

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JANUARY 9, 2006**

1. CALL TO ORDER.

Mayor Callison 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 Dick Allendorf, Tony Wagner, Bob Ellingson, Brad Wiersum, Terry Schneider, and Jan Callison were present. Council member Al Thomas arrived at the meeting at 6:40 p.m.

4. APPROVAL OF AGENDA.

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

5. APPROVAL OF MINUTES:

A. December 19, 2005 regular council meeting.

Schneider moved, Wiersum seconded a motion to approve the minutes of the December 19, 2005 Minnetonka City Council regular meeting. Wagner, Schneider, Ellingson, Wiersum and Callison voted "yes." Allendorf abstained. Thomas was absent. Motion carried.

6. SPECIAL MATTERS:

A. Resolution designating an Acting Mayor and Alternate Acting Mayor for 2006.

Schneider moved, Ellingson seconded a motion to adopt Resolution 2006-001 designating Council Member Brad Wiersum as Acting Mayor and Council Member Tony Wagner as Alternate Acting Mayor for the year 2006. Wagner, Allendorf, Schneider, Ellingson, Wiersum and Callison voted "yes." Thomas was absent. Motion carried.

B. Minnetonka Community Action Recognition Award.

Wagner recognized David Kantor for his work with the Crown Ridge Apartments Advantage Center. Callison presented him with a Community Action Recognition Award certificate and pin. Kantor expressed his appreciation and said that it was hard to accept an award for something he enjoyed doing.

C. Recognition of Community Heritage Commissioner Art Nicol.

Schneider recognized Art Nicol for his service on the community heritage commission. CHC Chair Joe Van Sloun was present to congratulate him. Callison presented him with a plaque in recognition of his service. Nicol said that it was a pleasure to serve on the commission.

D. Recognition of Dick Allendorf and Terri Bonoff for their service on the planning commission.

Thomas arrived at 6:40 p.m.

Allendorf and Bonoff were recognized by Wiersum for their service on the planning commission. Callison presented a plaque to Bonoff, who is joining the State Legislature, and a certificate to Allendorf, who is joining the City Council.

Bonoff thanked the planning staff for their professionalism, and the planning commission chair, Sandal Hart, for sharing her knowledge.

Allendorf noted that three of the council members had previously served on the planning commission. He had not before his prior service on the council, but had served on the Hopkins School Board. His subsequent firsthand experience serving on the planning commission showed him that the citizens of Minnetonka are in very good hands with our commission—they put in long hours, do their homework, and make important decisions that affect the lives of those in the community.

E. Proclamation designating Monday, January 16, 2006 as Martin Luther King, Jr. Day in Minnetonka.

Ellingson read a proclamation designating Monday, January 16, 2006 as Martin Luther King, Jr. Day in Minnetonka.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings and the holiday schedule.

Callison recently met with each council member. During those meetings, Thomas suggested listening sessions with the citizens. Callison wants to bring this suggestion to all wards of the city, and hopes to schedule those sessions in February or March. The sessions would provide an informal setting for citizens to talk about issues. She asked for council support, and said she will coordinate scheduling to include the ward representatives. Notice will be given of these public meetings, so all council members could attend. Notice of the meetings will be published in the February *Minnetonka Memo*, and the meetings will be held at the fire stations located in each of the wards.

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

Emery Adoradio, 4525 Eastwood Road, had just attended the Eastwood Road project meeting. He noted that the neighbors recently submitted a letter and petitions to each council member. He wanted to make it clear to the city council that the residents are concerned about widening the road, curbing, and retaining walls, which they feel will alter the character of their neighborhood, diminish property values, and harm existing landscaping. He urged council members to talk with Councilmember Thomas, the ward representative, as much as the open meeting law would allow. He asked that council members respect the unique character of their neighborhood, and said many people bought their homes in the area for that reason.

Adoradio said that the city has a vision about how roads should be—the width, curbing, and other structural requirements. He understood that the city would not want to do road projects more frequently. However, residents of his neighborhood feel that the country look adds to the charm and value of their neighborhood. The residents don't take issue or have problems with addressing drainage and erosion issues—it makes economic sense to address infrastructure issues when the road is repaved. However, the neighbors do not feel those issues are as widespread as engineering staff is portraying them. The 20 year old overlay has held up well because this is not a high traffic area. At the project meeting, he heard from the engineering staff that this was an all or nothing approach. If the neighbors did not want anything, that would be fine. He did not hear that there was any room for compromise to balance the neighbors' values with the structural issues. The all or nothing approach makes them feel that city government is not being responsive.

Adoradio said that the engineering staff will present a feasibility study to the city council on January 23, 2006. The study will suggest curbing, widening the street, and retaining walls, which will mean serious changes that will alter the look of this road. Although the engineering staff heard the

neighbors' concerns, it is his understanding that they will not change their view. The neighbors' views won't be part of the feasibility report.

Callison noted that there will be an opportunity for public input at the January 23 meeting.

Adoradio realized that, but asked that the council vote to direct the engineering staff to postpone presentation of the feasibility study, and direct staff to consider alternative options.

Callison noted that the council typically does not take action on issues raised during this portion of the agenda.

Adoradio thanked the council for their time and for listening to his issues. He asked each council member to read the petition and letter.

Thomas suggested that the engineering staff look at the road width, curb and gutter, retaining walls, and tree loss to see if any other options are feasible. He noted that right-of-way acquisition is a timing issue. Thomas thought there might be some middle ground, although he is not an engineer. He asked that engineering staff see if it is feasible to address the neighbors' concerns.

John Wheaton, 4215 Northern Road, Deephaven, spoke as a member of the Deephaven City Council, saying that he represented the city council and the three Deephaven residences located on Eastwood Road. Those residents also have concerns about the plans, and said they were not notified of tonight's project meeting and only learned about things through their Minnetonka neighbors. They felt under-represented and also want to maintain the character of their neighborhood. They do not want to lose trees. He acknowledged that the Deephaven city administrator was given notice of the project some time ago. He was not certain of the expectation for the city of Deephaven as to paying for the project. They have had no input into the design.

Gunyou explained that Minnetonka notifies the staff of adjacent communities about proposed projects that might affect their residents, and then relies on those cities to determine how to notify their residents and council. Wheaton maintained that notice was given some time ago to the Deephaven administrator but that no notice had been given of the project meeting this evening.

Callison asked Wheaton if he would inform the Deephaven residents of the January 23rd meeting, and he said he would.

Schneider said he was not familiar with this project, and said that it was hard to respond without City Engineer Lee Gustafson being present. He did not know about the timing issues, urgency, or sequencing for bidding and easement acquisition. He suggested putting the project on a study session agenda so that staff could provide more details. He said that it would be difficult to discuss this project at the January 23rd meeting, since the Glen Lake project could also be on that agenda.

Gunyou said that staff had scheduled the project for consideration on the 23rd to allow adequate time for the bid letting and construction. He said that he would discuss the timing with Gustafson and get back to the council.

Thomas said that Gustafson had told him that right-of-way acquisition was an important timing issue. He said postponing the discussion would provide an opportunity to look at the neighbors' concerns and determine what would be feasible.

Callison suggested leaving the schedule as it is, but asked Gunyou to share the concerns with Gustafson and determine what would make the most sense.

Allendorf agreed. Looking at a map, it did not appear Eastwood was in Deephaven. He asked staff to talk directly with the Deephaven administrator.

City Attorney Desyl Peterson said that another Deephaven councilmember called her last week asking about the process. Peterson explained that the project is at a staff level at this point. Peterson indicated that Virg Herrmann, of the engineering staff, said that notices had been sent to the Deephaven administrator, and there have been several phone conversations since then. Those aware of the first meeting knew that there would be a second project meeting. Minnetonka has been keeping the Deephaven staff informed, and it is up to them to notify their council. Callison noted that this process is the norm.

Wheaton said that he was not implying that there was any intent to hide information. He was only conveying what the Deephaven Eastwood residents are saying. They are frustrated. Wheaton acknowledged that the problem may be on Deephaven's end. He was concerned that resident input was being ignored by Minnetonka staff.

Thomas explained that two blocks of Eastwood Road are in Deephaven.

Gunyou said it was unfair to represent that Minnetonka is not taking the residents' input into account. He said that Minnetonka deals with these

types of issues weekly, and that our engineering staff is always sensitive to neighborhood interests.

Callison said that council appreciated being made aware of these issues. She suggested that residents contact staff if they have questions about the project, and acknowledged the efforts Thomas has put into meeting with the residents.

9. BIDS AND PURCHASES: None.

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

A. Claims for council authorization – December 26, 2005.

Allendorf moved, Thomas seconded a motion to approve the December 26, 2005 claims which includes checks numbered 193698 through 194083, totaling \$1,831,844.86. All voted "yes." Motion carried.

B. Claims for council authorization – January 9, 2006.

Allendorf moved, Thomas seconded a motion to approve the January 9, 2006 claims which includes checks numbered 194084 through 194369, totaling \$1,000,467.71. All voted "yes." Motion carried.

C. Final approval of the JANKORD ADDITION plat at 13209 Northridge Road.

Allendorf moved, Thomas seconded a motion to approve the JANKORD ADDITION final plat that was received on December 12, 2005, subject to the following conditions:

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

All voted "yes." Motion carried.

D. Ordinance amending the zoning code definition of "accessory structure."

Allendorf moved, Thomas seconded a motion to adopt Ordinance No. 2006-01 amending City Code Section 300.02, definition 5, concerning accessory structures. All voted "yes." Motion carried.

11. Items requiring Five Votes:**A. Preliminary plat, with variances, for a two-lot subdivision at 5432 Picha Road for Rod Miller.**

Schneider moved, Wagner seconded a motion to approve the preliminary plat for Picha Hill, date-stamped November 13, 2005, lot area variances from 22,000 square feet to 12,413 square feet and 15,974 square feet; lot width at the required setback variances from 110 feet to 92 feet for both lots; and a setback variance for the existing garage from 10 feet to 5 feet. This 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. There is a unique hardship to the property caused by the small lot size, which is similar to the lots to the west that were divided in a similar manner.
 - b. The variance would meet the intent of the ordinance because this lot is over-sized compared to the homes to the west, and it appears that there is a vacant lot north of the existing home.
 - c. The average lot size of the two lots would be 14,000 square feet. The smaller lot is due to the location of the existing garage.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) Utility easements over existing or proposed public utilities, as required by the city engineer.
 - (3) Five feet of additional right-of-way along Hilltop Terrace.
 - b. Pay the city a park dedication fee of \$2,375.00.
- 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 for the new lot, subject to the planning director's approval. The plan must be in substantial compliance with the building pad shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
 - b. A temporary rock driveway, erosion control, tree protection, and wetland protection fencing must be installed, subject to review and approval of the city's natural resources manager.
 - c. A chain link fence must be installed along the west lot line for Lot 1. This would ensure no trespassing on the adjacent lot during construction of the new home. This fence may be removed after the city issues a certificate of occupancy for the home.
 - d. A cash escrow must be submitted for the site grading and erosion control during construction on either lot.
 - e. A copy of the recorded plat and any easement or covenants required to be recorded.
 - f. A hookup fee for sanitary sewer and water.
 - g. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.

- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 5) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- 6) A stop work order will be issued for any city code violations or violations of the conditions of approval.
- 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.

All voted "yes." Motion carried.

B. Preliminary plat, with variances for a four-lot subdivision at 13800 Spring Lake Road for Steven Lynch.

Schneider moved, Thomas seconded a motion to approve the preliminary plat, date-stamped November 15, 2005, with a front yard setback variance from 35 feet to 21 feet for the existing home. Approval is based on the following findings:

- 1) Except for the variance, the proposal meets the required standards and ordinance for a preliminary plat.
- 2) The proposal meets the required standards for a variance for two reasons:
 - a. Moving the lot line to the east would create a lot depth variance on Lot 3.
 - b. It would be reasonable to allow the existing home to remain with a variance, rather than to tear it down to meet the zoning ordinance.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Make the following changes to the final plat:
 - (1) Enlarge the outlot to a half cul-de-sac, as shown on page A10.
 - (2) Expand the right-of-way width to 50 feet.
 - (3) Show 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.

- (4) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
- (5) A temporary access easement to the city of Minnetonka for the turnaround at the end of the proposed street. The temporary turn-around must be shifted to the south to save the oaks on Lot 2. Construction of the temporary turn-around shall be subject to review and approval of the city engineer.

These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.

 - f. Any other requirements included with final plat approval.
- 3) The following must be completed before the city issues a grading permit or any site work is started.

 - a. Approval of final grading, drainage, and erosion control plans by the city engineer. Stormwater calculations must also be submitted. 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 to 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, as approved by the city.
 - d. Approval of a construction management plan by the planning director.
 - e. If required, submit evidence of watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
 - f. Submit a MnDOT permit for discharge to their right-of-way.
- 4) The following must be completed before the city issues a building permit:

- a. City approval of a grading and tree preservation plan for each lot, subject to the city's approval. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
- b. City approval of the installation of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing for each lot.
- c. Submit a copy of the recorded plat and any easement or covenants required to be recorded.
- d. Payment of a hookup fee for sanitary sewer and water.
- e. Submit 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.
- 5) Buildings must maintain a 20-foot setback from the 956.0 contour.
- 6) The minimum low floor elevation for Lots 1 and 2 must be at least 958.5.
- 7) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 8) 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.
- 9) A driveway permit is required for Lot 1 to connect the existing driveway to the new street.
- 10) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

All voted "yes." Motion carried.

12. INTRODUCTION OF ORDINANCES: None.

13. PUBLIC HEARINGS:**A. Review of Park Renewal Master Plan for Wilson Park.**

Parks & Trail Manager Perry Vetter gave the staff report.

In response to Callison's question, Vetter said that this project, and three additional parks, would be bid during the winter. This would allow staff to determine the best price structure for those parks. He said that some amenities could be completed separately and sooner, such as the tennis courts.

Callison opened the public hearing at 7:18. No one spoke and the hearing was closed.

Wagner moved, Wiersum seconded a motion to approve the Master Plan for Wilson Park and direct staff to proceed with Phase II (design and construction) of Park Renewal. All voted "yes."
Motion carried.

B. Public hearing to consider a resolution that vacates public drainage and utility easements within the Portico subdivision for Otto Associates, Engineers and Land Surveyors, Inc.

Gunyou provided the staff report.

Callison opened the hearing at 7:20 p.m. Paul Otto, Otto Associates, noted his presence to respond to questions.

The hearing was closed at 7:21 p.m.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2006-002 vacating public drainage and utility easements within the Portico subdivision. Vacation is based on the following findings:

- 1) The petitioners are owners of the land abutting said easement, and therefore are proper petitioners.
- 2) The city does not need these easements.
- 3) Vacating these easements is in the public interest.

All voted "yes." Motion carried.

C. Continued public hearing to consider applications by Bon Appetit Management Company, for on-sale and Sunday on-sale intoxicating liquor licenses for Café Carlson restaurant, 701 Carlson Parkway.

Callison noted that this was a continued public hearing. Wagner excused himself because his employer is Carlson Companies.

Gunyou provided the staff report.

Callison invited additional public comment. No one spoke and the hearing was closed at 7:22 p.m.

Thomas moved, Wiersum seconded a motion to grant the on-sale and Sunday on-sale intoxicating liquor licenses for Café Carlson restaurant, 701 Carlson Parkway. Thomas, Allendorf, Schneider, Ellingson, Wiersum and Callison voted "yes." Wagner was absent. Motion carried.

14. **OTHER BUSINESS:** None.

15. **APPOINTMENTS and REAPPOINTMENTS:**

A. **Appointment of council members to various advisory boards, commissions and committees.**

Callison moved, Allendorf seconded a motion to approve the following appointments:

- Terry Schneider as the Minnetonka City Council Legislative Contact to the Association of Metropolitan Municipalities.
- Janis Callison as the Minnetonka City Council representative to the Municipal Legislative Commission Board of Directors.
- Dick Allendorf as the Minnetonka City Council representative to the I-494 Joint Powers Organization.
- Katy Van Hercke as the Minnetonka City Council's appointed representative to the Lake Minnetonka Conservation District.
- Robert Ellingson as the Minnetonka City Council representative to the Southwest Suburban Cable Commission.
- Desyl Peterson as the Minnetonka City Council's appointed representative to the Suburban Rate Authority.
- Brad Wiersum as the Minnetonka City Council representative to the Bennett Family Park Board.
- Al Thomas as the Minnetonka City Council representative to the Charter Commission.
- Al Thomas and Tony Wagner as the Minnetonka City Council representatives to the Economic Development Authority.

- Elise Souders as the Minnetonka City Council's appointed representative to the Minnetonka School District Community
- Dave Johnson as the Minnetonka City Council's appointed representative to the Music Association of Minnetonka.
- Brad Wiersum as the Minnetonka City Council representative to the Police Advisory Committee.
- Terry Schneider as the Minnetonka City Council representative to the West Hennepin Affordable Housing Land Trust (Homes Within Reach).
- John Gunyou as the Minnetonka City Council's appointed representative to the Wayzata Schools Community Collaboration Council.

All voted "yes." Motion carried.

16. ADJOURNMENT.

Wiersum moved, Wagner seconded a motion to adjourn the meeting 7:25 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk