

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JUNE 13, 2005**

1. CALL TO ORDER.

Mayor Anderson called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL.

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

4. APPROVAL OF AGENDA.

City Manager John Gunyou reviewed the addendum. A revised agreement with the Hopkins School District was provided for Item #10G. An additional letter from a neighbor was provided for Item #14A, the Sorenson plat.

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

5. APPROVAL OF MINUTES: May 23, 2005 regular meeting.

Wiersum moved, Thomas seconded a motion to approve the minutes of the May 23, 2005 Minnetonka City Council meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Retirement recognition of Police Officer Ron Armstrong.

Mayor Anderson recognized Police Officer Ron Armstrong for his 26 years of dedicated service to Minnetonka. Armstrong thanked everyone and said that he had a great time working for the city.

B. Acknowledgement of Landmark Designation through Historic Minnetonka Program.

Anderson acknowledged a Landmark Designation for the Big Willow historic rail beds as recommended by the Community Heritage Commission. Douglas Johnson, the nominator, received a landmark

plaque from CHC Chair Joe Van Sloun. Van Sloun noted that this was the second transportation related landmark designation.

Schneider said that he was involved in the efforts to make Big Willow a park in the 1970s. He has photographs of the water tower that used to be on the site that fed the steam engines. Schneider then also recognized Mr. Johnson with a CAR Award for his valuable research for the nomination.

C. Minnetonka Community Action Recognition Awards.

Anderson recognized Channa and Chandrani Alwis and Terry Barnes for their fundraising efforts benefiting Direct Tsunami Relief. Chandrani Alwis thanked the council for the recognition. She also thanked their neighbors, St. David's Church and the community for their support in raising \$102,000 to build 50 houses and a skill training center. Their fundraising efforts continue.

Barnes said that the government of Sri Lanka provided official notice that a five acre site has been approved so houses can be built. Anderson added that their fundraising efforts helped to build community in Minnetonka.

D. Recognition of Community Heritage Commissioner Heidi Erm.

Wagner recognized Community Heritage Commissioner Heidi Erm for her service. Anderson presented a plaque to her and said that she was especially privileged to give it to a youth representative. Erm thanked the city for this opportunity.

E. Recognition of Senior Citizen Advisory Board Members Donna Bloom and Vern Drilling.

Wiersum recognized Donna Bloom for her service on the Senior Advisory Board. Bloom said that it was fun and she would do it again.

Thomas recognized Vern Drilling for his service on the Senior Advisory Board. Drilling enjoyed this opportunity to serve his community. He was an international organizational consultant, and said that Minnetonka does a tremendous job.

F. Review of the 2004 Financial Report with the city's audit firm of Kern, DeWenter, Viere, LTD.

Gunyou recognized Finance Director Merrill King and Assistant Finance Director Darin Nelson for their leadership in the completion of the audit. He introduced Joe Rigdon from Kern DeWenter, Viere, who presented the annual audit report.

Rigdon's report on the 2004 Comprehensive Annual Financial Report included the following comments:

- Minnetonka received unqualified opinions for its auditor's report and its yellow book opinion (issued when federal dollars come to a city). An unqualified opinion is the best opinion a city can receive.
- A comparison of 2003 and 2004 general fund expenditures showed that, except for a slight increase related to an accounting change, expenditures were very comparable.
- Minnetonka's ratio of annual expenditures compared to unreserved general fund balance was 32.3%, which was at the lower end of the range recommended by the State Auditor.
- The market value of taxable properties is increasing. The city is managing tax increases well, and is using sound fiscal practices.
- Minnetonka is among the 3% of cities in the nation who receive the top bond rating of Aaa. This means that the city gets the best rates when it borrows money, and shows prudent financial practices.

Rigdon noted that there are comments in the management report, and thanked King and Nelson for their assistance.

Anderson asked about suggestions for improvement regarding bid notices, journal entries, and expenditure coding. Rigdon described the recommendations and said he was satisfied with the changes staff has already implemented to address these issues.

Schneider asked about the major challenges Minnetonka would face in the next two years. Rigdon responded that the greatest challenges would be state imposed levy limits and whether the state would assume responsibility for funding the market value homestead credit.

Wiersum asked if the changes in the fire relief fund balance were a concern. Rigdon said that obligations remain fully

funded. The 2001 level was phenomenal. The value of Minnetonka's fund took a downturn in 2002, as did all relief associations in the state. Many relief associations are not at 100% funding. Anderson noted that the finance director has a close working relationship with the association.

Wagner asked about specific recommendations for the ice arena fund. Rigdon suggested monitoring costs. He noted that some cities have to subsidize arena operations.

Gunyou said that in the past, the Williston Center just covered operations, but it is now covering both operating and capital costs.

Thomas thought that we were going to take an in-depth look at some of the funds. Gunyou said staff took a closer look at the fund balances in the capital funds during CIP planning. There is now a closer tie to the funds carried forward from one year to the next.

Wagner noted that oversight is a council responsibility. He thought fund balances should be discussed during the CIP review.

Wiersum noted the graph on page four of the management letter, and asked if the city spends more than it takes in per household, where those funds would come from. Rigdon noted the chart was for the General Fund, and that there are transfers, such as from the utility fund.

Anderson thanked Rigdon for the report.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings and noted the upcoming Summer Festival and Ice Cream Social.

Gunyou also reported on the effects of the major storm the previous week. He noted that public works staff worked long hours to clear streets of debris and keep the water and sewer system operating. There was a valve failure at the Williston Center, and a fire at City Hall due to the backup generator overheating. Brush drop off hours are being extended for the convenience of residents. Anderson gave special thanks to the public works and public safety staff for their extra efforts. She asked residents for their patience as clean up continues. She noted that there was a residential fire due to a lightning strike.

Anderson noted that Boy Scout Troop 430 was attending the meeting.

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 improvements at Boulder Creek Park.

Gunyou provided the staff report.

Schneider moved, Wagner seconded a motion to award bid #18-2005-05 to Sunram Construction, Inc. for park renewal improvements at Boulder Creek Park with a total bid of \$340,886.36. All voted "yes." Motion carried.

Thomas asked that project updates be posted to the city's Web site in a timely fashion so residents can track the project.

B. Consideration of bids to provide fiber connectivity to Williston Water Tower.

Gunyou provided the staff report.

Thomas asked about size of the antenna dish. Gunyou said that it would be a small microwave dish. IT Manager Amy Cheney said that it would be less than two feet in diameter.

Schneider moved, Wiersum seconded a motion to award the bid for the construction of fiber to the Williston Water Tower to Parsons Technologies for \$279,999, and to reject the alternate bid. All voted "yes." Motion carried.

C. Approval of a Purchase Agreement with three property owners on Minnetoga Terrace for the Nine Mile Creek Watershed District Storm Water Quality Project No. 4653.

Gunyou provided the staff report.

Wiersum moved, Thomas seconded a motion to approve a purchase agreement with three property owners on Minnetoga Terrace. All voted "yes." Motion carried.

10. CONSENT AGENDA (Items Requiring a Majority Vote):**A. Claims for council authorization – June 13, 2005.**

Wiersum moved, Wagner seconded a motion to approve the June 13, 2005 claims list, including checks numbered 189667 through 190032, totaling \$1,842,723.97. All voted “yes.” Motion carried.

B. Authorization to enter into an agreement with Intermediate School District #287 for police liaison services.

Wiersum moved, Wagner seconded a motion to enter into an agreement with Intermediate School District # 287 to provide police liaison services. All voted “yes.” Motion carried.

C. Resolution of support for State of Minnesota capital appropriation for railroad switching yard in Glencoe, MN.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2005-066 supporting a State of Minnesota capital appropriation for a railroad switching yard in Glencoe, MN. All voted “yes.” Motion carried.

D. Conditional use permit to build an earthen berm at 15325 State Highway 7 for Jeffrey Wiita.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2005-067 approving a conditional use permit to move 7,000 cubic yards of earth at 15325 State Highway 7. This resolution is based on the following findings:

- 1) The berm would meet the general standards required for any conditional use permit:
 - a. The use is consistent with the intent of the ordinance;
 - b. The use is consistent with the goals, policies, and objectives of the comprehensive plan;
 - c. The use does not have any undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
 - d. The use does not have an undue adverse impact on the public health, safety, or welfare.
- 2) The berm is reasonable for three reasons:
 - a. It would screen residential properties from State Highway 7.
 - b. It would help maintain a wooded/vegetated corridor along the highway.

- c. Its design and location have been reviewed and approved by the city engineer and MnDOT officials.
Approval is subject to the following conditions:
- 1) The following items must be submitted for staff review and approval prior to issuance of a grading permit:
 - a. Construction management plan.
 - b. A full copy of the approved MnDOT permit.
 - c. A letter of credit or cash escrow in the amount of 125% of a bid cost or 150% of an estimated cost to complete all grading requirements and restore the site.
 - d. Proof of having recorded this resolution with the county before the city issues a building permit.
 - 2) The berm must be constructed in substantial conformance with the following plans, unless modified by other conditions:
 - Grading plan date-stamped April 29, 2005
 - Landscape plan date-stamped April 29, 2005
 - 3) The berm must not cover any utility access points as required by public works staff.
 - 4) Field adjustments to both the grading and/or landscape plan must be made as required by the city engineer or environmental resources coordinator during the course of construction.
 - 5) Vegetative cover must be established on both sides of the berm. Upon completion of construction, the berm must be seeded with a quick crop, such as oats, or as approved by the environmental resources coordinator.
 - 6) The residential property owner is responsible for replacing any required landscaping that dies.
 - 7) The applicant must agree to the conditions in writing.

All voted "yes." Motion carried.

E. Resolution establishing Just Compensation for the partial acquisition of twelve parcels of land for the T.H. 7/Williston Road North Frontage Road Improvement Project No. 4806.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2005-068 authorizing the partial acquisition of twelve parcels of land by negotiation or by condemnation and establishing just compensation thereof for the T. H. 7/Williston Road North Frontage Road Improvement Project No. 4806. All voted "yes." Motion carried.

F. Resolutions ordering the abatement of nuisance conditions.

Community Development Director Ron Rankin reported that the properties noted as 1, 4 and 5 were now in compliance.

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

- 1) No action for 1908 Linner Road.
- 2) Resolution No. 2005-069 ordering the abatement of nuisance conditions existing at 3600 Hopkins Crossroad.
- 3) Resolution No. 2005-070 ordering the abatement of nuisance conditions existing at 10604 Crestridge Drive.
- 4) No action for 11953 Hilloway Road West.
- 5) No action for 14300 Orchard Road.

All voted "yes." Motion carried.

G. Authorization to enter into agreement with Hopkins School District to utilize existing school district conduit.

Wiersum moved, Wagner seconded a motion to authorize the agreement with Hopkins School District concerning conduit. All voted "yes." Motion carried.

H. Approval of amended liquor licenses for an outdoor dining area for the Origami restaurant at 12305 Wayzata Boulevard.

Wiersum moved, Wagner seconded a motion to amend the liquor licenses for the Origami restaurant at 12305 Wayzata Boulevard, to allow liquor service at the outdoor dining area, subject to the following conditions:

- 1) Any outdoor sound system is to have the volume regulated to a moderate level. The city, at its sole discretion, may require any outdoor sound system to be removed.
- 2) The outdoor dining area must close by 10 p.m. Sunday through Thursday, and by 11 p.m. Fridays and Saturdays.

All voted "yes." Motion carried.

I. Items concerning proposed telecommunications antennas and equipment at the Hathaway water tower site at 5604 Hathaway Lane for T-Mobile:

- 1) Conditional use permit; and**
- 2) Lease agreement**

Wiersum moved, Wagner seconded a motion to:

- 1) Adopt Resolution No. 2005-071 approving the proposed conditional use permit. This resolution is based on the following findings:
 - a. The city code recognizes telecommunications facilities as valuable public resources.
 - b. The proposal meets all of the conditional use permit standards.

Approval is subject to the following conditions:

 - a. Record this resolution with the county before the city issues a building permit.
 - b. The site must be developed and maintained in substantial conformance with the plans dated March 2, 2005.
 - c. The exterior surface of the antennas must be painted to match the existing water tower.
 - d. The building addition must match the existing building.
 - e. The evergreen plantings on the west side of the building must be replaced.
 - f. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - g. The applicant must agree to the above conditions in writing.
- 2) Approve the lease agreement.

All voted "yes." Motion carried.

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

12. **INTRODUCTION OF ORDINANCES:** None.

13. **PUBLIC HEARINGS:** None.

14. **OTHER BUSINESS:**

A. **Preliminary plat, with variances, for a two-lot subdivision at 3848 Haven Road for Lorraine J. Sorenson.**

Planning Director Geoff Olson provided the staff report.

Wiersum asked if the Sorensons had been encouraged to work with their neighbors. He saw some potential for a cooperative effort that could eliminate a lot behind a lot. Olson said that the issue was raised at the planning commission. The property owners to the south were not interested in selling. The property to the south was

for sale from 1993 to 1997 and the applicant could have purchased it then.

Anderson said that same thought occurred to her. She noted that the council could only act on what was before them tonight. She and Wagner asked about alternatives if this project was not approved.

Olson said that common driveways were possible, but that had not been discussed with the applicant. There could also be discussion about the 40 foot separation between homes.

Leland Sorenson and Lorraine Sorenson spoke as applicants. They have unsuccessfully tried three times to discuss options with the new owners of the property to the south. Those discussions included purchasing a driveway easement and property trades. Lorraine Sorenson noted that the property to the south sold for \$100,000. She could not afford that, and asked to purchase a smaller portion, but the property owner refused.

Leland Sorenson said that their property is 43,805 square feet, which is only 195 feet short of the required 44,000 square feet. That is the equivalent of 18 inches of additional length, or a seven inch strip along the length of each side. He did not think that was a great amount for a variance. He noted that the city has used one-half of the right-of-way. He also noted that the two houses planned for the property would enhance the neighborhood.

Lorraine Sorenson asked that the council consider the division of the property with the staff's revisions. She moved to her property in 1961. There were six trees on the property then, and there are now 44. There were three houses on the road and a barn. Lot sizes were reduced after the city sewer and water system was constructed. She did not think their proposal would change the character of the neighborhood, and said that the houses would be consistent with others in the area.

Paul St. Clair, 3830 Haven Road, has owned the property to the north since 2001, and has lived in Minnetonka for 43 years. He did not like the plan. He said it would be difficult to give a non-emotional response, and maintained he had property rights. He saw the issues as financial, and whether or not the city would compromise on its code. He thought the requested variances were significant, the driveways would take up space, and there would be more runoff to Spring Lake. St. Clair said that there were also issues of fairness. When the neighbors to the south built, the Sorensons opposed their

variance. St. Clair said that he and other neighbors have offered the Sorensens money to maintain the integrity of their lot. St. Clair felt that the new houses would appear to have been squeezed in. He asked the city council to do the right thing. He said that this property belongs to the community, and the Sorensens have benefited from the surrounding development.

In response to Schneider's question, St. Clair acknowledged that it would be possible to build two homes if the positions were changed and a form of compensation provided to the neighbors.

Anderson noted that Sinclair's letter was in the addendum. She thanked him for offering solutions. St. Clair said that as a business man, he likes to stay away from the emotional aspect and solve problems.

Sue Miller, 3826 Haven Road, has lived north of the Sorensens property since 1998. Part of the attractiveness of that area was the large lots. She does not have a lake view, but they view the wooded area. She said that the Sorensens now want to remove the trees they planted. Sorensens would subdivide and sell, and there would be no benefit for the neighbors. There would be additional traffic and runoff. The positioning of the new houses would not be in keeping with the rest of the neighborhood. She said that one new home would be beautiful. Miller said that their home is now for sale. She asked the Sorensens how they would feel if they lived where she or the St. Clair's live.

Leland Sorenson noted that Miller's home is behind St. Clair's on a lot that was split. The new home to be built on the back of the Sorensens' existing lot would be the same distance from Haven Road as Miller's. Sorenson said that he was careful to position the front of the new house so it would not affect Mr. St. Clair's view.

Lorraine Sorenson said that they had the Millers over to discuss this proposal early on, and they did not voice any objections. She also noted that the neighbors expressed concerns about runoff to Spring Lake when the cul-de-sac was installed. The city installed a drain to address that concern. She said that the neighbors like the park-like setting, and have \$500,000 to \$700,000 homes on smaller lots. She asked if it was her obligation to provide that park. She is willing to work with the neighbors, but they need money to afford assisted living. She asked that the council approve the project with the staff revisions. Leland Sorenson added that none of the neighbors have made specific offers to them.

Anderson noted that the council's decision could not be based entirely on the opinions of the neighbors. Olson agreed, and said that the city attorney has made that comment on a number of occasions.

Anderson said that the council could consider the character of the neighborhood. She did not think the council had previously considered the issue of the view. Olson said that was also correct. He said that there was a similar situation where a garage would block another property owner's view to a wetland. There are no ordinance restrictions concerning construction that would obstruct a view.

Schneider noted that if one home was built on the property the city still could not dictate its location, so it might end up blocking the neighbor's view. In response to Schneider's question, Olson said that if the property remains as it is, the city could not require the additional 25 feet of right-of-way. Olson said that the city can maintain road beds that have been used for a prolonged period.

Anderson noted that if the council denied the request for two lots tonight, the matter could be reconsidered in the future.

In response to Wiersum's question, Olson said that the city's ordinance states that the lot area must exclude the dedicated right-of-way. Using that requirement, this property is 3,600 square feet short. Without the right-of-way, it would be 300 square feet short.

Anderson noted that the property across the street was 44,000 square feet before the right-of-way was removed. Olson said that it was very similar to the Sorensens. Olson noted that approval was granted in 1980 and took into consideration the right-of-way dedication. In 1994, the property to the north met the requirement, even with the right-of-way included.

Wagner said that the only public benefit was gaining right-of-way. He was concerned about setting precedent regarding lot size. He noted that the city is looking at a more restrictive ordinance. He was leaning toward not supporting the request.

Thomas agreed with Wagner. He has not supported lots smaller than one-half acre in size.

Wiersum agreed with Wagner and Thomas. He was concerned because the new houses will not be small. He noted that the council hasn't always liked the results when houses are built behind

houses. The new homes would be larger than others in the neighborhood.

Schneider felt that the lot and the environment could support two homes, but the neck lot would make it a funny configuration. Both homes should be on the cul-de-sac. If the neighbors worked together, they could retain and create good views. He would support a denial because this is not the right solution.

Lorraine Sorenson said that they would like to withdraw their proposal. Olson said that she could do that at any time, but asked if she intended to meet with the neighbors. Leland Sorenson said that they would try to see if something else could be worked out.

In response to Anderson's question, Olson said that if they withdrew their application, they would have to reapply and pay the fee again. If they postponed, they could come back to the city council with revisions or they could start over. The Sorensens said that they wanted to postpone.

Anderson asked if council action was needed. Olson said that council would have to approve the postponement by a simple majority vote.

Wiersum thought that if the lot developed with one home, the new home might be larger, and could potentially block the view more. Olson said that was a fair statement. He said that there were some advantages for the neighbors to work with the Sorensens.

Thomas noted that the city has a program to assist neighbors with protecting property.

St. Clair said that he understood that the lake front was a public beach.

Schneider moved, Wagner seconded a motion to continue the request for preliminary plat approval at 3848 Haven Road indefinitely. All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None.

16. ADJOURNMENT.

Thomas moved, Wagner seconded a motion to adjourn the meeting 8:50 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk