

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, APRIL 21, 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 Dick Allendorf, Brad Wiersum, James Hiller, Terry Schneider, Bob Ellingson, Tony Wagner, and Jan Callison were present.

4. APPROVAL OF AGENDA.

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

5. APPROVAL OF MINUTES: March 24, 2008 regular meeting.

Wiersum moved, Wagner seconded a motion to approve the minutes of the March 24, 2008 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS: Proclamation declaring April 25, 2008 as Arbor Day.

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.

Grace Sheely of 14325 Grenier Road said she remains concerned about the shared parking arrangement at the Exchange Building. She said she ate at Spasso's for the first time the previous week. She encountered parking issues and talked with residents who were concerned about the future of the farmers' market. She said the city should work harder to develop its policy on shared parking arrangements so all the participants are able to communicate with each other. Callison said Spasso is still a new restaurant and staff is following the situation. She said the Glen Lake

businesses are in a different situation as not all the customers of those businesses will need parking at the same time.

Schneider agreed some of the parking issues at Spasso likely are related to it being a new restaurant. He asked if staff should contact the owners of the businesses to see if they are looking at requiring employees to park offsite. Community Development Director Ron Rankin said staff talked with the owner of Spasso and Lakewinds last week about how the business owners can work collaboratively to make sure parking is available. Callison said she has heard Spasso is looking at the option of valet parking to alleviate some of the issues.

9. BIDS AND PURCHASES: None.

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

A. Claims for council authorization – April 14, 2008.

Allendorf moved, Wagner seconded a motion to approve the April 14, 2008 claims which includes checks numbered 211020 through 211447, totaling \$1,034,002.06. All voted “yes.” Motion carried.

B. Minnehaha Creek Corridor letter of understanding.

Allendorf moved, Wagner seconded a motion to approval of the letter of understanding, and that Councilmember Tony Wagner and City Manager John Gunyou be appointed as the elected and staff representatives to the committees outlined in the agreement. All voted “yes.” Motion carried.

C. Approval of recycling contract extension with Waste Management.

Allendorf moved, Wagner seconded a motion to approve a three-year contract extension with Waste Management, Inc., beginning January 1, 2009. All voted “yes.” Motion carried.

D. Items concerning WESLEY ADDITION, a two-lot subdivision of an existing residential property at 12029 James Road.

Allendorf moved, Wagner seconded a motion to:

- 1) Adopt Ordinance No. 2008-14 approving the proposed rezoning. This ordinance is based on the following findings:
 - a. The rezoning would be consistent with the city’s guide plan; and

- b. The rezoning would be consistent with the public health, safety, and welfare.
- 2) Give preliminary and final approval to the WESLEY ADDITION, date stamped February 20, 2008. Approval includes the following variances:
 - a. A rear yard setback variance for the existing home from 30 feet to 14.7 feet.
 - b. A front yard setback variance for the existing tennis court from 35 feet to 13 feet.

Approval is based on the following findings:

 - a. Except for the variances, the proposal meets the required standards and ordinance for preliminary and final plats.
 - b. The proposal would meet the required standards for a variance, because:
 - (1) UNDUE HARDSHIP: The requested setback variances could be eliminated. However, this would require removal of both the existing house and tennis court. As preserving the existing structures on the property is reasonable, the location of those structures presents a practical difficulty.
 - (2) UNIQUE CIRCUMSTANCE: House. The location of the existing house relative to the south property line would not change as a result of the proposed subdivision. However, the setback requirement from this south line would. This is a unique circumstance not common to every R-1 property.
 - (3) UNIQUE CIRCUMSTANCE: Tennis Court. The 1972 Code of Ordinances did not include setback requirements for accessory structures. The existing tennis court was constructed prior to 1972. The legal non-conforming status of the tennis court is a unique circumstance not common to structures on every R-1 property.
 - (4) INTENT OF THE ORDINANCE: The intent of setback requirements is to: (1) ensure the safety of structures and the traveling public; and (2) to maintain consistent building lines within residential neighborhoods. As the requested setback variances pertain to existing structures, the setbacks would meet the intent of the ordinance requirement.
 - (5) NEIGHBORHOOD CHARACTER: The requested setback variances pertain to existing

structures on the site. The variances themselves would not result in construction of anything new. As such, the variances would not alter the character of the neighborhood.

Approval is subject to the following conditions:

- a. Submit a revised final plat document. The revised plat must include:
 - (1) Dedicated public right-of-way over the existing roadway easement.
 - (2) A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
- b. The following items must be submitted to the city before the city releases the final plat:
 - (1) A revised survey clearly showing existing edge of bituminous to ensure right-of-way dedication appropriately covers all public improvements.
 - (2) A park dedication fee of \$5,000.
 - (3) An electronic CAD file of the final plat in microstation or DXF.
 - (4) The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted 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 documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
 - (5) Any other requirements included with final plat approval.
- c. Prior to issuance of a building permit for any of the lots within the development:
 - (1) Submit the following items for staff review and approval:
 - (a) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.

- (b) Final grading and tree preservation plan for the lot. The plan must:

 - (i) must preserve trees designated for preservation at the time of preliminary plat approval;
 - (ii) show sewer and water services to minimize impact to any significant trees. No trees may be removed for installation of services. One set of new services must be installed.
- (c) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the discretion of natural resources staff, mitigation inches may be decreased based on: the health of trees removed; the ability to appropriately install trees on the steep slope; and/or installation of under-story shrubbery.
- (d) 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 builder and property owner. Through this document the builder and property owner 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.
- (2) Submit the following documents:

 - (a) A recorded copy of the preliminary plat and restrictive covenants.
 - (b) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - (c) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.

- (3) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
- (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) Pay a hookup fee for sanitary sewer and water.
- d. Notwithstanding the requirements outlined above, all lots and structures within the development are subject to all R-1 zoning standards. In addition:
 - (1) 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. During construction, the streets must be kept free of debris and sediment.
- f. 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.

All voted "yes." Motion carried.

E. Resolution supporting the U.S. Conference of Mayors climate protection agreement.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2008-039 supporting the U.S. Conference of Mayors climate protection agreement. All voted "yes." Motion carried.

F. Resolution to authorize use of Hennepin County Affordable Housing Incentive Funds by Homes Within Reach.

Hiller asked for the item to be pulled from the consent agenda. He noted the Hennepin County Housing and Redevelopment Authority is requiring the city to participate in order for Homes Within Reach to receive funds. He asked what the city is committing to do. Rankin said the resolution ensures the county is not passing on funding to a nonprofit organization that is doing a project within the city without the city's consent. There will be minimal city participation.

Schneider added that often similar language is required because it is needed for the organization to qualify for the pass through funding.

Hiller moved, Schneider seconded a motion to adopt Resolution No. 2008-040 authorizing use of Hennepin County Affordable Housing Incentive Funds in Minnetonka by Homes Within Reach. All voted "yes." Motion carried.

G. Request for a one year time extension of a final plat approval for the Exchange at 14414 Stewart Lane.

Allendorf moved, Wagner seconded a motion to approve the one-year time extension. All voted "yes." Motion carried.

H. Final plat approval of CREST RIDGE CORPORATE CENTER, formerly Crossroads Corporate Center, at the southeast corner of Hopkins Crossroad and I-394 for Opus Northwest, LLC.

Allendorf moved, Wagner seconded a motion to Approve the CREST RIDGE CORPORATE CENTER final plat, received on April 2, 2008, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and
- 2) Provide a separate written drainage and utility easement document for the pond area.
- 3) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

Hiller, Schneider, Ellingson, Wagner, Allendorf, and Casllison voted "yes." Wiersum abstained. Motion carried.

I. Resolution ordering the abatement of nuisance conditions existing at 14816 Glendale Street.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2008-041 ordering the abatement of the nuisance conditions. All voted "yes." Motion carried.

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

12. **INTRODUCTION OF ORDINANCES:**

A. Amendment to invasion of privacy ordinance.

City Attorney Desyl Peterson gave the staff report.

Allendorf said when changes to the overall ordinance were discussed Peterson cited the need to prove intent as being an issue. He asked if there are concerns about the language in the amendment that intent would need to be proved. Peterson said the amendment does require intent to be proved. She said it is easier to prove intent in a situation where a male walks into a female restroom and peeps into a stall.

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

B. An ordinance adding a repeat nuisance penalty.

Peterson gave the staff report.

Wagner asked if there was rationale behind the proposed five year time period. He also had a concern about a situation that involves a diseased tree where a resident asks for the costs of removing the tree to be put on their property taxes. Peterson said the amendment deals with more confrontational situations that do not usually involve a permissive process. The intent is for situations where the city has to respond to complaints about a nuisance issue that is not being addressed. She said the rationale behind the proposed five year time period is that the city does not want to go back too far and a shorter time frame didn't seem appropriate either.

Schneider said he supports building in a disincentive for residents to use city staff for lawn care but the proposed monetary penalties are exorbitant. He said the reality is if someone is fined the full \$2,500 amount and appeals to the council, the council would likely lower the penalty. A more modest penalty could still serve as an incentive.

Wiersum said during his time on the council there have been numerous repeat violators. He asked if other nearby communities are using similar approaches to dealing with nuisance abatements and if so if the proposed penalty amounts are in line with those other communities. Peterson said she was not sure what other communities are doing but would get back to the council with the information. Wiersum said even if the other communities are not taking this approach he could support the ordinance because it will discourage repeat offenses.

Allendorf said the ordinance likely applies to other nuisance issues. The penalties might seem like a lot of money for mowing a lawn but might be in line for the city having to take down a structure. Gunyou said the ordinance would apply to all nuisance violations. Violations related to lawns are the most typical. The cost of a lawn correction is typically between \$150 to \$400 plus a five percent administrative fee. He said the costs for some nuisance abatements involving removing buildings can be in the thousands of dollars range.

Callison said her concern was not only about city staff time. She is also concerned about the neighbors who have to wait for the issue to be resolved. The intent of the ordinance is to get more compliance from people who habitually wait until the city contacts them before they do something.

Wagner said he gets calls and the process takes up to two months depending on what the violation involves. The ordinance is meant to be a disincentive.

Hiller asked if the ordinance assumes the violation involves the same issue every time. Peterson said the proposed language refers generically to abatements but is permissive so it ultimately is up to the council to make the decision.

Schneider moved, Hiller seconded a motion to refer the ordinance back to staff. Hiller and Schneider voted "yes." Ellingson, Wagner, Allendorf, Wiersum, and Callison voted no. Motion failed.

Wagner moved, Wiersum seconded a motion to introduce the ordinance. Hiller, Ellingson, Wagner, Allendorf, Wiersum, and Callison voted "yes." Schneider voted "no." Motion carried.

C. An ordinance regulating retail sales in residential districts.

Peterson gave the staff report.

Wagner asked if residential neighborhoods were defined as R1 through high density. Peterson said the provision would apply to each of the "residential" districts as an approved accessory use related to the dwelling unit. Wagner asked if there was a concern about the difficulty of enforcing the provisions to "friends." Peterson said Wagner hit upon the weakness of the proposed ordinance. Staff realizes that neighbors conduct sales together and include items from friends. The proposed ordinance allows flexibility with the hope people will not abuse it.

Wiersum noted Bloomington has a requirement that firearms cannot be sold at garage sales. He asked if by not including that specific provision firearms would be allowed to be sold at garage sales in Minnetonka. Peterson said nothing would prohibit someone from selling a gun to another person. There are certain regulations like having to have a federal firearms license for retail sales. She said she hasn't heard that gun sales are an issue in the city.

Hiller asked if the city has traditionally received a lot of complaints about neighbors conducting sales. Rankin said the city receives complaints when sales occur with some frequency during a year. Peterson said complaints are also received about people purchasing items, fixing them up and then reselling them.

Callison said it's likely the city will not get a reaction to the ordinance until it is imposed on a resident. Peterson replied she expects to get comments on the proposed ordinance.

Schneider said the city does need an ordinance with some specificity and the proposal seemed reasonable. But he said there may be some unintended consequences discovered if the ordinance is adopted. One example is a resident who has sold birdhouses on Plymouth Road for a number of years. Schneider said he would hate to see that individual shut down because of the ordinance.

Rankin said enforcement action related to these types of sales often has to do with traffic and parking issues. Callison asked if it was possible to include traffic and parking related provisions in the ordinance. Hiller said the language that includes "other sales of personal property" might be where the city gets into the issues Schneider raised. Peterson said that provision could be amended to include language about generating parking or traffic so that those sales would be triggered when there is a traffic issue. She said she would work on proposed language.

Hiller asked why the ordinance was being sent to the Planning Commission. Peterson replied the item is an amendment to the zoning ordinance and that requires it to go through the Planning Commission.

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

D. Ordinance regarding tree protection.

Gunyou noted the adopted moratorium expires June 3.

Natural Resources Manager Jo Colleran gave the staff report.

Hiller asked what would occur if only a part of a lot is in a tree preservation area. Colleran said if any of the subject property proposed to be subdivided falls within the woodland preservation area it would be one lot per developable area or it would be rezoned into a PUD. For example for a one acre lot subdivided into two lots with the most northern end of the parcel being the only area in the woodland preservation area, it would be rezoned into a PUD. The property would be allowed to be developed and no mitigation would be required assuming that there is no grading impact into the woodland preservation area. So if the property owner was building a home in the middle of the lot with no impact to the woodland preservation area, the property owner would be allowed to do so.

Under the proposed ordinance, Schneider noted a three acre site subdivided into four lots with five percent of the property on one side with an encroachment of a woodland preservation area would trigger the one acre minimum even though the trees may not even be touched. He said that did not make sense. The one acre minimum or PUD also doesn't make sense for a site with 20 percent woodland preserved where one or two trees might need to be taken down to get the grading to work right because there would be such a minimal impact on the ecosystem. Schneider said there needs to be a nexus between the impact and trying to get a requirement of that magnitude. Colleran agreed with Schneider's concerns. She said the intent is to be able allow a property owner to subdivide a property. The goal is to try and maintain 75 percent of the woodland preservation area. If there is little or no impact such as the removal of five percent of the woodland preservation area, the property owner would be allowed to do that.

Wagner asked where the definition of "significant trees" would come from. Colleran said in general when staff hears about what trees people value, cottonwoods, elms and silver maple are consistently mentioned as trees not as valued as other trees. That information is also reflected in previous discussions with the council. Wagner suggested the Planning Commission discuss how the definitions will be maintained over time. If two years from now people see a grove of elm trees and aspens cut down and are disheartened because of the ordinance, he doesn't want to see the ground rules change. He said the goal is to set out some consistent development expectations.

Wagner said his reading of the non-woodland preservation provision indicated that a grove of oaks in a property being subdivided but not in a woodland preservation area could not be protected. He asked if this was a correct reading. Colleran replied that if it is a subdivision of land the ordinance would require the developer maximize tree preservation by siting the roads and building pads on the lots in a manner that saves as many of the high priority trees as possible. The ordinance allows the developer to remove the trees in order to build the home. If grading goes beyond the 20 foot perimeter then mitigation would be required.

Wagner said what triggered the discussion a few years ago was the Crosby Cove development. He said the proposed ordinance would not provide any tools to deal with that same situation. Colleran said with Crosby Cove the issue involved the species. Most of the trees on the site were planted as a wind break and many were Colorado Spruce. The trees health was declining because they were planted too close together. There was a grove of oaks that would be considered high priority trees and would be saved in the proposed ordinance. There was a large basswood tree that would be considered high priority and that was saved as part of the development. She agreed with Wagner that the Crosby Cove development would not have changed had the proposed ordinance been in place.

Wiersum said he was concerned that the Crosby Cove development would have proceeded under the proposed ordinance. But he said after the numerous study sessions and discussions on the tree protection issue there are no simple answers. The shoreland ordinance process was a good lesson about preservation while being respectful of property rights. He said the proposed ordinance may not provide as many tools as he hoped but the ordinance is likely going to be a step forward in preserving trees. City Planner Julie Wischnack said the council will have the opportunity over the next month to see two projects that will demonstrate the effect the council has asked for with the ordinance. She said the two projects would come to the council around the same time that the tree ordinance returns and would give the council an opportunity to see how the ordinance would apply in a real situation. Wiersum asked if the two projects would be impacted by the ordinance or if it would be more of a study of future projects. Wischnack said that during the moratorium staff have used all the draft ordinances as a base point for analysis for projects.

Schneider said he had reservations about the previous version of the proposed ordinance and was skeptical that something could be written that would balance tree preservation, environmental stewardship while allowing adequate ability for somebody to develop their lot. He said staff did a good job in blending those things together. The provision he has the most comfort with is that a property can be triggered into a PUD situation a little bit easier than he had thought but the council still has the flexibility to make a decision on the issues that fall into a gray area. His one concern relates to the provision on high priority trees. He said many communities with tree ordinances have similar definitions for significant trees. His concern is with the definition of "understory tree." The definition fits in well with the definition of a woodland preserve area because it is part of an ecosystem that is being described by the size of various trees. The way the ordinance is worded the understory tree provision stands alone. A group of two inch pagoda dogwood is considered a high priority tree and he said that doesn't make sense. He suggested the section belongs as part of the description for a woodland preserve area. Colleran said staff hears many times from neighbors of someone who is tearing down a home and rebuilding it where there is a small area with trees that provide a visual barrier and privacy. The ordinance attempts to recognize the difference in the type of trees in the city.

Callison said the two year, two year, two year provision seems overly complicated. If an owner of an existing house wants to put an addition on, they should be allowed to so without the provision. She said she focused on the easement requirement of the ordinance because it is an area where the city runs into property expectations and ecological considerations. The property expectations are that people get to use their land the way they want to. She doesn't want the ordinance to go so far as to prevent people from using their property. She suggested adding some language that talks about areas that were saved as part of a negotiation and might be appropriately protected by an easement. She cautioned against language that overly regulates somebody's yard.

Callison asked if the 25 percent requirement is based on an ecological understanding or basis. Colleran said the 25 percent number is looking at the total area to say if there was 25 percent loss, what change would occur. She said looking at the amount of development and grading while looking at the urban forest and cover, 25 percent seemed to be a reasonable amount while still protecting the integrity of the forest. Callison said an important question to ask is if the city can abide by the standards. She also has to consider how the ordinance would affect her as a

homeowner. It's easy to say a neighbor shouldn't be able to do something.

Wagner said he wasn't sure if the ordinance goes far enough for large subdivision of properties. He said the Planning Commission should have a discussion about the publicity the city has done with the tree preservation ordinance and the reality of what can actually occur. The city has set an expectation with residents that it will do more than what is potentially being proposed. He worries about the one and a half acre to two acre subdivision that could become four lots if the owner clear cuts the property and how the city could protect the few trees that give the neighborhood some character.

Hiller said he was with some neighbors walking through a wooded area. His said his neighbors view things a little bit differently. The forester pointed out a valuable black walnut seeing the value to specific trees. Residents on the other hand see a lot of green. He said the two views do get mixed up. When there is a five acre lot valuable trees might be protected but the residents' desire for green and coverage might not be maintained. For larger developments, the city needs to take into account not only protecting the important trees but also protecting how full the property is as well.

Callison agreed with Schneider that staff did a good job coming up with an ordinance that reflects something that is difficult to describe and also reconciling a lot of conflicting expectations.

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

Callison confirmed with staff the ordinance would be discussed by the Planning Commission at its May 1 meeting.

Schneider asked for clarification where there is a definable number of lots that will be significantly impacted by the woodland preserve area, the intent is to notify owners so they know what is coming. Gunyou confirmed this.

13. PUBLIC HEARINGS: None.

14. OTHER BUSINESS:

A. Agreement regarding the County Road 73/I-394 Park and Ride ramp.

Community Development Supervisor Elise Durbin gave the staff report.

Joe Edwards from Metro Transit showed the council pictures of what the ramp would look like.

Wagner asked why the ramp remains unfinished and if the original intention was to build the ramp as is. Edwards said the ramp is as was originally designed. He said the artist rendering sometimes can look better than the end result. The park and ride ramp was the second ramp Metro Transit built. Edwards said as the ramp neared completion he became concerned about the look and began to look for ways to make it become a more finished product.

Allendorf said he had problems with the proposal. He said reading the minutes from the meeting the ramp was approved, Metro Transit agreed to follow the city's approval and implementation process. He asked what recourse the city would have in a situation where a private individual puts up a building and doesn't finish it. Gunyou said typically the city would have a development agreement that would hold the individual to the standards. The difficulty in this situation is the city has no direct legal authority over Metro Transit. Allendorf said he was troubled on an equal treatment and precedence basis and the extra tax burden put on city residents. Gunyou said staff does not disagree with Allendorf's position. He noted the money used would come from the development account so the funds are from the account created by the tax increment repayment. He said the city has two options. One is to have Metro Transit paint the concrete and pay for the cost. Staff felt the second option would look better in the long run. Allendorf said even though the \$150,000 would come from the development account it is still money that comes from the taxpayers. He said a third option would be for Metro Transit to put up the panels and pay for them.

Ellingson said he originally voted against the parking ramp but is supporting the proposal to finish it. He said the council knew when it approved the ramp that the city could spend up to \$200,000 to finish the exterior.

Wagner said when the ramp was approved he would have thought the ramp would look better than what is there today but it is not an option to leave the ramp unfinished because it is an entrance into the city. He said he would support looking at options including meeting with the city's legislative delegation to see if the city could be reimbursed in the future.

Wiersum said he respects Allendorf's position of protecting taxpayer money but he doesn't like the way the ramp currently looks. He said one concern is that Metro Transit is saying they would pay \$50,000 to paint the ramp. This is clearly not an acceptable alternative. Metro Transit is also saying they will pay \$150,000 if the city matches that amount. Wiersum said this would indicate Metro Transit is willing to put \$150,000 on the table and he would like to see what could be done with the \$150,000 before determining what the city should spend. He agreed the ramp is in an important part of the city and is an amenity that many residents will use.

Schneider said he would like to send a message to Metro Transit that it is inappropriate that because they are not governed by the city's rules and regulations they can decide to do whatever they want. If this is the spirit of cooperation there is a bigger issue. He recalls when the ramp was approved there were colored spandrel panels that were the same as the other sides. He said he knows there have been soil problems and other cost overruns on the project and that is why the panels were not installed. But he said having the ramp half painted or half designed is not acceptable so he supports the staff recommendation.

Callison said there have been difficult negotiations all along. There was an expectation the city would have to contribute to the project and the amount is less than expected. There is a benefit for residents to have the ramp look as good as it can.

Schneider moved, Wiersum seconded a motion to adopt Resolution No. 2008-042 approving the agreement regarding the County Road 73/I-394 Park and Ride ramp. Hiller, Schneider, Ellingson, Wagner, Wiersum, and Callison voted "yes." Allendorf voted "no." Motion carried.

B. MERIT Organizational Component.

Gunyou presented the survey results.

Wagner asked what the participation rate was for the survey of employees. Gunyou said the rate has been growing and this year there were 152 responses out of 230 people.

15. APPOINTMENTS and REAPPOINTMENTS: None.

16. ADJOURNMENT.

Wiersum moved, Allendorf seconded a motion to adjourn the meeting at 8:43 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk