

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, FEBRUARY 5, 2007**

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

4. APPROVAL OF AGENDA.

Wiersum moved, Wagner seconded a motion to accept the agenda with the addendum to item 14B editing the preamble to the ordinance. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES: December 18, 2006 regular meeting.

Thomas moved, Allendorf seconded a motion to approve the minutes of the December 18, 2006 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS: None.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

City Manager John Gunyou reported on the upcoming schedule. Callison will deliver the State of the City address February 7 at 7:30 a.m. Kids' Fest is February 11 from 12:30 p.m. to 5 p.m. There will be a study session February 12 at 6:30 p.m. City offices are closed February 19 due to Presidents' Day. The next regularly scheduled meeting is February 26.

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

No one appeared.

9. BIDS AND PURCHASES:

- A. Consideration of bids for the CSAH 73 Trail Project No. 4766.**

Wagner asked if notice was given to both businesses and residents on closing the two roads. Gunyou said notice had been given to both.

Wiersum moved, Thomas seconded a motion to award the bid for the CSAH 73 Trail Project No. 4766 to Odesa II, LLC in the amount of \$299,935.00, and amend the 2007 CIP to reflect the \$25,000 increase in project expenditures. All voted "yes." Motion carried.

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

A. Resolution receiving petitions and authorizing the preparation of feasibility reports for storm sewer improvements.

Allendorf moved, Ellingson seconded a motion to adopt Resolution No. 2007-021 receiving petitions and authorizing the preparation of feasibility reports for storm sewer improvements in the vicinity of 12325 Woodbine Road and 12500 James Road. All voted "yes." Motion carried.

B. Ordinance establishing Minnetonka History Commission.

Allendorf moved, Ellingson seconded a motion to adopt Ordinance No. 2007-04 establishing the Minnetonka History Commission. All voted "yes." Motion carried.

C. Ordinance establishing Minnetonka Community Commission.

Allendorf moved, Ellingson seconded a motion to adopt Ordinance No. 2007-05 establishing the Minnetonka Community Commission. All voted "yes." Motion carried.

D. Resolution supporting state legislation to receive sales tax exemption associated with construction of the new water treatment plant.

Allendorf moved, Ellingson seconded a motion to adopt Resolution No. 2007-022 supporting legislation for sales tax exemption. All voted "yes." Motion carried.

E. Items related to the telecommunications antennas at 4525 Williston Rd for Sprint Spectrum/Hall Institute:

- 1) Conditional use permit
- 2) Lease agreement

Thomas thanked staff for posting on the web site educational information on federal telecommunication regulations that limit what the city can do about the antennas.

Allendorf moved, Wagner seconded a motion to:

1) Adopt Resolution No. 2007-023 approving a conditional use permit for telecommunications antennas at 4525 Williston Road. This resolution is based on the following findings:

- a. The city code recognizes telecommunications facilities as valuable public resources.
- b. The proposal meets all of the conditional use permit standards.

Approval is subject to the following conditions:

- a. Record this resolution with the county before the city issues a building permit.
 - b. The site must be developed and maintained in substantial conformance with the plans date-stamped November 29, 2006.
 - c. The exterior surface of the antennas must be painted to match the existing water tower.
 - d. Antennas must comply with all building and electrical code requirements and must be designed and certified by an engineer.
 - e. No external messages or on-site employees are allowed.
 - f. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - g. The applicant must agree to the above conditions in writing.
- 2) Approve the lease agreement subject to a requirement that the lessee pay a fee of \$2500 before it installs its equipment, which will pay for a share of an electronic access system and fencing.

All voted "yes." Motion carried.

F. Resolution supporting a grant application for Hennepin County Transit Oriented Development funds.

Allendorf moved, Ellingson seconded a motion to adopt Resolution No. 2007-024 supporting a grant application for Hennepin County Transit Oriented Development funds. All voted "yes." Motion carried.

G. Proposed Orders for Tobacco License Stipulations.

Allendorf moved, seconded a motion to issue Finding of Fact, Conclusion, and Order for each of the establishments listed below:

- | | <u>Licensee/Establishment/Offense/Fine</u> |
|----|--|
| 1) | <u>DLG, Inc./Boulevard Sinclair, 9800 Minnetonka Boulevard/1st/\$250</u> |
| 2) | <u>Sinclair Marketing Inc./Sinclair Retail #2205, 12415 Wayzata Boulevard/1st/\$250</u> |

All voted "yes." Motion carried.

H. Items regarding two townhouse units in the Deephaven Cove Project.

Allendorf moved, Ellingson seconded a motion to:

- 1) Approve the agreements to purchase from Deephaven Cove, LLC
- 2) Adopt Ordinance No. 2007-06 authorizing the sale to West Hennepin Affordable Housing Land Trust (WHAHLT)
- 3) Approve the agreements to sell to WHAHLT.

All voted "yes." Motion carried.

I. Resolution ordering the abatement of nuisance conditions existing at 11203 Oakvale Road N.

Allendorf moved, Ellingson seconded a motion to adopt Resolution No. 2007-025 ordering the abatement of nuisance conditions existing at 11203 Oakvale Road N. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES: None.

13. PUBLIC HEARINGS:

- A. Public hearing to consider resolutions approving projected use of funds for year 2007 of the City of Minnetonka Community Development Block Grant (CDBG) program and the reprogramming of CDBG funds from the program years 2005 and 2006.**

Elise Durbin presented the staff report.

Thomas asked what is being done to promote the availability of the housing rehabilitation and emergency rehabilitation funds to residents.

Durbin said in the past information was provided in the Minnetonka Memo and is also posted on the city's web site. She said word of mouth has also been effective as residents who have participated in the programs tell their neighbors. Staff also provides information to those who call asking for assistance.

Thomas asked if a resident who receives funds one year can then re-apply and receive more money.

Durbin said they have had applicants who have repeated the program but there is a ten year waiting period in receiving a new loan. She said the exception is in emergency rehabilitation circumstances.

Allendorf asked how the Jewish Vocational Services was selected for daycare services.

Durbin said the service provides a subsidy program and does not provide actual daycare services. City staff felt comfortable using the service to supplement other daycare programs.

Wiersum asked if the single family rehabilitation program restricts a homeowner to using the money on repairs and not on home improvement projects.

Durbin said the loan can only be used to fix things that don't work and a home can only be expanded if an over-crowding situation exists.

Callison opened the hearing at 6:54 p.m.

Nora Davis from the Family Resource Center said the CDBG funding has allowed the organization to assist a great number of Minnetonka residents. She said nearly 300 pieces of warm wear clothing were given away; 1,000 food boxes provided to seniors; and 300 toys distributed. She said over 1,000 individuals have received information and referrals on the availability of program services. She said that she also refers people to the city's rehabilitation programs.

Larry Greenbaum from Jewish Vocational Services said the CDBG funding allows more Minnetonka residents access to child care

programs. He said that their organization was selected by Hennepin County through a competitive process.

Callison closed the hearing at 7:01 p.m.

Wiersum said that he had confirmed with Gunyou that because the federal funds are earmarked for specific purposes, any unused funds would not be available for other uses. He said that despite a reputation as an affluent community, that there are people in need of help in Minnetonka. He praised the work of many charitable organizations in the city seeing to the needs of residents.

Callison agreed with Wiersum and said that there are more requests from organizations than available funds.

Wiersum moved, Wagner seconded a motion to:

- 1) Adopt Resolution No. 2007-26 approving the projected use of funds for year 2007 of the community development block grant program.
- 2) Adopt Resolution No. 2007-27 approving the reprogramming of CDBG funds from program years 2005 and 2006.

All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Items concerning the reconstruction of a shared driveway at 16443 and 16451 McGinty Rd West.

City Planner Julie Wischnack presented the staff report.

Dean Gannon representing Cross Country Design Build said that no building variances are required and that they have worked with staff to minimize the driveway impacts. He said the approved driveway would allow for better emergency vehicle access.

Allendorf asked if there were any downsides to the proposal.

Wischnack replied that there are always other sides to any proposal but that there are far more positives in this case.

Wagner moved, Thomas seconded a motion to:

- 1) Adopt Resolution No. 2007-028 approving a floodplain alteration permit to reconstruct a shared driveway at 16443 and 16451 McGinty Road West. This resolution is based on the following findings:

- a. The proposal would sufficiently mitigate for the impact to the floodplain.
- b. The floodplain alteration would improve the flood protection of the properties. As a result of the floodplain alteration, the shared driveway, which is currently six inches below the 100-year floodplain elevation, would conform to the one foot vertical separation requirement. This improves an existing non-conformity.

Approval is subject to the following conditions:

- 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 January 19, 2007.
 - Grading plan date stamped January 19, 2007.
 - Landscaping plan date stamped January 19, 2007.
- b. Before issuance of a grading permit, complete the following work:
 - (1) Submit the following information to the city:
 - (a) Recorded copies of resolutions approving the floodplain alteration permit and variances from wetland setback and wetland buffer requirements.
 - (b) Final site, grading, drainage, utility and erosion control plans for staff approval.
 - (c) Conservation easements and drawings for approval of the city attorney over the following areas:
 - (i) Twenty five (25) feet upland from the edge of the wetland to the west and up to the edge of the driveway.
 - (ii) Sixteen and a half (16.5) feet upland from the edge of the wetland to the east and up to the edge of the driveway.
 - (iii) Wetland buffer mitigation area to the north and east of the lot along McGinty Road West.
 - (d) Wetland buffer management plan to ensure establishment and continued maintenance of buffer vegetation.
 - (e) Obtain watershed district approval.

(2) The variances would improve an existing non-conforming vertical separation from the 100-year floodplain elevation.

(3) The driveway would not alter the character of the neighborhood, since the impact to the wetland buffer vegetation would be mitigated on the property.

Approval is based on the following conditions:

a. Submit proof of having recorded this resolution with the county before the city issues a grading permit.

b. The following must be completed before the city issues a building permit:

(1) Submit recorded copies of all required conservation easements.

(2) Installation of city-approved wetland buffer boundary signs located every 300 feet and at property lines.

c. Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff.

d. The property is subject to a minimum 20-foot setback from the "prealteration" location of the 100-year floodplain elevation.

e. The variances will end on December 31, 2008, 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.

B. Ordinances regarding electronic signs:

1) Emergency ordinance

2) Moratorium ordinance

City Attorney Desyl Peterson presented the staff report.

Allendorf asked for a review of the legal proceedings that have occurred since the original ordinance was adopted on December 18, 2006.

Peterson said that Clear Channel sued the city asking for a preliminary injunction allowing the company to turn the signs back on. The judge ruled in favor of the city saying that the city acted within its rights. Clear Channel then asked for reconsideration. The reconsideration decision is still pending.

Wagner asked if Clear Channel still has the ability to put a plastic vinyl cover sign on top of the sign. Peterson confirmed that is an option.

Wagner asked if the city was complying with the ordinance in operating its own signs. Peterson said the city is being very careful in making sure that it is in compliance.

Wiersum moved, Allendorf seconded a motion to:

- 1) Adopt Ordinance No. 2007-07 an emergency ordinance replacing Ordinance No. 2006-26 regarding electronic signs.
- 2) Introduce a moratorium ordinance regarding electronic signs.

All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Reappointments to the history commission.

Callison moved, Wagner seconded a motion to approve the following reappointments:

- Betty Johnson, to the history commission, to serve another two-year term, effective February 5, 2007 and expiring on January 31, 2009.
- David Olson, to the history commission, to serve another two-year term, effective February 5, 2007 and expiring on January 31, 2009.
- Joseph Van Sloun, to the history commission, to serve another two-year term, effective February 5, 2007 and expiring on January 31, 2009.

All voted "yes." Motion carried.

B. Appointment to the community commission.

Callison moved, Thomas seconded a motion to appoint David Hakensen, to the community commission, for a two-year term, effective February 5, 2007 and expiring on January 31, 2009. All voted "yes." Motion carried.

C. Appointment to the planning commission.

Callison moved, Thomas seconded a motion to appoint Paul Lehman, to the planning commission, to serve a two-year term, effective February 5, 2007 and expiring on January 31, 2009. All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wagner seconded a motion to adjourn the meeting 7:19 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk