

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, AUGUST 8, 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 Al Thomas, Tony Wagner, Bob Ellingson, Brad Wiersum, Jan Callison, and Karen Anderson were present. Councilmember Terry Schneider was excused.

4. APPROVAL OF AGENDA.

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

5. APPROVAL OF MINUTES: July 25, 2005 regular meeting.

Thomas moved, Wiersum seconded a motion to approve the minutes of the July 25, 2005 Minnetonka City Council meeting. Thomas, Ellingson, Wiersum, Callison and Anderson voted "yes." Wagner abstained. Motion carried.

6. SPECIAL MATTERS: None.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings. Anderson noted that the joint special meeting with the Hopkins City Council on August 23 was precedent setting.

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

John Pfleiderer, 17719 Meadow Ridge, asked the city council to consider amending Ordinance No. 2002-10, adopted on May 6, 2002. He asked that the number of vehicles allowed to be parked outside be increased. He explained that many people have boats, trailers, and students who live at home who have cars.

Anderson said that the city council usually refers matters raised during this item to staff for future direction, but asked if other councilmembers had questions.

Callison noted that the ordinance allows outside storage of up to four vehicles, and asked if Pfleiderer was asking that to be raised to seven.

Pfleiderer said that the majority of homes in his neighborhood have four to five bedrooms. There are five members in his family. Students are seasonally home, and he has a pick up truck to tow his boat. He noted that trailers are usually stored in backyards where they cannot be seen.

Anderson said that she was not inclined to support his request. The ordinance was rewritten in 2002. There are not that many violations of the ordinance. Most nuisance violations relate to long grass. Often, the excess vehicles are unlicensed, junk vehicles. She acknowledged that there may be seasonal violations when students are home.

Pfleiderer said that there was a complaint about his property, but there are other violations in his neighborhood. He felt that reasonable use of property should reflect families.

Callison thought that allowing four vehicles outside, in addition to what is parked inside a garage, was pretty generous. She had not heard other complaints about the ordinance. She did not see this as a city-wide issue and was not inclined to have staff spend time on it.

Gunyou reported that on July 26, there were 10 vehicles stored outside on Pfleiderer's property. This was far more than the change Pfleiderer was seeking. Two days later, there were still five vehicles stored outside. On July 29th, there were five vehicles stored outside and one car parked on the street after hours.

Anderson noted that four vehicles are allowed outside, plus typically a garage holds two vehicles. Pfleiderer was seeking to increase that total number to eight. Anderson said that one of the reasons that Minnetonka looks so good compared to other cities is that it has an enforceable nuisance ordinance. She would not want to be so lenient as to allow eight vehicles.

Pfleiderer said that he was not aware of the 2002 ordinance change. He has a car towing dolly and the city attorney had to seek information from the state as to whether or not that would count as a vehicle. He now has four vehicles stored outside after his meeting with staff.

Anderson said that there might be a need to remind residents of the requirements of the ordinance.

Pfleiderer said that he did not know that boat trailers counted as vehicles.

Thomas agreed with Callison. When the ordinance was amended, he was in the minority who did not support including small trailers. He has a single car garage, and noted that it is difficult to comply during the summer months. However, the ordinance requirements keep Minnetonka neat and tidy. He did not support staff doing additional research.

Wiersum noted that with a single car garage, five vehicles could be stored; with a two car garage, six; and with a three car garage, seven. He said that people have different preferences, and he prefers that there are no vehicles parked outside. Even though Pfleiderer lives at the end of a cul-de-sac, Wiersum said that others do not. Increasing the number of vehicles parked outside could be unsightly. He did not support increasing the number of vehicles allowed to be stored outside.

Wagner said that he would support allowing boats to be stored outside during the summer season, but that he was likely in the minority.

Anderson concluded that the majority of the council did not want to pursue this matter further. She thanked Pfleiderer for bringing the issue to them, and noted that the council's action tonight would reduce the expenditure of tax dollars because staff wouldn't have to further research this issue when there was no council support for the request.

9. BIDS AND PURCHASES: None.

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

A. Claims for council authorization – August 8, 2005.

Wiersum moved, Thomas seconded a motion to approve the August 8, 2005 claims list, including checks numbered 190897 through 191211, totaling \$3,099,454.93. All voted "yes." Motion carried.

B. Resolution appointing election judges for the Primary Election on September 13, 2005.

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2005-091 appointing the election judges for the September 13, 2005 Municipal Primary Election. All voted "yes." Motion carried.

C. Resolution to approve a cooperative agreement with Hennepin County to receive Transit Oriented Development grant funds.

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2005-092 approving a cooperative agreement contract No. A051113 with Hennepin County for Transit Oriented Development grant funds. All voted "yes." Motion carried.

D. Resolution accepting MnDNR grant for the Minnehaha Creek Headwaters Trail project.

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2005-093 accepting a grant from the Minnesota Department of Natural Resources for the Minnehaha Creek Headwaters Boardwalk and Trail Project. All voted "yes." Motion carried.

E. Resolutions ordering the abatement of nuisance conditions.

This item was pulled from the consent agenda by City Attorney Desyl Peterson. She noted that both properties were checked today, and neither were in compliance.

Peterson noted that she spoke with Ed Seltzer, the owner of 14210 Minnehaha Place, this afternoon. Seltzer said that he was not able to meet the deadline due to an injury. Peterson suggested that the council take a similar approach they used two weeks earlier, which would allow Seltzer 10 days to comply with the adopted resolution.

Anderson added that the council also directed staff to work with that property owner. She asked Seltzer if he understood the effect of that action, and said that he could contact staff if there were extenuating circumstances.

Seltzer explained that he injured himself while cutting the weeds. He is about 85% in compliance. He has lived on the property for 15 years and never owned a mower, but now he is being forced to cut his lot.

Anderson noted that he would have ten days from the resolution to comply. If he did not, the city would have the work done and would charge the costs against his property. She noted that this usually results in a higher cost.

Callison asked if a complaint had been made about Seltzer's property. Peterson said that one had been received. Callison noted

that people may not have been bothered by his property before, but now someone is.

Seltzer said that his neighbors have similar weeds. He raised that complaint with John Weinand, who responded that he did not want to address that issue.

Gunyou explained that Weinand had not yet checked into Seltzer's complaints, which were received today, but that he would.

Anderson said that neighborhood issues are difficult, and she hoped that things could be worked out. The city has a process that allows natural growth, and the city will use those techniques at the Civic Center. She said that the city's staff knows the difference between natural growth and weeds.

Seltzer said that he had no problem bringing his property into compliance, but now his property is a box cut out of a neighborhood where there are other weeds. He also raised an issue about a fence, which Weinand said was a non-issue. He filed a complaint with Peterson today.

Anderson said that was Seltzer's right, and noted that times change.

Seltzer noted that he has a trailer and was waiting to find out if it qualified as a vehicle. Peterson said that utility trailers, not intended for road use, would not count as vehicles.

Seltzer hoped that the other properties in his neighborhood would be straightened out. He said that everyone should be treated equally, and there should not be selective enforcement.

Anderson said that he has a right to file a complaint. Seltzer said that he filed the complaint because he was upset. Anderson said that she would trust the process to work. She noted that staff tries to fairly enforce the ordinance. Seltzer said that he hoped that too, and thanked the council.

Wiersum, moved, Callison seconded a motion to adopt the following resolutions:

- 1) Resolution No. 2005-094 ordering the abatement of nuisance conditions existing at 14210 Minnehaha Place.
- 2) Resolution No. 2005-095 ordering the abatement of nuisance conditions existing at 14335 Spring Lake Road.

All voted "yes." Motion carried.

11. Items requiring Five Votes:

A. Preliminary plat, with lot area and lot width variances, for a two-lot subdivision at 13209 Northridge Road for Joey and Kristi Jankord.

Callison moved, Wagner seconded a motion to give preliminary approval to the Jankord Addition, date-stamped June 15, 2005, with lot area and lot width at building setback variances. Approval is based on the following findings:

- 1) Except for the variances, the proposal meets the required standards and ordinance for a preliminary plat.
- 2) The proposal meets the required standards for a variance, because:
 - a. The applicants are proposing to use the property in a reasonable manner. The size of the property relative to the size of area properties presents a practical difficulty. Though the property is disproportionately large, current lot area requirements prevent it from being divided into lots more characteristic of the area.
 - b. Given the size of the property, its width, and the location of the existing home, the side yard of the property has the appearance of an undeveloped lot. The proposal would create two lots similar in size to the existing lots in the neighborhood.

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 the Northridge Road and Plymouth Road rights-of-way and seven-foot wide drainage and utility easements along both sides of the newly created lot line.
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - b. Pay the city a park dedication fee of \$2,375.
 - c. Remove the bushes in the northeast corner of the property as required by the city engineer.
- 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) 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. 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, subject to the planning director's approval. Any new house on Lot 1 must maintain a 20-foot setback from the west property line. The city may require adjustments in the house pad location to maximize tree preservation.
 - b. The sewer and water services must be shown to minimize impact to any significant trees.
 - c. A temporary rock driveway, erosion control, and tree protection fencing must be installed, subject to review and approval of the city's environmental resources coordinator. The fencing must be installed outside of the drip line of the spruce trees near the west property line.
 - d. A copy of the recorded plat and any easement or covenants required to be recorded.
 - e. A hookup fee for sanitary sewer and water.
 - f. 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) The existing deck must be removed from the house.
- 5) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 6) 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.

- 7) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

Thomas said that he does not support lots smaller than 22,000 square feet unless there is something special, such as a PUD. He would not support this request.

Wagner, Ellingson, Wiersum, Callison and Anderson voted “yes.” Thomas voted “no.” Motion carried.

12. INTRODUCTION OF ORDINANCES: None.

13. PUBLIC HEARINGS:

A. Public hearing concerning proposed transfer of cable television system.

Gunyou provided the staff report.

Anderson opened the hearing at 7:07 p.m. No one spoke.

Wiersum moved, Thomas seconded a motion to continue the public hearing concerning proposed transfer of cable television system to September 12, 2005. All voted “yes.” Motion carried.

14. OTHER BUSINESS: None.

15. APPOINTMENTS and REAPPOINTMENTS: None.

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting 7:08 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk