

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JANUARY 7, 2008**

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, Dick Allendorf, Brad Wiersum, James Hiller, Terry Schneider, Bob Ellingson, and Jan Callison were present.

4. APPROVAL OF AGENDA.

City Manager John Gunyou noted an addendum to item 14A.

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

5. APPROVAL OF MINUTES:

A. November 5, 2007 regular meeting.

Schneider moved, Wagner seconded a motion to approve the minutes of the November 5, 2007 Minnetonka City Council regular meeting. Wagner, Wiersum, Schneider, Ellingson, and Callison voted "yes." Allendorf and Hiller abstained. Motion carried.

B. December 3, 2007 regular meeting.

Schneider moved, Wagner seconded a motion to approve the minutes of the December 3, 2007 Minnetonka City Council regular meeting. Wagner, Allendorf, Schneider, Ellingson, and Callison voted "yes." Wiersum voted yes but abstained on item 14A. Hiller abstained. Motion carried.

6. SPECIAL MATTERS:

A. Proclamation designating Monday, January 21, 2008 as Martin Luther King, Jr. Day in Minnetonka.

Schneider read the proclamation.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings.

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

Jim Fredkove of 1502 Archwood Road asked how a resident finds out about public property that is up for sale. City Attorney Desyl Peterson said the city does not have much land available for sale. When land is available it is marketed in different ways. Sometimes a real estate agent is used. Other times the sale is negotiated directly with an adjacent landowner or with someone who is doing a particular project.

9. BIDS AND PURCHASES: None.**10. CONSENT AGENDA (Items Requiring a Majority Vote):****A. Claims for council authorization – December 24, 2007.**

Allendorf moved, Schneider seconded a motion to approve the December 24, 2007 claims which includes checks numbered 208713 through 209075, totaling \$1,739,553.32. All voted "yes." Motion carried.

B. Resolution designating an Acting Mayor and Alternate Acting Mayor for 2008.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2008-001 designating Council Member Dick Allendorf Acting Mayor and Council Member Terry Schneider as Alternate Acting Mayor for the year 2008 All voted "yes." Motion carried.

C. Resolution supporting a grant agreement for DEED Redevelopment Grant funds for the Glen Lake project.

Allendorf moved, Schneider seconded a motion to adopt Resolution No. 2007 -002 supporting a grant agreement for DEED Redevelopment Grant funds for the Glen Lake project. All voted "yes." Motion carried.

D. Final approval of the LAKE ROSE HIGHLANDS plat at 15407 Lake Shore Avenue for Clark Kent Homes.

Allendorf moved, Schneider seconded a motion to approve the LAKE ROSE HIGHLANDS final plat that was received on November 29.

2007, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and
- 2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

All voted "yes." Motion carried.

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

12. **INTRODUCTION OF ORDINANCES:**

- A. **Ordinance rezoning the existing property at 11501 K–Tel Drive from I–1, industrial, to PUD, planned unit development, for Hoyt Properties, Inc.**

Gunyou gave the staff report.

Wiersum said one of the properties appears to have no access to a public right of way. He asked if the property still meets the requirements of the city. City Planner Julie Wischnack said in a planned unit development the council can deviate from the normal code requirements.

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

- B. **Ordinance rezoning 3919 Haven Road from R–1, low density residential, to PUD, planned unit development, for Leo Grinberg.**

Gunyou gave the staff report.

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

- C. **Ordinance authorizing the sale of certain property near I-394 and County Road 73, related to Crossroads Corporate Center.**

Gunyou gave the staff report.

Wiersum abstained from the item due to a conflict of interest.

Wagner asked for staff to comment on the process of the item coming back directly to the council without going before the planning commission. Peterson said normally if there is a substantial change to a proposed development it would be required to go back to the planning commission for review. In this case the substantial change is to reduce the potential impacts. As result she determined it does not need to go back to the planning commission.

Schneider moved, Allendorf seconded a motion to introduce the ordinance. Wagner, Allendorf, Hiller, Schneider, Ellingson, and Callison voted "yes." Wiersum abstained. Motion carried.

Wagner noted there will be a neighborhood meeting on January 15 at 6:30 p.m. at the Community Center.

13. PUBLIC HEARINGS:

A. Public hearing to consider applications by CHIEF Minneapolis Hotel, LLC, for on-sale and Sunday on-sale intoxicating liquor licenses for Marriott Minneapolis Southwest, 5801 Opus Parkway.

Gunyou gave the staff report.

Callison opened the hearing at 6:50 p.m.

Schneider moved, Wiersum seconded a motion to continue the hearing to February 11, 2008. All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Items concerning a two-lot subdivision of 15549 Ranchview Court, for Evergreen Development Corporation

Wischnack gave the staff report.

Allendorf said the council and the planning commission usually do not recommend the removal of trees. He asked Wischnack for the planning commission's rationale for the removal of a tree.

Wischnack said the commission's discussion was about whether the tree was significant enough to be saved. The commission determined the building pad was quite constrained by the tree so the owner's request was accommodated.

Tom Goodrum, from MFRA Consulting said he represented the property owners. He thanked council, the planning commission, and staff.

Wiersum said the change from mid-density to R1 was the right thing for the neighborhood. Going from a three lot subdivision to a two lot subdivision was also good for the neighborhood.

Callison said an important point raised in the planning commission's discussion was that the 15 future trees might be better than the one tree being removed.

Wiersum moved, Wagner seconded a motion to:

- 1) Approve the removal of the outlot status of the subject property. Removal of the outlot status of the site is based on the following findings:
 - a. Since the subject property was created as a part of the Evergreen subdivision it was envisioned that it would develop at some point in the future, at which time the removal of the outlot status would be granted.
 - b. The subject property and the neighboring property to the east are guided medium density residential. In 1987, city council declared that the subject property would remain in outlot status until that time when the property to the east would develop. If the two properties were to develop simultaneously it is possible the subject property would develop at medium density. However, given the existing low-density development pattern, the development of two single-family homes on the subject property is more compatible with the surrounding neighborhood
 - c. It is likely that a medium density residential development would have a greater impact on the natural environment of the subject property; namely tree removal and wetland/floodplain impacts.
- 2) Adopt Ordinance No. 2008-01 approving the proposed rezoning. This ordinance is based on the following findings:
 - a. The rezoning would be consistent with the city's guide plan;
 - b. The rezoning would be consistent with the public health, safety, and welfare.
 - c. The rezoning, and resulting subdivision, would be consistent with the intent of the current development moratorium.

- 3) Grant preliminary approval to Evergreen Second Addition, date stamped November 14, 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) Final plat must include the following drainage and utility easements:
- (a) A 20-foot easement over storm sewer outlet from the wetland on the south end of the site.
- (b) An easement over the entire wetland and proposed infiltration basin at or above the 100-year flood elevation and/or wetland, whichever is higher.
- (c) Temporary construction easement on all adjacent private property as required.
- Pay the city a park dedication fee of \$5,000.
- b. The following items must be submitted to the city before the city releases the final plat:
- (1) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
- (2) The following documents must be prepared by an attorney knowledgeable in the area of real estate and submitted for the approval of the city attorney:
- (a) Title evidence that is current within thirty days before release of the final plat.
- (b) Conservation easements 25-feet upland of the delineated wetland edge. The easement may allow removal of hazard, diseased, or invasive species.
- (c) Restrictive covenants to be recorded against the individual lots within the plat. The covenants must include conditions that have not been met as of the release of this plat.
- These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
- (3) Any other requirements included with final plat approval.
- c. A grading permit is required for extension of Ranchview Court. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

- (1) The following must be submitted for the grading permit to be considered complete:
 - (a) Final grading and drainage plans, accompanied by all associated calculations and borings. Final plans shall be subject to staff approval. The plans must include:
 - (i) Pretreatment of stormwater prior to discharge into the wetland.
 - (ii) Grading plan must include a tree inventory for the area proposed to be impacted as a result of the proposed street extension.
 - (b) Final site, roadway, utility, and erosion control plans must be submitted for staff review and approval.
 - (i) The utility plan must include appropriate "Private" labels on all sanitary sewer forcemain.
 - (c) A stormwater pollution prevention plan for staff review and approval.
 - (d) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.
- (2) Prior to issuance of a grading permit:
 - (a) Submit cash escrow in the amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the applicant. Through this document the applicant will acknowledge: (1) the property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
 - (b) The developer must submit a signed agreement with the city for the construction of the Ranchview Court

extension and any public utility work. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include a letter of credit or cash deposit to ensure that the developer completes all public improvements and complies with all city regulations. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids. Construction plans must be submitted to the city for staff approval.

(c) Install a temporary rock driveway, erosion control, tree and wetland protection fencing for natural resources staff inspection. These items must be maintained throughout the course of construction.

(d) The final plat must be released by the city and filed with Hennepin County for recording.

(3) Permits may be required from other outside agencies including, but not limited to, Minnehaha Creek Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.

d. Complete the following before issuance of building permits for both Lots 1 and 2:

(1) The contractor must meet with city staff on site to determine the final location and grading limits of the storm sewer prior to installation to minimize impacts to the 2 large oak trees to the east.

(2) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.

(3) Submit the following documents:

(a) A recorded copy of the rezoning ordinance, preliminary plat, conservation easement, and restrictive covenants.

(b) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

- (4) Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot. These items must be maintained throughout the course of construction.
 - (5) Install heavy-duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.
 - (6) Pay a hookup fee for sanitary sewer and water.
 - (7) All portions of first-story, walls as measured by an approved route around the exterior of the house, must be within 150 feet of the street. If access requirements cannot be met, the house must be protected with 13D automatic fire sprinklers.
- e. The following specific development requirements apply to Lots 1 and 2:
- (1) Each lot must be custom graded at the time of building permit. Only grading for the street, utilities, and drainage improvements will be permitted prior to issuance of a building permit.
 - (2) The grade at the front of the building pad of Lot 2 must be equal to or higher than the street elevation at the curb.
 - (3) Minimum front yard setback for the principal structure on Lot 2 is 25 feet.
 - (4) Minimum side yard setback for the principal structure on Lot 2 is 20 feet as measured perpendicular from the east lot line of Lot 2. This setback may be reduced at the discretion of staff, if the reduction has no negative impact on trees. Minimum side yard setbacks for all other side yards on Lots 1 and 2 shall be 10 feet.
 - (5) The principal structure on Lot 2 must be constructed with a minimum setback of 45 feet from the wetland. This setback shall only apply during initial construction. After initial construction of the principal structure is complete a wetland setback of 35 feet must be maintained. This will give the homeowner flexibility in development of the home in the future while maintaining wetland setback.
 - (6) In addition, specific setbacks from individual significant trees on each site are also required.

These setbacks are illustrated on the document titled "PC recommended grading Limits" which is dated December 6, 2007

- f. Paved portions of the existing Ranchview Court cul-de-sac lying outside of public right-of-way must be removed and restored with vegetation.
 - g. During construction, the streets must be kept free of debris and sediment.
 - h. 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.
 - i. Removal of Tree #2 must be mitigated by 30 inches of replacement trees on the site.
- 4) Approve the cul-de-sac length in excess of 500 feet. Approval is based on the finding that the proposed cul-de-sac is the only practical method of access the subject property given existing development patterns.

All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointment of representatives to various advisory boards, commissions and committees.

Callison moved, Wiersum seconded a motion to approve the following appointments:

- Terry Schneider as the Minnetonka City Council Legislative Contact to Metro Cities.
- Janis Callison as the Minnetonka City Council representative to the Municipal Legislative Commission Board of Directors.
- Dick Allendorf as the Minnetonka City Council representative to the I-494 Joint Powers Organization.
- Robert Ellingson as the Minnetonka City Council representative to the Southwest Suburban Cable Commission.
- Desyl Peterson as the Minnetonka City Council's appointed representative to the Suburban Rate Authority and Geralyn Barone as the alternate.
- Brian Wagstrom as the Minnetonka City Council's appointed representative to the Bennett Family Park Board.
- Dave Johnson as the Minnetonka City Council's appointed representative to the Minnetonka School District Community Education Advisory Council.

- Dave Johnson as the Minnetonka City Council's appointed representative to the Music Association of Minnetonka.
- Terry Schneider as the Minnetonka City Council representative to the West Hennepin Affordable Housing Land Trust (Homes Within Reach).
- Elise Durbin as the Minnetonka City Council's appointed representative to the Wayzata Schools Community Collaboration Council.
- Brad Wiersum as Minnetonka City Council representative to the EDA, effective January 7, 2008 and expiring January 31, 2014.
All voted "yes." Motion carried.

B. Reappointments to Minnetonka boards, commissions and committees.

Callison moved, Schneider seconded a motion to approve the following reappointments to the Minnetonka Boards, Commissions and Committees:

- Eduardo Jimenez, to the community commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Michael Kelly, to the community commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Robbie Rosenthal, to the community commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Laura Stotts Gorans, to the community commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- DeeAnn Bloom, to the history commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Jenna Burfeind, to the history commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Joan George, to the history commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Bruce Gefvert, to the park board, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Tim Goodyear, to the park board, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.

- Tess Komarek, to the park board, to serve another one-year term, effective February 1, 2008 and expiring on January 31, 2009.
- Linda Witte, to the park board, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Steve Adams, to the planning commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.
- Sarah Schmitz, to the planning commission, to serve another two-year term, effective February 1, 2008 and expiring on January 31, 2010.

All voted "yes." Motion carried.

16. ADJOURNMENT.

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:01 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk