

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, SEPTEMBER 11, 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 Brad Wiersum, Al Thomas, Dick Allendorf, Terry Schneider, Bob Ellingson and Jan Callison were present. Tony Wagner was excused.

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou reviewed the changes and additional comments provided in the addendum dated September 11, 2006, which related to the city attorney's request to convene in executive session upon adjournment of the regular council meeting to discuss pending litigation

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

**5. APPROVAL OF MINUTES:**

**A. July 24, 2006 regular council meeting.**

Wiersum moved, Thomas seconded a motion to approve the minutes of the July 24, 2006 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**B. August 7, 2006 regular council meeting.**

Wiersum moved, Thomas seconded a motion to approve the minutes of the August 7, 2006 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**C. August 21, 2006 regular council meeting.**

Wiersum moved, Thomas seconded a motion to approve the minutes of the August 21, 2006 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:****A. Proclamation declaring September 11, 2006 as Patriot Day.**

Wiersum read the proclamation declaring September 11, 2006 as Patriot Day.

**7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.**

Gunyou reported on the schedule for upcoming council meetings. He also noted the passing of Ken Johnson, Minnetonka's first fire chief.

Callison noted the I-494 grand opening occurred on September 6, 2006 and thanked the state of Minnesota for the work they did on that road expansion.

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

Rich Spielberg, 5428 Glenavon Avenue, asked when his road will be repaved. Callison responded the city engineer would contact him tomorrow and let him know the schedule.

Spielberg asked when the "McMansion" policy will come before the council. Gunyou responded the planning commission is expected to consider that issue during an October meeting. He encouraged Spielberg to call city hall tomorrow to find out the exact date.

Callison asked Gunyou if there is a way for citizens interested in the "McMansion" policy to find out the specific date the planning commission will consider it. City Planner Susan Thomas noted that issue will appear as a hot topic on the city's website.

**9. BIDS AND PURCHASES: None.****10. CONSENT AGENDA (Items Requiring a Majority Vote):****A. Claims for council authorization – August 28, 2006.**

Wiersum moved, Thomas seconded a motion to approve the August 28, 2006 claims which includes checks numbered 198784 through 199097, totaling \$1,039,087.10. All voted "yes." Motion carried.

**B. Claims for council authorization – September 11, 2006.**

Wiersum moved, Thomas seconded a motion to approve the September 11, 2006 claims which includes checks numbered 199098 through 199362, totaling \$1,506,435.07. All voted "yes." Motion carried.

**C. Amendment to an existing conditional use permit for an existing accessory apartment at 17310 Bay Circle for Edward De Gregoire.**

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2006-113 amending the existing conditional use permit conditions for an accessory apartment at 17310 Bay Circle as follows:

- 1) The accessory apartment must comply with all ordinance requirements, including nuisance ordinance requirements, on a continual basis.
- 2) The property owner must reside in one of the two units on a continual basis.
- 3) On-street parking is not permitted. No more than four vehicles may be parked or stored outside.
- 4) The city council may reasonably add or revise conditions to address any future unforeseen problems with traffic and parking issues.
- 5) 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.

All voted "yes." Motion carried.

**D. Amendment of a previous condition of approval for a three lot subdivision at 5342/5356 Picha Road for Steve Lipe.**

Wiersum moved, Thomas seconded a motion to approve the following amendment to the Lipe Addition preliminary plat, date stamped March 20, 2006:

- 9) The floor area of the house and garage for the southerly lot must not exceed 3,775 square feet (23% floor area ratio) and the floor area ratio of the new home and garage on the middle lot must not exceed 3,600 square feet (22% floor area ratio).

Approval is based on the following findings:

- 1) The amendment reflects the original plans submitted by Mr. Lipe.
- 2) The lookout elevation is the only fundamental change to the plans previously reviewed by the council.

- 3) The proposal would meet the McMansion policy. The resulting floor area ratio would be less than the largest floor area ratio in the area.

All voted "yes." Motion carried.

**E. Final approval of the Robin Ridge plat at 2727 Ashborne Road for Peter Knaeble and Matthew Pavek.**

Wiersum moved, Thomas seconded a motion to approve the ROBIN RIDGE final plat, date stamped August 21, 2006, 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.

**F. Conditional use permit for a two-story detached garage at 304 Sunnyvale Lane for Trenton Steel.**

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2006-114 approving a conditional use permit for a detached garage at 3604 Sunnyvale Lane. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Before the city issues a building permit:
  - a. Record this resolution with the county.
  - b. Install erosion control and tree protection fencing for inspection by natural resources staff. This fencing must be maintained throughout the course of construction.
- 2) The garage may not be used for commercial purposes.
- 3) The garage must be constructed of materials complimenting the existing house.
- 4) A driveway permit is required. The driveway must be paved to the building setback line as required by the city engineer.
- 5) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 6) 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.
- 7) All items listed as "possible" and "probable" are required.
- 8) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**G. Resolutions ordering the abatement of nuisance conditions.**

Community Development Director Ron Rankin recommended that property numbers 1 and 6 be deleted because they are in compliance, so that the only properties with resolutions being adopted are 2, 3, 4, and 5.

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

- 1) 321 Townes Lane – in compliance.
- 2) Resolution No. 2006-115 ordering the abatement of nuisance conditions existing at 3105 Shores Boulevard.
- 3) Resolution No. 2006-116 ordering the abatement of nuisance conditions existing at 3432 Jidana Lane.
- 4) Resolution No. 2006-117 ordering the abatement of nuisance conditions existing at 11481 Robinwood Circle.
- 5) Resolution No. 2006-118 ordering the abatement of nuisance conditions existing at 14311 McGinty Road West.
- 6) 16215 Ice Circle Drive – in compliance.

All voted "yes." Motion carried.

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

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance amending the city code regarding licensing procedures.**

Gunyou highlighted the staff report and described the changes as minor.

Allendorf moved, Thomas seconded a motion to introduce an ordinance amending the city code regarding licensing procedures.

All voted "yes." Motion carried.

**B. Ordinance amending the city code regarding massage services.**

Gunyou provided an overview of the staff report.

Allendorf moved, Schneider seconded a motion to introduce an ordinance amending the city code regarding massage services. All voted "yes." Motion carried.

**13. PUBLIC HEARINGS:**

**A. Public hearing to consider a resolution that vacates a portion of a public drainage and utility easement at 14603 Woodhill Circle for Lawrence and Nancy Wigley.**

Gunyou provided an overview of the staff report, noting this will come before the planning commission on September 14, 2006. He suggested the council postpone action on the resolution until after planning commission review of the matter occurs.

Callison opened the hearing at 6:46 p.m.

Lawrence Wigley, 14603 Woodhill Circle, asked the council for the vacation of the easement.

Schneider moved, Allendorf seconded a motion to postpone action on the resolution to the September 25, 2006, meeting. All voted "yes." Motion carried.

**B. Public hearing to consider a resolution that vacates a public drainage easement at 13201 Ridgedale Drive for Target Corporation.**

Gunyou provided an overview of the staff report, and described this as a routine matter.

Callison opened the hearing at 6:48 p.m.

John Dietrich, RLK Incorporated, noted his firm is in agreement with the staff report and is available for any questions from the council.

Callison closed the hearing at 6:49 p.m.

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2006-119 vacating a portion a public drainage and utility easement at 13201 Ridgedale Drive. Approval is subject to completing the following condition:

1) Provide title evidence as required by the city attorney.

All voted "yes." Motion carried.

**14. OTHER BUSINESS:****A. Ordinance revising scoreboard requirements.**

Planner Thomas presented the staff report.

Council member Thomas asked how this policy change will affect ball fields that can be seen from the road, such as Bennett Park. City Attorney Desyl Peterson responded the existing signs that do not comply with this new ordinance would fall under the nonconforming rules, meaning they would be grandfathered in and allowed to remain. The city is the owner of city parks, so the city can choose to make those signs conform at any time.

Wiersum asked if the size requirements allow for greater square footage for advertising. Peterson responded the maximum size includes advertising.

Schneider noted he had a thorough discussion with Peterson today regarding this policy change. He understands the concern of staff regarding the potential for billboard signs. However, he is disturbed that the city decides as a policy that this type of signage, with limited advertising, is the right thing to do and could be prohibited from anyplace where it could be viewed from outside. He suggested it would be worthwhile to evaluate how to allow more flexibility within Minnetonka without the threat of billboards. His suggestion was to find a way to classify a scoreboard as not a sign. He believes there should be more flexibility, given the community benefit.

Peterson confirmed she discussed this issue with Schneider and added one of her goals is to look at the overall sign ordinance this year in light of what has happened with lawsuits against Hopkins and Eden Prairie. She attended an interesting teleconference session last week sponsored by the national city attorney's association, and the topic was signs. Insight was provided on where to go with these ordinances. One of the suggestions was segregating the regulation of signs in one part of the code and creating a separate section that dealt with city-owned property, which would include things like directional signs and parks.

Peterson continued she would like to take more time to look at this ordinance in more depth to protect the city from lawsuits. Staff's rationale in creating this ordinance was to think about this in the same way the ice arena is handled. Signs inside the arena cannot be seen from outside and are not regulated, so it appears

appropriate to use the same standards for other signs not visible off the property. The public purposes for a sign ordinance are public safety and aesthetics, which would not be affected by signs that are not visible off the property.

In her discussions with Schneider, she believes the definition of outdoor signs can be tweaked. Peterson suggested the following change for Section 1.22 of the ordinance: "An outdoor advertising sign does not include a sign that is not understandable or readable by the naked eye of an ordinary person with 20/20 vision from property other than where the sign is located, such as from adjacent property or a public street."

Callison asked if these changes will foster changes in other areas of the sign ordinance. Peterson responded she would bring any such issues back to the council.

Callison asked whether a sign that is grandfathered can be taken down and painted or improved, or whether it will remain up until it falls down. Peterson responded the state legislature adopted a law a year ago saying nonconforming uses may be replaced. The city used to be able to prohibit that. She will bring to the council language defining what it means to be replaced.

John Guy, 6341 Teton Lane, Chanhassen, introduced himself as the president of Minnetonka Diamond Club, the organization facilitating the fundraising for the Veterans' Field at the high school. He stated there are three key pieces to this ordinance change as it relates to this field. First, a ball field without signage leaves some personality out of the park. Secondly, a lot of businesses want to be part of the field, and there are not a lot of ways for them to partner. Lastly, advertising is a meaningful part of how the field is to be funded, approximately 10 percent. He noted Mr. Berge from the Minnetonka School District was not able to be here tonight, but he wanted to mention the school board has adopted a policy which would enable them to approve any signs on the score board.

Wiersum commented a loosening of the current score board policy makes sense. He is comfortable with the language that says it cannot be seen. He agrees it makes sense to further relax some of the restrictions; it is in the best interests of the city and organizations with fundraising challenges. He believes the ice arena analogy is a good one, and that same approach makes sense here.

Allendorf noted the two high schools will be most affected and there will be very little other affect elsewhere in the community. Peterson agreed. She noted staff met with representatives from both schools, and both appeared satisfied with this policy.

Thomas stated he does not have a problem with the new language. However, a can of worms will be opened, and junior highs and private schools will be asking for advertising next because it represents revenue. He believes whether it can be seen from nearby homes or streets is the key issue.

Callison noted people will still be able to see the billboard but will not be able to read it.

Schneider asked whether existing scoreboards with advertising can be replaced. Peterson responded the question of what is considered nonconforming use should be considered by the council.

Callison noted the size of the scoreboard can be increased; this ordinance would be triggered if advertising were put on it. Peterson concurred. She added a nonconforming use cannot be expanded.

Thomas asked how blinking scoreboards are addressed in the ordinance. Peterson responded there is another provision in the sign ordinance that prohibits blinking signs, and that applies in this case. However, that provision can be beefed up, and she will review that possibility.

Allendorf noted the definition of what is a replacement sign will be a more difficult question than what he originally thought, and looks forward to that council discussion.

Schneider moved, Allendorf seconded a motion to adopt Ordinance No. 2006-16 amending City Code Section 300.30 regarding scoreboard requirements, including the city attorney's recommended language regarding "an outdoor advertising sign does not include a sign that is not understandable or readable by the naked eye of an ordinary person with 20/20 vision from property other than where the sign is located, such as from adjacent property or a public street. All voted "yes." Motion carried.

- B. Items for the 2007 Preliminary Tax Levy:**
- 1) Resolution setting a preliminary 2007 tax levy and budget for truth-in-taxation purposes.**

**2) Resolution setting a preliminary 2007 tax levy for the Bassett Creek Watershed Management Tax District.**

Gunyou presented the staff report, noting the two opportunities for resident and business involvement.

Callison added a public hearing will be held December 4, 2006, and the council will adopt the budget on December 18, 2006. The council has already looked at this budget in a study session, and also the capital improvement program in another study session.

Wiersum inquired about the effect of increased petroleum costs on the asphalt program. Gunyou responded there is a direct impact. The city's patching program utilizes current staff, so every dollar goes into asphalt. The city will be spending \$600,000 a year on its thin overlay program.

Gunyou noted the state requires the city to levy the Bassett Creek Watershed Management Tax District separately.

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

- 1) Resolution No. 2006-120 setting a preliminary 2007 tax levy and budget for truth-in-taxation purposes.
- 2) Resolution No. 2006-121 setting a preliminary 2007 tax levy for the Bassett Creek Watershed Management Tax District.

All voted "yes." Motion carried.

**15. APPOINTMENTS and REAPPOINTMENTS:**

**A. Reappointments to the police advisory committee.**

Callison noted the terms of six members of the police advisory committee are set to expire October 1, 2006.

Callison moved, Ellingson seconded a motion to approve the following reappointments to the police advisory committee:

- Steve Cannon, to the police advisory committee, to serve another two years, effective October 1, 2006 and expiring on October 1, 2008.
- Lorraine Clugg, to the police advisory committee, to serve another three years, effective October 1, 2006 and expiring on October 1, 2009.

- Melissa Hill, to the police advisory committee, to serve another three years, effective October 1, 2006 and expiring on October 1, 2009.
- Phil Riley, to the police advisory committee, to serve another two years, effective October 1, 2006 and expiring on October 1, 2008.
- Wendy Steinmetz, to the police advisory committee, to serve another two years, effective October 1, 2006 and expiring on October 1, 2008.
- Brad Wiersum, to the police advisory committee, to serve another two years, effective October 1, 2006 and expiring on October 1, 2008.

All voted "yes." Motion carried.

Allendorf moved, Ellingson seconded a motion to reconvene in executive session for the purpose of discussing potential litigation strategy related to violations of the wetland ordinance that occurred in the Glen Lake area.  
All voted "yes." Motion carried.

## 16. ADJOURNMENT.

Allendorf moved, Ellingson seconded a motion to adjourn the meeting at 7:28 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Laura L. Ronbeck  
Acting City Clerk