

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, APRIL 25, 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 Terry Schneider, Jan Callison, Al Thomas, Tony Wagner, Bob Ellingson, Brad Wiersum, and Karen Anderson were present.

4. APPROVAL OF AGENDA.

City Manager John Gunyou reviewed the addendum, which included a changed condition for item #10F, Twelve Oaks Center plat. Gunyou also noted that the agreement referred to in the addendum recommendation for the item had been received, but the language change should still be made. Gunyou also noted an addendum for #14B, Linner Road Subdivision.

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

5. APPROVAL OF MINUTES:

A. April 11, 2005 regular meeting.

Thomas moved, Callison seconded a motion to approve the minutes of the April 11, 2005 Minnetonka City Council meeting. All voted "yes." Motion carried.

B. April 11, 2005 board of review meeting.

Thomas moved, Callison seconded a motion to approve the minutes of the April 11, 2005 Minnetonka Board of Review meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Proclamation declaring April 29th as Arbor Day.

Thomas read a proclamation declaring April 29th as Arbor Day. Anderson noted that an Arbor Day planting event will be held at Big Willow Park on May 19.

B. Proclamation declaring the week of May 1st as Days of Remembrance.

Wagner read a proclamation declaring the week of May 1st as Days of Remembrance.

C. Proclamation declaring the month of June as GLBT Pride Celebration Month.

Anderson read a proclamation declaring the month of June as GLBT Pride Celebration Month.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings.

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

No one appeared.

9. BIDS AND PURCHASES:

A. Consideration of bids for the Park Renewal improvement project at Junction Park.

Gunyou provided the staff report for this item.

Thomas asked if work had begun at Junction Park. Recreation staff member Perry Vetter said that public works staff members had started some pre-work.

Anderson noted that the city council had previously approved the project, and this item only related to awarding the bid to an outside contractor. She said that there had been a lot of neighborhood involvement in determining the look of the park. She thought the plan was interesting and effective.

Callison moved, Thomas seconded a motion to award the bid for the park renewal project at Junction Park to Magnum Construction with a base bid of \$273,413.80. All voted "yes." Motion carried.

B. Consideration of bids for the renovation of the Minnetonka Boulevard lift station.

Gunyou provided the staff report.

Schneider moved, Wagner seconded a motion to award the bid for the Minnetonka Boulevard lift station rehabilitation project to Carl Bolander & Sons Company for \$155,785.00. All voted "yes." Motion carried.

C. Items pertaining to the 2005 Emergency Vehicle Preemption System Project No. 4126.

Gunyou provided the staff report for this item.

Thomas noted that a MnDOT snowplow seemed to trigger one of these lights, and suggested that staff advise the manufacturer.

Thomas moved, Callison seconded a motion to:

- 1) Award the bid for the 2005 Emergency Vehicle Preemption Project No. 4126 to Honda Electric for \$30,160.
- 2) Adopt Resolution No. 2005-037 approving agreement no. 87843M with the Minnesota Department of Transportation.

Wiersum noted that \$40,000 was budgeted for these units in this year's CIP, and asked if another unit could have been put in place, since the bids were lower. City Engineer Lee Gustafson responded that the cost per unit varies depending on location and controller upgrade needs. Another unit might have cost more than \$10,000. Staff generally targets installation of three units per year.

All voted "yes." Motion carried.

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

A. Claims for council authorization – April 25, 2005.

Wiersum moved, Wagner seconded a motion to approve the April 25, 2005 claims list, including checks numbered 188810 through 189035, totaling \$2,443,736.44. All voted "yes." Motion carried.

B. Ordinance regarding liquor licenses.

Wiersum moved, Wagner seconded a motion to adopt Ordinance No. 2005-10 amending City Code Section 600 regarding liquor licenses. All voted "yes." Motion carried.

- C. Resolution receiving feasibility report, ordering improvements in, and authorizing the preparation of plans and specifications for the Excelsior Circle Drainage Improvement Project No. 5614.**

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2005-038 receiving the feasibility report, ordering the improvements in, and authorizing the preparation of plans and specifications for the Excelsior Circle Drainage Improvement Project No. 5614. All voted "yes." Motion carried.

- D. Resolution accepting plans and specifications and authorizing the advertisement for bids for the Susan Lane Storm Sewer Improvement Project No. 5616.**

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2005-039 accepting plans and specifications and authorizing the advertisement for bids for the Susan Lane Storm Sewer Improvement Project No. 5616. All voted "yes." Motion carried.

- E. Authorization to sell additional Shady Oak Lake Cemetery plots.**

Wiersum moved, Wagner seconded a motion to extend the total number of Shady Oak Lake Cemetery grave plots made available for sale, but not to exceed 120 plots. All voted "yes." Motion carried.

- F. Final approval of the TWELVE OAKS CENTER THIRD ADDITION plat at 15550 Wayzata Boulevard.**

Wiersum moved, Wagner seconded a motion to approve the TWELVE OAKS CENTER THIRD ADDITION final plat that was received on April 1, 2005, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and
- 2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

This motion included the change recommended in the addendum to change condition 2)b)4)e) to read:

The applicant must offer an agreement to the property owner to the west for shared maintenance of the pond, in a form acceptable to the city attorney. If the adjacent property owner does not sign the agreement within a reasonable time, then the agreement is not required.

All voted "yes." Motion carried.

G. Preliminary and final approval of the WEINARD ADDITION plat to divide the existing property into two lots at 12802 Sheffield Curve for Michael Weinard.

Wiersum moved, Wagner seconded a motion to give preliminary and final approval to the Weinard Addition plat, date-stamped March 14, 2005. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

- 1) 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) 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 documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
 - d. A revised plat showing an additional seven feet of right-of-way along Plymouth Road.
- 2) The following must be submitted to the city before the city issues a building permit:
 - a. A grading and tree preservation plan, subject to staff review and 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.

- b. A temporary rock driveway, erosion control, and tree protection fencing must be installed, subject to staff review and approval.
 - c. A copy of the recorded plat and any easement or covenants required to be recorded.
 - d. A hookup fee for sanitary sewer and water.
 - e. 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) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
 - 5) 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.
 - 6) The existing storm sewer pipe is considered a private system. Maintenance of the pipe is the property owner's responsibility.
 - 7) The minimum basement elevation must be at or above the 963 elevation.
 - 8) No building may be within 20 feet of the 961 contour.
 - 9) 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.

H. Qwest easement on city-owned property (13209 E. McGinty Road – Burwell site) for DSL equipment.

Wiersum moved, Wagner seconded a motion to enter into an easement agreement with Qwest for a DSL cabinet at 13209 E. McGinty Road, subject to the recommendations of staff. All voted "yes." Motion carried.

I. Approve Minnetonka participation in the Twin Cities Community Capital Fund (TCCCF).

Wiersum moved, Wagner seconded a motion to approve participation as a Class A member, and adopt Resolution No.2005-040 approving City of Minnetonka participation in the Twin Cities Community Fund (TCCCF), amending the city's revolving loan fund (RLF) policies and procedures, and authorizing the transfer of RLF program funds to the TCCCF loan fund escrow account. All voted "yes." Motion carried.

11. Items requiring Five Votes:

A. Preliminary plat, with lot width at the right-of-way variance, to divide 17224 Lake Street Extension into two lots for Gene Stageberg.

Wiersum moved, Wagner seconded a motion to give preliminary approval to the Gene Stageberg plat date stamped March 8, 2005 with the lot width at the right-of-way variance from 80 to 0 feet. Approval is based on the following findings:

- 1) The proposal meets the required standards and ordinances 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 property cannot be platted into three lots and meet minimum city code requirements.

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. Execution of the public trail easement along the west lot line.
- 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 on a CD disk.
 - 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) A private driveway easement between the street right-of-way and Parcel B. 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.
 - (3) A private utility easement between the street right-of-way and Parcel B.
 - (4) 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.
 - (5) Submit a document, in recordable form acceptable to the city attorney, agreeing to deed the property right for further subdivision of the front lot to the City of Minnetonka.
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. A grading and tree preservation plan for the new 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.
 - b. 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.
 - c. A copy of the recorded plat and any easement or covenants required to be recorded.
 - d. A hookup fee for sanitary sewer and water.
 - e. 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) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 5) 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.
- 6) Before the city makes a final inspection of the house, the drive must be paved from the street to the house on Parcel B. A driveway setback of at least seven feet must be maintained from the side lot lines. The city may approve a time extension if weather prevents paving of the drive.
- 7) Provide a driveway turnaround for Parcel B before the houses are occupied.
- 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.

12. INTRODUCTION OF ORDINANCES:

A. Ordinance regarding pawnbrokers and precious metal dealers.

City Attorney Desyl Peterson provided the staff report for this item. She noted that this ordinance would not be referred to any board or commission.

Callison moved, Thomas seconded a motion to introduce an ordinance amending City Code Sections 610 and 710.005(26) regarding pawnbrokers and precious metal dealers. All voted "yes." Motion carried.

13. PUBLIC HEARINGS: None.

14. OTHER BUSINESS:

A. Preliminary plat, with a lot width at the right-of-way variance, at 209 Park Lane South for Peter J. Bren & Son, Inc.

City Planner Geoff Olson provided the staff report.

Wagner asked how this proposal would have been affected if the proposed lot-behind-lot ordinance had been in place. Olson said the ordinance is a work in progress, and setbacks are an undecided issue. In this case, the concern was the separation between lots. The house on the other lot was previously approved and was grandfathered in. The new ordinance would have required a 40 foot setback, rather than 25 feet.

Patty Carlson 12016 Glendale Lane, lives in close proximity to this property. She and her neighbors are concerned that approval of this proposal would trigger a trend for this kind of development in their neighborhood. The neighbors feel they have already experienced the impact of higher density with construction in the Galyan's area. She viewed the larger lots as the unique charm of her neighborhood. Her 1939 two-bedroom cabin is on one gorgeous wooded acre. She said that she could remove mature oaks in her yard to create another lot, but would not. She asked the city to acknowledge the heritage of this neighborhood and the quality of the construction materials in the homes. She took issue about a comment at the planning commission meeting that the homes in that neighborhood were mediocre at best. She said that each home is a beautiful antique. Carlson said that it would be difficult to find a neighbor who would support the proposal. She said that open space begins with not granting variances.

Callison said that the character of the neighborhood would change if the subdivision were granted. She contrasted this proposal with one on Lake Street Extension, and said that in this case, a public street could not be built. She said that the neighborhood would benefit if this lot were kept as it is.

Callison moved, Thomas seconded a motion to deny preliminary approval of the plat, with variance. This denial is based on the following findings:

- 1) The proposal is not consistent with neighborhood character.
- 2) The proposal is not consistent with the city's open space preservation policies.
- 3) Approval of the proposed plat may set a precedent for future lot divisions and/or lot division requests with variances on Park Lane South and Oberlin Road.

Schneider noted the council's trend toward stricter ordinance interpretations, and said that he would concur in this case. He said that this is a marginal area, and it will likely change over time. In this case, he supported the motion because there are no natural features that could be saved if the property were retained as a one home lot.

When Anderson visited the site, she thought the property could support two smaller homes with very little environmental impact. However, the city cannot limit the size of the homes to be built. This property meets the square foot requirements for lots but that did not give the council leeway to protect the character of the neighborhood. She supported the motion for denial.

Wagner agreed. He used to live in that area and would walk on Oberlin Road. He noted the Oberlin neighborhood's close proximity to the wetlands and supported the denial. He said that new standards for lots-behind-lots would have meant that there was not sufficient area for a building footprint.

All voted "yes." Motion carried.

B. Applications to subdivide 1908 Linner Road into six lots for CoPar Development, LLC.

Olson provided the staff report, noting the change recommended in the addendum. He thanked the neighbors for bringing that to his attention.

Anderson noted that the graphics did not reflect some changes. The house on Lot 3 will be set back considerably further from Linner Road. It will face the cul-de-sac to avoid a mass of houses aligned on Linner Road. Olson agreed and said that was shown on the latest revision. He noted that the planning commission viewed this change as positive, and it was based on feedback from the neighbors who wanted more variety.

Anderson clarified that the setback variance was from Linner Ridge. Olson agreed and said this issue was raised by the neighbors who noted under the PUD ordinance, the 25 foot setback is only to interior streets. Exterior streets require a 35 foot setback, which would apply to Lots 1 and 2, and Lot 3 would be set back further.

In response to Anderson's question, Olson said that there would be a 50 foot setback from the curb line to correct the right-of-way for this property.

Anderson appreciated the contributions of the neighborhood and the planning commission on this project. She said those changes made this a better development.

Callison referred to the twinhomes on Williston Road which had their rear elevations to the road. She was concerned about that same issue for the home on Lot 3, and asked if staff had any power to review the plans to ensure that the view from Linner Road is appropriate and attractive. Olson said that issue is the downside to providing for visual variety of setbacks. He suggested that the council add a condition for staff review, which is allowed with a PUD. He said that would be an issue for the builder.

Callison noted that the findings for the rezoning and PUD referred to saving significant trees, and asked why steep slopes were not referenced. Olson said that was an excellent suggestion because the steep slopes were one of the reasons for the PUD.

Tom Hanson, CoPar, 8677 Eagle Point Blvd., Lake Elmo, MN, spoke as the applicant. Hanson said that he and the builder have been discussing Callison's issue about the side facing Linner Road. He was not aware of any restriction to prohibit the back side of the house simulating the front. He said it was their intent to put a more attractive elevation to the street side, since they felt that was necessary for the integrity of the development.

Anderson noted that the lot actually has three frontages. She said that the developer was well aware of the issue and has agreed to provide something that is pleasing on each of the multiple sides.

Wiersum offered the possibility of having the garage face the new cul-de-sac, a common practice, while the house would face Linner Ridge. He asked if there was sufficient space to accommodate that flexibility.

Hanson said that he and the builder also discussed that option. Their challenge is to do justice to Linner Road and the homes that will face this one across the cul-de-sac.

Wiersum said that end load houses fit into neighborhoods and might put the least attractive portion of the house where it does the least harm. Wiersum knows this builder and knows he will do a good job.

Olson said that was a question for the builder who would know what would fit the lot. Wiersum said his intent was not to design houses, but to keep alternatives open that might work in the best interests of everyone in the neighborhood.

Hanson appreciated the option, and said that he would let the builder do what he does best.

Anderson noted that the council had commented on this issue and provided direction for staff. The council will need to include a stipulation in the motion if they wish to address this issue. Callison asked if the stipulation could provide some flexibility. Olson said that it could. Wiersum supported adding the stipulation.

In response to Schneider's question, Callison said that the stipulation would provide that staff would review the plan for the lot and the architecture of the house.

Wagner noted that the plan calls for a trail in the back with an option for a trail to the front. He asked if there were other easements that link to a trail. Gustafson responded that staff had not yet identified all the existing easements in that area or all of the easements that will be needed. There is a sewer easement through part of the property.

Gunyou said that at the time of the Cargill development, an on-street connection to the park was specified. This trail easement at the back of the lot would not connect to anything, but staff felt it was better to have it than not to preserve future options. The city is acquiring right-of-way to square off the road, so an easement on the front was unnecessary. A southern easement would not provide much benefit and would need to pass between houses.

Wiersum moved to approve the application. Peterson provided language to address the council's request for an additional stipulation to replace paragraph f.

Wiersum agreed to that change. Wagner seconded the motion.

Callison asked that the findings be amended to reflect preservation of the steep slope as a basis for the zoning and PUD. Wiersum and Wagner concurred with that change.

The motion as revised was to:

1) Adopt Ordinance No. 2005-11 rezoning 1908 Linner Road from R-1, low density residential, to PUD, planned unit development, and adopting a PUD master development plan with a front yard setback variance to Linner Ridge for Lot 3 for the Linner Woods plat. 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 save more significant trees and steep slope areas than a plat meeting R-1 standards.

The rezoning is subject to the following conditions:

- a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Preliminary Plat, date stamped April 7, 2005
 - Grading and Drainage Plan, date stamped April 13, 2005
 - Utility Plan, date stamped April 13, 2005
 - Street Plan, date stamped April 7, 2005
 - Conservation Easement Map, date stamped April 7, 2005
 - Site Plan, date stamped April 13, 2005

The above plans are hereby adopted as the master development plan.

- b. The following setbacks are required for each lot:

	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6
Front yard						
Linner Rd.	35 feet	35 feet	35 feet	-	-	-
Linner Ridge	-	-	25 feet	-	-	-
New street	-	-	35 feet	25 feet	25 feet	25 feet
Side yard						
North side	45 feet	10 feet	10 feet	-	10 feet	10 feet
South side	10 feet	10 feet	-	-	10 feet	15 feet
East side	-	-	-	10 feet	-	-
West side	-	-	-	10 feet	-	-
Rear yard	32 feet	32 feet	-	Established by conservation easement	Established by conservation easement	Established by conservation easement

- 2) Recommend that the city council give preliminary approval to the Linner Woods plat, date stamped April 7, 2005. Approval is based on the following findings:
- a. The proposal meets the required standards and ordinances for a preliminary plat.
 - b. The proposal meets the required standards and ordinances for a planned unit development.
- Approval is subject to the following conditions:
- a. Complete the following before final plat approval:
 - (1) Show the following on the final plat:
 - (a) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street right-of ways and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (b) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (c) Drainage and utility easements over storm water ponds, as determined by the city.
 - (d) The right-of-way for the cul-de-sac must be reduced 40 feet wide at the entrance of Linner Ridge, and the radius must also be reduced to 45 feet.
 - (2) Pay the city a park dedication fee of \$11,875, minus the value of the trail easement.
 - (3) Submit evidence of watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
 - (4) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
 - b. The following items must be submitted to the city before the city releases the final plat:
 - (1) An engineering/utility inspection fee.
 - (2) An electronic CAD file of the final plat in micro-station or DXF.
 - (3) If the developer is constructing any public improvements, the developer must submit a signed agreement with city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must

include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.

- (4) The following documents for the city attorney's approval:
- (a) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
 - (b) Conservation easements over the areas identified on the preliminary plat, and a drawing of the easements for the approval of the city attorney. The easements and drawing must be recorded with the final plat.
 - (c) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below 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 easements must be attached to the easement deed.

- c. The following must be completed before the city issues a grading permit or any site work is started:
- (1) A construction management plan must be submitted for staff approval. The plan must include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot. The plan is subject to review by the city's environmental resources coordinator.
 - (2) The items listed in the construction management plan must be installed and inspected by the city's environmental resources coordinator.
 - (3) Final grading, drainage, and erosion control plans must be submitted for staff approval. If the developer is building the streets and

utilities, the developer must submit final street and utility plans for staff approval. Controlled roof drainage may be required for Lots 1, 4, 5 and 6. Roof runoff infiltration trenches or other methods approved by staff would be required to control drainage away from the steep slopes.

- (4) A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, road, and grading have been completed according to the plans approved by the city.
- (5) Construction vehicles must not park on Linner Road or Linner Ridge during construction.
- (6) The existing debris and dead trees along the north lot line must be removed.

d. The following must be submitted to the city before the city issues a building permit:

- (1) A grading and tree preservation plan for each lot subject to staff approval. Controlled roof drainage may be required for Lots 1, 4, 5 and 6. Roof runoff infiltration trenches or other methods approved by staff would be required to control drainage toward the steep slopes.
- (2) The installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
- (3) A copy of the recorded plat and any easements, covenants, and any other homeowners' document required to be recorded for the development.
- (4) All required hookup fees for sewer and water.
- (5) 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.

- e. All structures must meet the setback requirements of the PUD.
- f. Staff will review and approve the architecture and location of the house on Lot 3 to ensure that it is consistent with the homes on the new cul-de-sac and on Linner Road.
- g. The garage on Lot 1 must be located on the south side of the home.
- h. The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
- i. The conservation easements must be maintained in accordance with a conservation plan approved by the city.
- j. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- k. All existing structures must be removed from the site.
- l. 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 1/2 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.
- m. The homes on lots 1 and 2 must have driveway turnarounds.
- n. 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.

Ellingson appreciated saving the trees and the steep slope, but was concerned about the outcome—expensive, large homes that are placed very close together. He noted that all of the lots in the neighborhood are oversized, and thought that these homes would look out of place. Ellingson said that city ordinances and policies don't fit well together and do not keep up with current market conditions.

Ellingson said that since he has been on the council, most of the subdivisions that have been approved have been for more than \$1 million homes. He noted that one of the first approvals was for property on Lake Street Extension, and the first of those homes is for sale for \$950,000. The homes in the five lot subdivision on

Williston Road south of TH 7 will start at \$1 million. Ellingson said that his home has a 1,000 square foot footprint on a one-half acre lot—he lives in a neighborhood of small homes on large lots. This neighborhood will have large homes on small lots. He thought that the project did not respect the city's one-half acre lot size. He said that the city's policies and goals are worthwhile, and we want to save trees and steep slopes, but he thought this project would not look right.

Anderson said that the city council has struggled with this issue for several years. The city has found that if the lots are larger, the houses become larger to meet the market. Anderson noted that the parcel to the south is the same size and was developed with six houses through a recent subdivision. The slope on that property was not as close to Linner Road as this proposal. Anderson drove through that area and found it very pleasing even though the lots are closer than others on Linner Road. Anderson said this is a fact of today's market. The council cannot control the size of houses. If lots are made smaller, people build to the maximum, and the city has little control. Nevertheless, she shared Ellingson's concerns.

Ellingson noted that information in the packet indicated that when the subdivision to the south was discussed, it would subdivide to four lots. He said that somebody at that time recognized the smaller buildable area. He said that the ordinance should not allow people to count the total area of their property when it is not all buildable. In this case, there are three acres that are not buildable.

Anderson suggested that Ellingson spend time with staff to better understand the steep slope ordinance. The ordinance does not say that a slope cannot be built upon, but it ties conditions to that construction. There was not a steep slope ordinance in 1981 when the other property developed, so there was no mechanism to protect it. While staff might have thought four lots would be ideal at that time, it would be difficult from a legal standpoint to prevent eight homes on the property as originally proposed.

Ellingson understood that the steep slope ordinance did not preclude building on the slope. He heard staff say that the developer was told that the city did not want him to build on the slope. This plan would provide a better arrangement of the houses. He appreciated the correction. He said that people should be given credit for saving trees, but the result is crowding six big houses onto two acres. In a normal R-1 zone, the lots would be one-half acre in size, and that should be recognized. The ordinance is creating this

result. He cautioned that the city should think about the results, and thought this result could be absurd. He said that the issue is not the size of the lot but the method of calculating the number of houses that could be built on a parcel. He felt that it was a mistake to allow people to count the total area.

Schneider said that there will be a waiting list for these homes, and the new owners will be proud of their new homes. It is not the council's job to pre-judge what the subdivision should look like as long as it meets the standard. This subdivision complies with the city's requirements and offers a good solution.

Callison visited the Dunibar and Groveland Place developments, which are similar, and said they looked fine. She did not think this development would be noticeable. There will be two homes set back 35 feet, and another set back even further. The neighbors' fears of a wall of homes will not come to pass, and much of the site has been preserved. This subdivision recognizes that people have the right to subdivide, and it preserves the community's values of trees and slopes. The proposal offers a win-win because it preserves those features. Callison noted that change is difficult, but she thought that when the development is done people will think that it is beautiful. She thought the council would be proud of approving it.

Wiersum said that it was compelling that the property could have developed as an R-1 neighborhood. The line up of the homes on Linner Road would have been essentially the same, except for the one home to north. The number of houses on Linner Road, the position of the home on Lot 3, and the area of concern would likely have been the same. Even though there are two 15,000 square foot lots, it is the backyards that will be smaller—this is an area that others will not see. The proposal allows the city to preserve some things that are important to the community. If the property developed as R-1, the community would have lost some features it values. Although the lots would have been one-acre with an R-1 development, that wouldn't have provided a benefit. The smaller lawns would require less maintenance, which might be viewed as a benefit to some. This proposal will not make a meaningful difference to the aesthetics of the neighborhood. He felt comfortable with the proposal and said that the alternative would have resulted in a loss of things that are of value to the community. He thought that the ordinance worked well, and found this to be a winning solution.

Hanson agreed that the market affects the size of the homes. He noted that his original calculation supported eight lots. Hanson said that there is a balance between property rights and the preservation of trees and steep slopes. It was the steep slope ordinance that reduced the lots to six. He said that eight lots would have resulted in a development almost identical to Groveland Place. He noted that the ordinance addresses some of the concerns.

Ellingson asked Hanson about the market for \$1 million homes in this area. Hanson said that in other cities, people are building \$1 million homes in neighborhoods not considered million dollar neighborhoods. Minnetonka has million dollar neighborhoods. Groveland Place has met all of his sales expectations.

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

C. MERIT Organizational Component.

Gunyou's presentation about the organizational MERIT program included the following points:

- The program constitutes the city's annual report card. The ratings are equally based on input from the city council, advisory boards, and the community survey results.
- The program is tied to the city's seven strategic goals, and the grades help staff determine where the city could do better in the coming year.
- In the natural environment area, the grade improved from an A- to an A. Feedback indicates that the city is doing better on trails. The percentage of those who think the city is doing better with regard to wetlands and streams has increased, and there was a similar increase regarding forested areas.
- The number of people who strongly support stricter environmental protection has increased over the past year.
- About three-fourths of those polled rate the park renewal process as good or excellent.
- The survey asked about the community's priorities for the upcoming creek study. There were slightly higher rankings for restoration and passive activities over active uses.
- Public safety stayed a solid A, and police protection maintained an extraordinarily high rating. Two-thirds of those who had an experience with a police officer ranked it as excellent, and those experiences are typically under less than pleasant circumstances - this points to the professionalism of our officers.

- Eighty-five percent of those polled did not think there were any unsafe areas in the city. Concerns about speeding, burglary, drugs, and under-aged drinking increased a bit, but speeding was not as significant a concern as it was last year. Identity theft is now a concern, probably due to greater awareness.
- Fire protection ratings were 100 percent positive, which is an exceptional achievement.
- Transportation stayed at an A-, with some areas improving and others slipping. Street maintenance has traditionally been a challenge—always the city’s lowest service rating. About one-third of respondents gave the city a negative rating (fair or poor) for street maintenance. Staff plans to recommend the addition of more resources in this area.
- A major effort was made regarding road construction communications, and it paid off. About three-fourths gave us positive ratings. This ranking is extraordinary given the rankings most cities receive, which is often in the 20 percent range.
- Development improved from a low A- to a high A-. 80 percent of our residents think the city does a good job balancing individual property rights with the interests of the overall community.
- The rating regarding appropriate opportunities for public input decreased by five percent, which is within the margin of error, possibly due to the controversial projects over the past year.
- Those polled are asked to provide the value of their homes. In 2000, three-quarters of the homes were valued under \$250,000, and now three-quarters are valued above \$250,000.
- More than one-half of those surveyed would support higher density as a trade-off for affordable housing or environmental protection, an increase from last year. There was also growing support for using public money to support affordable housing efforts for senior housing and first time owners.
- Efforts to “build community” rated a strong A. Recreation programs continued to do well. Senior services slipped a little, which is likely a reflection of the cutbacks to the senior program as a result of state funding cuts.
- The *Minnetonka Memo* continues to receive off-the-chart high ratings, which is very unusual for cities. Many residents are not even aware their city has a newsletter. The *Memo* is also the preferred method to obtain information by a wide margin. In response, the city has invested more money into the *Memo* to increase publication to 12 months instead of 10, and has added pages.

Anderson noted that the Minnetonka Mike Request Partner system was instituted last year. She asked that staff provide a report about use

of that service. She personally has noted an increase in the number of electronic communications she receives versus paper correspondence. She is also receiving more telephone calls.

- Cable viewership is not widespread, which is likely due to the lack of controversial issues or council members that attract media attention.
- The number of people who use the city's Web site has increased from 20 percent to about one-third over the past three years. About one in five were aware of Minnetonka Mike and have used the service, but 40 percent are not even aware of it. Staff is planning to publicize that service to encourage the community to channel their calls to that service.
- Public services typically rank highly, and Minnetonka improved from an A- to an A in that area. The bottom line for the city is how residents view the value of the service they receive for the taxes they pay. Minnetonka received an overall positive ranking in this area by 80 to 85 of those polled, which is a strong testament.
- When asked if they would support an increase in taxes to maintain services, the rating has increased from 50:50 a few years ago, to 60:40 who are willing to see an increase. This positive result was achieved despite recent negative anti-tax sentiment, and indicates that people are generally satisfied with the services they receive. This year streets overtook police and fire as the area where residents would want to see more resources applied.
- Those who gave fair or poor ratings were asked what the city could do to increase their ratings to good or excellent. More than half said to improve road maintenance.
- Staff has instituted several efforts over the past two years to improve responsiveness to customers, including the 11 Who Care group. Grades in this area are now comparable with top-rated private companies. Half of those polled think the city does an excellent job with courtesy, efficiency and ease of reaching the right staff. 99 percent gave our receptionists a positive rating, and the pollster threatened to hire them away.
- Our quality of life ranking remains very high. Minnetonka is consistently one of the top two in the metropolitan area.

Gunyou strongly supports scientific surveys because they provide a good check. He noted that we tend to only consider those who call with complaints or those who speak at public meetings. Surveys provide good insight into the opinions of the overall community.

Anderson noted that the grades for staff responsiveness and efficiency continue to get higher and higher. She said that Minnetonka is one of few cities that still provides a direct contact to a staff person versus an automated telephone system. She knows it costs a little more, but supported that personal touch. The effort has paid off and is noticed. She said that it makes a huge difference, and she is very proud of the city in that regard.

Gunyou noted that people are now allowed to dial directly into more departments without being transferred. Efforts like that pay off in the way people feel they are treated and the perceived level of service.

Wiersum concurred with Anderson's comment about reaching a staff person versus an automated system. He said that automated systems work best where people routinely call. The city often has occasional callers who would then have to listen to an entire menu. He said that a personal answer is exceedingly valuable from a customer service point of view.

Gunyou noted that people are often surprised when he answers his own phone, and said that we try to exceed expectations. Anderson has experienced the same reaction.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointment to the planning commission.

Anderson moved, Thomas seconded a motion to appoint Sarah Frisque, 5809 High Park Drive, to the planning commission to serve the remainder of a two-year term, effective April 25, 2005 and expiring on January 31, 2006. All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting 8:13 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk