

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JULY 9, 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 Al Thomas, Dick Allendorf, Bob Ellingson, Tony Wagner, Brad Wiersum, Terry Schneider, and Jan Callison were present.

4. APPROVAL OF AGENDA.

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

5. APPROVAL OF MINUTES:

A. May 7, 2007 executive session.

Wiersum moved, Wagner seconded a motion to approve the minutes of the May 7, 2007 Minnetonka City Council executive session. All voted "yes." Motion carried.

B. May 14, 2007 executive session.

Wiersum moved, Wagner seconded a motion to approve the minutes of the May 14, 2007 Minnetonka City Council executive session. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Recognition of firefighters.

Callison recognized firefighters Mark Brown and Kevin Hruby, Lieutenant Brent Weldon, Captain Rodney Miller, and Deputy Chief Bob Eastham who completed training and are now members of Minnesota Task Force #1.

Callison asked for an explanation for what "technical rescue" involved. Eastham said technical rescue covers many disciplines in rescue including swift water rescue, vehicle and machinery

extrication, rope rescue, both high and low angles, confined space rescue, and structure collapse and trench rescue. Eastham thanked the city for the opportunity for the training and for providing the equipment necessary to perform their jobs.

Callison noted that each year the fire department receives well deserved high marks in the community survey. She thanked the firefighters for the work they do on a daily basis and for going beyond that with the training.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou said the July 16 study session had been canceled. The next regular meeting is July 23.

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

Justin Martin spoke on behalf of the American Cancer Society and invited the council to participate in the Relay for Life event scheduled for August 10 at the Minnetonka High School. Martin is currently serving as a community relations intern for the Society after serving as a volunteer for the past seven years. Relay for Life is the largest fund raising event the American Cancer Society has. Martin said it is a unique celebration of life in honor of those who have suffered or died from cancer. Teams of eight to 15 people walk around the track all evening long. The night has somber times of remembrance but Martin said the prevailing atmosphere is relatively party like as the teams walk around the track and celebrate the survivors among them. Each participant commits to raising around \$100 from friends, family, or local businesses. Martin said if people wanted more information they could contact him via email at Justin.martin@cancer.org.

Callison said she participated last year and it was a moving experience.

9. BIDS AND PURCHASES:

A. Consideration of bids for the Highland Road and Old Excelsior Boulevard Storm Sewer Improvements Project Nos. 06607 and 06606.

Gunyou reported the city received very favorable bids.

Thomas moved, Allendorf seconded a motion to award the bid for the Highland Road and Old Excelsior Boulevard Storm Sewer

Improvements Project Nos. 06607 and 06606 to G. L. Contracting in the amount of \$316,672.27 and to amend the 2007 CIP to reflect these revised project costs and advanced schedules. All voted "yes." Motion carried.

B. Consideration of bids for the Bren Road East Improvements Project No. 4314.

Gunyou noted the item was in connection with the United Health Group project previously approved by the council.

Schneider moved, Wagner seconded a motion to award the bid to Midwest Asphalt Corporation in the amount of \$374,043.18. All voted "yes." Motion carried.

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

A. Claims for council authorization – July 9, 2007.

Allendorf moved, Wagner seconded a motion to approve the July 9, 2007 claims which includes checks numbered 205239 through 205534, totaling \$1,685,509.77. All voted "yes." Motion carried.

B. Amendment to the city manager's contract.

Allendorf moved, Wagner seconded a motion to adopt the amendment to the city manager's contract. All voted "yes." Motion carried.

C. Resolution to approve a cooperative agreement with Hennepin County to receive Transit Oriented Development grant funds.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2007-078 approving a cooperative agreement with Hennepin County for Transit Oriented Development grant funds. All voted "yes." Motion carried.

D. Resolution approving plans and specifications and authorizing the advertisement for bids for the West Eldorado Trail Roadway and Utility Improvements Project No. 4988.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2007-079 approving plans and specifications and authorizing the advertisement for bids for the West Eldorado Trail Roadway and Utility Improvements Project No. 4988. All voted "yes." Motion carried.

E. Conditional use permit for transient sales at 17507 Minnetonka Boulevard for Sever's Farm Market and Great Gardens By Grandma.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2007-080 approving Sever's Farm Market and Great Gardens by Grandma's request for a conditional use permit to operate an outdoor garden center and seasonal produce stand at 17507 Minnetonka Boulevard. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Transient sales may be operated on the subject property annually for a total of 91 days.
- 2) Great Gardens by Grandma and Sever's Farm Market must submit a written schedule specifying dates of operation each year. This schedule must be signed by both parties and must be submitted to the city for review a minimum of 5 business days prior to commencement of sales. At no time shall Great Gardens by Grandma and Sever's Farm Market operate simultaneously on site.
- 3) No more than four signs, which do not exceed 32 square feet in aggregate, are allowed for the transient sales. Signs shall not be located in the right-of-way and must meet required setbacks.
- 4) Product advertising is permitted, but must be included in the maximum allowed sign area. The signs shall have a professional appearance and shall be securely mounted or erected in a safe location. These limitations apply to all signs associated with the use, including those affixed to vehicles.
- 5) Violation of the conditional use permit standards outlined in City Code 300.21.4(o) or conditions placed upon the conditional use permit shall result in immediate revocation of the conditional use permit.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) 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.
- 8) Conditional use permits granted by Resolution No. 2006-036 and Resolution No. 2006-076 are revoked and shall become void upon approval of conditional use permit 05017.07a.

The applicant must agree to the above conditions in writing and record this resolution with the county.

All voted "yes." Motion carried.

F. Resolution ordering the abatement of long grass nuisance conditions.

Community Development Director Ron Rankin said the first three properties listed on attachment A, those on Baker Road, Chippewa Road, and County Road 101, are not in compliance. The remaining properties are now in compliance based on inspections made earlier in the day.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2007-081 ordering the abatement of the nuisance conditions. All voted "yes." Motion carried.

G. Resolutions ordering the abatement of nuisance conditions.

Rankin said both properties remain out of compliance.

Allendorf moved, Wagner seconded a motion to adopt the following resolutions ordering the abatement of nuisance conditions existing at:

- 1) 4932 Mayview Road, Resolution No. 2007-082
- 2) 15709 Excelsior Boulevard, Resolution No. 2007-083

All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

A. Floodplain alteration permit, with floodplain and front yard setback variances for construction of a two-story home at 16904 Gray's Bay Boulevard for Structures Unlimited, Inc.

Wiersum moved, Allendorf seconded a motion to adopt Resolution No. 2007-084 approving the applicants request for a floodplain alteration permit, and floodplain and front yard setback variances, for construction of a two-story home at 16904 Gray's Bay Boulevard located in the R-1 zoning district. Approval is based on the following findings:

- 1) The proposed floodplain alteration permit is reasonable and meets city code standards.
- 2) The requested floodplain and front yard setback variances are reasonable.
 - a) The westerly location of the proposed garage is the most suitable location on the site.

- b) The buildable area of this relatively small property is limited by front yard and shoreland setbacks.
- c) As there is currently a building on the property, and as the proposed house would be located on the existing foundation of this building, the requested variance would have no significant impact on adjacent properties or the essential character of the neighborhood.

Approval is subject to the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) The existing driveway on the east side of the property must be completely removed, and a new driveway with reasonably-sized turn-around must be installed directly in front of the proposed garage at the west side of the property.
- 3) The floodplain compensation area must be relocated to the northwest side of the home, subject to staff review and approval.
- 4) A 10-foot shoreland buffer must be installed along the shoreline of the property, subject to staff review and approval.
- 5) Only one shed, totaling 81 square feet in area, may remain on the lot and must comply with all ordinance requirements.
- 6) A revised survey must be submitted prior to building permit application.
- 7) Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff.
- 8) This variance 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.

12. INTRODUCTION OF ORDINANCES: None.

13. PUBLIC HEARINGS: None.

14. OTHER BUSINESS:

A. Items concerning a maintenance/storage building at 3500 Williston Road for Minnetonka Christian Academy:

- 1) **A major amendment to an existing master development plan; and**
- 2) **Site and building plan review, with an access drive setback variance.**

City Planner Julie Wischnack gave the staff report.

Callison said the planning commission hearing on the item was well attended. Much of the discussion at the hearing related to storage issues and whether the building would be large enough or if some of the buses would still have to remain parked outside. She said she thought it was an improvement for the neighborhood to have things moved inside the storage building even if it doesn't accommodate everything. Callison said it was in the neighborhood's best interest to have the storage building, and it would not be any more intrusive to the trail than the current views. She said therefore it is an appropriate amendment to the master plan.

Wiersum moved, Allendorf seconded a motion to adopt Ordinance No. 2007-22 amending the existing master development plan and approving final site and building plans for a storage/maintenance building at 3500 Williston Road. Approval includes an access drive setback variance from 20 feet to 2 feet. This ordinance is based on the following findings:

- 1) The proposal meets the required site and building plan standards.
- 2) The proposal meets the required standards for a variance, because:
 - a. The proposed access drive setback variance is reasonable:
 - (1) The existing master development plan presents a practical difficulty. The plan establishes functional connections between various site components. While the proposed storage/maintenance building and associated access drive could be moved to the north to reduce or eliminate the setback variance, such a shift would negatively impact these functional connections.
 - (2) Unlike a drive aisle which accesses parking spaces, the proposed access drive would only access the proposed storage/maintenance building. The access drive would see very infrequent traffic.
 - b. The proposed access drive would be located adjacent to a vacant, wooded property owned by the city. As such the access drive would have little to no impact on the neighboring area.

Approval is subject to the following conditions:

- 1) 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 June 19, 2007.
 - Building elevations date-stamped June 1, 2007.
- 2) The following must be submitted prior to this ordinance being considered by the city council:
 - a. Submit final engineered plans for that area of the property affected by the proposed maintenance/storage building. The plans must meet the city engineer's requirements.
- 3) The following must be submitted/completed prior to issuance of a building permit:
 - a. Submit the following:
 - (1) Final site, grading, drainage, utility, and erosion control plans for staff approval.
 - (2) Final building elevations. The metal siding/roofing of the maintenance/storage building must match the metal roofing of the existing church building
 - (3) A final landscape plan for staff review and approval. Black hills spruce or norway pine and linden or maple trees must be substituted for colorado spruce and box elder trees shown in the original site plan. The plan must meet minimum landscape values as outlined in city code.
 - (4) A letter of credit or cash escrow for 150% of the estimated cost or 125% of a bid cost to comply with grading requirements and restoration of the site.
 - (5) A letter of credit or cash escrow for 150% of the estimated cost or 125% of a bid cost for all required landscaping.
 - (6) Recorded copies of this ordinance.
 - b. Complete the following:
 - (1) Install erosion control and tree protection fencing for inspection and approval of the city's natural resources staff. These items must be maintained throughout the course of construction.
 - (2) Pay any delinquent utility bills.
- 4) The building must be equipped with automatic fire sprinklers if required by the fire marshal.
- 5) All busses must be parked in the building or on the south side of the maintenance/storage building.

- 6) The property owner is responsible for replacing any required landscaping that dies.
- 7) All rooftop and ground-mounted mechanical equipment and exterior trash and recycling storage areas must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained, mechanical units that blend in with the building architecture are exempt from the screening requirement.
- 8) Construction must begin by December 31, 2008, unless the planning commission grants a time extension.
- 9) The site must comply with nuisance ordinances.
- 10) The applicant and property owner must adhere to all conditions outlined in the 1999 master development plan.

All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Student representative appointments to the comprehensive guide plan steering committee and the EDA.

Callison moved, Wiersum seconded a motion to appoint:

- Gauri Subramani, to the comprehensive guide plan steering committee, as a student representative, effective July 9, 2007 and expiring at the completion of the plan update in 2008.
- Ethan Lang, to the EDA, as a student representative, to serve the remainder of a two-year term, effective July 10, 2007 and expiring on January 31, 2008.

All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wagner seconded a motion to adjourn the meeting 6:56 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk