

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, MARCH 21, 2005**

**1. CALL TO ORDER.**

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

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou reviewed the addendum, which included a corrected drawing for item #10E, the Susan Lane Storm Sewer project. There were also several changes for item #14B, Minnetonka Transportation, including a change of the plan date and a new condition.

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

**5. APPROVAL OF MINUTES: March 7, 2005.**

Thomas moved, Wiersum seconded a motion to approve the minutes of the March 7, 2005 Minnetonka City Council meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS: None.**

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

Gunyou reported on the city's second annual Eco-Fair, and provided an update on the upcoming council meeting schedule.

Thomas suggested that Eco-Fair topics be linked to the city's Web site. He also noted the city's Volunteer Recognition Dinner scheduled for March 23.

Callison reported on the NLC Conference that she, Anderson and Schneider attended. She commented on the implications of the federal budget for the City of Minnetonka. Although CDBG funding will not be

affected this year, she believes that it may be in the future. She also cited the push to simplify the tax code, noting that deductions for state and local taxes, as well as municipal bonds, could be eliminated. The conference was useful and provided local officials a lot of important information. Schneider agreed, and said that the conference was well-organized. Minnetonka delegates were able to meet with most of our congressional representatives.

Schneider recognized Boy Scout Troop 346 from All Saints Lutheran Church who attended the meeting.

**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 – March 14, 2005.**

Wiersum moved, Thomas seconded a motion to approve the March 14, 2005 claims list, including checks numbered 187946 through 188268, totaling \$1,321,786.15. All voted “yes.” Motion carried.

**B. Ordinance amending City Code section 845.010 regarding public nuisances.**

Wiersum moved, Thomas seconded a motion to adopt Ordinance No. 2005-07 amending section 845.010 of the City Code regarding public nuisances. All voted “yes.” Motion carried.

**C. Resolution authorizing the installation of traffic control devices at various locations within the city of Minnetonka.**

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2005 –025 authorizing the installation of traffic control devices at various locations within the city of Minnetonka. All voted “yes.” Motion carried.

**D. Items pertaining to the I-494 improvement project.**

Wiersum moved, Thomas seconded a motion to adopt the following resolutions pertaining to the I-494 improvement project:

- 1) Resolution No. 2005-026 amending the Master Utility Agreement #1 for the I-494 improvement project.
- 2) Resolution No. 2005-027 approving Work Order No. 6A for the I-494 improvement project.

All voted "yes." Motion carried.

**E. Resolution receiving feasibility report, ordering improvements in, and authorizing the preparation of plans and specifications for the Susan Lane Storm Sewer Improvement Project No. 5616.**

This item was pulled from the consent agenda by Schneider for a staff report on the addendum information. Gunyou provided that report.

Callison moved, Thomas seconded a motion to adopt Resolution No. 2005-028 receiving the feasibility report, ordering the improvements in, and authorizing the preparation of plans and specifications for the Susan Lane Storm Sewer Improvement Project No. 5616. All voted "yes." Motion carried.

**11. Items requiring Five Votes:**

**A. Conditional use permit, with variance, for an existing medical clinic at 13580 Wayzata Boulevard for North Memorial Health Care.**

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2005-029 approving a conditional use permit for an existing medical clinic at 13580 Wayzata Boulevard for North Memorial Health Center. This resolution is based on the following findings:

- 1) Apart from the conditional use permit standard that medical clinics "shall not be adjacent to low density residential areas," the existing clinic meets all conditional use permit standards.
- 2) The existing medical space meets the required standards for a variance, because:
  - a. A medical clinic is a reasonable use on the property. The existing clinic does not negatively impact parking, traffic, or noise levels.
  - b. The clinic is located in an interior lease space of the building; this is a unique circumstance. Though the clinic space is on property adjacent to a residential area, the clinic itself would be over 300 feet from the property line.

Approval is subject to the following conditions.

- 1) Record this resolution with the county before the city issues further building permits.
- 2) The city council may reasonably add or revise conditions to address any future unforeseen problems.

- 3) 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.
- 4) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**B. Appeal of the planning commission's non-action on a rear yard setback variance for an addition to the home at 3975 Brown Lane.**

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2005-030 approving a rear yard setback variance from 40 feet to 23 feet at 3975 Brown Lane. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
  - a. The position of the existing home in the rear of the property.
  - b. The irregular shape of the lot.
- 2) The variance would meet the intent of the ordinance since:
  - a. The variance request is for a reasonable use of the property.
  - b. A variance would be required if the addition were to be placed on the southwest side of the home.
  - c. The proposed addition would not alter neighborhood character.

Staff approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with Hennepin County before the city issues a building permit.
- 2) The installation and maintenance of erosion control and tree protection fencing, subject to review by the city's environmental resources coordinator.
- 3) The soil that is piled on top of tree roots be removed before any further work is completed.
- 4) The street remains free of sediment and debris.
- 5) This variance will end on December 31, 2006, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

All voted "yes." Motion carried.

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance dropping the time limits on conditional use permits for nurseries and transient sales.**

Callison moved, Wagner seconded a motion to introduce an ordinance dropping the time limits on conditional use permits for

nurseries and transient sales, and refer it to the planning commission. All voted "yes." Motion carried.

**13. PUBLIC HEARINGS:**

**A. Public hearing to consider site and building plans for a picnic shelter at Junction Park (12406 Excelsior Boulevard) for the city of Minnetonka.**

Gunyou provided the staff report. He noted that this request was straightforward, and concerns one element of a park project that the council has already approved.

Schneider opened the public hearing at 6:45 p.m. No one spoke, and the hearing was closed.

Callison moved, Thomas seconded a motion to approve the site and building plans for the picnic shelter at Junction Park at 12406 Excelsior Boulevard, subject to the following condition:

The site must be developed and maintained in substantial conformance with the following plans:

- (1) Overall Layout Plan date-stamped February 4, 2005.
- (2) Building elevations dated February 24, 2005.

All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Preliminary plat with variance to divide the existing lot at 18724 Ridgewood Road for Thomas Gagner.**

Planning Director Geoff Olson presented the staff report.

In response to Thomas' question, Olson clarified that the preliminary plat will also require approval by the Deephaven City Council because the conservation easement extends beyond Minnetonka's boundary into Deephaven.

Ellingson supported the conservation easement.

Callison raised a concern about when conservation easements should be required. In this case, the public interest was to preserve the trees near the driveway – this was the trade-off for a private road versus a public street and more lots. The proposed conservation easement would not achieve that goal, since a subsequent property owner could remove the trees. She supported placing the conservation easement over the trees along the

driveway. Callison had spoken with one of the owners when she visited the site, and thought they might support this condition.

Callison did not support requiring the conservation easement around the house. She thought the buyer of the lot would retain those trees as an asset to the site, and that the city's involvement was an unnecessary restriction that did not apply to adjoining lots. She noted that subsequent owners might wish to put a swingset in the yard, or add onto the house, and their property rights would be different from those of properties around them - the only difference being that they built their home in 2005. She thought it made more sense to put the conservation easement along the driveway and not around the house. She asked for council discussion, and input from the applicant.

Wagner asked if Callison wanted a conservation easement only along the driveway in the front, or if she also wanted to consider protecting the trees at the back of the property. Callison responded that there are significant trees at the back of the property. If the property owner wanted to protect them, they could do so voluntarily, but she did not think that the city should require that protection as part of the approval.

Ellingson said that the private driveway is already in place and won't be moved. He agreed with Callison about protecting the trees along the driveway. He had difficulty picturing this property subdividing into more lots because of its topography. He noted the outstanding trees on the property. The entire neighborhood is heavily wooded, and he thought it would be silly to remove trees on this lot, which developers tend to do when multiple houses are built. Ellingson said that the city does a service to people by helping them preserve trees, and that approach has worked well. He supported the proposed conservation easement and also adding one along the driveway.

Wiersum agreed with Callison's suggestion for the conservation easement along the driveway. The applicant could have pursued the project with four lots with a public street without a variance. A variance makes sense because it protects trees. The character of the neighborhood will be protected with the proposal. He noted that half acre lots are consistent with the character of Minnetonka.

Wiersum said that conservation easements are a good thing, but there is the potential for treating people differently in a rather arbitrary way. Callison's proposal would inhibit the possibility of a future street and would protect the trees. It would be in the best interest of the neighborhood. He questioned the value of the conservation easement around the house.

Thomas Gagner, 18724 Ridgewood Road, spoke as the applicant. Gagner was concerned about the effect of a conservation easement along the driveway on the existing utilities and on existing and future plantings.

City Attorney Desyl Peterson said that conservation easements are drafted to maintain the property in its current state. They typically prohibit new plantings or removal of plantings without city approval, as well as utilities. Peterson said that staff amends the standard language to take into account unusual circumstances so that some uses may continue. Gagner said that he might be comfortable with the additional conservation easement, depending on the language.

In response to Schneider's question, Peterson said that the language in the conservation easement would address maintenance of the utilities, including who is responsible for it.

Thomas said that he did not agree with Callison when this issue was last discussed. However, in this instance, her suggestion would protect the trees, which is the main goal. Without the additional easement, the trees would not be protected. For him, the key issue was looking at what the city wants to protect. He was not sold on the conservation easement around the house.

Schneider said that he generally has the same concerns as Callison about arbitrarily treating people differently just because they require a variance. The variance process triggers options not otherwise available. In most cases, the end result is better, but it does discriminate against those who have requested a variance. He had concerns about micro-managing the area around the house. The property owner may want to place a swingset in that area, or have concerns about the view or shading of the house. He urged caution. If the primary reason for the variance is to save specific trees, then those are the trees that should be protected. That would be the minimal trade-off for him. He said that significant trees near the lot's boundaries would also be candidates for conservation easements, but that could be negotiable in this case. He would support amending the proposed motion to propose a conservation easement along the driveway.

Callison said that the trees to the south are a private issue. The property owner and neighbors could do a conservation easement to protect them, but that should not be part of the city's requirements. Schneider said that the motion should address plantings and utilities in the area along the driveway.

Callison moved, Thomas seconded a motion to give preliminary approval to the Gagner's 1st Addition, date stamped February 28, 2005, with a lot width at the right-of-way variance from 80 to 0 feet. Approval is based on the following findings:

- 1) Except for the variance(s), the proposal meets the required standards and ordinance for a preliminary plat.
- 2) The proposal meets the required standards for a lot width at the right-of-way variance in Section 300.10, Subdivision 5(h)(2)(b).
- 3) The site could be developed with a public street to meet all minimum zoning ordinance standards; however, under that plan 28 trees would be removed.

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 engineering/utility inspection fee.
  - b. An electronic CAD file of the final plat in microstation or DXF on a CD disk.
  - c. 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) Conservation easements over mature trees east and west of the proposed home. A drawing of the easements must be submitted for the approval of the city attorney. The easements and drawings must be recorded with the final plat.
    - (3) A private driveway easement between the street right-of-way and Lot 1. The easement must state the maintenance responsibilities of each owner. The easement must be 34 feet wide. The minimum driveway width must be as required by the fire marshal.
    - (4) A private utility easement across Lot 2 to provide services to Lot 1.



- 7) 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.

Callison asked if staff had any concerns about the proposed motion. Olson said that the original recommendations relied on the conservation easement for an appropriate setback. If the setback wasn't defined by the easement, it would revert to 25 feet, which was a concern for the neighbors. Olson supported the conservation easement along the driveway, and said that it would eliminate the option for a fourth lot in the future.

Peterson asked if the council could accept a conservation easement only on the east side of the driveway to facilitate writing the legal description. That was acceptable to Callison, and she asked that the condition also state that the setback on the west side would be 40 feet. The mover and the seconder of the motion agreed to those changes.

Condition 2(c)(2) was changed to read:

Conservation easement over mature trees on the east side of the private driveway. A drawing of the easement must be submitted for the approval of the city attorney. The easement and drawing must be recorded with the final plat.

A new condition 8 was added to read:

- 8) No structure, except a fence, may be constructed within 40 feet of the westerly property line.

Ellingson questioned removing the conservation easement around the house because the applicant had already agreed to it.

Schneider noted Callison's earlier statements about the difference between what the city negotiates for and what the property owner voluntarily offers. Schneider noted that the property owner could still do additional conservation easements, but the city would not require them. He supported appropriate use of the available tools.

Callison was reluctant to include requirements for what would happen anyway. She firmly believed that the buyers of the lot would keep the trees near the house. She noted that the city has a tree policy that requires two to one tree placement for trees removed outside the building's footprint.

Wagner agreed with the direction the council was taking. He urged the council to continue to discuss this issue and give more direction to staff. He would have liked to have seen a conservation easement on the north end, but said that the city had no leverage to require that. He said that the tool should be used when it's appropriate, such as between residential and commercial areas.

Wagner, Wiersum Callison, Thomas and Schneider voted "yes." Ellingson voted "no." Motion carried.

**B. Items concerning a parking lot expansion at 5735 and 5801 Baker Road for Minnetonka Transportation, Inc.**

Olson provided the staff report and reviewed the addendum changes.

Jordan Stalker, a student at the University of Minnesota, asked about the difference in size of the new lot to the old. Olson estimated that the lot would be double the size of the old lot.

Callison moved, Wiersum seconded a motion to:

- 1) Adopt Ordinance No. 2005-08 rezoning 5735 Baker Road from R-1, low density residential, to I-1, industrial 1. 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.
- 2) Approve the site plan for a parking lot expansion at 5735 Baker Road, 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 March 18, 2005
    - Grading plan date-stamped March 18, 2005
    - Storm water Pollution Prevention plan date-stamped January 28, 2005
    - Landscape plan dated March 18, 2005, with additional plantings as required by environmental staff.
    - Illumination plan date-stamped March 14, 2005.
  - b. Before starting any site work or obtaining a grading permit, complete the following work:
    - (1) A temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review

- by the city's environment resources coordinator.
- (2) Submit the following for staff review and approval:
- (a) Final site, grading, drainage, utility, landscape, irrigation, and erosion control plans.
  - (b) Final, registered survey. Based on this survey, any pavement that crosses property lines must be removed.
  - (c) Engineering details for the retaining wall.
  - (d) A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
  - (e) A construction management plan for staff approval.
  - (f) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
  - (g) Copies of all required county permits, including access, grading, and discharge permits.
  - (h) Copy of required MnDot drainage permit.
  - (i) There must be no bus parking on the southerly parking lot within that area designated as such on the approved site plan.
- c. The properties at 5735 and 5801 Baker Road must be combined. Evidence of this combination must be provided to the city.
- d. Pavement must be removed at the south access drive to result in a total drive width of no more than 50 feet.
- e. The shoulder between the driveways must be paved.
- f. B6-12 curbing must be installed in the new parking area.
- g. Landscaping must have a minimum value of 2% of the total cost of the project.
- h. The property owner is responsible for replacing any required landscaping that dies.
- i. Construction must begin by December 31, 2006, unless the planning commission grants a time extension.

- 3) Adopt Resolution No. 2005-031 approving a parking lot setback variance from 20 feet to 0 feet at 5801 Baker Road. Approval is based on the following findings:
- a. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
- (1) The setback variances are reasonable. The existing parking lot is over 80 feet from the traveled portions of area rights-of-way.
- (2) The location of the property is unique. The industrial property is isolated; unlike other industrial sites, it is not surrounded by similarly zoned properties.
- b. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
- (1) The setback variances meet the intent parking setback requirements. The existing parking lot is over 80 feet from the traveled portions of area rights-of-way.
- (2) The variances would have little visual impact on the surrounding area; they would not allow for lesser setbacks than already exist on the site.
- (3) By removing areas of pavement, the property owner would be reducing the existing non-conformities.
- Approval is subject to the following conditions:
- a. Submit proof of having recorded this resolution with Hennepin County.

Ellingson noted that the applicant had addressed the concern of the neighbors with regard to saving trees and reducing visibility of the parking lot. Although he supported the zoning and the use, he said he would vote against the project for sentimental reasons. His wife grew up across the street from this property.

Wagner, Wiersum, Callison, Thomas and Schneider voted "yes." Ellingson voted "no." Motion carried.

**C. Presentation regarding the MnPASS system on I-394.**

Gunyou introduced Lee Munnich, a senior fellow at the Humphrey Institute. Munnich has been working with MnDOT and the project team with outreach and evaluation of the I-394 MnPASS system.

Munnich introduced Nick Thompson from MnDOT, who provided brochures about the system. Munnich also introduced Phil Robinson with SRF. The key points of Munnich's presentation were:

- The goal is to build a modern transportation network that meets the needs of Minnesota citizens and businesses for safe, timely and predictable travel.
- The first application of MnPASS deals with the HOV lanes that link the western suburbs to the downtown area. These lanes will be converted to high occupancy toll lanes which can be accessed by vehicles with transponders.
- The goals of the project are to:
  - improve I-394 efficiency,
  - maintain free flow speeds in the MnPASS lane,
  - use revenues to improve highway and transit in the corridor, and
  - employ new technologies for pricing and enforcement.
- The public benefits would be:
  - Commuters would have a choice,
  - The system would make better use of the current HOV lanes,
  - The system would provide additional revenue.
  - I-394 would continue to work the same.
  - The project will eventually pay for itself.
- There would be dynamic pricing based on congestion in the lanes. The peak average toll would be \$1 to \$4, with an \$8 maximum. Off-peak tolls would average 25 cents per section. Car pool, bus and motorcycle use would continue to be free. The price at the time would be displayed, and once a driver sees that price, that would be the price he or she would pay for the entire trip.
- Signs would inform drivers of upcoming access points to the system, including access points for the diamond lanes.
- Transponders would be mounted to the windshield under the rear-view mirror. They could be removed, and if they were not in place, the driver would not be charged. This would allow people to drive free when they have a carpool, but pay the toll when they drive alone.
- Participants would order a transponder and establish a pre-paid MnPASS account. Antennas would be used to read the transponders.

- The diamond lanes would function 24/7. For the reversible section, eastbound would operate from 5 a.m. to 1 p.m., and westbound would function from 2 p.m. to 4 a.m., allowing a one hour period to reverse the traffic flow. Weekend schedules may vary to accommodate special events.
- Enforcement is essential for the success of the program. MnDOT has partnered with Minneapolis Police, Golden Valley Police, Metro Transit Police, and the State Patrol. Additional officers will be hired, and there will be daily enforcement.
- The fine for a violation will be \$130, a petty misdemeanor.
- There will be supplemental tools to assist with enforcement, including beacons that will flash if a vehicle does not have a valid transponder. Police will also have mobile enforcement readers.
- Construction will be completed by the end of March 2005. Testing is underway through May. Diamond lane striping will occur after May 1, as weather permits. The customer service office will open the week of April 11<sup>th</sup>.
- Customers may access information and transponders through the Web site or at the customer service center.
- Technical and attitudinal surveys will be conducted throughout the first year. MnDOT wants as much information as possible. The first panel survey of 750 people in the corridor indicated that 64% support the program, and 69% were aware of it. Many plan to use the system. The surveys will also assess safety impacts, enforcement issues, noise and impacts to existing congestion points,
- To subscribe, users need to enter into a transponder lease agreement and provide a credit card number. They will receive a transponder and instructions, and will be ready to go. Subscriptions are not yet available.
- Information about the system is available:
  - Online: [www.mnpass.org](http://www.mnpass.org)
  - By phone: 1-866-EZRIDE 4u (don't dial the U)
  - In person at the customer service center: 2055 N. Lilac Dr., Golden Valley.
  - Nick Thompson: 651.634.5310  
[nick.thompson@dot.state.mn.us](mailto:nick.thompson@dot.state.mn.us)

Schneider thanked Munnich for his concise presentation.

Thomas was concerned about enforcement. He noted that violators were easily visible with the existing system, which is dependent on the number of people in the vehicle. He noted that enforcement during rush hours tends to slow traffic and add to the congestion, and the left shoulder is not always of sufficient size for traffic stops. He noted that people will test the

system, and asked how the state will provide enforcement without increasing congestion.

Thompson said that police have several options for enforcement. They can follow vehicles to a safe spot for a stop, or use tag teams. There are some areas where the left shoulder will accommodate traffic stops. Enforcement will be much different than today because it will be done on a daily basis. Increased enforcement will reduce violations.

Thomas thought that enforcement might not reach those levels, especially with other enforcement demands. Thompson said that would be a key point of their evaluation, and said that they will be able to make changes in response to what happens. The state patrol has said that they will provide a strong presence in the corridor.

Munnich said that this system would provide a legal option for commuters. As people become aware of the enforcement and see it occur, violations should decrease.

Schneider shared Thomas' concern about enforcement slowing all traffic. He asked if the photo cop system had been considered. Thompson said that photo cop technology is not allowed by state law, and it is not to the point where it could determine the number of occupants in a vehicle.

In response to Wagner's question, Thomas said that there would be two access points in Minnetonka in each direction.

Robinson said that access points would be about one-fourth to one-half mile in length, on average. Thompson said that access point locations were determined after much analysis and thought for end users.

Wiersum asked when the system would be at break even, and when it would reach the stage where it would pay for itself. He asked about the annual budget for the system, including enforcement. He also asked who would get the proceeds from the fines.

Thompson responded that revenue projections based on earlier models project first year revenue at \$1.5 million to \$2 million, with revenues later reaching \$4 million with full development of the system. Operating costs have not yet been finalized, but are estimated to be between \$1 million and \$1.2 million for customer service, and \$200,000 for enforcement. The cost to build the system was \$10 million. MnDOT will provide more information as it becomes available, but it will take a few years to pay off the construction costs. He also noted that there are two possible violations: crossing a double white line, and HOV lane violations. The fine disbursement would continue as it is now.

Gunyou noted that \$200,000 would only provide enough resources to staff one police officer during a 24 hour period, and questioned how realistic the enforcement goals were. Thompson did not want to disclose the details of the enforcement plan. He noted that there would be a component of state patrol coverage that was not part of the \$200,000 budget. There will be at least one officer present in the corridor during the main traffic period (6 a.m. to 7 p.m.). Their tactics will vary from week-to-week. The budget projections were based on other similar enforcement projects, such as those that target drunk driving.

Schneider raised concerns about the practicality of converting the diamond lanes to 24/7 restrictions, since they are currently available during off-peak hours. He noted that MnDOT intended that I-394 would continue to work as it currently does, but the diamond lane proposal would reduce sections of I-394 to two lanes where there are currently three. This will increase congestion. Schneider noted that people tend to obey laws if they follow common sense, and this change seems to violate common sense. Thompson said that this was the number one issue addressed by the task force. They weighed current operations against the state's goal that the level of service will be high for those with transponders. One of the reasons for the change was the state's need to control traffic in that lane - without that, they could not guarantee the level of service. Over the first year, MnDOT will see how the decisions play out, and there may be room for changes if the goals are not being met. The hours of the diamond lanes will be closely watched.

Schneider's office is in the Interchange Building, and he watches traffic in that section of I-394. Between 2 and 3 p.m., traffic backs up going into downtown as much as it does coming out. Keeping people out of the diamond lanes will increase that backup. Thompson acknowledged the backup. He said that reversing the traffic both ways would not work under the current configuration.

Gunyou was at a TwinWest Chamber presentation about MnPASS a month ago. At that time, there was no MnDOT answer as to how many transponders would be available. He asked if there would be a limit to the number of people who could participate. Thompson said that the state purchased 5,000 transponders, and is now analyzing whether to make them all available immediately or to phase them in. They do not yet know when transponders will be used. If every holder used the system at 7 a.m., there would not be enough room. They have a list of people who are interested in purchasing transponders. They don't expect to sell all 5,000 on the first day.

Ellingson said that if he were not one of the 5,000, he could not use the lane. Thompson said that the state has a contract that would allow additional purchases. Their initial study suggested that they not go above

that number to make sure the system is working and to ensure the promised 50 to 55 mile per hour speed.

Ellingson asked if anything is being considered to address the westbound late afternoon congestion which occurs where I-394 is reduced from three to two lanes at Highway 100. Thompson said that is not part of this project, but there are other studies being done. He noted that funding is an issue.

Ellingson said he was formerly a representative for the Brooklyn Center area. At that time, Al Pint of MnDOT said that the I-394 HOV lanes were somewhat of an experiment. Pint said that if they did not work, they would be opened up to everyone. However, the federal government could not allow that. Ellingson also noted that newspaper articles indicated that MnDOT decided not to use toll lanes to relieve I-694 congestion because they did not work. He noted that Senator Mark Dayton and former Governor Jesse Ventura also made statements that they wanted to open up the HOV lanes.

Munnich responded that the HOV lanes did not work and that was why they considered this change. He said that one of the problems with HOV lanes is that there are either not enough cars or too many, and success is dependent upon car pools. Allowing HOV lane access to others is not possible without pricing. The project will show how people feel about the system. A similar system is working in San Diego, and expansion is being considered due to its popularity. At some point, there may be congestion throughout the entire system, and this offers one option. Thompson said that the state is not talking about building new HOV lanes, but might consider more express lanes. Those would not be free to carpoolers. Munnich said that they could also consider more mixed use transit lanes.

Ellingson supported experiments and was pleased that there will be follow up. He noted that when a third lane was added to I-694, congestion almost disappeared. It seemed to him an obvious solution. Thompson said that geometrical options had been considered, but they are not currently funded. He noted that individual users on MnPASS will have a guaranteed trip.

Callison served on the MnPASS task force. She said that limiting access by limiting the number of transponders was new to her. This was not what the task force understood. Thompson said that price will control access, and the state will re-evaluate that issue. Callison noted that his answer indicated there was not a commitment that anyone who wants a unit can purchase one. Thompson said that was true for the short term. He said they don't expect that more than 5,000 units will be needed. Callison wanted to make clear that if access is limited by the number of available transponders, that would be a huge mistake.

Munnich said usage will not be known for a few months. The state is concerned about the effect if everyone who purchases a transponder uses it on the first day. The state will need to settle on the number of transponders. Callison said that dynamic pricing should control usage, not the number of transponders.

In response to Wagner's question, Thompson said that each transponder will have two clips so that it could be transferred between two vehicles, but no more. The application must designate the vehicles for which the transponder will be used. Wagner also supported Schneider's comments that restriction of the diamond lanes will increase congestion. He hoped that options won't be taken away, and that other options would be considered early in the process. Thompson said that the state will gather data every 30 seconds on the lane.

Schneider raised concerns about the public's perception. He noted the public backlash about meters at access ramps. If the public sees the system as a joke, the initial investment won't be repaid. The state should pay attention to that possibility. Thompson said that they are paying attention to the details, but they are often in conflict with each other. They don't want public backlash. He felt the system would be successful. Schneider asked that he convey the council's message back to MnDOT, and thanked the presenters.

**15. APPOINTMENTS AND REAPPOINTMENTS:**

**A. Appointment of advisors for 2005 Local Board of Review.**

Callison moved, Wagner seconded a motion to appoint the following people to the 2005 Local Board of Review:

- Joel Shields
- Tom Selseth
- Terry Hullsiek
- Larry Kriedberg

All voted "yes." Motion carried.

**16. ADJOURNMENT.**

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 8:12 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk