

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, SEPTEMBER 25, 2006**

**1. CALL TO ORDER.**

Mayor Callison called the meeting to order at 6:31 p.m.

**2. PLEDGE OF ALLEGIANCE.**

All joined in the Pledge of Allegiance.

**3. ROLL CALL.**

Councilmembers Al Thomas, Tony Wagner, Dick Allendorf, Bob Ellingson, Brad Wiersum, and Jan Callison were present. Terry Schneider was excused.

**4. APPROVAL OF AGENDA.**

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

**5. APPROVAL OF MINUTES: September 11, 2006 executive session.**

Wiersum moved, Thomas seconded a motion to approve the minutes of the September 11, 2006 Minnetonka City Council executive session. All voted "yes," with an abstention by Wagner due to absence at the meeting. Motion carried.

**6. SPECIAL MATTERS:**

**A. Update regarding the Southwest Transitway Study.**

Wagner highlighted the staff report and noted Katie Walker with Hennepin County is present tonight to provide an update for the council.

Community Development Director Ron Rankin stated staff has been involved on the technical side of this study, and the county folks have done a good job coordinating things.

Katie Walker, Hennepin County Housing, Community Works, and Housing Department, 417 North Fifth Street, Minneapolis, reported she is here to provide an update on the transit study being conducted by Hennepin County Regional Rail Authority in partnership with five cities: Minneapolis, St. Louis Park, Hopkins, Eden Prairie, and Minnetonka. The goal of the analysis is to

compare cost benefits and impacts of a range of alternatives to determine what the county's preferred course of action should be to serve the needs of the local area. The study has looked at two different technologies: bus rapid transit (BRT) and light rail transit (LRT). LRT is similar technology to the Hiawatha light rail line, and this study assumes two tracks of light rail and light rail vehicles similar to those used on the Hiawatha line. Frequency would be similar to that used in the Hiawatha line: seven and one-half minutes during peak times, running seven days a week, 20 hours a day. BRT would be the same as the LRT, seven and one-half minutes during peak times, 20 hours a day, seven days a week. BRT uses buses that operate like a rail system. These would be special diesel hybrid buses that would be colored-coded so people know it serves the southwest BRT line. Regarding the guideway, it would be a two-lane roadway for a BRT system.

Walker pointed out the two BRT alternatives on an overhead map and detailed their routes. She noted there are eight LRT alternatives and used an overhead map to describe the four west-end options: LRT 1, 2, 3, and 4.

Walker highlighted the key evaluation measures used in the study. The evaluation measures were categorized to address the five goals that had been set out for a southwest transitway corridor to attain. The first two were considered tier 1 goals, and they had to be attained or it would not be considered a viable project. The first is to improve mobility, and within that evaluation measure is ridership and new riders attracted to the system as well as number of employees and populations served by the route. The second goal included providing a cost-effective and efficient travel option, which includes capital costs, capital costs per mile, operating costs, and the cost effectiveness index number.

Walker continued all ten alternatives were evaluated based on those two goals, and the study determined which ones moved to the tier 2 evaluation. The three goals for tier 2 include protecting the environment, preserving quality of life, and supporting economic development. The technical advisory committee met last Friday and discussed the evaluation results. It determined a preliminary recommendation that will be presented this Wednesday to the policy advisory committee and will be released to the public. There will then be a two-month public comment period, followed by the reconvening of the policy advisory committee, which will be presented the public feedback on the recommendation. At that time they will take action on a final recommendation, which will be

forwarded to the Hennepin County Regional Rail Authority board in December.

Walker indicated the first alignment recommendation by the technical advisory committee is an enhanced bus option, which is a bus-only alternative. In that scenario, there are no fiscal constraints when developing the system in order to see how that performs, and that will be what the BRT and LRT alternatives are compared to. That option will be retained for future consideration. The other options still on the table include LRT 1-A, LRT 3-A, and LRT 3-C. She explained which areas each alignment option would serve.

Walker reported the BRT options were recommended for elimination from consideration because the performance was not as good with BRT as it is with the LRT. The cost-effectiveness number was quite high. This BRT is a very expensive BRT alternative compared to others being considered in the region. That is because two lanes of roadway would be built as well as high-amenity stations, and a new fleet of buses would be purchased. It was also discovered while the ridership is lower than LRT, it is high enough that it could not sustain a seven and one-half minute frequency of buses; they would need to run more often. The demand is 2,000 passengers per peak hour, and a bus running every seven and one-half minutes provides 645 seats per hour, which means buses would have to run in tandem or the frequency would have to be reduced to every two to three minutes, causing traffic problems.

Callison asked if one of the alternatives dropped is on 494. Walker responded affirmatively, noting that recommendation was made for two reasons. One reason is the engineers have indicated it would be difficult to construct it within the right-of-way. There were discussions with the DOT about the 494 corridor, and they have expressed concerns about how to integrate their expansion plans with the corridor. It also scored low on the economic development goal. The LRT 1 option performs about the same as the 494 segment, and it was determined there would be more bang for the buck through the LRT 3 area.

Wagner noted the LRT 3-A and 3-C have the highest amount of ridership projected under the study and the highest amount of new ridership. Current ridership is 27,000 to 28,000 per day, and new riders are estimated at 7,500 to 8,000 per day. Additionally, the key number for cost effectiveness in order to get into the design phase is \$29. To get into final design and full grant funding is \$23. Both 3-A and 3-C scored well on that because of the high number of new riders, even though they cost more. Wagner also noted one impact

for the city is the C version of the LRT does not allow interlining of the trains, so someone could not take a train from Minnetonka to St. Paul, for example. The rider would have to get off and transfer for another train. The A option does, however, provide that alternative.

Allendorf noted one of the lessons of Hiawatha is a big parking area at the terminus of the LRT. He asked where the parking area is located in these alternatives. Walker responded the assumption to date is that there would be a large parking facility located next to Highway 5. However, the parcel of land has not been identified, and it is not in public ownership at this time. Alternative 2 and 3 do serve the Southwest Metro Transit station, which currently has 1,000 spaces, and there is some room for expansion at that facility.

Allendorf suggested Walker contact someone with Eden Prairie, because residents are already complaining there are no parking spots available at the existing transit station with the buses and number of restaurants in the area.

Wagner asked about the rest of the timeline beyond the end of 2006. He also asked about a committee member's recommendation, which is to consider an alternative that has not been explored, an extension all the way through the midtown corridor.

Walker responded the technical advisory committee, in addition to recommending which alternatives should proceed, made two other recommendations at their meeting Friday. One is to recommend that the policy advisory committee recommend to the Met Council that the southwest transitway project be moved from a tier 2 to a tier 1 corridor in their transportation policy plan update, which occurs in 2008. That is something the policy advisory committee will take up, and discussions have been held with the Hennepin County Regional Rail Authority, and the request will likely be submitted to the Met Council. Secondly, they recommended the Hennepin County Regional Rail Authority initiate the environmental impact statement process. The alternative analysis, which is the first study phase in the project development process, will be completed at the end of this year. The next phase is the environmental impact statement phase, which takes two to three years, followed by preliminary engineering, another two years, followed by final design, another two to three years. Construction occurs next, taking three to four years. Optimistically, the earliest this line would open is 2015. That assumes funding is available and a project is developed that is competitive with other projects across

the country for New Starts funding from the Federal Transit Administration.

Walker noted routing across the midtown corridor is currently not part of the recommendation going out to the public, but one of the first things that is done during the environmental impact statement process is scoping. A public meeting will be held, and the purpose is for Hennepin County as a governmental entity to present to the public and other resource agencies, such as DNR and pollution control agency, what has been looked at to date, which alternatives will be studied and which will not be. That creates an opportunity for the public and other agencies to weigh in and suggest additional alternatives to be considered during the process.

Callison asked where the public can go right now with questions. Walker responded the public can visit the website at [www.southwesttransitway.org](http://www.southwesttransitway.org) or contact Hennepin County at 612-348-9260.

Callison thanked Walker for presenting the information tonight.

**B. Cary Teague's Last Meeting as Planner**

Callison acknowledged this evening is the last council meeting for Planner Cary Teague, as he is moving on to become the city planner for Edina. She congratulated him on that achievement and expressed appreciation for his work for Minnetonka.

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

Barone reported on the schedule for upcoming council meetings and mentioned the fire department and city-wide open house will be held October 10 from 5 to 8 p.m. at the civic center campus. There will be additional information in the *Minnetonka Memo* and on the city's website.

Callison noted the hazardous waste drop-off was held Saturday, and it was a successful event from staff's viewpoint.

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

No one appeared.

**9. BIDS AND PURCHASES: None.**

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

**A. Claims for council authorization – September 25, 2006.**

Allendorf moved, Wiersum seconded a motion to approve the September 25, 2006 claims which includes checks numbered 199363 through 199673, totaling \$1,066,942.81. All voted “yes.” Motion carried.

**B. Resolution accepting plans and specifications and authorizing the advertisement for bids for the Richards Drive West Storm Sewer Improvement Project No. 06605.**

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2006-122 accepting plans and specifications, and authorizing the advertisement for bids for the Richards Drive West Storm Sewer Improvement Project No. 06605. All voted “yes.” Motion carried.

**C. Agreement for prosecution services with the cities of Minnetrista and St. Bonifacius.**

Allendorf moved, Wiersum seconded a motion to approve the agreement for prosecution services with the cities of Minnetrista and St. Bonifacius. All voted “yes.” Motion carried.

**D. Authorization of 2006/2007 General Liability Insurance and Workers’ Compensation Renewals.**

Allendorf moved, Wiersum seconded a motion to renew the city’s insurance policies through LMCIT for package policies with the following options:

- \$25,000/\$100,000 deductible for the package policies
- 100% Open Meeting law coverage
- No waiver of statutory limits and to also authorize renewal of the LMCIT workers’ compensation policy with managed care and a \$10,000 deductible.

All voted “yes.” Motion carried.

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

Allendorf moved, Wiersum seconded a motion to adopt Ordinance No. 2006-17 amending City Code Sections 810 and 710 regarding massage services. All voted “yes.” Motion carried.

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

Allendorf moved, Wiersum seconded a motion to adopt Ordinance No. 2006-18 amending City Code Sections 610.040(2), 700.015, 820.015, and 820.020 regarding licensing procedures. All voted "yes." Motion carried.

**G. Approval of an encroachment agreement with Sprint Nextel LLC.**

Allendorf moved, Wiersum seconded a motion to approve the encroachment agreement with Sprint Nextel LLC for the purpose of installing telecommunications on street right of way and public easements. All voted "yes." Motion carried.

**H. Approval of an encroachment agreement with XO Communications Services, Inc.**

Allendorf moved, Wiersum seconded a motion to approve the encroachment agreement with XO Communications Services, Inc. for the purpose of installing telecommunications on street right of way and public easements. All voted "yes." Motion carried.

**I. Resolution approving agreement with Hennepin County for the Hopkins Crossroad trail project.**

Callison removed this item from the consent agenda to request additional information. She asked what the city's process is for working with affected business owners.

City Engineer Lee Gustafson noted this project will be constructed in conjunction with Hennepin County's bridge replacement project. CSAH 73 will be closed down between Minnetonka Boulevard and Cedar Lake Road during the bridge replacement, and the city is taking the opportunity to construct the trail project at this time. Another project that will be coming back before the council is the Cedar Lake Road trail project. Notification will be advertised through the *Minnetonka Memo* and the *Sun-Sailor*, and the businesses along Minnetonka Boulevard will be notified if the council so desires. The city previously received some complaints from some businesses along Minnetonka Boulevard when the entire intersection was closed down. This will not be an inconvenience to that same degree, but it will be an inconvenience for those traveling north/south along CSAH 73.

Callison noted this is an eight-month shutdown of CSAH 73, and she wondered if staff can be even more proactive by meeting with businesses ahead of time to discuss signage and other ways to soften the economic blow.

Gustafson indicated staff can do that.

Wagner recalled there were some early problems with wait times and street lights when the whole intersection was shut down, and those were quickly corrected with the input of staff and coordination with the county. As the city goes through the notification process, he would like them to be prepared so if backups do occur, the city can re-sign or take other measures quickly.

Gustafson responded staff will do whatever it can, as it did with the CSAH 5/CSAH 73 project.

Wagner noted council has previously asked staff about the ability to keep half the road open, and he asked Gustafson to mention that the council did evaluate that alternative and its impact.

Gustafson reported the cost to build the bridge one-half at a time would add \$400,000 to \$500,000 to the project. The county indicated the city would be responsible for the cost; additionally, the timeline of the project would extend over two years. Staff felt it was better not to expend the extra dollars and to try to get the project done as quickly as possible.

Allendorf asked when the eight-month shutdown will occur. Gustafson responded the county has indicated it will likely start with the dismantling of the existing bridge in the end of February or March 2007. It will take them some time to remove the construction debris. By the time those are removed, it will be warm enough to pour concrete. Therefore, the project begins in February or March 2007 and will last eight months from that time.

Wiersum moved, Thomas seconded a motion to adopt Resolution No. 2006-123 approving Hennepin County Agreement No. PW 10-15-06. All voted "yes." Motion carried.

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

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

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

- 1) 2912 Bay Street – in compliance
- 2) Resolution No. 2006-124 ordering the abatement of nuisance conditions existing at 4942 Acorn Ridge Road
- 3) Resolution No. 2006-125 ordering the abatement of nuisance conditions existing at 12301 Woodbine Road
- 4) 16108 Gleason Lake Road – in compliance

All voted “yes.” Motion carried.

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

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance deleting the shared parking requirement for 6001 Shady Oak Road and 11000 Red Circle Drive.**

City Attorney Desyl Peterson presented the staff report and noted the Jennings family that owns the Jimmy’s restaurant contacted her today and indicated they are still hopeful for additional discussion and potentially an agreement. Peterson informed them they would have two weeks to come to an agreement because the ordinance is being introduced at tonight’s meeting, and hopefully this will be resolved by the next time this comes before the council.

Callison clarified the result of this ordinance is each facility will stand on its own in terms of parking; there will be no shared parking. Peterson concurred that each property will stand on its own. The reason for the desire for shared parking was for the benefit of the customers, so there would be no indication these are two separately owned parcels and customers could park wherever is most appropriate. Nevertheless each has its own property rights and each should have its own obligation.

Callison thanked staff for their ongoing efforts at trying to resolve this.

Wiersum recalled at previous discussions, it was learned that the Jimmy’s property was larger than originally thought. He inquired if Peterson’s comment tonight is a confirmation of that previous discovery or if the building was in fact found to be larger a second time. Peterson responded tonight’s report is consistent with the previous information. The size difference was discovered on the

same day the item was scheduled for council consideration in July and has not changed.

Wiersum moved, Ellingson seconded a motion to introduce the ordinance deleting the shared parking requirement for 6001 Shady Oak Road and 11000 Red Circle Drive. All voted "yes." Motion carried.

### 13. PUBLIC HEARINGS:

- A. Items concerning home improvements at 14603 Woodhill Circle for Lawrence and Nancy Wigley:**
- 1) Continued public hearing for the vacation of drainage and utility easements; and**
  - 2) Variance for an addition to the home.**

Teague presented the staff report.

Wagner asked if the house will still have a two-car garage. Teague responded affirmatively.

Callison continued the hearing at 7:17 p.m.

No one appeared.

Callison closed the hearing at 7:18 p.m.

Allendorf moved, Wagner seconded a motion to:

- 1) Adopt Resolution No. 2006-126 approving the vacation of a portion of the easement. This resolution is based on the following findings:
  - a. The petitioners are owners of the land abutting said easement, and therefore are proper petitioners.
  - b. The city no longer needs a portion of this easement.
  - c. Vacating this easement is in the public interest.
- 2) Adopt Resolution No. 2006-127 approving a side yard setback variance from 10 feet to 7 feet for an addition to the house at 14603 Woodhill Circle. This resolution is based on the following findings:
  - a. There is a unique hardship to the property caused by:
    - (1) The location of the existing home on the lot.
  - b. The variance would meet the intent of the ordinance since:
    - (1) The variance request is for a reasonable use of the property since the addition includes a standard two-car garage.

- (2) The addition would be a small point intrusion into the required setback.
- (3) The proposed addition would not alter neighborhood character because it will be screened from surrounding properties by the existing topography and vegetation.

Approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) Install and maintain temporary rock driveway, erosion control, tree protection, as required by the city's natural resources staff.
- 3) This variance will end on December 31, 2007 unless the city has issued a building permit for the project covered by this variance or approved a time extension.

All voted "yes." Motion carried.

#### 14. OTHER BUSINESS:

##### A. Resolution adopting a council policy regarding an Infiltration and Inflow Program.

Public Works Director Brian Wagstrom presented the staff report.

Callison asked if clear water is rain water. Wagstrom explained clear water tends to be rain water, but it could also be water from melted snow in the spring.

Wiersum asked whether infiltration or inflow poses the greater problem. Wagstrom responded inflow is the primary problem because it quickly enters the system and creates the flow peaks the Met Council wants to eliminate. Infiltration is the background flow that in some respects helps the city; it is the base flow and allowable peaks are calculated off that base flow. As time progresses, infiltration may become a big issue too, but at this time inflow is the city's primary focus.

Ellingson departed the meeting at 7:35 p.m.

Wiersum asked whether in terms of capacity of a waste water system, inflow and infiltration present equal problems, but the peaks of inflow really create problems of possibly overtaxing the capacity of a system and possibly releasing untreated water into the system. He asked whether from the perspective of capacity and having to add new waste water systems, inflow and infiltration are

equal. Wagstrom responded it is difficult to answer the question. It is substantially cheaper to fix the problem at the local level. Expansions of treatment plants become very expensive; he is not sure how to answer the question regarding separation of the problem.

Wagner asked whether someone has a sump pump going into their drain is eligible under the grant program. Wagstrom responded yes, that scenario is eligible. It is not so much the ease of disconnection; it is what the homeowner does with the water after disconnection. That is where the cost to the homeowner is most substantial.

Wagner inquired whether homeowners can have an alternative drain into the sewer for an emergency option during winter months. Wagstrom responded the city will have to be flexible. As the program proceeds, things will occur that are not anticipated, and that example is one. Infiltration is not the problem in the winter anyway; there will likely be interim permits until that water can be diverted permanently.

Wagner asked whether homeowners can contact the city to find out the specifications of what needs to be done before this is implemented. Wagstrom responded he would highly recommend that.

Callison asked what part of the city this program will begin in. Wagstrom responded it will be the area north of the public works building near Cedar Lake Road. Staff has to overlay high flow monitoring areas with meter reading routes because they have to change out routes as a whole so they can continue to read meters. In some instances they might enter basements that might have an I/I a problem; they will just be entering those basements to change out the water meters for that particular route.

Callison noted it would be helpful for the council to receive regular reports on how the program is going, in terms of gaining access, what is being found, and what the likelihood is that in three years there will be substantial change in the situation in the city. Wagstrom noted as staff approaches areas for the program, there will be neighborhood meetings to increase understanding.

Wagner recalled in the budget study session this year, council discussed the impact on staff time of managing Dutch elm disease and following up with residents who need to take trees down. He sees this as a similar drain on staff time even though it is contracted out. He suggested keeping track of how many times

staff needs to follow up with a homeowner to get the problem fixed once the city has been in the house. That would be a good metric for the council to have, particularly for future budget discussions.

Wagstrom agreed, and added that based on the experience in other cities, there will be some people who do not want to let the city in. The city attorney will have language that provides the city leverage to get into that basement.

Wiersum expressed strong support for this program. Providing a waste water system is a critical responsibility for the city, particularly related to public health. The recent spinach issue speaks to the dangers of unsanitary conditions that can happen. It is exceedingly expensive to build these waste water systems. The city does not want to waste that resource, and that is what happens with infiltration and inflow; this program will add life to this system.

Callison added that a \$377,000 surcharge is a good way to get a city's attention.

Wagner moved, Allendorf seconded a motion to adopt Resolution No. 2006-128 adopting a council policy regarding an Infiltration and Inflow Program. All voted "yes." Motion carried.

**15. APPOINTMENTS and REAPPOINTMENTS:** None.

**16. ADJOURNMENT.**

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 7:41 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Laura L. Ronbeck  
Acting City Clerk