

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

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou noted for item 10J state law requires six votes to approve publishing the summary of the ordinance.

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

**5. APPROVAL OF MINUTES: None.**

**6. SPECIAL MATTERS:**

**A. Recognition of former park board member Cathy Rude.**

Wiersum read the recognition. Rude thanked the staff and community.

**B. Present awards to 2007 photo contest winners.**

Callison recognized Barb Westmoreland, Laura Stotts Gorans, and Melissa Williamson-Herrern, members of the Community Commission who selected the winners. Callison presented the awards to contest winners: Jeff Adrian, Stephanie Ferguson, Tom Arnold, Bob Lauderville, and Bill Vollink.

**C. Proclamation declaring the week of November 10 as Housing Awareness Week.**

Schneider read the proclamation.

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

Gunyou reported on the schedule for upcoming council meetings. November 6 is the city's general election. The council has a joint meeting with the park board November 7. The comprehensive plan open house is November 8. City Hall is closed November 12 for Veterans Day. The next regular meeting is November 19.

Wiersum asked Gunyou to respond to a Minneapolis Star Tribune article about a Deephaven resident conducting sales from a Minnetonka residence. Gunyou said the issue has nothing to do with conducting garage sales in the city as was implied in the article. Residents are welcome to, and many do, conduct garage sales from their homes. Gunyou said the issue is about the operation of an unlicensed commercial business in a residential neighborhood. Rather than hold a garage sale or operate a home business at her home in Deephaven, the person sells items from a vacant house in Minnetonka.

Gunyou noted the city does not actively look for violations of its ordinances, but rather, the ordinances are enforced on a complaint basis. In this case there have been numerous objections from the neighbors. He said over the past couple of years multiple written and in person warnings have been issued to the individual. She has ignored the many warnings, so a city court citation was issued in June, and once again, she did not respond to the citation.

Staff met with her at the end of June and she indicated she understood the ordinance requirements but did not agree with them. She was presented with three options: she could discontinue the illegal sales and the \$150 fine would be waived; she could appeal the citation through the city court process; or if she chose to continue the sales, she would face misdemeanor charges in district court. She indicated she wanted time to think about her options and possibly contact an attorney, so staff respected her request.

In October the city again received multiple complaints from neighbors about another sale. When staff verified there was another violation, the person was asked to discontinue the sale.

Gunyou said the city has made a good faith effort to work with the individual on many occasions. He said it is now apparent she had no intention of ever working cooperatively with the city to resolve the dispute. In fact, she mailed out postcards advertising the latest sale, and

encouraged people to contact the city to complain. Gunyai encouraged people with questions about the story to give staff a call for a further explanation of the circumstances.

Callison reported that she and Allendorf attended the Opus groundbreaking. She said it is anticipated construction will be completed by January 2009.

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

Ann Perry and Janet Lindbo from Homes Within Reach spoke. Perry, the executive director, thanked the council for its support and for providing an incubator for the organization to begin its work. She said Homes Within Reach will request funding from the economic development authority for 2008. Lindbo, the president, gave an update on the organization's work. She said Homes Within Reach serves nine communities in Hennepin County. Currently they have served 44 families, 28 from Minnetonka.

Callison said it seemed appropriate that Perry and Lindbo appeared on the night the council had a proclamation for Housing Awareness Week. She also recognized and thanked Schneider for serving on the Homes Within Reach board of directors.

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

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

**A. Authorize three year permit application to Three Rivers Park District requesting winter use of the Regional Trail Corridors.**

Wiersum moved, Wagner seconded a motion to authorize staff to submit permit applications to Three Rivers Park District requesting winter use of the two Regional Trail Corridors within the city of Minnetonka through the 2009/2010 season. All voted "yes." Motion carried.

**B. Agreement with the city of Excelsior to provide city code violation administrative services.**

Wiersum moved, Wagner seconded a motion to authorize the city to execute the agreement with the city of Excelsior. All voted "yes." Motion carried.

**C. Authorization of agreement for professional auditing services with Kern DeWenter Viere for the 2007-2009 financial audits.**

Wiersum moved, Wagner seconded a motion to execute an agreement for professional auditing services with Kern DeWenter Viere for the 2007-2009 financial audits. All voted "yes." Motion carried.

**D. Agreement with Minnetonka School District #276 for police liaison services for 2008.**

Wiersum moved, Wagner seconded a motion to approve the agreement with Minnetonka School District #276 for police liaison services for 2008. All voted "yes." Motion carried.

**E. Agreement with the Northern Star Council for a community based juvenile diversion program for 2008.**

Wiersum moved, Wagner seconded a motion to approve the renewing the agreement for the year 2008, not to exceed \$20,000. All voted "yes." Motion carried.

**F. Agreement with Sojourner Project Inc. for domestic services for 2008.**

Wiersum moved, Wagner seconded a motion to approve the renewing the agreement for the year 2008 with the same rate of \$60 per hour, not to exceed \$20,000. All voted "yes." Motion carried.

**G. Agreement with Hopkins School District # 270 for junior and senior high liaison services for 2008.**

Wiersum moved, Wagner seconded a motion to approve the agreement with Hopkins School District #270 to provide junior and senior high liaison service for calendar year 2008. All voted "yes." Motion carried.

**H. Resolution authorizing an amendment to the city's flexible spending account summary description and plan document.**

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2007-142 authorizing an amendment to the city's flexible spending account summary description and plan document. All voted "yes." Motion carried.

**I. Resolution authorizing re-conveyance of certain tax-forfeited land within the city of Minnetonka and requesting conveyance of fee title.**

Wagner pulled the item. He asked for staff comment on the process for the large development and re-development scheduled for the corner of I394 and County Road 73 and how it will affect the area residents.

City Attorney Desyl Peterson said the area that the property is located has been in the city's plans for quite some time as a redevelopment area. There is a small piece of land that is excess right of way owned by the Minnesota Department of Transportation. The city believes the piece of land could be used well for any kind of redevelopment proposal that comes in. Peterson said the city is trying to position itself to have the land in its control so when a redevelopment plan comes in, the city can use the land as a bargaining chip. The specific approval being requested does not commit the city to give the land to any particular developer. She said what the item does do is give the city complete control of the piece of land.

Wagner said later in the week the planning commission was going to review a proposal for the area. He asked how the negotiating power would work with the development coming forward later. Peterson said it would give the city another bargaining chip in what it could ask from the developer because the city would own some of the land that would be part of the proposal.

Wagner moved, Ellingson seconded a motion to adopt Resolution No. 2007-143 authorizing re-conveyance of certain tax-forfeited land to the state of Minnesota and requesting sale to the city of Minnetonka in fee title in the amount of \$20,000.00, plus normal transfer taxes and administrative fees.

All voted "yes." Motion carried.

**J. Ordinance amending Section 710 of the City Code regarding increases to certain license fees and authorization to publish a summary of the ordinance.**

Wiersum moved, Wagner seconded a motion to:

- 1) Adopt Ordinance No. 2007-36 amending Section 710 of the City Code regarding certain license fees.

2) Adopt Resolution No. 2007-144 authorizing publication of a summary

All voted "yes." Motion carried.

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

12. **INTRODUCTION OF ORDINANCES:**

A. **Rezoning and a preliminary plat for a two-lot subdivision at 15549 Ranchview Court.**

Gunyou said the proposal was previously before the council as a three lot subdivision. The applicant withdrew the proposal and has come back with a two lot proposal.

Callison asked for the date of the planning commission hearing on the item. City Planner Julie Wischnack said it would be heard during the first meeting in December.

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

13. **PUBLIC HEARINGS:**

A. **Continued public hearing to consider applications by Champps Operating Corporation, for on-sale and Sunday on-sale intoxicating liquor licenses for Champps American, 1641 Plymouth Road.**

Gunyou gave the staff report.

Callison continued the hearing. No one spoke.

Callison closed the hearing at 7:02 p.m.

Wagner moved, Wiersum seconded a motion to grant on-sale and Sunday on-sale intoxicating liquor licenses for Champps American, 1641 Plymouth Road. All voted "yes." Motion carried.

B. **Public hearing to consider applications by Jimmy's LLC, for on-sale and Sunday on-sale intoxicating liquor licenses for Jimmy's Food and Cocktails, 11000 Red Circle Drive.**

Gunyou gave the staff report.

Callison opened the hearing at 7:03 p.m.

Schneider moved, Thomas seconded a motion to continue the hearing to December 3, 2007. All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Review of Oakhaven Park Master Plan located at 13608 Spring Lake Road.**

Parks and Trails Manager Perry Vetter gave the staff report.

Callison asked Vetter if he had a sense of the timing improvements might occur. Vetter said the park board will look at refining the budget numbers in December so the board will have more specific information for next year's CIP process.

Wiersum noted the staff report indicated Ward 3 is underserved in terms of parks. He said the plan was an exciting opportunity and encouraged whatever could be done to finish the park as soon as possible.

Wagner noted Vetter's report said parts of the city are deficient in terms of parks. He asked if the city had a formal definition of "deficient." Vetter said there is no official definition but the working requirements include areas where there have been requests, or new development areas where there is a change in the density of people that have limited ability to get to parks and open space.

Thomas said it is a rare opportunity to be able to create a park because of the city's developed status. He said his ward includes areas that people will not cross like Highway 7, Williston Road, and the Crosstown. When the city can add a park in the area with no land costs it is a great opportunity.

Tyler Torborg of 13816 Spring Lake Road said he liked everything about the plan specifically the horseshoe area and basketball court. He asked if it is possible to include a shuffleboard area. Vetter said the city's first shuffleboard court was created in Wilson Park late in the fall. Other cities have contacted him to find out how that court was designed and engineered. He said there will be a learning curve to see how that court works and that normally the courts are a low cost, low space requirement item.

Jack Torborg of 13816 Spring Lake Road said the basketball and horseshoe courts are good ideas. He also likes the trail behind the basketball courts.

Callison said it makes sense to do parks with low costs where it is possible to do so. She said the park will benefit the neighborhood.

Wiersum moved, Wagner seconded a motion to approve the park board development recommendations for Oakhaven Park. All voted "yes." Motion carried.

**B. Items concerning a building pad site on the east side of Ridgedale Center for General Growth Properties.**

Wischnack gave the staff report.

Schneider said the creation of the lot seemed straightforward but since there is no site plan he was concerned about the possibility of granting the lot vested rights to direct access on to Ridgedale Drive. Wischnack said she didn't believe granting the preliminary plat would do that. There will be cross access arrangements with all the different parcel owners.

Wagner said since the city is anticipating a major redevelopment of the Ridgedale Mall he is concerned about granting this request prior to having a master development plan. He said the area includes the only green space in the entire Ridgedale parking lot. Wischnack said staff has reviewed enough of the future redevelopment proposal to understand the inner workings of what parking ramps, or transit facilities or other improvements connected with a major expansion might do for the area. She said in reviewing the plans she is confident a structure is not being placed in the middle of some future building or other improvements.

Wagner said he would not support the item because the city is going through the comprehensive planning process and is looking at the I394 district in general. Approving this lot split without having a broader discussion doesn't provide a great return for the city.

Schneider said he thought the original master plan indicated a separate free standing pad for the site. Wischnack confirmed a search of past records did indicate some kind of pad generation for the specific area was contemplated. Schneider said since the proposal is similar to the original approved development plan, it is

not a major change. Rather it is a physical division of the property for ownership.

Wagner said it was his understanding there is no master development plan as currently defined.

Schneider moved, Wiersum seconded a motion to:

- 1) Give preliminary approval to the Ridgedale Center Seventh Addition, date stamped August 31, 2007. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:
  - a. Complete the following before final plat approval:
    - (1) On the final plat, show a ten-foot-wide drainage, utility, and trail easement adjacent to Ridgedale Drive and at least seven-foot-wide drainage and utility easements along all other lot lines.
    - (2) Pay the city a park dedication fee of \$7,809.00
  - b. The following items must be submitted to the city before the city releases the final plat:
    - (1) Payment for traffic signs and installation, as required by the city engineer.
    - (2) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
    - (3) The following documents for the city attorney's approval:
      - (a) Title evidence that is current within thirty days before release of the final plat.
      - (b) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.  
These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
    - (4) Any other requirements included with final plat approval.
  - c. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

- 2) Adopt Resolution No. 2007- approving a variance from the master development plan requirement. This proposal would meet the requires standards for a variance, because:
- a. The intent of the master development plan requirement within the PID ordinance is to ensure reasonable, orderly, and quality development. The applicant's proposal would meet this intent:
- (1) Any commercial building proposed for the site would be subject to site and building plan review.
- (2) The newly created site would be just 2% of the total Ridgedale Center property.
- b. General Growth Properties is currently developing plans for a significant expansion to the mall itself. A master development plan would be better required at the time of this expansion.

Wiersum, Schneider, Thomas, Ellingson, and Callison voted "yes." Wagner voted "no." Motion carried.

**C. Applications for renewed on-sale and off-sale 3.2 percent malt liquor licenses for 2008.**

Gunyou gave the staff report the item and item 14D.

Wiersum moved, Thomas seconded a motion to grant the following licenses:

**On-sale 3.2 Percent Malt Liquor Licensees:**

Bunker Indoor Golf Center, 14900 State Highway 7

\* Crossroad Delicatessen, 2795 Hedberg Drive

Davanni's Pizza & Hot Hoagies, 15200 State Highway 7

Glen Lake Golf & Practice Center, 14350 County Road 62

\* Istanbul Bistro, 15718 Wayzata Boulevard

\* Lund's Deli Style Restaurant, 11400 State Highway 7

\* Ruth Stricker's – The Marsh, 15000 Minnetonka Boulevard

\* Wanderer's Garden, 13059 Ridgedale Drive

\*These five applicants are also requesting renewed on-sale wine licenses. State law provides that establishments having both on-sale 3.2 percent malt liquor and on-sale wine licenses, and at least 60% food sales, may serve strong beer. These five applicants meet that requirement.

**Off-sale 3.2 Percent Malt Liquor Licensees:**

Glenn's 1-Stop, 12908 Minnetonka Boulevard

Target Store T-1356, 4848 County Road 101

All voted "yes." Motion carried.

**D. Applications for renewed on-sale and Sunday on-sale intoxicating liquor licenses, off-sale intoxicating liquor licenses, and on-sale wine licenses for 2008.**

Schneider moved, Thomas seconded a motion to approve the following renewed on-sale and Sunday on-sale intoxicating liquor, off-sale intoxicating liquor, and on-sale wine licenses for calendar year 2008, provided that no license shall actually be issued unless the applicant has filed an appropriate Certificate of Insurance with the city:

**On-sale and Sunday On-sale Intoxicating Liquor Licensees:**

Applebee's Neighborhood Grill and Bar, 12653 Wayzata Boulevard

Bacio, 1571 Plymouth Road

Big Bowl, 12649 Wayzata Boulevard

Café Cabernet, 17523 Minnetonka Boulevard

Café Carlson, 701 Carlson Parkway

Champp's Americana, 1641 Plymouth Road

Christos Greek Restaurant, 15600 State Highway 7

Don Pablo's, 11544 Wayzata Boulevard

Famous Dave's BBQ Shack, 14601 State Highway 7

Jimmy's Food and Cocktails, 11000 Red Circle Drive

Lake Shore Grill, 12411 Wayzata Boulevard (Ridgedale)

Lone Spur Grill & Bar, 11032 Cedar Lake Road

Market Bar-B-Que, 15320 Wayzata Boulevard

Minneapolis Marriott Southwest, 5801 Opus Parkway

Old Chicago, 17790 Highway 7

Origami West, 12401 Wayzata Boulevard (Ridgedale)

PRIMA-pasta-salads-panini, 17805 State Highway 7

Redstone American Grill, 12501 Ridgedale Drive

Romano's Macaroni Grill, 11390 Wayzata Boulevard

Scoreboard Bar & Grill, 5765 Sanibel Drive

Sheraton Minneapolis West Hotel, 12201 Ridgedale Drive

**Off-Sale Intoxicating Liquor Licensees:**

Byerly's Wines & Spirits, 13081 Ridgedale Drive

Cost Plus World Market Wine Shop, 11240 Wayzata Boulevard,  
Suite B

Glen Lake Wine & Spirits, 14704 Excelsior Boulevard

Haskell's, 12900 Wayzata Boulevard

MGM Wine & Spirits, 17730 State Highway 7

Strong Liquor, 11048 Cedar Lake Road  
Sundial Wine & Spirits, 5757 Sanibel Drive  
The Wine Shop, 17521 Minnetonka Boulevard  
Tonka Bottle Shop, 17616 Minnetonka Boulevard  
US Liquor & Wine, 11333 Highway 7

**On-Sale Wine Licensees:**

Crossroads Delicatessen, 2795 Hedberg Drive  
Istanbul Bistro, 15718 Wayzata Boulevard  
Lund's Deli Style Restaurant, 11400 State Highway 7  
Ruth Stricker's - The Marsh, 15000 Minnetonka Boulevard  
Wanderer's Garden, 13059 Ridgedale Drive

All voted "yes." Motion carried.

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

**16. ADJOURNMENT.**

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

Respectfully submitted,

David E. Maeda  
City Clerk