

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, NOVEMBER 10, 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 Bob Ellingson, Tony Wagner, Dick Allendorf, Brad Wiersum, James Hiller, Terry Schneider, and Jan Callison were present.

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou noted an addendum for Item 14C.

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

**5. APPROVAL OF MINUTES:**

**A. October 13, 2008 regular meeting.**

Wagner moved, Schneider seconded a motion to approve the minutes of the October 13, 2008 Minnetonka City Council regular meeting. Ellingson, Wagner, Wiersum, Hiller, Schneider, Callison voted "yes." Allendorf abstained. Motion carried.

**B. October 27, 2008 special closed meeting.**

Wagner moved, Schneider seconded a motion to approve the minutes of the October 27, 2008 Minnetonka City Council special closed meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:** Present awards to 2008 photo contest winners.

Wagner and Callison presented awards to the 2008 photo contest winners: Gail Anderson, Tracy Ashley, David Niemi, Jerry Johanning, Mercedes Arnold, Kate Johnson, Nancy Craver, Ann Groton, Dana Kromer, John Piepkorn, Mary Jo Rubin, Megan Schadow, and Jennifer Wood.

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

Gunyou reported on the turnout for the recent election and also reported on the schedule for upcoming council meetings.

**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 – November 10, 2008.**

Allendorf moved, Hiller seconded a motion to approve the November 10, 2008 claims, which includes checks numbered 215799 through 216114, totaling \$955,076.76. All voted “yes.” Motion carried.

**B. Agreement with Minnetonka School District #276 for police liaison services for 2009.**

Allendorf moved, Hiller seconded a motion to approve the agreement. All voted “yes.” Motion carried.

**C. Agreement with Sojourner Project Inc. for domestic services for 2009.**

Allendorf moved, Hiller seconded a motion to approve the agreement. All voted “yes.” Motion carried.

**D. Agreement with the Northern Star Council for a community based juvenile diversion program for 2009.**

Allendorf moved, Hiller seconded a motion to approve the agreement. All voted “yes.” Motion carried.

**E. Agreement with Hopkins School District # 270 for junior and senior high liaison services for 2009.**

Allendorf moved, Hiller seconded a motion to approve the agreement All voted “yes.” Motion carried.

**F. Proposed orders for tobacco license stipulations.**

Allendorf moved, Hiller seconded a motion to approve issuing the Finding of Fact, Conclusion, and Order for Snack & More and Spielmann's Amoco. All voted "yes." Motion carried.

**G. Resolutions authorizing applications for grant funds for environmental clean-up at 15802 and 15810 Wayzata Boulevard.**

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

- 1) Resolution No. 2008-126 authorizing application for contamination cleanup grant program for property at 15802 Wayzata Boulevard.
- 2) Resolution No. 2008-127 authorizing application for the tax base revitalization account.

All voted "yes." Motion carried.

**H. Labor agreement between the city of Minnetonka and International Union of Operating Engineers.**

Allendorf moved, Hiller seconded a motion to approve the 2009 - 2011 labor agreement between the city of Minnetonka and the International Union of Operating Engineers (IUOE) Local 49. All voted "yes." Motion carried.

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

**12. INTRODUCTION OF ORDINANCES:**

**A. Items concerning Fretham 4th Addition, Phase II.**

City Planner Loren Gordon gave the staff report.

Allendorf asked about the size of the lots. Gordon indicated the lot as platted today exceeds the lot area, but there is an easement on the front part of the property that would take the lot area below the minimum lot size, which is why it is noted as a substandard lot in the report.

Schneider asked staff to include a comparison of the neighboring lots in the final staff report. Gordon indicated the comparison is complete and will be provided after the planning commission public hearing.

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

**B. Ordinance regarding water service and utility corrections.**

City Attorney Desyl Peterson gave the staff report.

Wiersum asked what separates emergency from non-emergency situations. Peterson indicated if the city learns about the utility disconnections prior to freezing weather, there is some time to notify the resident and those are non-emergency situations. If the city does not find out about a property until there are sub-zero temperatures, it will be regarded as an emergency situation.

Schneider asked whether the city will find out the location of water turnoffs in each yard, in order to avoid multiple holes being dug in the yard should the water be turned off. Peterson responded she will find out the answer to that question.

Callison clarified the city will automatically begin the water shut-off process once the list is received from the utility companies, and situations will be considered emergencies when the temperatures drop to a certain level. Peterson concurred that is correct.

In response to a question by Schneider, Peterson stated some homes may have an alternative heat source, which is why the advance notice is beneficial for both parties.

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

**13. PUBLIC HEARINGS:**

**A. Public hearing to consider the renewal of a Minnesota Currency Exchange License for 2009 for Action Check Cashing, 11503 Excelsior Boulevard.**

Gunyou gave the staff report.

Callison opened the hearing at 6:50 p.m. No one spoke.

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

Schneider moved, Wagner seconded a motion to approve the issuance of a renewed Minnesota Currency Exchange License for

Action Check Cashing, located at 11503 Excelsior Boulevard. All voted "yes." Motion carried.

**B. Public hearing to consider applications by 2795 Corporation for on-sale and Sunday on-sale intoxicating liquor licenses for Crossroads Delicatessen, 2795 Hedberg Drive.**

Gunyou gave the staff report.

Callison opened the hearing at 6:52 p.m. No one spoke.

Wagner moved, Allendorf seconded a motion to continue the hearing to December 8, 2008. All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Applications for renewed liquor licenses for 2009.**

Community Development Director Julie Wischnack gave the staff report.

Wiersum moved, Schneider seconded a motion to approve the renewed on-sale and Sunday on-sale intoxicating liquor, off-sale intoxicating liquor, on-sale wine licenses, and on-sale and off-sale 3.2 percent malt liquor licenses for calendar year 2009 listed in the staff report, provided that no license shall actually be issued until city and state requirements are completed. All voted "yes." Motion carried.

**B. Items concerning 10600 Wayzata Blvd:**

- 1) Proposal to demolish the existing vacant building and to construct a new one-story building for restaurant and**
- 2) Resolutions authorizing applications for grant funds for environmental clean-up.**

Gordon gave the staff report.

Allendorf asked whether other buildings on I394 vary from the requirement of the use of stone or glass on 50 percent of the building. Gordon indicated the recently approved BMW project has a variance. The Circuit City project was proposed with materials inconsistent with the ordinance, but was not approved as such.

Hiller asked about the shared parking study. Gordon responded the parking study assumes a worst-case scenario.

Callison asked about Eddie Merlot's only being open during late afternoon and evening hours. Gordon stated the applicant for this site only considered being open during those hours and would have to come back to the city to amend the CUP should it want to be open for lunch in the future.

Wiersum asked for additional information regarding how many Eddie Merlot's restaurants are currently open and how many are under construction. Gordon indicated there are four locations currently operating. There is a Denver location in the approval process. He suggested asking the applicant later in the council meeting about other projects that may be underway.

Wiersum indicated he will also ask whether the applicant has a strong opinion about the planning commission's recommendation to increase the glass, brick, and stone to over 50 percent.

Cory Bergman, 6791 Red Wing Lane, Chanhassen, stated he is the engineer on this project. He indicated Eddie Merlot's prefers the 61 percent stucco, which helps establish a name and a brand for the restaurant chain. There are projects in Denver and Chicago, along with Minnetonka, underway; the owners are also looking at other major metropolitan areas in which to expand the chain. He described the restaurant as a bright interior steakhouse.

Wagner expressed support for the project and indicated he is flexible regarding the 49 percent stucco or the 61 percent stucco.

Wiersum expressed support for the project and believes it will be a good enhancement for the community. He discussed he would prefer having flexibility in the ordinance regarding building materials so that variances do not have to be made in situations like this where alternative building materials may be acceptable. He stated he can support the project at 49 percent stucco or the 61 percent stucco.

Schneider expressed support for the applicant's original design of 61 percent stucco. He believes the ordinance should be modified so there is some flexibility to achieve an overall architectural look.

Allendorf acknowledged the planning commission spent a great deal of time looking at the city's ordinance with regards to this project. He would prefer to see the original concept as presented with 61 percent stucco.

Callison expressed a preference that the project follow the existing ordinance, as she is not sure Mediterranean style will blend well on the I-394 corridor. However, she will not vote against the project because of that concern.

Wiersum commented that as the Eddie Merlot's chain continues to grow, it will likely become necessary to modify their standard design in order to meet approval of different types of communities it may build in.

Wagner moved, Allendorf seconded a motion to:

- 1) Adopt Ordinance No. 2008-35 which approves a major amendment to the master development plan as it pertains to the subject property, and site and building plans for a new restaurant (Eddie Merlot's) at 10600 Wayzata Boulevard. Approval includes the following variance:
  - a. Required parking variance from 236 spaces to 120 spaces.

This ordinance is based on the following findings:

- a. The proposal would meet the required standards and ordinances for a site and building plan approval.
- b. The proposed required parking variance is reasonable because:

- (1) With 120 parking spaces on site and 123 shared parking spaces on adjacent properties there will be a surplus of 7 parking spaces during the peak parking demand hour between 7:00 p.m. and 8:00 p.m.

- (2) Eddie Merlot's offers full valet service which will reduce the need for restaurant patrons to search for parking.

- (3) Eddie Merlot's will only operate during evening hours (4:00 p.m. to 2:00 a.m.) when the adjacent office properties are vacant, or near vacant.

- c. The proposed building materials variance is reasonable because:

- (1) The building materials are compatible with those of others in the area.

Approval of the site and building plans is subject to the following conditions:

- a. This master development plan repeals and replaces that section of the existing master development plan as it pertains to 10600 Wayzata Blvd.

- b. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
- Site plan date-stamped September 30, 2008.
  - Grading and Drainage plan date-stamped September 2, 2008.
  - Utility plan date-stamped September 30, 2008.
  - Landscaping plan date-stamped September 2, 2008.
  - Building elevations date-stamped September 2, 2008.
  - Floor plan date-stamped April 7, 2008.
  - Erosion and Sediment Control plans date-stamped September 2, 2008.

The above plans, as modified by the conditions below, are hereby adopted as the major amendment to master development plan and as final site and building plans for Eddie Merlot's.

- c. The proposed restaurant is required to have a minimum of 5 handicapped accessible parking spaces, one of which should be van accessible.
- d. Site and grading plans must be revised to include a 16.5-foot vegetative wetland buffer adjacent to the wetland at the western edge of the property. The buffer must be vegetated with native plantings.
- e. A grading permit is required. 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 site, grading, drainage, utility and erosion control plans must be submitted for staff approval. The city engineer will provide the developer with a formal memorandum outlining all items and details that must be provided on the submitted plans.
  - (b) A Stormwater Pollution Prevention Plan must be submitted for staff review and approval.

- (c) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, landscaping requirements, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
  - (d) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance. The management plan must be accompanied by a cash escrow, in the amount to be determined by city staff, and a waiver document prepared by the city attorney and signed by the developer. Through this document the developer 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.
  - (e) One of the following:
    - (i) Escrow dollars, in amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction; or
    - (ii) Evidence that an erosion control inspector has been hired to monitor the site through the course of construction. This inspector must provide weekly reports to natural resource staff in a format acceptable to the city.
- (2) Prior to issuance of a grading permit:

- (a) Submit a conservation easement over the required 16.5-foot vegetated buffer adjacent to the existing wetland. The easement must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval. Following city attorney approval, this easement and associated drawing must be recorded with Hennepin County.
  - (b) Submit a seed mix proposal for the infiltration area and adjacent slopes. This mix must be of natural and native species and is subject to review and approval of natural resources staff.
  - (c) Install all measures in accordance with the SWPP for staff inspection. These items must be maintained throughout the course of construction.
  - (d) Permits may be required from other outside agencies including, but not limited to Hennepin County, the Bassett Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits. Copies of all required permits must be submitted to the city.
- f. Prior to issuance of a building permit:
- (1) Submit the following items for staff review and approval:
    - (a) A recorded copy of the ordinance.
    - (b) A recorded copy of the conditional use permit resolution.
    - (c) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
    - (d) A recorded copy of a 16.5-foot conservation easement over the wetland buffer.

- (e) A revised landscaping and tree mitigation plan. The plan must show:
- (i) the planting of ten trees, four of which shall be ornamental trees planted along the Wayzata Blvd frontage.
  - (ii) the planting of a bedding of native shrubs adjacent to the parking lot at the western and northwestern edges of the property to act as a vegetative wetland buffer.
  - (iii) the planting of low-growing shrubs in the parking lot islands and entrance medians to complement existing trees at these locations.

However, at the sole discretion of natural resources staff, mitigation may be decreased based on any of the following: the health of trees removed; the ability to appropriately install trees and other shrubbery given existing vegetation and/or topography.

- (f) Cash escrow in an 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.
- (g) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.
- (h) An illumination plan for staff approval.
- (2) The following items must be completed:

- (a) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
  - (b) 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.
  - (c) Pay all required hook-up fees.
  - g. The property owner is responsible for replacing any required landscaping that dies.
  - h. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
  - i. Provide appropriate fire protection per National Fire Protection Association requirements.
  - j. This ordinance does not approve any signs. A separate sign plan review and sign permits are required.
  - k. Construction must begin by December 31, 2009, unless the planning commission grants a time extension.
- 2) Adopted Resolution No. 2008-128 which approves a conditional use permit for a freestanding restaurant on property designated for retail or service commercial use at 10600 Wayzata Boulevard. Approval is based on the following findings:
- a. The proposal would meet the general and specific conditional use permit standards as outlined in city code.
- Approval is subject to the following conditions:
- a. Hours of operation shall be limited to 4:00 pm to 2:00 am.
- 3) Adopted Resolution No. 2008-129 which approves a conditional use permit for an outdoor seating area at 10600 Wayzata Boulevard. Approval is based on the following findings:
- a. The proposal would meet the general and specific conditional use permit standards as outlined in city code.
- Approval is subject to the following conditions:

- a. Hours of operation shall be limited to 4:00 pm to 2:00 am.
  - b. The outdoor seating area shall be a controlled area with at least one opening to an acceptable pedestrian walk. An enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal structure.
  - c. The outdoor seating area shall be equipped with refuse containers and patrolled daily for litter pick-up.
  - d. The outdoor seating area shall not have speakers or audio equipment which is audible from adjacent parcels.
  - e. The city council may reasonably add or revise conditions to address any future unforeseen problems, including but not limited to noise and parking issues.
  - f. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
  - g. Before the city issues a building permit, the applicant must agree to the above conditions in writing and record this resolution with the county.
  - h. Violation of any of the above conditions will result in revocation of the permit.
- 4) Approve the applicant's appeal of the maximum trip generation for the proposed restaurant located at 10600 Wayzata Blvd. Approval is based on the findings of a traffic study conducted for the proposed development which concluded that:
    - a. These additional trips could be accommodated with the existing roadway infrastructure.
    - b. The daily impact of the proposed restaurant will be minimal and peak hour trip generation from the site will have a negligible impact on the adjacent intersections along CSAH 73 (Hopkins Crossroad).
  - 5) Adopted Resolution No. 2008-130 authorizing application for contamination cleanup grant program for property at 10600 Wayzata Boulevard.
  - 6) Adopted Resolution No. 2008-131 supporting and environmental grant application to Hennepin County for property at 10600 Wayzata Boulevard.
  - 7) Adopted Resolution No. 2008-132 authorizing application for the tax base revitalization account.

Callison moved to apply the recommendations of the planning commission. Motion died due to lack of a second.

All voted "yes." Motion carried.

**C. Ordinance amending Section 710 of the city code regarding increases in fees.**

Wischnack gave the staff report.

Schneider asked for further explanation when a complexity surcharge would be assessed. Wischnack explained that someone coming in for just a final plat, regardless of size, would just be charged the new fee of \$500 and no surcharge.

Wagner asked whether the complexity surcharge will make the fee schedule complex for the staff to administer. Wischnack stated staff believes it is a fair and reasonable approach.

Wagner expressed some concern about the fee increases in multi-campus situations.

Allendorf asked how staff came up with the complexity multiplier amounts. Wischnack said the analysis was a good exercise, as it illustrated that staff costs are not all covered with the fees. She stated how much of staff time should be covered is a philosophical issue for the council to consider. The goal was to provide a multiplier that was fair but not exorbitant. She noted applicants may spend \$40,000 to \$60,000 in traffic study costs, in addition to city fees. Wischnack continued that an escrow option was also considered, but that would not allow the developer to know its costs until the end of the project, which would be unfair.

Wiersum stated a complexity multiplier makes sense, but he prefers that the developers pay for the entire staff costs on a project, rather than those costs ultimately being paid for by the citizens of Minnetonka. He asked how these fees compare to what is happening in similar communities.

Wischnack stated staff did look at what other communities are charging, and Minnetonka's fees will be higher. However, other cities are also now discussing the need to cover staff costs.

Schneider stated he is not as concerned with trying to capture every dollar that was spent in staff time on projects that will enhance the city's tax base. Of greater concern is a situation where

a large project is charged fees that exceed actual staff time on the project.

Hiller asked what the total percentage increase will be for the planning and zoning fee schedule. Gunyou stated there is an estimated seven to eight percent increase in the 2009 budget, which is approximately \$150,000 on a \$2.1 million budget. He noted the bulk of the revenue received is in building permits, and those fees are only increasing five percent.

Hiller asked what percentage of staff costs are expected to be covered in the new fee schedule. Gunyou stated staff is not able to estimate that figure, as this was the first time staff attempted to tally total staff hours among all the departments.

Grace Sheely, 14325 Grenier Road, expressed support for the work done on the proposed fee schedule. Having gone through the process with the city, she understands some of the necessary staff work and time. She suggested the city provide some documentation behind the fees to assist citizens in understanding the need for the increases. Sheely also suggested including the park dedication fee on the schedule. She also commented that the grading fee is high, and many of these fees will seem exorbitant to the average citizen.

Allendorf stated he does not believe a developer would necessarily be dissuaded from a new project in Minnetonka based on the city's fees. He asked for the staff to re-look at the complexity surcharge at the top end.

Gunyou indicated staff did discuss the possibility of different types of complexity surcharges, but decided the square footage of the project would be the most straightforward measure. He suggested one option would be for the council to implement the proposed fee schedule and review it in a year or two.

Wagner echoed Gunyou's comments about relooking at the complexity surcharge a year or two after it has been implemented, and possibly tweaking the surcharge at the top end. He also suggested the council freeze the school cafeteria license fees and raise other revenue-producing license fees if necessary to cover the city's costs.

Wiersum stated he would like to recover as many of the city's costs as reasonably possible, regardless of who the city is providing the service to. This fee schedule makes a big step in that direction, with

a possible adjustment of the multiplier at the top end. He also noted he does not want Minnetonka to have the highest development fees in the Twin Cities. He concurred the city should revisit the fee schedule in a year or two and improve it if necessary.

Schneider asked about the frequency a school kitchen is inspected. Wischnack responded inspections occur twice annually, as per USDA requirements, while other institutional kitchens are only inspected once annually. Schneider indicated he is in favor of reducing the fees for school kitchens.

Callison stated she is not supportive of reducing the fees for school kitchens. Wiersum concurred.

Peterson clarified there is a typographical error in the ordinance; the fee for the final plat is \$500.

Wagner moved, Hiller seconded a motion to adopt Ordinance No. 2008-36 amending Section 710 of the city code regarding increases in fees with the following changes in the complexity factor surcharge: 100,000-200,000 square feet changed to 3; 200,000-300,000 square feet changed to 4; and 300,000 square feet and above to 5; and a decrease in the proposed school kitchen fee of \$700 to the 2008 fee of \$535; and to adopt Resolution No. 2008-37 authorizing publication of an ordinance summary.

Allendorf offered an amendment that the school kitchen fee be \$570 rather than the proposed \$535.

Wagner and Hiller accepted the amendment.

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

**D. Vacancy in mayor's office.**

Callison turned the meeting over to Acting Mayor Allendorf.

Allendorf congratulated Callison on her election to the Hennepin County Board of Commissioners.

Peterson provided the staff report.

Wiersum asked if the council can take action prior to the vacancy. Peterson indicated the council can take action prior to January, but any action would not become effective until the seat is vacant.

Wagner asked about the appointment of a new acting mayor.

Assistant City Manager Geralyn Barone reported that the council rules and procedures manual state the council will choose an acting mayor and an alternate acting mayor during its first meeting in January. Peterson noted the council can change the rules and procedures at will.

Allendorf asked the council to discuss a preference for an appointment or an election for the mayor vacancy.

Ellingson suggested an appointment, since only one year remains in the mayor's term. Wiersum concurred. He also noted that special elections are expensive. He noted the council was elected by the citizens of Minnetonka, and therefore has the authority to appoint the new mayor.

In response to a question by Allendorf, Gunyou stated a special election would cost about \$10,000. An additional election for one ward would be \$3,000 to \$4,000.

Hiller expressed support for an appointment rather than a special election.

Wagner suggested staff be given direction that the council will appoint the new mayor, and that the mayor will be decided prior to Callison's departure on January 6. The council concurred.

Peterson clarified the two options to fill a ward seat, should a ward member be appointed as mayor.

Allendorf noted Schneider submitted a letter included in the council packet wherein he expressed interest in being considered for the mayoral appointment.

Ellingson pointed out the mayor could be selected from among the council or from a member of the public.

Wiersum noted there is a distinction between appointing a new member of the council and appointing a mayor in this situation, citing the benefits of a mayor having previous experience serving on the council.

Wagner expressed support for appointing the mayor from among the existing council.

Hiller asked the council to discuss whether the appointed mayor would serve as essentially a placeholder for the one-year term or if he would be viewed as someone who may lead the city for the long-term and will then run as an incumbent one year from now. If it is the latter, the appointment should be opened up to the citizens of Minnetonka.

Allendorf commented that the requirements for appointing the mayor and a new council member are different, but neither would be viewed as just a placeholder until the next election.

Schneider noted that opening up the mayoral appointment to the public would require a 30- to 60-day advertising and selection process. There would be an additional 30- to 60-day advertising and selection process if an existing member of the council were selected, which means a lengthy period of time that the council would be operating with only six members.

Wiersum agreed the timing is an issue in this appointment. His preference would be to select from the council, with the understanding there will be an open election a year from now. He stated it is important to have some experience if appointed mayor.

Allendorf noted there will be the power of the incumbency for both the appointed mayor as well as the appointed council member; it just along comes with the decision to make the appointments.

Wagner stated he is uncomfortable with the prospect of having a six-member council for 90 days. He expressed support for appointing the mayor from among the existing council, and moving on that appointment in a timely fashion.

Gunyou provided an overview of the timeline, should the council decide to appoint the mayor and hold an open selection process for the then-vacant council seat.

Ellingson described a re-appointment process at his place of employment where an open selection process was incorporated for the staff position.

Allendorf asked the council to express a preference for an appointment or an open selection process for the mayoral position.

Wagner supported an appointment from among the council.

Wiersum concurred. Hiller suggested there was time to have the election certified and the public comment. If those things occur, he had no objection to appointing from among the council. Schneider supported an appointment from among the council. Ellingson expressed support for an open process.

Allendorf expressed support for an appointment from within the council.

The council discussed that anyone who may be interested in the mayoral position should submit a letter to the city manager by November 19.

Wagner noted the appointment process will be included on the agenda for the November 24<sup>th</sup> meeting, and members of the public can be heard that evening should they have a comment on the process the council has elected to take.

Wiersum noted the council will likely receive criticism no matter which route it chooses in filling the mayoral position.

Allendorf summarized the council packet for the November 24<sup>th</sup> meeting will indicate the intention to appointment a mayor from among the council. Members of the public will be able to comment on the process the council has selected for the appointment and will be steered away from arguing the merits of any particular candidate for the position.

The council discussed the value of having an open, inclusive and thorough process for selecting the council member for the vacant seat.

Gunyou indicated that at the November 24<sup>th</sup> meeting, staff will have prepared a proposed process for the open council seat.

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

**16. ADJOURNMENT.**

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 8:48 p.m. Ellingson, Wagner, Allendorf, Wiersum, Hiller, and Schneider voted "yes." Callison was excused. Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk