

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, MARCH 26, 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 Tony Wagner, Brad Wiersum, Terry Schneider, Al Thomas, Dick Allendorf, Bob Ellingson, and Jan Callison were present.

4. APPROVAL OF AGENDA.

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

5. APPROVAL OF MINUTES: January 8, 2007, January 22, 2007, February 5, 2007, and February 26, 2007.

Wiersum noted a correction to the time of adjournment which was omitted from the minutes of the February 5 meeting.

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Wagner moved, Wiersum seconded a motion to approve the January 8, January 22, February 5, and February 26, 2007 Minnetonka City Council regular meeting minutes. All voted "yes" with Schneider abstaining on the February 5 minutes. Motion carried.

6. SPECIAL MATTERS:

A. Accept donation of Girl Scout Gold Award project for Burwell House.

Callison recognized Sheila Wilson and accepted the donation of the Girl Scout Gold Award project for the Burwell House.

B. Minnetonka Community Action Recognition award for Sheila Wilson.

Callison presented the Minnetonka Community Action Recognition award to Sheila Wilson. Wilson is a Minnetonka resident and a Hopkins High School student. She created a three dimensional model of a late 1800s garden and also an interpretive guide

showing dry herbs and their uses in a question and answer flip book. Her project will be displayed at the Burwell House. Callison said she was impressed by the work.

Wilson said she did a lot of research at the Minnesota Historical Society and in Forestville, a historical village. She also talked to a lot of historical and master gardeners on how the gardens were set up and laid out, and about certain vegetables that were cultivated and how they have changed over the years.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings. The March 27 joint meeting with Hopkins has been postponed. There is no meeting on April 2. The next regular meeting is April 9.

Wagner said he had the pleasure of serving as the MC of the Caring Youth awards. It was a well attended event. He thanked city staff and the cities of Hopkins and Golden Valley for co-sponsoring the event. He said it was a very impressive group of young people.

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

Former council member Fred Hanus of 15801 West Oaks thanked the council, staff, and planning commission for their support of the Diamond Club at Minnetonka High School. The baseball fields are completely finished. Hanus invited the council, the mayor, staff and planning commission members to a grand celebration on May 5. The event will begin between 4:00 and 4:15 p.m. There will be a girls' softball game that day. Callison thanked Hanus for his continued work on behalf of the community.

9. BIDS AND PURCHASES:

A. Reconsideration of the contract for a seventy-five foot aerial fire truck.

Gunyou gave the staff report.

Thomas moved, Allendorf seconded a motion to rescind the award to E-One, Incorporated, and award the contract to Sutphen Corporation in the amount of \$477,693.59. All voted "yes." Motion carried.

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

A. Claims for council authorization – March 12, 2007.

Allendorf moved, Wiersum seconded a motion to approve the March 12, 2007 claims which includes checks numbered 202870 through 203171, totaling \$1,009,980.91. All voted "yes." Motion carried.

B. Claims for council authorization – March 26, 2007.

Allendorf moved, Wiersum seconded a motion to approve the March 26, 2007 claims which includes checks numbered 203172 through 203433, totaling \$1,170,702.85. All voted "yes." Motion carried.

C. Ordinance to amend council salaries.

Allendorf moved, Wiersum seconded a motion to adopt Ordinance No. 2007- amending City Code Section 100.005 regarding council salaries. All voted "yes." Motion carried.

D. Proposed orders for liquor license stipulations:

- 1) Better Best Corporation**
- 2) MGM Wine & Spirits, Inc.**

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

- | | <u>Establishment/Fine/Suspension</u> |
|----|---|
| 1) | <u>Wanderer's Garden/\$500/1 day, to be served on April 12, 2007.</u> |
| 2) | <u>MGM Wine & Spirits/\$350/None</u> |

All voted "yes." Motion carried.

E. Agreement with the city of Deephaven regarding sewer allocations for Deephaven Cove.

Allendorf moved, Wiersum seconded a motion to approve the agreement with the city of Deephaven regarding sewer allocations for Deephaven Cove. All voted "yes." Motion carried.

F. Amendment of Resolution 2006-028, approving a conditional use permit at 4795 County Road 101 (Westwind Plaza) for Untiedt's Garden Market.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2007-043 amending the existing conditional use permit for Untiedt's Garden Market to operate the produce and plant market at Westwind Plaza. Approval is based on the finding that the required conditional use permit standards are met. The conditional use permit is subject to the following conditions:

- 1) Record this resolution with the county.
- 2) The produce and plant sales may be operated from April 15th through October 31st.
- 3) Display of items must be arranged in as compact a manner as reasonably practicable.
- 4) Any change in the person, location, or items sold at the stand renders this permit invalid.
- 5) This approval does not approve any signs at the site. A sign permit application must be submitted for staff review and approval. Any proposed sign must meet requirements outlined in city code.
- 6) Violation of any conditional use permit standards outlined in city code will result in immediate revocation of the conditional use permit.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 8) 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.
- 9) The site must be completely cleared, and cleaned of any leftover merchandise and debris within 3 days of the last day of operation.
- 10) The water supply for the market cannot be from a fire hydrant.
- 11) No portable sanitation facilities are permitted on the site.
- 12) No items shall be placed in public right-of-way, and sight-lines at intersections shall be kept free and clear. The market/display area shall be limited to the painted parking area and all drive aisles shall be kept clear for access and emergency purposes.
- 13) The applicant must obtain any food or business license from the city's community development department, if required.
- 14) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

G. Lot division for a three-lot subdivision at 4808 Williston Road for John Paulson.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2007-044 approving a lot division at 4808 Williston Road. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases this resolution:
 - a. The following documents for the city attorney's approval:
 - (1) Ten-foot-wide drainage and utility easements along the Williston Road and Crown Drive rights-of-way and seven foot-wide drainage and utility easements along all other lot lines.
 - (2) Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants must include the conditions that have not been met as of the release of the resolution. These covenants must first be submitted for the approval of the city attorney.
 - (3) Title evidence that is current within thirty days before release of the resolution.These documents must be recorded with the lot split resolution, and a drawing of any easements must be attached to the easement deed.
 - b. A park dedication fee of \$4,750.
 - c. All accessory buildings must be removed. Prior to demolition of the buildings, the property owner must:
 - (1) provide city staff access to the buildings for photographing and historical documentation;
and
 - (2) obtain a demolition permit.
 - d. Any existing drive/parking area that encroaches on the Parcel 2 must be removed.
- 2) The following must be completed before the city issues the first building permit for new house construction on Parcel 1, 2, or 3:
 - a. A revised grading plan must be submitted for all three lots. The grading plan must be in substantial compliance with Exhibit 1 of this resolution.
 - (1) Parcels 1 and 2 must include swales on their respective east property lines to direct drainage from the rear and east side of the houses out to Crown Drive.
 - (2) Tree loss must be minimized on the existing north slope of the properties.

- b. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - c. A copy of the recorded resolution and a copy of all easements or restrictive covenants required to be recorded must be submitted to the city.
- 3) The following must be completed before the city issues each building permit:
- a. Submit an erosion control plan and cash escrow in an amount to be determined by natural resources staff. The escrow must be accompanied by a signed document, to be drafted by city staff, stating that, if an erosion problem is not resolved within 48 hours of notification of that problem, the city could use the escrow dollars to resolve the issue.
 - b. A grading and tree preservation plan for each lot, subject to staff approval. The plan must be in substantial compliance with Exhibit 1 of this resolution.
 - (1) Parcels 1 and 2 must include swales on their respective east property lines to direct drainage from the rear and east side of the houses out to Crown Drive.
 - (2) Tree loss must be minimized on the existing north slope of the properties.
 - (3) Graded elevations for each of the new houses must be in substantial conformance with the graded elevations of adjacent properties, as determined by the city planner.
 - (4) Predevelopment drainage patterns must be maintained. No stormwater run off may be directed and negatively impact adjacent properties. To ensure this, swales and/or retaining walls may be required. These requirements are at the discretion of the city engineer.
 - (5) Infiltration/abstraction techniques and associated calculations must be submitted for review and approval of the city engineer.
 - (6) The city may require adjustments in the house pad location and grading to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
 - c. Surveys for new houses on Parcels 1, 2, and 3 must include existing topography and contours on the

- neighboring properties directly adjacent to property lines.
- d. Install a temporary rock driveway, erosion control, and tree protection fencing for staff review and approval.
 - e. Pay a hook-up fee for sanitary sewer and water.
 - f. Any new house on Parcel 3 must take driveway access from Crown Drive only and the existing driveway must be removed from Williston Road.
- 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 1/2 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) Permits may be required from other outside agencies, including but not limited to the Nine Mile Creek Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
 - 7) This resolution must be recorded by the county within one year, unless the city council approves a time extension. If the council does not approve the extension, the lot division approval will be void.

All voted "yes." Motion carried.

H. Resolution amending the ICMA Retiree Health Savings Plan.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2007-045 amending the ICMA Retiree Health Savings Plan. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES:

A. Ordinance amending the zoning code regarding nonconforming uses.

City Attorney Desyl Peterson gave the staff report. She said a couple of years ago the state statute was amended to allow nonconforming uses to be replaced and to be improved. There has been a lot of questions about how those words are actually defined.

Previously, nonconforming uses were not allowed to be replaced or improved because they are intended to go away. Peterson said recently with the billboard situation the city had an example of a nonconforming use that was to be replaced, and it was not what the city thought was a replacement, but rather an improvement. She thought it would be helpful if actual definitions were put into the ordinance to help the city staff and also make it clearer to residents and property owners what is expected. The ordinance was drafted broadly and is expected to be narrowed down as conversations with staff and the planning commission occur.

Callison pointed out the ordinance defines "expansion," "enlargement," and "intensification," but does not define "relocation" which is subsumed under the other three definitions. She asked if relocation should be kept as a separate concept or reworked with the definitions of expansion, enlargement, and intensification for consistency.

Peterson responded that relocation was a little bit different concept than the others, which all get to the idea that something will get bigger somehow. Relocation means something is moving. She said she'll take a look at adding the definition. Callison said she asked the question because the definition includes any move of operations to a new location on the property, which sounded like it was intended to be relocation. Peterson agreed.

Callison understands that nonconforming uses are now unlikely to go away, and there are some instances in the city where the nonconforming use is in a residential area. She wondered if the ordinance should be looked at in terms of the buffering that is provided to residences to manage the impacts of nonconforming uses. She cited fencing as one example. Peterson said that was a good suggestion.

Schneider moved, Allendorf seconded a motion to introduce the ordinance and refer it to the planning commission. All voted "yes." Motion carried.

13. PUBLIC HEARINGS: None.

14. OTHER BUSINESS:

A. Items regarding the Comprehensive Guide Plan Update:

- 1) Presentation on the comprehensive guide plan process and schedule**
- 2) Contracts for professional services**

3) Appointments to the comprehensive guide plan steering committee

Gunyou gave the presentation. He noted Schneider suggested that the Glen Lake area be included as a focus area. Gunyou said staff agreed with the merit of giving the area more attention and suggested adding it to the list.

Allendorf noted that the comprehensive plan was required by the Metropolitan Council, and asked how much the planning effort was going to cost the city and how much the Met Council would pay for. Gunyou said the cost of the contracts being considered tonight would be around \$175,000 and the Met Council would not pay any of the costs; it is the responsibility of the community to cover the costs. Allendorf said for \$175,000 it was worthwhile to take a look at the coordination of all the city's plans every 10 years even without the mandate.

Allendorf asked for an explanation of the strategic service plans. Gunyou said they are long-term plans for city services. The city has an annual budgeting process where resource allocations are made for services. There is also a five year capital planning process. The strategic service plan is an effort to look beyond the near term to what the city will look like in 10 to 15 years so that the future can be better planned. He cited the Williston Center as an example. In the next few years a decision will have to be made for capital investment in the center, and that planning should include thinking 10 to 15 or more years out to what type of community the center will be serving.

Gunyou said another example is public safety. Currently the city has one central police station at the city center. There is a satellite office in Ridgedale that is very small. If Ridgedale is going to develop significantly in the next 10 to 15 years, perhaps the city should be thinking about a more appropriate satellite police office in that area. Similarly, if Opus is going to be redeveloped significantly maybe the existing fire station in that quadrant of the city is not the appropriate location or size for the area.

Gunyou said the strategic service plans are not intended to provide a basis to make immediate budget or short term decisions, but to have the departments start thinking long term much like the city planners do. Allendorf said he understood strategic service planning as complementing the comprehensive plan process by taking the opportunity to look at the city's services as well. Gunyou said that was correct.

Wiersum queried since this comprehensive plan is looking to 2030 if another update will be done in ten years. Gunyou said that was correct. Wiersum asked for an estimate of the time required of the volunteers on the steering committee. Callison said committee members were told there will be as many as 20 meetings between now and the fall of 2008. Some of the meetings will be optional. Wiersum noted it is no small commitment on behalf of the volunteers. Callison thanked those people willing to serve.

Schneider asked if there has been coordination of plans with surrounding cities. Gunyou responded some of the same consultants will be used so it will be easier to coordinate with other communities. Consultants are working with cities throughout the metropolitan area on the process and staff strategically looked at which consultants are doing various parts of the plans to better coordinate overlap with surrounding cities.

Wiersum moved, Thomas seconded a motion to approve the contracts for professional services with SRF and Resource Strategies and appoint the following to the comprehensive guide plan steering committee effective March 26, 2007 and expiring on December 31, 2008:

- Jan Callison, Chair
- John Cheleen
- Jim Couling
- Janet Dupre'
- Chris Meehan
- David Nichols
- Cathy Rude
- Sue Sieklocha
- Blaine Waters
- Terri Yearwood

All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointment of advisors for the 2007 Board of Review.

Callison moved, Wagner seconded a motion to appoint Mr.Selseth, Mr. Shields, Mr. Kriedberg, Mr. Bacal, and Ms. Weber as advisors for 2007. All voted "yes." Motion carried.

B. Appointment to the community commission.

Callison moved, Wagner seconded a motion to appoint Thomas Yang, to the community commission, for a two-year term, effective March 26, 2007 and expiring on January 31, 2009. All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting 7:05 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk