Senior Services Outreach program.**

Wiersum moved, Wagner seconded a motion to approve the agreement with Senior Community Services for the 2005 Outreach program. All voted "yes." Motion carried.

**F. Approval of an agreement with Senior Community Services for the 2005 Senior Services program.**

Wiersum moved, Wagner seconded a motion to approve the agreement with Senior Community Services for the 2005 Senior Services program. All voted "yes." Motion carried.

**G. Approval of two temporary, on-premises signs advertising a pancake dinner for Boy Scout Troop 207 at 13000 St. David's Road for St. David's Episcopal Church.**

Wiersum moved, Wagner seconded a motion to approve a five-year temporary sign permit at 13000 St. David's Road for two on premises signs at St. David's Episcopal Church for Boy Scout Troop 207. The permit would be for one week each year. All voted "yes." Motion carried.

**H. Certificate of Plat Correction for the TH 7 / Williston Road project.**

Wiersum moved, Wagner seconded a motion to approve the Certificate of Plat Correction for the Highwood Drive Addition. All voted "yes." Motion carried.

**I. Approve a three-year extension of recycling contract with Waste Management, January 1, 2006 to December 31, 2008.**

This item was pulled from the consent agenda by Wagner. He was asked by his neighbors if the city had considered organized garbage collection or same-day collection to better coordinate the days that garbage is collected on each street.

Anderson provided historical information on the subject. More than ten years ago the city looked at that option, and found that it could have saved homeowners money. However, residents were very tied to their individual haulers and opposed a change. She noted that the number of private haulers operating in Minnetonka has decreased since then, so the idea might merit a new look.

Wagner said that his neighbors were not concerned about the number of haulers, but rather that they appear on three different days of the week. Their goal was to consolidate the collection day on their street.

Anderson noted that haulers operate in many communities, and that the collection day goes with the choice of hauler.

City Attorney Desyl Peterson recalled when organized collection was discussed in the past, and said that it brought the largest showing of citizens that she had ever seen at a council meeting. All of them opposed the concept.

Schneider said that he was on the city council then, and he adamantly opposed the change. He said that when organized collection was used, cities often got the problem calls instead of the haulers.

Callison noted that this item related to recycling, and asked if the issue was garbage or recycling. Wagner said that the neighbors would like garbage and recycling picked up on the same day. Callison noted that the recycling agreement has a three-year term. Wagner said that he had made the neighbors aware of that, and they were only concerned about coordination of the dates.

Community Development Director Ron Rankin said that there were more than 10 haulers in Minnetonka when recycling began 15 years ago. Many of them were independents. Now there are only three haulers in Minnetonka—two large firms and one independent. The independent's collection schedule follows Minnetonka's recycling schedule. Rankin said that it might make sense to revisit this concept when the recycling contract is renegotiated in 2008.

Anderson noted that one contractor coordinates his schedule with recycling. She thought it might be worthwhile for the city to contact the other two to see if they would consider a change. She noted that the city had no leverage to force them to change. Rankin said he will contact the other two haulers. Anderson also encouraged residents to make inquiries to their haulers.

Wagner moved, Callison seconded a motion to approve the three-year contract extension with Waste Management, January 1, 2006 to December 31, 2008. All voted "yes." Motion carried.

**J. CommonBond funding request for Crown Ridge Advantage Center and contribution of \$6,000 for rent payments of expanded Advantage Center at Crown Ridge.**

Wiersum moved, Wagner seconded a motion to approve:

- A \$10,000 grant to help fund the Crown Ridge Advantage Center in 2005.
- \$6,000 in rent payments for the expanded Advantage Center for 2005.
- Staff advising CommonBond that future funding, if any, is likely to be substantially lower.

All voted "yes." Motion carried.

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

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance rezoning 5735 Baker Road from R-1, Low Density Residential, to I-1, Industrial 1.**

Wiersum moved, Thomas seconded a motion to introduce an ordinance rezoning 5735 Baker Road from R-1, Low Density Residential, to I-1, Industrial 1 and refer it to the planning commission. All voted "yes." Motion carried.

**B. Ordinance changing the setbacks and variance standards for lots behind lots.**

Gunyou provided a brief introduction. He noted that the council had discussed this topic at three study sessions. Planning Director Geoff Olson provided a summary of the ordinance. Anderson noted that the changes seemed to be reflective of the council's discussions, and asked for additional council comments before the ordinance is referred to the planning commission.

Callison noted the difficulty of ensuring compatibility with the neighborhood without regulating design. She wanted to ensure that possible future changes also comply with the requirements. She was also concerned about applying the setback requirement of 40 feet or 20% of the distance, but no less than 25 feet. She thought it would make more sense to set the setback at 40 feet, but allow the council to reduce that by variance. Although this would be more restrictive, the variance process would allow flexibility.

Gunyou said that staff had discussed the issue of future changes complying with the requirements, and agreed that it should be clarified in the ordinance.

Olson responded to Callison's second issue. The overall goal is to achieve two rear yard setbacks between homes. His concern was with shallow lots, where the requirements could restrict the buildable area. Staff would look to council for direction on this issue.

Schneider preferred the current wording. It calls for the standard for a normal, single-family residential lot, with flexibility for corner or shallow lots. In most cases, the typical lot depth would be the governing factor. He thought that requiring lots behind lots to have more depth than single-family lots would be overreaching.

Schneider was more concerned about item #7 in the ordinance, which would allow flexibility to increase setbacks if they would affect the privacy of a neighborhood or significant trees. He understood the need for trade-offs to maintain lots behind lots. He was comfortable with increasing the setbacks and making the footprint more modest. He felt that #7 crossed the line and could be seen as arbitrary. He supported guidelines that are pre-determined and fairly applicable to all. He did not support #7 as written, but would support language that treated all fairly and was not subject to the whims of interpretation.

Anderson asked for staff comments. She said that these issues got to the essence of the council's previous discussions. She felt that the proposed language reflected the council's discussion, but said that Schneider raised good issues.

Olson agreed with Schneider that there could be changes over time in the philosophies of the city council and the planning commission. He would be more concerned about subjective standards for typical R-1 lots. Variances are by their nature something that is not typical—an exception to the rule. He felt that the crux of the issue was if lots behind lots should be approved as a right or if they should be considered on a case-by-case basis as a variance. In

previous council discussions, the question has been if the new structure would blend with the character of the neighborhood, and whether the city should limit the size, height, or footprint of a house to make it fit a neighborhood. Variances are an exception and not a rule, and subjective standards are currently used for them. This would be no different. Olson was comfortable with the discretion allowed in the variance process. Peterson agreed with Olson's view.

Callison said that Schneider had fairly stated the dilemma. The crux of the issue for her was that lots behind lots do not feel like typical R-1 property. They tend to be more invasive and visible. The neighbors are often not expecting them. She said that if the language were amended to "no less than 25 feet" and item #7 was eliminated, there would be nothing in the ordinance to recognize the dilemma these properties pose. She supported leaving the language in, but welcomed the public feedback from the planning commission. The council will make the ultimate decision based on what it thinks is right. She wanted more feedback before making her decision.

Wagner said that this was an emotional challenge when he served on the planning commission. It began to feel that these lots were almost a right. He supported keeping item #7, and said that it was vital. Without it, no change would be made. The goal was to avoid one house overpowering an entire neighborhood. Wagner said it would be helpful if staff would provide examples where 20 percent would apply versus 40 feet.

Wiersum said that the goal is to be a bit more restrictive for lots behind lots. That does not mean that there will not be lots behind lots, but they need to fit with the character of the neighborhood. This may mean that if a property owner wants to split a lot, it's better to start with a larger lot because that might provide a better opportunity for the new structure to fit with the character of the neighborhood. The proposed ordinance does a good job with that. He was somewhat torn about the 20 percent versus 40 foot requirement. The planning commission will provide an opportunity for discussions to get at those issues. He was looking for wording that would allow the city to be appropriately restrictive and consider each lot on its own merits.

Thomas was looking forward to feedback from the planning commission meeting.

Thomas moved, Wagner seconded a motion to introduce an ordinance changing the setbacks and variance standards for lots

behind lots and refer it to the planning commission. All voted "yes."  
Motion carried.

**13. PUBLIC HEARINGS:**

**A. Public hearing to consider applications by Scoreboard, Inc., for on-sale and Sunday on-sale intoxicating liquor licenses for Gavin's Restaurant, 11000 Red Circle Drive.**

Rankin provided the staff report for this item.

Anderson opened the hearing at 7:29 p.m. There were no comments.

Callison moved, Thomas seconded a motion to continue the hearing to consider applications by Scoreboard, Inc., for on-sale and Sunday on-sale intoxicating liquor licenses for Gavin's Restaurant, 11000 Red Circle Drive to February 28, 2005. All voted "yes." Motion carried.

**14. OTHER BUSINESS:** None.

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

**16. ADJOURNMENT.**

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 7:31 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk