

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, MAY 9, 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 Al Thomas, Tony Wagner, Brad Wiersum, Terry Schneider, and Jan Callison were present. Mayor Karen Anderson was excused. Councilmember Bob Ellingson arrived at 7:27 p.m.

4. APPROVAL OF AGENDA.

City Manager John Gunyou reviewed the addendum, which included a revised agreement and two communications concerning item #14C, lighting for the Glen Lake athletic fields.

Schneider said that Ellingson wanted to participate in the discussion for item #14A, so the agenda might be adjusted.

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

5. APPROVAL OF MINUTES:

A. April 25, 2005 regular meeting.

Thomas moved, Wiersum seconded a motion to approve the minutes of the April 25, 2005 Minnetonka City Council meeting. All voted "yes." Motion carried.

B. April 27, 2005 board of review meeting.

Wagner moved, Callison seconded a motion to approve the minutes of the April 27, 2005 Minnetonka Board of Review meeting. Thomas, Wagner, and Callison voted "yes." Wiersum and Schneider abstained. Motion carried.

6. SPECIAL MATTERS:

A. Update from Lake Minnetonka Conservation District.

Katy Van Hercke, Minnetonka's representative on the LMCD Board, gave her annual presentation, noting the following:

- LMCD was created in 1967. Its board includes one member from each of the 14 cities surrounding the lake. Van Hercke serves as vice-chair on the board.
- The board reviews license applications, studies lake issues, and works to control exotic species.
- The 2005 budget is \$463,294, and \$124,000 of those dollars are allocated to exotic species control. Minnetonka contributes \$52,259 to the budget. The 2006 budget process is in progress. A meeting to review that budget with city officials has been scheduled for June 3. Van Hercke invited interested people to attend.
- The LMCD now meets in the Wayzata Council Chambers. Their meetings are cablecast to all cities in the LMCC network, and they soon expect to air their meetings on Minnetonka's cable channel.
- Every four years a boat density study and a user attitude survey are completed in cooperation with the Department of Natural Resources. Two reports will be generated, and the results should be available in the near future.
- The 2004 shoreline inventory found a 7.4% decrease in the number of watercraft stored on the lake. Poor weather and the economy may be reasons for that decline.
- The water patrol has been very successful, due in large part to extra patrols. Hennepin County has fully funded that program since 2003, and will do so again in 2005.
- The boat density committee, which Van Hercke chairs, is reviewing the 1974 boat density policy and the lake use and recreation chapter in the 1991 management plan, to create a new policy which reflects today's boating trends to help plan and facilitate that committee's work. A public meeting will be held on May 11. The board wants input from all stakeholders.
- Several communication pieces have been distributed regarding Zebra Mussel prevention. Van Hercke thanked Minnetonka for airing a video on this topic. LMCD will also work with the DNR this year to conduct mussel inspections on peak days at five public access locations, including the Gray's Bay Marina.
- LMCD is pleased that Minnetrista passed an ordinance to prohibit motorized boats on the upper reaches of Six Mile Creek. The legislature nullified a similar ordinance adopted by LMCD in 2003.

- A one year moratorium was declared last August concerning de-icing rules. LMCD is considering changes to improve safety.
- In response to legislative changes, LMCD reviewed its ordinance that limited the number of liquor licenses to 14, and the number of non-intoxicating licenses to 28. The board sought comments from member cities, but did not receive many. The board then adopted an ordinance repealing the limit on the number of on-sale intoxicating liquor licenses.
- Orono purchased the 58-acre Veteran's Camp on Big Island, pending some additional bonding. This property would be part of Orono's park system and available to the public. LMCD supports that decision.
- Installation of solar lit buoys continues. The feedback has been very positive, and LMCD expects to continue the program into 2005.

Callison asked if there had been issues with the Gray's Bay Marina. Van Hercke said that there were issues related to traffic, especially during the first year. The city worked effectively with all agencies to resolve those issues. She said that additional boater education will help. The marina has increased congestion in that area.

Schneider and Callison thanked Van Hercke for her report and her representation of Minnetonka. Van Hercke expressed appreciation for Minnetonka's elected officials and staff.

B. Proclamation declaring May 15-21, 2005 as National Police Week.

Schneider read a proclamation declaring May 15-21, 2005 as National Police Week. Schneider noted the recent death of St. Paul Police Sergeant Gerald Vick.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings. He said that Minnetonka's Police Department and City Attorney would participate in Sergeant Vick's funeral.

Schneider reported on the performance of Minnetonka's Explorer Post at the annual state conference. The team won many awards.

Schneider noted that Officer Shelley Petersen was honored by the Glen Lake Optimists as their 2005 Officer of Year. Mayor Anderson and Chief Rikala attended that event.

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

No one appeared.

9. BIDS AND PURCHASES:**A. Consideration of printing bids for the *Minnetonka Memo*.**

Gunyou provided the staff report. He noted that Mayor Anderson, who was out of town, received a letter today from Mr. Gacek, the current printer, explaining why his bid was the highest. Gunyou noted that formal bidding rules do not apply to professional services. He said that if staff had received the letter, it would have been included in the agenda materials. Schneider asked if Gacek was in the audience to address the issues, but he was not.

Callison moved, Thomas seconded a motion to award the contract for printing the Minnetonka Memo, beginning with the June 2005 edition, to Jessen Press Incorporated. All voted "yes." Motion carried.

B. Approval of a purchase agreement for the Nine Mile Creek Watershed District Storm Water Quality Improvement Project No. 4653.

Gunyou provided the staff report.

Wiersum moved, Thomas seconded a motion to approve a purchase agreement for property at 13908 Kinsel Road for the Nine Mile Creek Watershed District Storm Water Quality Improvement Project. All voted "yes." Motion carried.

10. CONSENT AGENDA (Items Requiring a Majority Vote):**A. Claims for council authorization – May 9, 2005.**

Wagner moved, Wiersum seconded a motion to approve the May 9, 2005 claims list, including checks numbered 189036 through 189361, totaling \$1,679,283.75. All voted "yes." Motion carried.

B. Ordinance regarding pawnbrokers and precious metal dealers.

Wagner moved, Wiersum seconded a motion to adopt Ordinance No. 2005-12 amending City Code 610 and 710.005(26) regarding

pawnbrokers and precious metal dealers. All voted "yes." Motion carried.

C. Approval of contract for public works maintenance services.

Wagner moved, Wiersum seconded a motion to approve a two-year "State of Minnesota Income Contract" subject to the approval of the city attorney. All voted "yes." Motion carried.

D. Final approval of the CANTERA WOODS plat between YMCA Lane and Dwight Lane.

Wagner moved, Wiersum seconded a motion to give final approval to the CANTERA WOODS plat, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat;
- 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; and
- 3) Record the following documents with the plat:
 - a. resolution 2002-021, vacating an existing roadway;
and
 - b. a document showing the front setback on Lot 7, as approved by variance and shown on the preliminary plat.

All voted "yes." Motion carried.

E. Reduction in the required width of a conservation easement for the Danna Addition at 2400, 2404, and 2422 Meeting Street.

Wagner moved, Wiersum seconded a motion to approve a change in the required width of the conservation easement for the Danna Addition from 35 feet to 20 feet, subject to the property owners recording a document changing the conservation easement boundaries and requiring that the property owners plant and maintain the new buffer area with native vegetation. The new document must be approved by the city attorney. All voted "yes." Motion carried.

F. Resolutions ordering the abatement of nuisance conditions.

Wagner moved, Wiersum seconded a motion to: adopt the following resolutions ordering the abatement of the nuisance conditions.

- 1) Resolution No. 2005 -041 ordering the abatement of nuisance conditions existing at 4909 Barbara Drive.
- 2) Resolution No. 2005 -042 ordering the abatement of nuisance conditions existing at 6001 Shady Oak Road.
- 3) Resolution No. 2005 -043 ordering the abatement of nuisance conditions existing at 12790 Amy Lane.

The property at 15608 Lake Street Extension was in compliance, and was pulled from the agenda. All voted "yes." Motion carried.

- G. Resolution regarding participation in the CDBG program, authorizing a Joint Cooperation Agreement for the Hennepin Housing Consortium and authorizing a Joint Powers Agreement with the City of Eden Prairie.**

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2005-044 regarding participation in the federal CDBG program, authorizing a Joint Cooperation Agreement for the Hennepin Housing Consortium and authorizing a Joint Powers Agreement with the City of Eden Prairie. All voted "yes." Motion carried.

- H. Resolution approving construction cooperative agreement with the Minnesota Department of Transportation for the TH 7/Williston Road North Frontage Road Project.**

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2005-045 approving construction cooperative agreement No. 79136 with the Minnesota Department of Transportation for the TH 7/Williston Road North Frontage Road improvements, S.P. 2706-211, S.A.P. 142-146-02, S.A.P. 142-147-05, S.A.P. 142-010-15, City Project 4806R. All voted "yes." Motion carried.

11. Items requiring Five Votes:

- A. Items concerning antennas on three water towers for the city of Minnetonka:**
- 1) **A conditional use permit for dish antennas and associated equipment on the Ridgedale water tower at 13001 Ridgedale Drive;**
 - 2) **A conditional use permit for dish antennas and associated equipment on the Bren Road water tank at 11614 Bren Road; and**

3) A conditional use permit, with height variance, for dish and pole antennas and associated equipment on the Williston water tower at 4525 Williston Road.

Wiersum moved, Callison seconded a motion to:

1) Adopt the following resolutions:

- a. Resolution No. 2005-046 approving a conditional use permit for microwave dish antennas and associated equipment at 13001 Ridgedale Drive;
- b. Resolution No. 2005-047 approving a conditional use permit for microwave dish antennas and associated equipment on the Bren water tank at 11614 Bren Road.

Approval is based on the finding that the proposals meet all conditional use permit standards and is subject to the following conditions:

- a. The color of the antennas must be approved by the city council.
 - b. No external messages or on-site, tower-specific employees are allowed.
 - c. The antennas must not be artificially illuminated unless required by law.
 - d. Antennas must comply with all building and electrical code requirements and must be designed and certified by an engineer.
 - e. Submit copies of any required FAA and/or FCC permits prior to issuance of a building permit.
- 2) Resolution No. 2005-048 approving a conditional use permit and height variance, for microwave antennas and associated equipment at the Williston water tower. This resolution is based on the following findings:
- a. Apart from the 20-foot "pole" antennas, the proposed tower meets all conditional use permit standards.
 - b. The proposed antennas meet the required standards for a variance, because:
 - (1) The proposed 20-foot height is reasonable. The height reflects an industry and Federal Communications Commission standard.
 - (2) The proposed antennas would be located on an existing water tower and would be used for public purposes. This is a unique circumstance not similar to every other R-1 property.
 - (3) The proposed five-foot variance would have no negative impact on the surrounding area. Located on top of an existing water tower, there would be little to no visual difference

between the proposed 20-foot antennas and permitted 15-foot antennas.

Approval is subject to the following conditions:

- a. The color of the antennas must be approved by the city council.
- b. No external messages or on-site, tower-specific employees are allowed.
- c. The antennas must not be artificially illuminated unless required by law.
- d. Antennas must comply with all building and electrical code requirements and must be designed and certified by an engineer.
- e. Submit copies of any required FAA and/or FCC permits prior to issuance of a building permit.

All voted "yes." Motion carried.

12. INTRODUCTION OF ORDINANCES:

A. An ordinance regarding emergency management.

City Attorney Desyl Peterson provided the staff report. Schneider said that because this item would not be referred to another board, council members should raise any questions or concerns.

Wagner noted that the ordinance did not refer to succession. Peterson said that the charter states that the acting mayor exercises the power of the mayor in the mayor's absence, so no reference was needed in the proposed ordinance.

Wiersum moved, Thomas seconded a motion to introduce an ordinance amending City Code Section 900 regarding emergency management. All voted "yes." Motion carried.

13. PUBLIC HEARINGS:

A. Ordinance amending the City Charter regarding incompatible offices.

Peterson provided the staff report. Schneider noted that the charter commission is an independent body. Peterson asked that council members advise her if they will be absent from the next meeting, because adoption of the ordinance requires unanimous support.

Schneider opened the hearing at 7:08 p.m. There were no comments.

Thomas moved, Callison seconded a motion to introduce an ordinance amending Minnetonka City Charter Section 2.05 regarding incompatible offices and to continue the public meeting to May 23, 2005. All voted "yes." Motion carried.

B. Public hearing to consider a temporary on-sale wine license for the Intercongregation Communities Association (ICA) for a fundraiser on May 23.

Gunyou provided the staff report.

Schneider opened the hearing at 7:09 p.m. No one spoke and the hearing was closed.

Callison moved, Wagner seconded a motion to grant a temporary on-sale wine license for the Intercongregation Communities Association (ICA) for a fundraiser on May 23. All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Items concerning a salt storage building at 11522 Minnetonka Boulevard for the City of Minnetonka:

- 1) **Conditional use permit;**
- 2) **Site and building plan review, with:**
 - **height variance; and**
 - **setback variance.**

This item was taken out of order, after item #14C.

Gunyou introduced this item, noting that the project was in the city's Capital Improvements Program since 2000. Prior estimates put the cost in the \$600,000 to \$650,000 range, which was determined to be too expensive for available resources. As a result, the project was postponed to see if circumstances would change to make the project more affordable. In the last few years, fabric structures have come into 9999use, and this technology is in the \$250,000 range.

Gunyou noted that the city wears two hats for this project. Staff works hard to maintain a strict distinction between its regulatory role filled by Planning Director Geoff Olson, and its role as the owner, filled by Public Works Director Brian Wagstrom.

Olson then provided feedback and recommendations from the planning commission.

In response to issues raised by the neighbors, Wagner asked when the facility would be lit. Wagstrom said that the lighting would only be used when the facility was in use. For example, the lights would be on when there was an emergency evening call-out, which occurs infrequently. Wagstrom said that when staff has advance notice of a storm, trucks are loaded ahead of time during daylight hours.

Wagner asked about the louvers, noting this was a particular concern of the neighbors. Wagstrom said that staff's research indicates that the louvers are not required, and that the structure can withstand winds by its own design. If it is determined at a later date that they are needed, louvers could be added.

Wagner noted that the salt storage operation currently operates out of bunkers. He asked if the new structure would expand uses in the area. Wagstrom said that the structure would primarily be used to store salt. It could possibly be used to store other materials, such as bituminous or gravel, during the off season.

Callison noted questions raised by the neighbors as to whether or not the city complied with a 1999 requirement to provide screening. Wagstrom said that 18 pines were planted and a berm constructed prior to the development of the neighborhood to the north. The city previously applied for a conditional use permit for a timber salt storage structure. The planning commission placed a condition on that structure for screening. That structure was not built, so the conditions for that structure were not implemented.

In response to Callison's question, Wagstrom said that the structure could possibly be constructed in the winter.

Callison noted that shifting the facility slightly to the west to location B, would increase the cost by \$65,000. She said that would not affect the noise level, and asked if that move would provide a benefit worth that cost.

Gunyou said that as the owner, the city preferred location A. It would provide for a larger bin with more storage. As a result of the neighborhood concerns raised at the planning commission, staff recommended the shift to location B. The move will require the construction of additional retaining walls, raising the overall cost from \$250,000 to \$315,000. He was not sure that the move would provide significant benefits, but thought the neighbors felt it would. The city was trying to be a good neighbor by moving the structure and was willing to incur the additional expense. Callison wasn't sure

that the neighbors at the planning commission hearing agreed that the shift would be helpful.

Schneider asked about the options for the color of the fabric. Wagstrom said that there were several options. He preferred the green color, which would be similar to trees, with a sand or beige colored roof. He noted that the fabric would cover the top, and that the end facing the neighbors would be green. Schneider thought that the top would be most visible. Wagstrom said that would not be the case for the view to the adjacent neighbors. Gunyou said that staff did not have strong color preferences.

Thomas noted that crews might be called out in the evening, when adjacent neighbors might be home, which might trigger the use of lights to load trucks. He asked if that occurs now. Wagstrom said that it does.

Thomas asked what happens to excess salt at the end of the winter season. Wagstrom said that staff tries to order salt for two to three storms. As spring approaches, staff tries to reduce the inventory to minimize salt carryover during the summer.

Wagstrom said that no one has argued against the need for a salt storage bin. Staff has tried to be sensitive to the neighbors about screening. He said that the operation currently occurs, so the noise already is what it is, and would not be worse. He acknowledged the disagreement about the earlier screening requirement. He expressed willingness to provide screening either on the city's property or on the association's property, to help conceal the dome.

Gunyou said the city needs to consider what plantings are possible and appropriate. There are already 18 evergreens on the berm. There are also mature deciduous trees behind the location, and they provide reasonable screening in the summer. To provide a berm with additional evergreens would require the removal of healthy, taller trees only to replace them with smaller trees.

Every third or fourth tree could be replaced, but the existing large trees would block access for machinery, so smaller trees would have to be planted. Gunyou said that it would be reasonable for the city to provide a landscaping allowance. Staff could work with the neighbors on how to spend that allowance. He noted the possible disagreement between what the city could do and what the neighbors might want. He said that staff is open to options, but would want to know the preferences of the neighbors as a group.

Wagner said that he had met with the neighbors to discuss their concerns. He emphasized that concerns about screening were important, but noted the need for a consensus. With regard to the concerns about noise, he noted that the noise already occurs with the current operation. This is a public works facility, so some level of noise is inevitable.

Callison asked if location A or B provided better screening options. Wagstrom said that both locations provided similar opportunities.

Callison noted the planning commission condition that staff meet with an architect to talk about noise reduction. She asked if that had happened when consulting about the possibility of removing the louvers. Gunyou said that was the case and that mitigating noise is an ongoing effort. Removing the louvers should make some difference, since there would not be an opening to the rear. He noted that the fabric is not heavily insulated, so any noise improvements would not likely be significant. A number of changes have been implemented during recent years, including covering one-half of the back-up beepers, and limiting the hours of operation. The louvers were the only remaining option of any significance.

Callison asked if the council should recommend removal of that condition. Gunyou thought that would be advisable.

Schneider asked if OSHA would allow strobe lights as an option to back up beepers. Wagstrom was not aware of that option being allowed by OSHA. He said that staff tries to limit backing up by the salt delivery trucks, but said that is not possible with the loader.

Wiersum asked if the deciduous trees behind locations A and B were taller than 45 feet, the height of the new structure. Wagstrom said that they were closer in height to the evergreens. Wiersum agreed that evergreens would provide better screening during the winter months, but noted that during the summer, deciduous trees would give a softer appearance. He did not want to remove them to plant different trees. He noted that trees would provide a cost-effective and efficient option to mitigate the view of the building. He said there was an opportunity to do planting on the neighbor's side.

Wagstrom said that staff worked with a neighborhood representative a couple of years ago. The terrain and hardness of the soils made planting difficult. Some trees were planted, but everyone would have preferred to see more trees.

Naomi King-Smith, 3012 Cedar Crossing, said that she was speaking for herself and other neighbors who could not be present. One of the reasons families live in Minnetonka is the city's longstanding commitment to natural beauty. She felt that the city could do better than the proposed structure. She felt it would be an eyesore to everyone with views from Minnetonka Boulevard or Cedar Lake Road. She did not advocate moving the structure to another location because she did not feel it belonged in the city of Minnetonka. She provided examples of other cities that had met their salt storage requirements with smaller or more appealing structures. She suggested that other options be explored before a decision is made, and suggested that Minnetonka be a leader. She was willing to work with the city to find a mutually agreeable, cost-effective solution.

Norman Pink, 3024 Cedar Crossing, said that the planning commission approved this request over the neighbors' objections, and he would try to provide new facts. He felt that the planning commission understood their problem, but did not respond with definite ideas. He hoped that the city council could satisfy their concerns. The new dome would be 30 feet from the current storage structure. When the depth of the proposed dome is considered, the new structure would be 80 feet closer to the homes. He noted staff comments in the planning commission report that Hennepin County would not fund the new structure and would have to find a new salt storage facility for next year. He questioned the capacity needs for the new dome. He did not think the building would meet the city's height requirements, and felt that it would be 20 feet higher than Mrs. Goldstein's home. He also questioned the architect's assertions about the transparency of the structure, and felt that it would appear as a glowing dome in the evening. The loader would be running continuously with the beeper operating. The neighbors will be annoyed by the noise, especially in the evenings.

Pink said that louvers are designed to exhaust dust and dirt, and questioned the effect on people from the salt. He supported removing the louvers. He thanked the council for an opportunity to provide input, and asked that the council give the matter further consideration. He realized that some form of structure was needed to protect the salt, but hoped that the council would consider another location. He noted that the structure would be at the 917 elevation, and the floodplain is at 915. The edge of the salt dome would be at the edge of the floodplain, which could be of concern for the creek.

Alvin Malmon, 3048 Cedar Crossing, spoke as a Creekside resident and president of their association. He is a lawyer. He was out-of-town at the time of the planning commission meeting, but saw it on cable. He expressed appreciation for the planning commission listening to the neighbors, and recognized that this was a difficult decision. He felt there were a number of unresolved legal issues. Malmon cited section 300.07 the Minnetonka Code, which provides the conditions for variances in wetland and floodplains. He suggested that a comprehensive environmental impact study be done to assess the results of building this structure. He noted that until now, this operation has been housed in a semi-permanent bunker. The new structure would increase the volume and salt. He felt that the effect of the sand and salt leaching into the soil should be studied. He questioned if salt should ever have been stored so close to the floodplain.

Malmon also reviewed the ordinances concerning uses in R-1 residential zones. He said that this use would require a variance, which should be governed by environmental and moral matters. He noted the neighbors' objections to the height and site for the structure. He said that property owners have a common law right to enjoy their property in a reasonable way. He noted that the neighbors adjacent to the airport were entitled to noise abatement, even though their homes were built after the airport was in place. The proposed structure would alter the beauty of the creek for the neighbors. If the council approves the structure, they plan to use the appeal process, including injunctions. He felt that the storage of salt on the site was illegal from the beginning, and asked that the council not exacerbate that with a monstrosity of a building.

Schneider asked staff to respond to the issues raised by the neighbors. Wagstrom said that that four to six thousand tons of salt would be stored during a winter. Four thousand tons were ordered each year for the past three to four years. Planning Director Geoff Olson said that the property is currently zoned R-1, and the current operation is allowed by conditional use permit. Tonight's consideration requested a new conditional use permit for the new building.

Wagstrom did not understand Pink's assertion that the new building would be 80 feet closer to the neighborhood than the existing structure, since it would be located over the existing storage bins. Schneider thought he was referring to the round storage building.

Callison asked about the neighbors' reference to 30 foot structures in other cities. Wagstrom said some structures are taller - the MnDOT facility is 50 to 60 feet tall, due to their volume needs.

Schneider noted that a vehicle can't drive into the smaller facilities – salt would have to be pushed in.

Callison asked if an environmental impact study was required. Olson said a study was not required. He noted that the neighbors suggested that the city treat this application like others. The council has not required studies for other projects. There was a formal petition for a study for the dome at the Minnetonka School site, and the council did not require one.

Callison noted the request that the council decide this on moral grounds. She noted that the city attorney has advised the city council in the past that they cannot make their decisions based on neighborhood support or opposition. Peterson said that the courts have found that council cannot make decisions based solely on the view of the neighbors.

Peterson said that while this is not a permitted use in an R-1 district, it is allowed by conditional use permit, which the city has. With respect to the comments about neighbors to the airport, Peterson noted that those cases dealt primarily with noise standards and their application. She said that noise standards had not been raised in this matter to her knowledge.

Callison asked if a smaller building that required the salt to be pushed in would create more noise. Wagstrom agreed that there would be more transient noise that would not be contained by the building.

Wiersum noted that a 45 foot high structure would provide a certain capacity. He asked if the same capacity could be achieved with two adjacent 30 foot buildings. Wagstrom said that the city was concerned about proposed rules for salt storage. Although they have not yet been adopted, there are indications that they will be. That is why staff brought this issue forward. Although smaller side-by-side structures were considered, staff is concerned about the strength of the structures and possible problems with snowload between them.

William Streifer, 2997 Cedar Crossing, noted references to operations beginning at 6:30 a.m. He is up at 4:30 a.m. and said it is rare that he does not hear banging, clanging and beeping

beginning between 4:30 a.m. and 5:30 a.m. He asked that the city limit the noise before 7 a.m. and after 7 p.m.

King-Smith provided photographs of Bloomington's facility, which is entirely enclosed. She also noted that Plymouth's storage facility is not near any residential properties.

Sheila Goldstein provided photographs taken in March to show the view from the rear of her property. She said that the homes to the north of the development would not have much buffer, which is why they asked the city to move the building by 20 feet. The buffer is not adequate, but it would be better with the shift.

In response to King-Smith's question, Schneider said that no agency other than Hennepin County will share the facility. Wagstrom said that the county cooperates with the ordering of salt, and maintains salt at the city's facility. King-Smith noted the comment on page 6 of the planning commission minutes that the county would not fund this structure and will have to find a new facility for next year. Wagstrom said that the county was invited to join in this project but has not. They haven't talked about how they will store their salt—outside or in the new building. Schneider said that the matter was irrelevant to the decision before the council.

Malmon quoted the planning commission minutes. Schneider said that they reflected nothing different from what he had heard. The city and county could enter into a subsequent cooperative agreement even though the county did not initially help fund the new structure.

Wagner said that the city has been working with the neighborhood on this project for some time. No one disagrees that the facility is needed. The central question relates to minimizing the impact to the neighborhood, while meeting the city's needs. Salting roads is a necessary service. He felt that the need was demonstrated, and the location was appropriate, because this is a public works facility where the trucks are located. Staff has worked to minimize the impact. He felt that the neighbors' concern about height was legitimate. He noted that noise is present today and will be in the future, and that the city should continue to work to minimize the impacts. The city has made a number of good faith gestures at an additional cost that does not reduce the noise significantly. Those gestures included shifting the structure for better screening, reducing the size by eight feet, and offering a screening allotment. The alternative locations would not improve the situation—some are in the floodplain, and some are at a higher visible elevation.

Wagstrom noted that most of the other cities referred to by the neighbors were smaller cities than Minnetonka, so their salt storage needs are less. Minnetonka has listened to the neighbors' concerns and made a number of changes to reduce the impact. Staff does not deny there will be an impact, but the structure is needed for the city's operations.

Callison understood that there were those who didn't want the facility and those who object to its height. To make the building smaller would require the council to disregard the advice of the public works director in terms of what is needed to fulfill the city's obligations to keep the streets plowed. She did not hear any compelling reason to indicate that Wagstrom was not accurate. She noted the additional costs to make additional changes, and said that extra money is hard to find. She thought that a facility like Bloomington's would have cost a great deal more.

Callison noted that the city agreed to shift the location of the structure. The structure's height is within the requirements of the city's ordinance, and a variance is not needed on the north side. She supported shifting the structure to the west to provide for screening, although she was reluctant to spend the additional \$65,000. She wished that shift could have reduced noise. She knew that Wagstrom will make efforts to keep the noise level down, but she understood that emergencies happen and the work needs to be done. She supported the project.

Wiersum said that although good faith efforts had been made to reduce the height, the structure would still be tall. He noted that the louvers could be removed, and the city would move the building to maximize screening at significant cost. The city is trying to make the best of a challenging situation. The city is compelled to store salt appropriately. It is prudent for the city to look at the anticipated regulations. He supported storing the salt inside a sufficiently tall structure so the salt would not have to be pushed in. The city would be making a prudent, but difficult choice.

Wiersum encouraged selecting colors to mitigate the view through the trees in the winter. He noted that the public works facility has been in place for a number of years. He lived by the airport in South Minneapolis. Although he didn't like the noise of the planes, the airport was there first and he had a choice about where to live. In response to the comment that Plymouth's facility was far from residences, Wiersum noted that it would be difficult to find such a

site in Minnetonka. Although this was not a great solution, it made the best of a challenging situation and it was the right approach.

Schneider said that the situation was difficult, and it was hard to find an ideal location. He noted that the photographs were a little misleading regarding the proximity of the dome to homes. He hoped that the dome would not be yellow. Although this was not a great amenity near a residential neighborhood, the public works facility was in place first. The city is improving a situation that is not ideal, but as regulations become more restrictive, the situation will be more critical. He would prefer a fully enclosed structure, but that would likely have generated complaints about size. The bottom line was that staff had done its best to look at all the options and alternatives. Schneider supported the project with additional landscaping, and the use of earthtone colors.

Wagner noted the consensus to remove the louvers, and offer an allowance for additional screening on the city's property or the neighbors'. Gunyou said that the louvers were a major issue when the neighbors contacted Wagner. At Wagner's request, staff met with the architect to discuss options. The city supports eliminating the commonly used louvers in deference to the neighbors.

Gunyou suggested a September 1 deadline for reaching a neighborhood consensus on the landscaping so that trees could be planted this fall. He also suggested that the landscaping allowance be set at \$5,000. Gunyou noted that a majority of the neighbors would need to concur about the placement of the landscaping. As an alternative, he suggested that the landscaping occur within six months of the completion of the structure. Schneider suggested that the landscaping occur before the end of the growing season after completion.

The council generally concurred that the motion should include the \$5,000 landscaping allowance, removal of the louvers, and deletion of the requirement that staff meet with the architect to discuss additional sound reduction options.

Wagner moved, Callison seconded a motion to:

- 1) Adopt Resolution No. 2005-049. This resolution approves a conditional use permit for a salt storage building on the public works facility at 11522 Minnetonka Boulevard. Approval is based on the finding that, aside from requested height and setback variances, the proposal meets the required conditional use permit standards. The proposal meets the required findings for a variance.

- 2) Approve the site and building plans for a salt storage building at the public works facility at 11522 Minnetonka Boulevard. Approval is based on the following findings:
 - a. Apart from the requested variances, the proposal would meet the required standards and ordinances for a site and building plan approval.
 - b. The proposal would meet the required standards for a height variance, because:
 - (1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a) The proposed height is necessary to accommodate the “enddump” trucks that deliver salt to the site.
 - (2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a) As viewed from the north, the building would meet the city’s height requirements.
 - b) A line of deciduous trees north of the proposed building would provide some screening.
 - c. The proposal would meet the required standards for a setback variance, because:
 - (1) Strict enforcement would cause undue hardship because of the following circumstance that is unique to this property:
 - a) The proposed building would make use of the existing concrete bunker.
 - b) Within the public works yard, it is necessary to maintain open space for maneuvering of large vehicles and equipment.
 - (2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a) City code would allow the proposed building to be located 50 feet from a residential property line. Because of railroad right-of-way, the proposed building would actually be located 116 feet from residential properties.
 - b) Truck traffic to the proposed building would not come any closer to residential properties than it currently does.

- d. Approval of the site and building plans is subject to the following conditions:
- (1) 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 30, 2005.
 - Building elevations date-stamped March 30, 2005.
 - (2) Before issuance of a building permit, complete the following:
 - (a) Submit final building plans and elevations for staff review and approval. The building plans should delete the louvers, which may be added later if needed.
 - (b) Submit a construction management plan for staff review and approval.
 - (3) Staff will work with the neighborhood to reach a consensus on additional landscaping costing up to \$5000 to be installed before the end of the growing season after the structure is completed.
 - (4) Construction must begin by December 31, 2006, unless the planning commission grants a time extension.

Thomas, Wagner, Ellingson, Wiersum, Callison and Schneider voted "yes." Motion carried.

- B. Items concerning the Minnetonka Civic Center Campus at 14600 Minnetonka Boulevard for the City of Minnetonka:**
- 1) Master development plan;**
 - 2) Conditional use permit for a trail in the wetland buffers; and**
 - 3) Authorization to advertise for bids**

Gunyou introduced the item, and Planning Direction Geoff Olson provided the staff report.

In response to Callison's question, Barone said that the project would start in early July 2005, after the Summer Festival. The initial work would include the roadway and parking lot improvements. The project would be completed by the 2006 Summer Festival, in time for the city's 50th anniversary celebration. She clarified that the road

straightening would be after the community center lot, and would not affect that parking area.

Wiersum supported the changes proposed for the west side of Arena A. He supported the "no outlet" sign, which would help people from out-of-town who attend hockey tournaments.

Thomas noted the boardwalks can be expensive, and asked if the bid would provide options. Gunyou said that the bids would allow for options, and that the bids would be brought back for council approval. The council was being asked at this time to authorize advertisements for bid to expedite the project schedule.

Schneider agreed that boardwalks could be expensive and difficult to maintain, but said that a loop system is needed. If a boardwalk is not possible, another option will be needed.

Thomas agreed but was concerned about costs. He urged that the city be prudent with its funds.

Gunyou said that a portion of the trail would require state approval due to the wetlands, and that trail is the most expensive and uncertain portion of the project. There will be provisions made for trails on the western side of the wetlands to travel to the northern part of the development.

Callison was excited by the active and passive recreation options. She said that the project would address safety concerns as vehicles travel to and from the ice arena. The current limited visibility is dangerous.

Callison moved, Wagner seconded a motion to:

- 1) Adopt Ordinance No. 2005-13 adopting a PUD master development plan and changing floodplain boundaries for the Minnetonka Civic Center at 14600 Minnetonka Boulevard. This ordinance is based on the following findings:
 - a. The proposal would meet the required standards and ordinances for a site and building plan approval.

Approval is subject to the following conditions:

 - a. The April 28, 2005, plan is hereby adopted as the master development plan and as final site and building plans. The site must be developed in conformance with this plan. Modifications may be allowed, subject to staff review, as long as they are in general conformance with the approved plan.

- b. Prior to any site work, install tree protection/erosion control fencing. The fencing must be maintained throughout the course of excavation and construction.
 - c. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - d. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised plan.
 - e. The city will install a "no outlet" sign at the exit from the ice arena to Timberhill Road.
 - f. Drop the future parking lot on the west side of Rink A.
- 2) Adopt Resolution No. 2005-050 approving a conditional use permit for a trail and bridge footings within wetland buffer and floodplain areas for the trail on the Civic Center Campus. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions.
- a. The site must be developed in conformance with the site plan dated April 28, 2005. Modifications may be allowed subject to staff review as long as they are in general conformance with the approved plan.
 - b. Install and maintain the 25-foot wetland buffer.
 - c. The following work must be completed before starting any site work:
 - (1) Install for staff approval erosion control and tree protection fencing. The fencing must be maintained throughout the construction process.
 - (2) If required, submit copies of Watershed District and Department of Natural Resources approval of the wetland buffers. The city may require revisions to the approved plans to meet the district's requirements.
- 3) Authorize staff to advertise for bids.

Thomas, Wagner, Wiersum, Callison and Schneider voted "yes."
Ellingson was absent. Motion carried.

- C. Athletic field lighting on little league fields #1 and #2 at Glen Lake Park:**
- 1) **Operating agreement.**
 - 2) **Changes to the Comprehensive Athletic Field Use Policy (Council Policy 11.10).**

Gunyou provided the staff report, and explained the material in the addendum. He noted that the fields are already owned by the city and the new lights would be as well. The lights were a desired amenity to expand field usage, and funding from the Mighty Mites would allow that to occur sooner. Instead of guaranteeing a commercial loan with higher interest, as the city did for GAL, the city would make an interest free loan. This arrangement would help the Mighty Mites, as a non-profit organization, and also limit the city's financial exposure in the event of a default. The addendum revision more clearly specifies when payments are due, and provides for a penalty if the payments are in arrears. If a default occurs, the Mighty Mites couldn't use the city's property. This hasn't happened in the past, and staff does not expect it to occur. Staff suggested the addendum to ensure that the city's investment was secure.

Gunyou noted that the park board reviewed the operational requirements to ensure consistency with other lighted fields in the city. The neighbors were notified, and there were no negative comments about lighting these fields. Questions were raised about parking and traffic, which has always been an issue at this park. Gunyou noted the potential redevelopment in the Glen Lake area. Staff recommends that the parking improvements be coordinated with park renewal later this year. This lighting approval would not have any bearing on upcoming park renewal planning unless the city decided to relocate one of the fields. Staff and the park board think that is unlikely due to costs. The parking issue could be resolved with a \$50,000 option, versus \$300,000 to move the fields.

Gunyou noted that a resident had questioned the authority of Mighty Mites to enter into this agreement. Mike Remington and Mark Gregg were present to speak for the association. Gunyou also noted that staff recommended the amendment to the athletic field use policy to be consistent with other fields in the city.

Ellingson arrived at this point of the discussion, at 7:27 p.m.

Callison asked why the provisions were for seven years. Peterson said that she included that provision to limit the time the city is obligated to allow the Mighty Mites to use the fields. She did not want the approval to run in perpetuity, so future councils would have options. Callison noted that the time coincides with the loan period.

Callison said that these lights would be similar to those at Big Willow, and asked if they had created issues. Gunyou said that the lights at Big Willow were the first generation of higher technology

field lighting. These lights would be the third generation, and as the design of the lights has improved, there is now very little spillover.

Schneider noted the questions about association legitimacy are issues for staff and the city attorney, and were not appropriate for the council's discussion. He assumed that the city attorney would do her due diligence as part of the process. Thomas agreed, and said that was an operational issue for that organization.

Thomas also referred to comments about youth playing later in the evening with lights. He said that was an issue for individual parents to decide, and not an issue for the council. The council only needed to consider the merits of the lighting.

Carol Breczinski, 5221 Woodhill Road, said that she would speak for all of the neighbors, some of whom were out of town when the first notifications were mailed. She said that they are not excited about having the fields lit. She felt they had been given a sales job, but felt the lights would provide a huge glow that would be visible from her patio door. She asked why lights would be allowed until October 15, and asked what would happen to the fields after seven years if the Mighty Mites could no longer use them—they have used the fields for many years. Schneider said that there were no other plans for the fields; the agreement was just to keep the approval from going into perpetuity.

Breczinski asked that parking be addressed for safety because it will be harder to see in the dark. She felt that they had been sold the project on the basis that city money would not be used, and now the city is giving the association \$100,000 so they don't have to get a loan. That \$100,000 might have been better used for something else. The lights are nice, but not necessary.

Recreation Services Director Dave Johnson said that the October 15th date was set to keep this use similar to Big Willow's. The park board recommended the change for consistency, and the associations agreed. The park board unanimously supported this project.

Thomas asked why the lighting would occur prior to the park renewal process. Johnson said that the park board discussed this, including the cost of relocating the fields. If the city-owned house was demolished, the parking needs could be addressed at a cost of \$50,000, compared with \$300,000 to relocate the fields. Moving the fields would not provide a desirable parking area because people

avoid parking in areas subject to foul balls. Further, the cost to move these lights would not be significant, likely less than \$5,000.

Johnson said that the issue of city fund use was more an issue of semantics. This proposal was consistent with what the city has done for other youth organizations. He noted that the association funds programs that the city would otherwise have to fund. The lights would be an asset the city would own from the minute they were installed.

Callison noted that the city would own the lights, even if the association defaulted on the loan.

In response to Wagner's question, Johnson said that park renewal would begin in mid-summer, with the recommendations coming to council by late September.

Schneider said that the city acquired the adjacent home as a buffer rather than for active fields. Barone noted that the city was unsuccessful in acquiring a second home, which would have allowed shifting the western field to the north.

Kathryn Moore spoke as a Minnetonka resident and a Mighty Mite participant. She said that the league had not informed its members of the costs, benefits, or implications of this agreement. She had a petition from member families who said that they wanted a say in the decision because they will have to live with it and pay for it.

Thomas said that their concerns should be directed to the association's board.

Mark Gregg, vice president of the Mighty Mites board, said that they did a survey during registration this year. Of their nearly 400 member families, only ten survey respondents did not favor the project. The board decided to move forward, but wanted to explore the project's feasibility with the city. They plan to work out the details and discuss the project with the parents, but first wanted to know if the project is feasible.

Wiersum noted that the cost would be about \$50 per year per family, and asked if there was support for that level of cost. Gregg said that they did a five-year financial projection. Even if they didn't do fund raising, they have an operating surplus, and they have revenues from concessions and tournaments to support the loan. The initial survey indicates support from many families. They are finalizing their 501(C)(3) status, and plan to pursue corporate

donations and fundraising. They do not intend to have children do door-to-door sales, but they have done a spaghetti dinner, and are planning for a Twins event. The association plans to pay off the loan in five years rather than seven.

Wagner said it did not sound like the board had yet approved this arrangement, and asked if the agreement addressed that issue. Schneider said that would be part of the city's due diligence. Gregg said that the board supported moving forward with the lights. They will continue their discussions with their board and their constituents.

Thomas had the same concerns as Wiersum about the financial issues. There have been discussions about lighting those fields, and this would provide an option to light them. The youth would benefit. The city would help with the financing, but would get its money back, and would own the lights. Parking was an issue to address during the park renewal, and may be affected by the redevelopment project. He recalled the park board's discussions about the purchase of the home, and noted that the cost estimates ten years ago to relocate the fields were very high. This proposal was a win for all. The city would be reimbursed for a project it wanted.

Callison said there were two issues: finances and regulations. She said that concerns about noise impacts were legitimate. She was glad that the city owned the house on the north to provide a parking solution. She felt that the lighting request was appropriate and supported it.

Thomas moved, Wagner seconded a motion to:

- 1) Approve an operating agreement between the city and GLMM for the addition of little league lighting on Glen Lake Park fields #1 and #2.
- 2) Adopt Resolution No. 2005-051 amending city council policy 11.10 pertaining to the comprehensive athletic field use policy related to the use of Glen Lake Park fields #1 and #2.

Thomas, Wagner, Wiersum, Callison, and Schneider voted "yes." Ellingson was absent. Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Reappointments to the ArtsCenter Advisory Committee.

Schneider moved, Thomas seconded a motion to approve the following reappointments to the ArtsCenter Advisory Committee:

- Roger Hoel to the ArtsCenter Advisory Committee to serve a two-year term, effective June 1, 2005 and expiring on May 31, 2007.
- Miles Mortenson to the ArtsCenter Advisory Committee to serve a two-year term, effective June 1, 2005 and expiring on May 31, 2007.
- Ann Reason to the ArtsCenter Advisory Committee to serve a two-year term, effective June 1, 2005 and expiring on May 31, 2007.

All voted "yes." Motion carried.

B. Appointments and reappointments to the senior citizen advisory board.

Schneider moved, Callison seconded a motion to approve the following appointments and reappointments to the senior citizen advisory board:

- Florence Dockendorf, 17801 Frommes Circle, to the senior citizen advisory board to serve another two-year term, effective June 1, 2005 and expiring on May 31, 2007.
- Kaye Fredensborg, 11900 Bradford Road, to the senior citizen advisory board to serve a two-year term, effective June 1, 2005 and expiring on May 31, 2007.
- Dave Griep, 12653 Sherwood Place, to the senior citizen advisory board to serve another two-year term, effective June 1, 2005 and expiring on May 31, 2007.
- Marjorie Harn, 10411 Cedar Lake Road, to the senior citizen advisory board to serve another two-year term, effective June 1, 2005 and expiring on May 31, 2007.
- Lois King, 2631 Abbey Hill Drive, to the senior citizen advisory board to serve a two-year term, effective June 1, 2005 and expiring on May 31, 2007.
- Naomi Stock, 5639 Pompano Drive, to the senior citizen advisory board to serve another two-year term, effective June 1, 2005 and expiring on May 31, 2007.

All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting 9:29 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk