

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, OCTOBER 27, 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 Terry Schneider, Bob Ellingson, Tony Wagner, Dick Allendorf, Brad Wiersum, James Hiller, and Jan Callison were present.

4. APPROVAL OF AGENDA.

City Manager John Gunyou noted Item 14A has been postponed to the November 10, 2008 agenda.

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

5. APPROVAL OF MINUTES:

A. September 29, 2008 regular meeting.

Allendorf moved, Hiller seconded a motion to approve the minutes of the September 29, 2008 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Donation to the Park Dedication Fund from Trails for Tonka.

Callison read the history of Trails for Tonka organization.

Betty Johnson presented a check to the City in the amount of \$4,962.07 to be used for parks.

B. Recognize the 25th anniversary of Community Mediation Services, Inc.

Callison read a history of Community Mediation Services.

Ellingson read the recognition.

Andrew Silverstein accepted on the recognition on behalf of Community Mediation Services.

C. Recognition of Service for the Comprehensive Guide Plan Committee members.

Callison read the recognition for Comprehensive Guide Plan Committee members: Bob Walker, Le-Hoon Benson, John Cheleen, Jim Couling, Janet Dupre, Chris Meehan, Sue Sjeklocha, Gauri Subramani, Blaine Waters, Terri Yearwood, David Nichols, and Jan Callison.

Terry Yearwood thanked the city for the opportunity to serve on the commission.

Janet Dupre expressed appreciation for the opportunity to participate on the commission.

D. Recognize Nicole Nelson for receiving the Minnesota Crime Prevention Association Rosie Griep Legacy Award.

Wiersum read the recognition.

Nicole Nelson stated it was an honor to receive the award and recognition.

E. Receive the National Association of Government Webmasters 2008 Pinnacle Award for the city Web site.

Schneider read the recognition.

Marc Drummond thanked the council for the recognition and stated the city's website is a team effort.

F. I-394 Phase II Planning Study presentation.

Ken Buckeye, Minnesota Department of Transportation, presented details of the I-394 phase II planning study. He noted there are 3,500 to 4,000 users of MnPASS on a daily basis; he reported on the decrease in crashes; and he stated the tolls bring in over \$1 million per year, which covers its costs. He discussed the MnPASS phase II objectives.

Buckeye discussed the planning study elements as well as the five infrastructure recommendations, which include a moveable barrier,

reconstructing existing eastbound lanes at Highway 100, and conducting operations analysis of ramps at Highway 100. He then mentioned several land use and urban design recommendations. He concluded there is currently no budget for the recommendations, so they will probably be implemented in a piecemeal fashion.

Ellingson asked whether sales of the MnPASS have changed since its implementation. Buckeye indicated there are 11,000 MnPASS transponders among the public, which is a larger number than originally anticipated. However, people are not using the MnPASS as often as expected either, normally two or three times per week.

Ellingson asked how a moveable barrier works. Buckeye explained there is a machine, a "zipper" truck, which shifts the barrier to its new location.

Ellingson asked about the proposed underground tunnel. Buckeye described the proposed tunnel under Park Place Xenia, which would require the demolition of a Park 'n Ride in St. Louis Park.

Allendorf asked about Buckeye's assertion that the revenue generated by MnPASS more than covers its costs. Buckeye stated the costs of the technical/professional services operations are covered and exceeded by the revenue. MnPASS has not begun to repay the initial capital investment of \$10 million, but the surplus toll revenue will be applied to that. Enforcement revenue cannot be applied to the project.

Allendorf asked about MnDOT's coordination of the project at Hopkins Crossroads and 394 and the possibility of a pedestrian bridge. Buckeye stated coordination is occurring, but he is not sure at which level.

Community Development Director Julie Wischnack stated city staff is coordinating with MnDOT. A bridge expansion will be required, so a pedestrian bridge will also be considered as part of the capital improvement planning process.

Allendorf asked how MnDOT is bringing telework and telecommuting to Minnetonka's citizens. Buckeye stated MnDOT is working with several different groups to bring this about.

In response to a question by Ellingson, Wischnack reviewed the proposed design of the Ridgedale station area, pointing out the expanded stormwater pond, the park and ride facilities, possible

redevelopment, and multi-family housing areas. Callison noted the Comp Plan task force has looked at this plan; the sketch does fit some of the guide planning changes called for by the Comp Plan.

Wagner asked about non-peak period use of the MnPASS lanes. Buckeye responded the MnPASS lanes are dynamically priced, and the price adjusts based on a formula that factors how many cars are on the corridor at any one time. Wagner observed that from a user's standpoint, frequently on the weekends the toll roads do not appear to be operating correctly; the lanes are open in the wrong direction for the heaviest demand. Buckeye indicated he will provide information about the toll road for the council.

Wiersum asked about the revenues and costs of operation and asked when the initial capital investment will begin to be repaid. Buckeye explained the revenues are exceeding costs by a small amount, and slow growth projections make it unlikely the capital costs will begin to be covered in the near future. He noted another section of toll lanes is being contemplated for 13 miles of 35W, which will result in some shared cost savings.

Buckeye commented the goal of the planning study is to prevent a congested corridor and preserve the corridor for the future.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou noted the Council met briefly in closed session before the council meeting to discuss labor negotiation strategies. He also reported on the schedule for upcoming council meetings.

Ellingson asked about the legal requirements for absentee voting. City Clerk David Maeda discussed the four legal reasons a voter can state when applying for an absentee ballot. He noted it is different than the early voting that is available in some other states.

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

No one appeared.

9. BIDS AND PURCHASES: None.

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

A. Claims for council authorization – October 27, 2008.

Allendorf moved, Wagner seconded a motion to approve the October 27, 2008 claims which includes checks numbered 215473 through 215798, totaling \$1,128,771.99. All voted "yes." Motion carried.

B. Resolution authorizing the certification of fire alarm response fees to the Hennepin County Auditor.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2008- 120 authorizing the certification of fire alarm response fees to the Hennepin County Auditor. All voted "yes." Motion carried.

C. Ordinance regarding utility fee collection.

Allendorf moved, Wagner seconded a motion to adopt Ordinance No. 2008-33 regarding utility fee collection. All voted "yes." Motion carried.

D. Ordinance regarding disposition of abandoned property.

Allendorf moved, Wagner seconded a motion to adopt Ordinance No. 2008-34 regarding disposition of abandoned property. All voted "yes." Motion carried.

E. Proposed order for liquor license stipulation for Lunds, Inc.

Allendorf moved, Wagner seconded a motion to the enclosed Finding of Fact, Conclusion, and Order for Lunds, Inc. All voted "yes." Motion carried.

F. Resolutions pertaining to levying the 2008 Special Assessments.

Allendorf moved, Wagner seconded a motion to adopt the following resolutions:

- 1) Resolution No. 2008-121 declaring costs for a traffic signal improvement project to be specially assessed in 2008 and ordering the preparation of the proposed special assessment rolls.
- 2) Resolution No. 2008-122 calling for a public hearing to consider adopting the proposed special assessments for a traffic signal improvement on November 24, 2008 at 6:30 p.m.

All voted "yes." Motion carried.

G. Resolution authorizing the installation of “No Parking” signs on both sides of the Lakewinds alley.

Callison asked staff whether it would be sufficient to have “No Parking” signs for daytime hours only, as the purpose of parking restriction is to allow access for delivery trucks and trash haulers. Wagner commented there may still be trucks that need to make deliveries in the evenings.

City Engineer Lee Gustafson recommended no parking 24 hours a day on the north side, and no parking from 6 a.m. to 6 p.m. on the south side of the alley.

Wiersum noted complaints have been received about trash haulers in that area working very early; he asked whether this no parking rule would enable them to pick up trash later in the day or whether that is a separate issue. Wischnack indicated that enforcement of the noise ordinance is currently handled on a complaint basis, and that will continue to be the best way to handle this issue. Gustafson stated the trash haulers probably have fixed routes, and concurred that no parking from 6 a.m. to 6 p.m. should be sufficiently accommodating.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2008-123 authorizing the installation of “No Parking” signs on the north side of the Lakewinds alley, and “No Parking from 6 a.m. to 6 p.m.” signs on the south side of the alley. All voted “yes.” Motion carried.

H. Request for time extensions of development approvals associated with APPLEWOOD POINTE OF MINNETONKA.

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

I. Final plat approval of the TWIN CITIES BMW MINNETONKA plat at 15802 and 15810 Wayzata Blvd.

Allendorf moved, Wagner seconded a motion to approve the TWIN CITIES BMW MINNETONKA final plat, received on October 15, 2008, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, include 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 amending Section 710 of the city code regarding increases in fees.**

Wischnack gave the staff report.

Hiller asked Wischnack to discuss the total increase in fees collected with the staff recommendations. Wischnack explained for total permit fees collected, this fee increase will result in an additional \$50,000 from building, \$20,000 from planning, and \$25,000 from environmental health.

Wagner asked about the category of "other approved council document." City Attorney Desyl Peterson explained businesses occasionally bring forward to city staff a document that requires council approval, and the city began imposing a fee for handling those documents.

Wagner asked if there is a trigger that would release the city from providing a fee discount for a large commercial development, since it can require so much staff time. Wischnack stated it is a difficult item to put a price tag on, and the goal was to propose a fee that does recover some costs. An escrow process was contemplated, but it was rejected because of the way city staff processes applications. Wagner asked the staff to consider a mechanism to release the city from providing the proposed discount in the case of large commercial developments.

Allendorf asked about the increase from \$100 to \$500 for the administrative lot division. Peterson explained an administrative lot division is not the case of a resident subdividing a lot. Rather, it is where someone is moving the lot line between two properties. Wischnack noted administrative lot divisions are quite cumbersome and require significant staff time.

In response to a question by Allendorf, Wischnack indicated staff can provide an example of a project going forward with 2008 fees

and what the fees would be if it were to go through in 2009. She stated the BMW project is a good example. The project had about five applications, which was \$2,000 this year and would be \$4,000 under the new fee schedule. However, with the new consolidated fee category, it would be \$2,400.

Allendorf commented it is important not to create a fee schedule that discourages a developer from moving ahead on a full disclosure process involving public hearings. The consolidated fee may be a good way to address that.

Wiersum commented some simple projects may be subsidizing very complex projects, in that both may require a \$500 fee but the latter takes up significantly more staff time. Wischnack agreed finding the right combination of fees is a complex issue. However, the larger projects may also be paying thousands of dollars for other items, like a parking or traffic study. Gunyou added one of the goals of the fee schedule is that it be relatively simple to administer.

Wiersum suggested reviewing the fees on an annual basis to avoid significant increases in any one area.

Schneider stated he likes the consolidated approach, but suggested there might be a trigger for larger projects to be able to assess additional fees.

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

13. PUBLIC HEARINGS: None.

14. OTHER BUSINESS:

A. Items concerning a restaurant at 10600 Wayzata Blvd.

This item was removed and will be considered at the November 10th council meeting.

B. Conditional use permit for a wireless telecommunications tower at 12201 Minnetonka Boulevard.

City Planner Loren Gordon gave the staff report.

Wiersum asked whether the height of the tower is the standard and appropriate height. Gordon responded that in this case, the 75-foot height does provide good coverage for a single user.

Kelly Swenseth, 4080 Iglehart, St. Paul, of FMHC Corporation, thanked staff for their efforts in the application process and welcomed any council questions.

Schneider stated the city should be open, from a policy standpoint, to getting co-locations on projects like this.

Schneider moved, Allendorf seconded a motion to adopt the Resolution No. 2008-124 which incorporates these design modifications. The resolution approves a conditional use permit for a wireless telecommunications tower and associated equipment to be installed at 12201 Minnetonka Boulevard.

Approval is based on the followings:

- 1) The city code recognizes telecommunications facilities as valuable public resources.
- 2) With design modifications included as conditions of approval, the proposed telecommunications tower meets the conditional use permit standards as outlined in city code.

Approval is subject to the following conditions:

- 1) The following must be completed prior to issuance of building or electrical permits:
 - a) Revised plans must be submitted for review of planning staff, as well as the city's building and electrical officials. These plans must include:
 - i. The tower must be a monopole structure; all antennas must be internal.
 - ii. The tower may not exceed 75-feet in height and 30-inches in diameter.
 - b) This resolution must be recorded with the county and a copy of the recorded resolution must be returned to the city.
 - c) The applicant must agree, in writing, to the conditions of this conditional use permit.
 - d) The property owner must agree, in writing, to the conditions of this conditional use permit. This includes agreeing to removal of the telecommunication facilities when they are unused, obsolete, or become hazardous, and agreeing to the city's right to assess removal costs as outlined in city code.
- 2) The tower and accessory equipment must be installed in substantial conformance with the site plan and elevations date-stamped August 26, 2008.
- 3) The tower must be painted "Winter Sky" or a substantially similar color subject to staff approval.

- 4) No advertising message or identification sign larger than two square-feet may be affixed to the tower.
- 5) The tower may not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
- 6) On-site, permanent employees associated with the tower are not allowed.
- 7) If rendered obsolete, the tower must be removed in accordance with City Code 300.34 (5).
- 8) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 9) Any change to the approved use that results in a significant increase in traffic or a significant change in character requires a revision of this conditional use permit.
- 10) Violation of any condition of this conditional use permit or city code requirement renders this permit null and void.

All voted "yes." Motion carried.

C. Conditional use permit for wireless telecommunications antennas at 4400 Baker Road.

Gordon gave the staff report.

Wiersum moved, Schneider seconded a motion to adopt Resolution No. 2008-125 which approves a conditional use permit for wireless telecommunications antennas to be located on an existing transmission tower at 4400 Baker Road. Approval is based on the following findings:

- 1) The city code recognizes telecommunications facilities as valuable public resources.
- 2) The proposed telecommunications antennas meet the conditional use permit standards as outlined in city code.

Approval is subject to the following conditions:

- 1) The following must be submitted prior to issuance of building or electrical permits:
 - a) This resolution must be recorded with the county and a copy of the recorded resolution must be returned to the city.
 - b) The applicant must agree, in writing, to the conditions of this conditional use permit.
 - c) The property owner must agree, in writing, to the conditions of this conditional use permit. This includes agreeing to removal of the telecommunication facilities when they are unused, obsolete, or become

hazardous, and agreeing to the city's right to assess removal costs as outlined in city code.

- 2) The antennas and accessory equipment must be installed in substantial conformance with the site plan and elevations date-stamped September 17, 2008.
- 3) The antennas must be a color similar to the existing transmission tower.
- 4) No advertising message or identification sign larger than two square-feet may be affixed to the transmission towers or antennas.
- 5) The antennas may not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
- 6) On-site, permanent employees associated with the telecommunications facilities are not allowed.
- 7) If rendered obsolete, the antennas must be removed in accordance with City Code 300.34 (5).
- 8) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 9) Any change to the approved use that results in a significant increase in traffic or a significant change in character requires a revision of this conditional use permit.
- 10) Violation of any condition of this conditional use permit or city code requirement renders this permit null and void.

All voted "yes." Motion carried.

D. Amendment of condition of development approval for BRAEBURN WOODS at 16400, 16408, and 16416 Hidden Valley Rd.

Gordon gave the staff report. Peterson noted that the two lots currently developed with two homes would be excluded.

Allendorf asked whether the other lots would assume the financial risks that would have applied to lots 3 and 4. Peterson concurred.

Schneider moved, Allendorf seconded a motion to approve the amendment to the BRAEBURN WOODS preliminary plat conditions of approval:

Change condition (e) to read as follows:

e. Notwithstanding the requirements outlined above, all lots and structures within the development are subject to the following conditions, except Lots 3 and 4 and the structures on them, which are subject to all minimum R-1 standards as outlined in City Code 300.10:

All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None.

16. ADJOURNMENT.

Wagner moved, Wiersum seconded a motion to adjourn the meeting at 8:29 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk