

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, AUGUST 22, 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 Tony Wagner, Bob Ellingson, Brad Wiersum, Terry Schneider, Jan Callison, Al Thomas, and Karen Anderson were present. Ellingson then left the chambers.

4. APPROVAL OF AGENDA.

City Manager John Gunyou reviewed the addendum. An appeal had been filed regarding item 13A(3) by Laura Hansen. The planning director provided corrections and an additional recommendation for item 14B, the Metro Transit ramp. Gunyou said that the city attorney would also present information about an alternative to the letter of credit during the discussion of that item.

Callison moved, Thomas seconded a motion to accept the agenda with the addendum. Wagner, Wiersum, Schneider, Callison, Thomas and Anderson voted "yes." Ellingson was absent. Motion carried.

5. APPROVAL OF MINUTES: August 8, 2005 regular meeting.

Wiersum moved, Thomas seconded a motion to approve the minutes of the August 8, 2005 Minnetonka City Council meeting. Wagner, Wiersum, Callison, Thomas and Anderson voted "yes." Schneider abstained. Ellingson was absent. Motion carried.

6. SPECIAL MATTERS:

A. Proclamation declaring September as National Alcohol and Drug Addiction Recovery Month.

Callison read a proclamation declaring September as National Alcohol and Drug Addiction Recovery Month.

B. Proclamation declaring September as National Prostate Cancer Awareness Month.

Schneider read a proclamation declaring September as National Prostate Cancer Awareness Month.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Anderson welcomed former councilmember Ken Tauer to the meeting.

Gunyou reported on the schedule for upcoming council meetings and the Labor Day holiday. He also noted that the primary election will be held on September 13.

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

Mary Farmer wanted to talk about the bus situation in Minnetonka. Anderson advised her that item #14A was related to her concerns.

9. BIDS AND PURCHASES: None.

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

A. Claims for council authorization – August 22, 2005.

Wagner moved, Thomas seconded a motion to approve the August 22, 2005 claims list, including checks numbered 191212 through 191521, totaling \$2,375,802.50. Wagner, Wiersum, Schneider, Callison, Thomas and Anderson voted “yes.” Ellingson was absent. Motion carried.

B. Resolution to approve a master agreement for affordable housing units with Cloud 9 Real Estate, LLC.

Wagner moved, Thomas seconded a motion to adopt Resolution No. 2005-096 approving a master agreement with Cloud 9 Real Estate, LLC for affordable housing units at the Cloud 9 Sky Flats. Wagner, Wiersum, Schneider, Callison, Thomas and Anderson voted “yes.” Ellingson was absent. Motion carried.

C. Resolution to approve a Master Agreement for affordable housing units with Wyldewood Condominiums, LLC.

Wagner moved, Thomas seconded a motion to adopt Resolution No. 2005-097 approving a Master Agreement for affordable housing units with Wyldewood Condominiums, LLC. Wagner, Wiersum, Schneider, Callison, Thomas and Anderson voted “yes.” Ellingson was absent. Motion carried.

D. Resolution designating the National Incident Management System (NIMS) as the basis for all incident management in the city of Minnetonka.

Wagner moved, Thomas seconded a motion to adopt Resolution No. 2005-098 designating the National Incident Management System (NIMS) as the basis for all incident management in the city of Minnetonka. Wagner, Wiersum, Schneider, Callison, Thomas and Anderson voted "yes." Ellingson was absent. Motion carried.

E. Resolution adopting the 2006 meeting schedule for the Minnetonka City Council.

Wagner moved, Thomas seconded a motion to adopt Resolution No. 2005-099 adopting the 2006 meeting schedule for the Minnetonka City Council. Wagner, Wiersum, Schneider, Callison, Thomas and Anderson voted "yes." Ellingson was absent. Motion carried.

F. Preliminary plat for a three-lot subdivision at 18517 Ridgewood Road for Rod Peterson.

Wagner moved, Thomas seconded a motion to give preliminary approval to Ridgewood Heights plat, date-stamped July 29, 2005. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven foot-wide drainage and utility easements along all other lot lines.
 - (2) The frontage at the right-of-way for Lot 2 must be revised to be at least 65 feet.
 - (3) A drainage and utility easement must be established over the 907.4 elevation.
 - b. Pay the city a park dedication fee of \$4,750.
 - c. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- 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.
 - (3) Conservation/buffer easement 25 feet from the edge of the delineated wetland and a drawing of the easement for the approval of the city attorney. The easement and drawings must be recorded with the final plat and a drawing of the easement must be attached to the easement deed.
 - c. Any other requirements included with final plat approval.
 - d. Payment for traffic signs and installation, as required by the city engineer.
 - e. If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount of must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- 3) The following must be completed before the city issues a grading permit or any site work is started.
- a. Final grading, drainage and erosion control plans must be submitted for the city engineer's approval. If the developer is building the streets and utilities, the developer must submit final street and utility plans for the city engineer's approval.
 - b. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city. The city will not release the letter of credit

- or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway and grading have been completed according to the plans approved by the city.
- c. All trees to be preserved must be fenced and erosion control measures installed for the planning director's approval.
 - d. A construction management plan must be submitted for the planning director's approval.
 - e. If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- 4) The following must be submitted to the city before the city issues a building permit:
- a. A grading and tree preservation plan for the new lot, subject to staff approval. Plans must include the construction of the driveway. The plans must be in substantial compliance with agreed building areas as required with the final plat.
 - b. A copy of the recorded plat and any covenants required to be recorded.
 - c. A hookup fee for sanitary sewer and water.
 - d. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
 - e. Minimum low floor elevation must be 909.4.
- 5) During construction, the streets must be kept free of debris and sediment, and the tree protection 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.

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

11. Items requiring Five Votes:

A. Request for a second, detached garage at 16560 Gray's Bay Boulevard for Bob Pillsbury.

Wiersum moved, Callison seconded a motion to adopt Resolution No. 2005-100 approving a conditional use permit, with a side yard setback variance from 20 feet to 10 feet for construction of a 20-foot-tall detached garage at 16560 Gray's Bay Boulevard. Approval is based on the following findings:

- 1) With the exception of the side setback variance, the proposal meets the findings for a conditional use permit.
- 2) The proposal meets the required standards for a variance, because:
 - a. There is a unique hardship to the property caused by the location of significant trees that prevent the property owner from constructing the garage to meet the required setbacks without removal of the trees.
 - b. The variance would meet the intent of the ordinance because the garage would be well screened by existing trees on all sides, and would not be visible from Lake Minnetonka or Gray's Bay Boulevard.

The permit is subject to the following conditions:

- 1) The building materials for the garage must match the color and style of the existing home.
- 2) Tree protection/erosion control fencing must be installed and maintained throughout the construction process.
- 3) The structure may not be used for commercial activity, such as off-premise business or home occupation storage and activities.
- 4) The structure may not be converted to a residential dwelling.
- 5) If the existing lilac's between the garage and side lot line die, the property owner must replace them with some type of evergreen screening, subject to staff approval.
- 6) Before the city issues a building permit, the applicant must agree to the above conditions in writing and record this resolution with the county.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.

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

12. INTRODUCTION OF ORDINANCES: None.

13. PUBLIC HEARINGS:

A. Public hearing to consider resolutions for the special assessment of 2004-2005 projects.

Anderson explained the process, and City Engineer Lee Gustafson provided the staff report. Ellingson returned at 6:49 p.m. Anderson opened the public hearing.

Laura Hansen, 14222 Bellevue Drive, spoke about her appeal. She did not contest that she signed the abatement agreement, but she objected to the methods that were used which she characterized as de-Americanizing and de-humanizing. She said that the items that were confiscated were not public nuisance items because they were not firearms and did not present a danger to the public. No documentation was filed prior to their removal stating why they were a danger to the public. The removed items included a sprinkler, and a Radio Flyer wagon which she said held sentimental value.

Anderson asked staff to respond. She noted that a nuisance violation does not mean that the items are dangerous. Usually nuisance items are unsightly.

City Attorney Desyl Peterson noted that the city has a long history with Hansen, but she did not think it would be appropriate to provide the details of those contacts. In Hansen's case, the city did not just do a nuisance order, but rather this matter went through the District Court. A District Court Judge personally went to her home to oversee the removal of the items. Hansen was represented by an attorney in those proceedings, and that attorney was present when she signed the abatement agreement. The process protected her rights. Peterson noted that despite the considerable staff time involved, the abatement assessment was small - \$147.

Anderson asked if the city had jurisdiction to respond to Hansen's appeal. Peterson said that Hansen had also filed an appeal with the District Court, which was the proper venue. Her first appeal was dismissed, but she has filed another.

Anderson closed the hearing at 6:57 p.m.

Hansen asked to rebut Peterson's comments. Hansen said that the agreement was signed in the presence of her attorney, but she thought that the attorney might be deemed incompetent. She objected to the actions that took place on August 19.

Peterson responded that those activities were enforcement of a court order, and Hansen's recourse would be her appeal to the Court of Appeals.

In response to Callison, Peterson said that the city did not adopt a nuisance resolution in Hansen's case, and that Hansen was given notice of the court proceedings.

Callison supported staff's recommendation related to Hansen's property, and said that she continues to have other opportunities for appeal. Schneider concurred.

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

- 1) Resolution No. 2005-101 adopting assessments for 2004-2005 sewer and water improvement projects.
- 2) Resolution No. 2005-102 adopting assessment for privately installed sewer and water improvement projects.
- 3) Resolution No. 2005-103 adopting assessments for Nuisance Abatement Project Nos. 4894N-34, 4894N-35, 4894N-36, 4894N-37, 4894N-38, and 4894N-39, 4894N-41, 4894N-43, 4894N-44, 4894N-47, 4894N-48, 4894N-49 and 4894N-50.
- 4) Resolution No. 2005-104 adopting assessments for Nuisance Abatement Project No. 4894N-42.
- 5) Resolution No. 2005-105 adopting assessments for Nuisance Abatement Project No. 4902.
- 6) Resolution No. 2005-106 adopting assessments for Fire Sprinkler Project No. 4874F-7.

All voted "yes." Motion carried.

B. Public hearing to consider a temporary on-sale wine license for the Hopkins-Minnetonka Family Resource Center for a fundraiser on October 8, 2005.

Community Development Director Ron Rankin gave the staff report. Anderson opened the hearing at 7:01 p.m. No one spoke and the hearing was closed.

Wiersum moved, Wagner seconded a motion to grant a temporary on-sale wine license for the Hopkins-Minnetonka Family Resource Center for an October 8, 2005 fundraiser. All voted "yes." Motion carried.

C. Public hearing to consider a resolution that vacates part of Bantas Point Road next to the southeast side of 2410 Bantas Point Road.

Gunyou gave the staff report. Anderson opened the hearing at 7:02 p.m. No one spoke, and the hearing was closed.

Callison moved, Thomas seconded a motion to adopt Resolution No. 2005-107 vacating part of Bantas Point Road next to the southeast side of 2410 Bantas Point Road. All voted "yes." Motion carried.

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14. OTHER BUSINESS:

A. Presentation of the annual transit Memorandum of Understanding with the Metropolitan Council.

Gunyou provided an introduction to this item. He noted that this report has not been reviewed in a public forum in the past, but thought that a public discussion was appropriate this year because of the substantive service changes being proposed. Rankin provided the staff report.

Arlene McCarthy and David Christiansen of Metro Transit were present. McCarthy thanked staff, especially Rankin and Elise Souders, for their help.

McCarthy noted that they do not like to reduce service, and that those decisions always relate to ridership criteria. She also noted that fares have been increased to help close the funding gap. Routes 612, 641, and 661 are proposed to be eliminated because they do not meet the minimum standards for riders per revenue hour. The system wide average is 40 passengers per revenue hour, and all routes proposed for elimination were at less than 15 passengers per hour. The three routes scheduled for elimination only average 2.5 to 4 passengers per hour. Dial-a-Ride has some capacity and could provide an alternative for the 612 route. Metro Transit hopes for additional transit funding through a 2006 referendum which would dedicate a greater share of the motor vehicle sales tax to transit.

Christiansen said that the high point of the report was the success of Minnetonka's Dial-a-Ride program, added when Minnetonka voted to opt out of the metro transit system. The program has replaced the senior center's van program and some faith-based programs, and has also provided some expanded services. A year

ago, the Dial-a-Ride ridership was about two passengers per hour. Regionally Dial-a-Rides average three passengers per hour and the best programs average five passengers per hour. As of the end of last year, Minnetonka's Dial-a-Ride ridership was 3 passengers per hour, and by July it was 3.2 passengers per hour. Metro Transit plans to continue to work with city staff to market the program, and will make modifications to improve operations.

Christiansen noted that Dial-a-Ride's performance has surpassed the 612 route's performance, and it might help fill the 612 gap. He noted that recent route links would eliminate the need to transfer to get to St. Louis Park. In September, Metro Transit will direct Senior Community Services (SCS) to incorporate service between Shorewood and the five south Tonka cities into one territory, which will expand and improve services.

Christiansen said that if Dial-a-Ride ridership continues to grow, there may be some opportunity to increase weekend or evening service. He noted that Saturday ridership had been low, so some of those contract hours were adjusted to weekdays. Metro Transit will meet the need as much as they can.

Anderson noted that it is a good news/bad news report. Earlier in the legislative session, it appeared that cuts would be much more severe. The resulting cuts were not as bad. She appreciated that where some of the cuts were made, alternative services were available. She has heard most concern about the 612 route, which is the only public transit available to a very large Minnetonka affordable housing complex—Minnetonka Heights.

Anderson noted that Minnetonka has been challenged over the last 15 years to do our share to provide affordable housing. Minnetonka stepped up to that challenge, and Anderson was proud of what was achieved--over 600 new units of affordable housing in the last 8 years, and another 175 units of renovated affordable housing. To make that housing succeed, Minnetonka has partnered with many agencies to make sure services, including public transit, are available. Many of the Minnetonka Heights residents are transit-dependent. To have the 612 route cut is of particular concern. Anderson understood that the ridership was low. She had hoped that services would only have to be reduced, not eliminated. She wondered if another route could expand to cover Minnetonka Heights once or twice a day.

Thomas agreed with Anderson's comments. Minnetonka Heights is in his ward. He understood the ridership statistics. Between now

and 2008, many of the people in Minnetonka Heights may have more difficulty getting to work. Thomas thought it sad that Minnetonka is trying to provide affordable housing in the community, as the Metro Council has asked us to do, but there is a spot in the city that will lose its service. Minnetonka will continue to try to provide affordable housing. There is a problem and it will get worse. It's sad that the left and right hands are not working together. Thomas felt that Minnetonka was not being supported, and he was disappointed that the route would be eliminated.

Callison asked about rider demographics. Rankin said that there are many seniors using the Dial-a-Ride service.

Christiansen said that 40% of the Dial-a-Ride users are seniors. The rest are students or other transit-dependent users. With 612 recording 2-plus riders per hour, the Dial-a-Ride is more productive. Christiansen said that the 612 route runs entirely empty on many days. Metro Transit cannot afford low ridership routes without sufficient funds to continue them. With the city's help and their regional marketing person, they will do direct outreach to the affordable housing units to further emphasize the availability of Dial-a-Ride. They hope to make it work.

Callison was interested in increased opportunities for students with the planned changes. Christiansen said that was an excellent suggestion.

Anderson asked when the changes will occur. Christiansen said they would occur on September 10.

McCarthy said that Dial-a-Ride offers public transit for Minnetonka Heights. The 612 route had no heavy load periods. However, if Dial-a-Ride statistics demonstrate demand, Metro Transit could convert to a regular route. Dial-a-Ride services are integrated and the fare can be transferred to a regular bus.

Anderson asked Metro Transit to undertake special marketing efforts for Minnetonka Heights and Excelsior Courts (housing for disabled adults located near TH 7/CSAH 101).

Mary Farmer, 5733 Bluebird Lane, said that she was excited by the transit services when she moved to Minnetonka 32 years ago. The 612 is across the street from her, and is important to her family. Life blood seeps out of a community when there is no public transportation. Her son takes the bus from Minnetonka Heights. Residents of those units will be without any public transportation.

Farmer said that if she wanted to take a bus, she would have to ride her bike to Hopkins, which does not appeal to her at age 76. She hadn't known that you could transfer.

Christiansen clarified that Dial-a-Ride is available from 7 a.m. to 6 p.m. Farmer said that people on minimum wage usually work other shifts, and taxis run about \$20/trip. The 612 is an important link.

Anderson said that if the need can be demonstrated, and enough people take the Dial-a-Ride, there could be an impact.

Jeannie Kerans, a seven-year resident of Minnetonka Heights, was concerned about loss of the 612 bus. She noted the following:

- The bus is important and vital to Minnetonka Heights.
- There are 172 subsidized and market value units in Minnetonka Heights, and people of many cultures live there.
- Transportation is vital because these people don't have the resources to buy a car. For some residents, transportation doesn't consist of owning their own car. The bus helps her and others get to work.
- It is basic for people to get around in the city and connect to other cities.
- She has had awful experiences with the Dial-a-Ride. It has been full or it has been too late in the day when she has called. It does not provide weekend/evening service which curtails opportunities for socializing.
- The Dial-a-Ride fee would be a great increase for those who have been using the bus.
- Minnetonka has been blessed with a healthy community structure.

Anderson noted that Tom Carey, an Excelsior Court resident, was present but did not wish to speak. Carey has been an advocate for public transportation and has single-handedly saved route 612 three times. Although they have a couple of other options, many Excelsior Court residents use the 612. It will be sad for these residents to have the 612 route end.

Gunyou noted that the transit cuts really stemmed from the lack of state support. This year, the state once again failed to meet Minnesota's transit and highway needs, but there is hope they will address those critical issues next session.

Callison suggested that people let McCarthy and Christiansen know about any difficulties they experience with Dial-a-Ride.

Anderson noted that no council action was required for this item.

Wiersum said it was a sad irony that increasing fuel prices affect the cost to operate public transit. Those increases may also lead people to try public transportation at a time when it is being cut. He asked that ridership be monitored to see if the demand increases. He said that transportation was being taken from those who need it the most and who could least afford it. He hoped that Dial-a-Ride numbers would bring back a limited 612 route for key times of the day. He also suggested that the route run two-times a day to meet basic transportation needs.

Wagner said that it is our responsibility to talk to our state leaders about funding for transit. The issue should be raised during the next meeting with local legislators. Wagner noted that affordable housing often occurs along major county roads.

Schneider said that transit is a regional responsibility. He hoped that the state would address it from a long-term perspective, but said that communities need to think outside of the box, because it doesn't appear that the financial situation will change for some time. He said that cities and businesses should get together to consider public/private funded transit options. There should be flexibility to link our communities to the regional system, rather than planning for the regional system to meet all of our needs. He urged keeping an open mind.

Anderson thanked the Metro Council and residents for sharing their thoughts and concerns. She said that we should all be advocates for transit funding.

B. Conditional use permit and a site and building plan review for a Metro Transit parking ramp at the southwest corner of I-394 and County Road 73 for the Metropolitan Council.

Planning Director Geoff Olson provided the staff report.

Peterson explained language changes to delete the requirement for a letter of credit and replace it with a new condition to ensure performance.

Thomas asked if the council support tonight would include approval of the \$200,000 for aesthetic improvements. Gunyou responded that the council would be approving the design tonight, and would be asked later to approve the funding once it is negotiated. He said the two issues are related, since there would be a different design if the council does not support the extra funding. Gunyou noted that

funding for any aesthetic improvements would come from the I-394 corridor development account, and that those funds can only be used in the corridor. No general city funds or property taxes would be involved.

Wagner was concerned about traffic on CSAH 73, and on neighborhood streets where left turns are needed to get onto northbound CSAH 73. He asked if that issue would be addressed in future traffic studies. Wagner also asked if the possible redevelopment of the area to the east was included in the traffic studies.

Gunyou acknowledged that there are existing traffic problems in the area. This project will correct some of those, but others could be exacerbated. Staff believes that further study is warranted, and any resulting changes would be within the city's purview.

Gustafson added that while it seems simple to add a sign, sometimes they don't work. He cited an example from CSAH 73/TH 7 where a sign had to be removed after it was installed. Staff would like to study this area further before making any changes.

Gustafson said that the east side redevelopment was not considered with this project, but it would be addressed when redevelopment is proposed. Improvements to CSAH 73 are unfunded in Hennepin County's Capital Improvements Program. The best solution is for the road to be upgraded to add capacity and create gaps for safe exit and entry for neighborhoods. There may be some simple solutions.

Callison asked if council action was necessary to direct that additional study be undertaken. Gunyou said that staff had already received that direction.

Callison noted future traffic projections. She asked what was being done to make this ramp more attractive to users. She noted that some of the more substantive ramps, like the one in Eden Prairie, are climate controlled.

Wiersum noted that the ramp was more expensive due to poor soils. He asked if poor soils exist on the north site. He also asked whether the north site might be better from an economic perspective.

Wagner asked if three decks would be needed for the north site. He asked if the proposed Ridgedale ramp would impact this request.

Gunyou said that the memo of understanding adopted in 2002 discussed two park and ride ramps in Minnetonka. The 73/394 and the Ridgedale locations were both being planned. With corporate turnover, the Ridgedale lot planning is not moving as quickly, so the CSAH 73 site ended up being first. Gunyou noted that a ramp on the northern site would have been higher than the nearby retail building because of the higher ground elevation.

Thomas recalled a presentation to the council a number of years ago for a ramp over I-394 with a restaurant. He assumed that cost prevented that concept. Anderson noted that was discussed 8 to 9 years ago.

Rich Rolvang, Director of Engineering and Facilities for Metro Transit, and Joe Edwards, the Project Manager for Metro Transit were present.

Edwards responded to the questions about the north site. Although there was a combination of issues, the primary concern was that a ramp in that area would create a major degradation (to a Level D) in the level of service for the north frontage road at CSAH 73.

Edwards said that a ramp on the north side would have required at least three levels. Metro Transit did significant soil borings on the south side, so they knew of those soil conditions. Minimal soil testing occurred for the north site. No problems were found, but problems might be identified if the same level of testing occurred.

Wiersum noted that poor soils increased the costs for the south site, so much that the city was being asked to contribute money to improve the aesthetics. He was concerned about saving the city's money. He asked about the trade off in costs between the soil corrections for the south site and the issues for the north site.

Edwards said that they could only develop so many alternative plans due to the cost of preparing those plans. The cost estimates associated with the soil correction on the south site were \$500,000 to \$1 million. He said that there are trade offs between the two sites. Staff from the Metro Transit and the city determined that the south site was better, and they have been looking to maximize the benefits of that location. Edwards noted that the city's staff has been a good advocate for the city's residents, aggressively seeking the best looking ramp and landscaping. Metro Transit needs to control its costs. The proposed solution leaves neither side completely satisfied, which is often the best result.

Wiersum said it was unfortunate that both reports from Metro Transit came at the same meeting—cutting bus service and the ramp. He noted that this is a time of tight dollars for cities and transportation, and the best answer will maximize the use of these limited funds.

Edwards said that the comments were valid. They face those issues continually. They cannot use these capital dollars for operations. There are two pots of money, and these are two different types of expenditures.

In response to Anderson's question, Edwards said that the original plan to span the freeway looked incredible - until the cost estimate was received. It was beautiful on paper. Metro Transit continues to pursue a ramp at Ridgedale. Edwards said that there is a large pent up need for parking along I-394—by 2020 there will be a need for almost 2,000 parking spaces. They are working with Ridgedale regarding who pays for the improvements and what can be accomplished.

Anderson urged that those discussions take place. She noted that Ridgedale talks about expansion, which will require more parking. Edwards said that they seek partnerships with shopping malls. Malls often want the spaces closest to the stores, and don't care as much about the spaces further away. Metro Transit could contribute to decking close to the mall, and use the more distant spaces.

Edwards noted that they are planning for passenger amenities, such as providing a heated waiting area that is protected from the elements. Those details will be included in the final design.

Anderson noted that Minnetonka only has two bus shelters, which seems sparse for its 52,000 population. She will be looking for something more adequate for this site.

Ellingson has visited the Eden Prairie and Maple Grove facilities. Both were built in new developments that had plenty of room. Bus service was a benefit for the nearby businesses. Ellingson noted that the I-394 corridor is pretty well developed in Minnetonka. He supported a ramp linking to commercial activities, such as Ridgedale. The south site does not connect to commercial.

Edwards said they have plans to develop their new Maplewood Mall site with some commercial activities, like in Eagan. In the other cases, they had larger sites compared to this one, where everything

has to be squeezed onto a small site. This site doesn't have the size and potential for additional development. Ideally, when sites can accommodate it, they pursue those amenities.

Ellingson also noted that the Eden Prairie, Maple Grove and Brooklyn Center facilities offer public restrooms. The staff report indicated that the Minnetonka facility would only provide restrooms for bus drivers. He asked if public restrooms could be offered for riders as well.

Edwards said that Metro Transit avoids offering public restrooms due to the cost of operating them, and the liabilities associated with providing security and service. This is typical of most large metro transit systems. Some opt out communities provide them within their offices. There was state legislative action that required the Brooklyn Center restrooms.

Wagner asked why the project was critical at this time. He has concerns about traffic on the north side and for the neighborhoods to the south. Edward said that Metro Transit must spend the funds by 2007 or they will not longer be available.

Schneider said he has raised issues with staff about traffic safety at the south frontage road for some time. He was surprised there weren't more than 13 reported accidents at the intersection, because he regularly sees near misses. He has had three close calls himself. The problem is caused when approaching motorists see the second semaphore which is green, and don't see the first semaphore, which may be red. A simple solution would be to synchronize those lights, which might create more gaps. Schneider understood the complexity of working on this intersection with the state and county. He would like to see a change at some point, and did not think a major effort should be needed to accomplish that.

Anderson noted that the council was being asked to approve the conditional use permit. The exact amount of the city's contribution would be considered in the future. She understood that if the council approved the site and building plan, they would be approving an upgrade to the building rather than what was originally proposed, so there would be an expectation about additional funding. She noted that staff was given direction to do a study of traffic issues, especially along CSAH 73.

Jim Couling, 11619 Live Oak Drive, spoke. He is president of Sherwood Forest Homeowners Association. He clarified that he did not endorse the park and ride at the planning commission, he just

didn't speak against it. The neighbors don't favor it, but they have chosen to pick their issue, which is traffic safety. Couling did not have a sense that the council realized how serious this issue is. A survey taken last fall at the access to CSAH 73 for Live Oak Drive and Park Ridge indicated that 850 cars pass through that intersection daily. That does not reflect the access at Timberline. The staff report indicated that there are delays of seconds at Oak Knoll Terrace. Their neighborhood experiences delays in minutes waiting to make left turns onto CSAH 73. Couling said that there is pressure from motorists behind, so you take chances getting onto CSAH 73. There are also blind spots at the intersection. The neighbors are very concerned about traffic exiting and entering their neighborhood. He felt that there would be similar feelings further south on CSAH 73. There are 260 homes in the Sherwood Forest neighborhood, and most have two to three cars.

Couling suggested creating gaps. He noted that the true picture won't be known until Minnetonka Boulevard re-opens, so studies should wait for that to occur. He suggested a "no right turn on red" sign for the frontage road, or placing the ramp on the north side of I-394, where it belongs.

Anderson thanked Couling for his comments. She apologized if it didn't sound as if the council took his issues seriously. She noted that the first three council members who spoke talked about traffic issues, and the staff indicated similar concerns. The city is going to study the area. Anderson said that the solutions Couling offered may be the right ones, but there may be other solutions. She asked that the neighborhood allow the city to complete its study of the area. Anderson noted that she uses the intersection daily, and shared Schneider's concerns. She said that people who are in the left turn and straight ahead lane often don't signal their turns, which also leads to near misses and accidents. She noted that there is often a puddle of glass at the intersection, so there may be accidents at the intersection that don't get reported.

Couling appreciated Anderson's comments and the opportunity to express the neighbors' concerns. He said that prior to the planning commission meeting there seemed to be no interest in addressing the issues beyond Oak Knoll Terrace. Anderson said that is what public hearings are for.

George MacGibbon, 11500 Timberline Road, appreciated the proclamation concerning prostate cancer because he is a 10 year survivor. He is a 50-year Minnetonka resident. Although most of his concerns had been addressed, he felt that there had not been

enough comment about the residential nature of the area south of I-394. To him, the north side would be more suitable. He did not understand why three stories were sacred. The ramp will draw people into the area, which will increase traffic. MacGibbon is a bus rider and said that he frequently cannot find a parking space at the park and ride. He thought there was more concern about the effect on merchants, than for the neighbors who look out on Crane Lake. The neighbors enjoy the ambience of their neighborhood, but creeping commercialism can spoil that. Their neighborhood is mostly single-family dwellings. Their neighborhood has come to the council over the years about the fire station, and other issues, to keep their neighborhood as it is – mostly single family with a good view. He asked that the council consider those who love the area. He suggested that Ridgedale would be an ideal location for the ramp, although he suspected that there might be soil issues there as well. He asked that the council postpone the decision until it is known with certainty that the south site is the only choice.

Anderson said that the driving force against the north site was not the view, but the fact that it would increase traffic levels to an unacceptable level for those who use those intersections.

MacGibbon noted that there are semaphores in that quarter-mile. He suggested that they be synchronized to better handle more traffic.

Anderson said that was being requested. She noted that Ridgedale is not a different site. There will also be a park and ride ramp there. Ramps are needed at both locations.

Schneider agreed that the south site works better, even with the soil issues. The type of activity, the traffic volumes, and the configuration on the north make the north site difficult to work with absent an overpass or a bypass. He supported the south site and the aesthetic upgrades because they would be funded from the development fund and not out of tax dollars.

Schneider moved, Callison seconded a motion to:

- 1) Adopted Resolution No. 2005-108 approving a conditional use permit for a parking ramp at the southwest corner of the I-394/Hopkins Crossroad Intersection. Approval is based on the finding that the proposal meets conditional use permit standards and is subject to the following conditions
 - a. Record this resolution with the county before the city issues a building permit.

- b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - c. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
 - d. The applicant must agree to the above conditions in writing.
- 2) Approve the site and building plans. Approval is based on the following findings:
- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date-stamped May 19, 2005
 - Grading date-stamped May 19, 2005
 - Landscaping date-stamped August 3, 2005
 - Building elevations date-stamped August 3, 2005
 - b. Before starting any site work or obtaining a grading permit, complete the following work:
 - (1) Installation of temporary rock driveways, erosion control, and tree protection fencing for review by environmental staff. The driveway and fencing must be maintained throughout the course of construction.
 - (2) Submit final site, grading, drainage, utility and erosion control plans for staff review and approval. Submittal must include drainage and pond sizing calculations. If the current pond does not meet city or watershed district requirements, the pond must be enlarged or other treatment provided, as approved by the city engineer.
 - (3) Final plans must include a fire access drive on the west side of the ramp, as required by the fire marshal.
 - (4) Submit copies of all required watershed district permits. The city may require revisions to the approved plans to meet the district's requirements.
 - (5) Submit copies of all required county permits. The city may require revision to the approved plans to meet the county's requirements.

- (6) Submit copies of all required MnDOT permits. The city may require revisions to the approved plans to meet MnDOT requirements.
 - (7) Submit a construction management plan for staff approval.
- c. The following must be submitted to the city before the city issues a building permit:
 - (1) A final landscape and irrigation plan for staff approval
 - (2) An illumination plan for staff approval
 - (3) All required hook-up fees
- d. Metro Transit is responsible for replacing any required landscaping that dies.
- e. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
- f. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- g. Construction must begin by December 31, 2006, unless the planning commission grants a time extension.
- h. The city will not pay its financial contribution for this project to Metro Transit until the city is satisfied that the grading permit requirements, site restoration, and landscaping have been completed and one year has elapsed after landscaping installation. If Metro Transit fails to complete these requirements, the city may use its retained funds to complete them and deduct the expended amount from its financial contribution to Metro Transit.

Thomas said he would support tonight's action. There is a need to reduce congestion on the freeway. He would look at the development fund, but suggested that there may be other uses for those funds that would help the residents, rather than making the ramp prettier. He said those discussions will continue.

Wagner used to live in this area and drives through it daily. He said that the parking area is always full, and traffic is worse on the north side. Although there has been some study, he felt that there were too many unanswered traffic

safety questions to support the request at this time. He would prefer to delay action until those answers are available. He noted that Metro Transit's funds are available through 2007. He would like to see what happens at Ridgedale. Wagner noted that there are impacts to the neighborhoods to the south, including Sherwood Forest and the high school access. He felt that the south site would be better, but did not have enough traffic safety information to support the request at this time.

Ellingson said that we are trying to do something good, which is to reduce the number of cars on the freeway. Ironically, that would increase the number of cars on CSAH 73 because they will all go through this intersection. He did not feel that would be a fair tradeoff. Metro Transit is trying to shoe horn a big building on a small site next to a lake. That would not occur except that this site is also next to a freeway. He was not convinced that the south side has everything going for it.

Callison said that the Metropolitan Council wants to spend \$8.8 million to increase transit options in Minnetonka. That was the bottom line. There are two covered bus shelters in Minnetonka—one at CSAH 73 and one at Plymouth Road. This is an option for a ramp with some amenities to give residents different options. She said that some cars will come on CSAH 73, but most will come on I-394. There is lots of good news in this story since it provides additional options for our residents. Callison said that the council often looks at sites and talks about other sites. The common answer during those discussions is that the council is being asked to look at a specific site to determine if it is appropriate—not to compare it with other sites, such as the north site or Ridgedale. The question is: does this use make sense in this location? The standards for a conditional use permit look at whether the use is in the best interest of the city, compatible with other nearby uses, and consistent with other ordinance requirements and other specific standards. The proposed ramp will not change the residential area's view of Crane Lake. The CSAH 73 traffic is an issue that needs to be addressed, whether or not the ramp is built. The long term solution for that issue is likely one that she would rather not see—a road with a lane down the center such as the current reconstruction of CSAH 101. That type of change would reduce the likelihood of rear end collisions with left turns. She hoped that the fix is implemented sooner

rather than later, but said that it will probably take longer. With respect to use of the development fund, Callison said that the city cannot keep asking Metro Transit to maintain routes with low ridership, and then not do its part to make the ramp meet our community's unique standards. That is the purpose of the development fund, and this would be an appropriate use of those funds. She understood that if she approved this project she would also vote for the council to contribute some of the development funds to upgrade the view of the structure.

Wiersum agreed with Callison. He said that this would be good for the community, and it would move the community in a direction it wants to go. The poor soils are unfortunate, and he would rather see the ramp on the north side. This is an amenity we want, and it fits in Minnetonka. It will help transit in the community, which is needed. Traffic issues are a big concern, but they should be dealt with separately. This is not an easy decision, but he will support it.

Schneider said that timing and sequencing of the traffic may help. He noted that the council was considering the conditional use permit and the standards that relate to that. The facility meets the standards for traffic circulation. The other issues on CSAH 73 are not a Metro Transit problem, and we should not look to them to solve them. We should look to the county, state and city for that solution. Those are two separate issues which should not be confused.

Anderson supported the project for the same reason Callison stated. This will be a true benefit for Minnetonka, and it is the city's responsibility to help the ramp meet our community's standards.

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

Anderson thanked all who were involved in the discussions. She said that discussions will continue, and that more work needs to be done.

The council took a brief break. Ellingson was not present when the meeting reconvened at 9:06 p.m.

C. Minnehaha Creek Corridor visioning plan.

Anderson provided a brief introduction to this item. She noted that the residents and elected officials on the visioning committee asked that these presentations be made to the city councils. Mike Wyatt from Minnehaha Creek Watershed District, was present. Also present were our two citizen representatives, Tom Aasen and Steve Pieh; and Jennifer Posma, who served on the technical advisory committee. Anderson and Wagner served on the elected officials group.

Anderson noted that our representatives were totally committed and participated fully. She and Wagner attended all elected official meetings and Wagner attended other meetings.

Gunyou said that the purpose of tonight's discussion was to provide feedback on the draft vision plan and resolution. The intent was for staff to bring the input back to the larger group and return with a revised resolution.

Wyatt thanked the council for the opportunity to make his presentation. He spoke on behalf of the committee participants but was not a committee member. He facilitated some of the meetings. The committees did an incredible and worthwhile job. Wyatt then presented the visioning report, which was the outcome of a series of stakeholder meetings.

Ellingson returned at 9:16 p.m. during the presentation.

Wyatt noted the recommendations for erosion control and aquatic vegetation. Anderson suggested that no one look at the headwaters area because it is unsightly at present.

Wyatt said that the next step is to adopt the resolution and coordinate communications as the process moves forward. He summarized the draft resolution.

Wyatt said that there is an opportunity to complete the feasibility study with the Army Corp over the next three years with federal funding. The district is hoping for support from the district's cities as they seek those federal dollars. Federal funding can be challenging, and they need a bigger commitment. Cities were asked to encourage their federal legislators to support this funding.

In response to Anderson's question, Wyatt said that the Army Corp is required to fund the feasibility study, but the question is whether that funding comes within a three year period or over ten years. The district has carried a \$500,000 deficit over the past couple of

years. With their 2006 fiscal year, which begins in October, that deficit will increase to \$1.2 million. The district has asked the federal government for \$900,000, and is expected to receive \$200,000. Wyatt said that they would appreciate support from other entities to get those federal funds.

Anderson noted that tonight's action was not to adopt the resolution, but rather to give direction to staff about the resolution and note any desired changes.

Thomas addressed riparian management. He asked how education of those who live along the creek would occur. That would be key to any success. Some like the banks to be mowed and others think they should be natural.

Wyatt said that education is key to all their concerns, including water quality and runoff. The biggest challenge is to change behaviors and make people aware of the impact on the resource itself. The citizen group emphasized developing education materials and programs. The district would like to coordinate that with cities who also must meet National Pollutant Discharge Elimination System (NPDES) requirements. He noted the old soil and water conservation approach of finding one farmer who was willing to implement innovative ideas on his land, who then became a trendsetter. The district hopes to do that along the creek. He said that it was fortunate so much of the creek frontage is on public land in Minnetonka. There is more private ownership in St. Louis Park and Edina.

Thomas said that education is key. He noted that as one drives over Highway 100 in Edina, most of the lawns are mowed to the creek, which does not benefit the creek. He suggested that Minnetonka do something similar to the demonstration sites we had for buckthorn. This would give people a chance to see how ideas look and work, and signs would provide more education. Anderson agreed.

Wagner thanked Pieh and Aasen for their service on the committee. He noted the volume of materials they read. He suggested that Minnetonka take a lead role, and include the district in its own creek visioning project. He was comfortable with most of the resolution. He suggested the reference be to discussion about how to cooperatively determine what actions are required to implement the vision. Anderson supported that change. Wagner would like the district to seek concurrence from the cities on actions as they move forward.

Anderson said that the committee was concerned that the visioning process would be an end in itself. They suggested that that the district use the 20 citizens who had become so well educated about this resource. The district agreed to continue to use the citizen committee as well as city resources in the continuation of the design and implementation of the vision. We have been assured that that their input will be included throughout. She supported that being included in Minnetonka's resolution as well.

Schneider stressed the importance of documenting successes and examples as the process moves forward.

Anderson noted that Tauer served on the original Minneahaha Creek Corridor Task Force a number of years ago. It was encouraging to see this as a next step of those efforts.

Steve Pieh thanked the council for the opportunity to serve. He said that they had received quite an education, and he encouraged the city and the district to use the committee's knowledge. He learned that the creek is complex, and that each action has an impact. He compared the creek to recycling—20 years ago there wasn't much recycling, and now the community norm is curbside recycling. We need to encourage people who live on the creek, and those whose storm sewers dump into the creek, to use correct land practices. Education is the most effective way to go.

Anderson encouraged the demonstration projects Thomas suggested. She would love to have those in Minnetonka as a showcase about what can be done with proactive management. She hoped that other cities would adopt similar resolutions.

Wyatt presented Anderson and Wagner with plaques in appreciation of their service on the elected officials committee.

D. Administrative hearings regarding the following liquor license holders:

**Cost Plus World Market Wine Shop
Liquor Barrel
Sundial Wine & Spirits
Crossroads Delicatessen**

Peterson provided the staff report. In similar past circumstances, the city council imposed a \$750 fine or a one day suspension for off-sale establishments, and a \$400 fine or a one day suspension for wine and beer license holders. She noted that all four

establishments admitted that they did not attend the training session. All have attended the make up session.

Kevin Hill, Crossroads Delicatessen, apologized. He has attended past sessions and said they are of value. He will not miss another seminar.

Son Nguyen, Sundial Wine & Spirits, apologized. He was unable to attend due to a shortage of staff members. He will attend next year.

Peterson noted that the other two establishments were not present.

Callison moved, Thomas seconded a motion to impose the following penalties:

Cost Plus, Inc., d/b/a Cost Plus Word Market Wine Shop

- \$750 fine or
- One week suspension of license, six days stayed on condition license holder attends a make-up session and the 2006 seminar.

2795 Corporation, d/b/a Crossroads Delicatessen

- \$400 fine or
- One week suspension of license, six days stayed on condition license holder attends a make-up session and the 2006 seminar.

Du Bui, d/b/a Liquor Barrell

- \$750 fine or
- One week suspension of license, six days stayed on condition license holder attends a make-up session and the 2006 seminar.

Kattly, Inc., d/b/a Sundial Wine and Spirits

- \$750 fine or
- One week suspension of license, six days stayed on condition license holder attends a make-up session and the 2006 seminar.

Wiersum raised the issue of whether establishments should receive a lesser penalty if they made the effort to come to the council meeting. Schneider said that he would support that if the establishments were required to be at the meeting. Callison and Anderson thanked the representatives of the two establishments who appeared.

All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointment to the police advisory committee.

Anderson moved, Callison seconded a motion to appoint Jessica Olson, to the police advisory committee, to serve a two-year term, effective August 22, 2005 and expiring on October 1, 2007. All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting 9:48 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk