

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, NOVEMBER 24, 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 three addenda for Item 14A. Callison requested 15A be moved to the consent agenda.

Wiersum moved, Allendorf seconded a motion to accept the agenda with the addenda and to move Item 15A to the consent agenda. All voted "yes."  
Motion carried.

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

**6. SPECIAL MATTERS:**

Callison acknowledged members of Troop 430 in attendance.

Merrill King, 16522 Elm Drive, indicated 15 members out of 40 troop members were present in order to earn their citizen badge.

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

Gunyou reported that the vote recount is completed. He 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:**

**A. Consideration of bids for community center and city hall renovations.**

Gunyou gave the staff report.

Wagner moved, Hiller seconded a motion to reject all bids received and direct staff to make revisions to the project following reconsideration in the 2010-14 CIP. All voted "yes." Motion carried.

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

**A. Claims for council authorization – November 24, 2008.**

Allendorf moved, Wiersum seconded a motion to approve the November 24, 2008 claims which includes checks numbered 216115 through 216377, totaling \$1,432,937.86. All voted "yes." Motion carried.

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

Allendorf moved, Wiersum seconded a motion to adopt Ordinance No. 2008-37. All voted "yes." Motion carried.

**C. Resolution amending Council Policy 11.10 regarding athletic field scheduling and use.**

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2008-134 amending Council Policy 11.10 regarding athletic field scheduling and use. All voted "yes." Motion carried.

**D. Resolution pertaining to tax-forfeited land on Essex Road.**

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2008-135 approving the classification of non-conservation tax-forfeited land and authorizing the sale to the adjoining land owner. All voted "yes." Motion carried.

**E. Approval of 2009 fee schedules for consulting engineering services.**

Allendorf moved, Wiersum seconded a motion to approve the revised 2009 fee schedules proposed by the city's general services consulting engineering firms, and authorize the mayor and city manager to execute the Addenda to the Agreements for Professional Services with the following firms:

- American Engineering Testing, Inc.
- Kjolhaug Environmental Services Co.
- Barr Engineering Company

- Short Elliott Hendrickson, Inc.
- Brauer & Associates, Ltd.
- SRF Consulting Group, Inc.
- Gale-Tec Engineering, Inc.
- WSB & Associates, Inc
- Hansen Thorp Pellinen Olson, Inc.

All voted "yes." Motion carried.

**F. Proposed order for liquor license violation for Bunker Indoor Golf Center.**

Allendorf moved, Wiersum seconded a motion to adopt the attached Finding of Fact, Conclusion, and Order for Bunker Indoor Golf Center. All voted "yes." Motion carried.

**G. Conditional use permit for a detached garage at 3532 Tonkawood Road.**

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2008-136 which approves a conditional use permit for a 1,668 square-foot, 17-foot tall, detached garage at 3532 Tonkawood Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Prior to issuance of a building permit, record this resolution with the county. A copy of the recorded resolution must be returned to the city.
- 2) The site must be developed in substantial conformance to the site and building plans date-stamped October 7, 2008, unless modified by the conditions below.
- 3) No additional curb cuts are permitted.
- 4) The garage must not be used for commercial activities.
- 5) The garage must not be used as an accessory dwelling unit.
- 6) Two ornamental or shade trees must be planted along the north side of the garage to buffer views from adjoining properties.
- 7) The driveway must be paved from the street to the garage.
- 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 would require a revised conditional use permit.
- 10) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**H. Resolution requesting 2008-2010 Hennepin County recycling grant and authorizing city manager to execute agreement.**

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2008-137 authorizing the request for the 2008-2010 Hennepin County Recycling Grant and authorizing the City Manager to execute the 2008-2010 Recycling Grant Agreement with Hennepin County. All voted "yes." Motion carried.

**I. Reappointments to Minnetonka boards, commissions and committees.**

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

- David Hakensen, to the community commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Paul Thyren, to the community commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Anne Van Horne, to the community commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Barb Westmoreland, to the community commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Courtney Wieden, to the community commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Melissa Williamson-Herren, to the community commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Tony Wagner, to the EDA, to serve another six-year term, effective February 1, 2009 and expiring on January 31, 2015.
- Kyle Gallagher, to the park board, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Amber Greves, to the park board, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Denny Lambert, to the park board, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.

- Aimee Blatz, to the planning commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- John Cheleen, to the planning commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.
- Paul Lehman, to the planning commission, to serve another two-year term, effective February 1, 2009 and expiring on January 31, 2011.

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

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

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance rezoning the proposed TERRATONKA subdivision.**

In response to a question by Wagner, City Planner Loren Gordon indicated there is a significant grade change and will be part of the review of the planning commission.

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

**13. PUBLIC HEARINGS:**

**A. Public hearing to consider resolution adopting special assessments for a traffic signal improvement project.**

Gunyou gave the staff report.

Callison opened the hearing at 6:42 p.m. No one appeared.

Callison closed the hearing at 6:42 p.m.

Schneider moved, Wiersum seconded a motion to adopt Resolution No. 2008-138 adopting special assessments for traffic signal improvement Project No. 4423. All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Resolution receiving feasibility report, ordering the improvements in, authorizing preparation of plans and**

**specifications, and authorizing easement acquisition for the Dominick Drive Reconstruction Project No. 09401.**

City Engineer Lee Gustafson gave the staff report.

Schneider asked about the cost of the different style of retaining walls. Gustafson explained the proposed construction has a higher cost, but the overall cost increase becomes significantly less when considering the minimal impact to trees, minimized disruption to residents, and smaller easements to obtain.

Schneider asked what classifies Dominick Drive as a collector road. Gustafson responded it is one of the few through-streets in the area that collects traffic from side roads.

Allendorf asked about the proposal of a concrete sidewalk for Dominick. Gustafson indicated staff believes it would be difficult to install an asphalt trail in this instance, where it is on the back of a curb.

Allendorf noted the resident surveys were very negative regarding the inclusion of sidewalks in this area; he asked why the sidewalks are necessary. Gustafson indicated the sidewalk would provide neighborhood residents access to a lot of trails and city parks.

Allendorf commented that previous councils had agreed concrete curbs and sidewalks should only be used in areas of retail and schools. He asked if the design could be changed to diminish the cuts into the hill. Gustafson indicated the cuts in the hill would only be diminished slightly if no sidewalks are added.

In response to a question by Wagner, Gustafson confirmed there is a greater emphasis in providing community connectivity with sidewalks than there was in the 1990s.

Gustafson and Wagner discussed the different options of the sidewalk and retaining wall. Gustafson indicated the retaining wall cost is approximately \$1.2 million.

In response to a question by Wiersum, Gustafson discussed the necessary permanent and temporary easements.

Gustafson stated the initial cost for bituminous and concrete curbing is the same price, though he believes over the long-term, concrete is much cheaper. He noted contractors prefer concrete because it easily establishes the street grade which to pave upon.

Hiller asked about the need for 6-foot sidewalks. Gustafson discussed the functional advantages of a 6-foot sidewalk over a 4-foot sidewalk.

Callison asked about the location of stormwater ponds. Gustafson pointed out on the map the two large ponds and the rain garden.

In response to a question by Callison, Gustafson discussed that an attempt will be made to minimize changes in driveway slopes, and that will be determined in the final design phase as staff works individually with each homeowner.

Carl Getsinger, 5039 Dominick Square, stated he has always appreciated the rural feel of Minnetonka. He suggested moving the sidewalk to the east side, which would eliminate the need for most of the retaining wall on the west side. He also stated drivers will increase their speeds when the streets are widened.

Gustafson commented it is preferable to put the sidewalk on the west side because every street that intersects Dominick is on the west side.

Tammy Rosenthal, 5800 Lake Rose Circle, asked whether the type of retaining wall being proposed is in existence anywhere else in the area. She expressed concern about the location of the crosswalk and the cost of the retaining wall as well as trees that may be damaged by the construction process.

Gustafson indicated there are retaining walls south of Highway 7 constructed with a sheetpile-type of construction. He advised that the retaining wall setback is needed to improve stopping sight distance.

Heidi Becker, 5307 Dominick Drive, expressed opposition to the concrete curb and sidewalk as it changes the rural feel of the neighborhood. Increases in driveway slopes will be dangerous. She also cautioned against increased speed limits.

Gustafson commented the legal speed limit is 30, but that the 25 miles per hour speed limit signs will remain.

Jeff Adrian, 12339 Oak Chase Court, expressed concern about trees being removed. He asked the council to consider the character of the neighborhood.

Polly Bayrd, 5353 Dominick Drive, expressed support for the idea of a trail in this neighborhood, particularly to help children get more exercise. She echoed the concern for the loss of character of the neighborhood.

Robin Flis, 5302 Dominick Drive, expressed concern about the slopes of the driveways and stated most of the residents believe a sidewalk is not a priority.

Debra Stapek, 4728 Dominick Drive, stated the sidewalks are needed for safety.

Leann Sanborn, 5500 Dominick Drive, stated her property will incur significant damage and loss in this project. She questioned why the entire 3-foot addition to the road has to occur on her property. She requested discussion of asphalt curbs and sidewalks. She added that an increase in the grade of her driveway from 11 percent to nearly 15 percent is unacceptable and unsafe.

Gustafson indicated the 26-foot road is the minimum standard for state-aid roads. He indicated there is a drop-off to the lake across from Ms. Sanborn so the road cannot be shifted much in that direction.

Robert Westerlund, 5013 Dominick Square, noted the chain-link fence is one foot onto his property. He stated the character of the neighborhood will change, and traffic speeds will increase.

Dale Engquist, 11904 Douglad Drive, expressed support for the 6-foot wide sidewalk and suggested leaving the street narrower to discourage increased driving speeds.

Richard Gitler, 5360 Dominick Drive, indicated he is in support of the road reconstruction and the sidewalks.

Bill Flis, 5302 Dominick Drive, stated maintaining green space is of great concern.

Holly Evans, 1531 Dominick Spur, expressed support for the sidewalks and road reconstruction. She asked whether the streets can stay at 24 feet. She also inquired what percentage of the project will be paid by state-aid funds.

Gustafson indicated this project, as proposed, will be paid for entirely with city funds, though it will meet most state-aid standards.

One retaining wall is designed with a 30 mile per hour stopping sight distance standard and the other is about 25 miles per hour.

Callison recessed the meeting.

The council meeting resumed at 9:30 p.m.

In response to a question by Schneider, Gustafson discussed the two ways the proposed sidewalk can be plowed in the winter. He noted streets, sidewalks, and trails are plowed by the city on a priority basis.

Schneider commented the feasibility report indicates traffic will increase by about 100 cars daily by the year 2020. Gustafson concurred, noting that figure came from the traffic engineer's study that was recently completed for the comp plan.

Allendorf stated it would be legally possible to design the road at 24 feet, since the road will be paid for with city dollars. Gustafson concurred.

Allendorf stated he understands the benefits of concrete curb and gutters in this situation, though he is not a fan of it. He suggested a bituminous trail to better fit the character of the neighborhood.

Wiersum stated the road needs to be reconstructed. The question is what width is appropriate. Perhaps a 24-foot road is a good solution, still allowing for a sidewalk, which is necessary for safety.

Wagner agreed the road needs to be repaired. He asked the council to discuss the large retaining wall's impact on the rural feel of the neighborhood, and how it could be decreased in size.

Ellingson stated some of the concerns can be addressed by scaling down aspects of the proposal. He suggested the city provide some flexibility in allowing the residents to choose between rain gardens and curb and gutter.

Schneider stated he reluctantly supports the concrete curb and gutter for the project. He agreed with the suggestion of a 24-foot road and a bituminous sidewalk to help preserve neighborhood character.

Hiller expressed support for the sidewalk from end to end of the project. Whether it is asphalt or concrete should be up to the

neighbors. He suggested going narrower on the road where possible.

Callison expressed confidence in staff's ability to retain the character of the neighborhood, as they have done in other projects. She expressed opposition to 24-foot roads due to safety issues. She believes a 26-foot road should be a minimum standard for a collector road. She supported 6-foot sidewalks on the southern end. She supported concrete curb and gutter and would consider a bituminous sidewalk if that is the preference of the neighborhood.

Allendorf moved, Schneider seconded a motion to adopt Resolution No. 2008-139 receiving the feasibility report, ordering the improvements in, authorizing preparation of plans and specifications for a 24-foot wide street, directing staff to determine what width the road should be around the entire hill and sightlines, directing staff to continue to work with neighbors on the widths of sidewalks from Pioneer to Shady Oak to minimize disruptions to individual homes, directing staff to receive alternate bids for the composition of the sidewalk, authorizing concrete curb and gutter, and authorizing easement acquisition for the Dominick Drive Reconstruction Project No. 09401.

Callison stated she will vote against the motion because 24 feet is unsafe.

Wagner expressed concern about the construction of a 24-foot road everywhere but the hill.

Wiersum stated a wider road encourages higher speeds.

Hiller expressed support for a 26-foot road.

Gustafson stated narrowing the road to 24 feet would only result in a very slight reduction in the retaining wall. He suggested building the road to a 26-foot width and allowing staff to do whatever possible to minimize impacts to the greatest extent possible.

Allendorf withdrew his motion.

Allendorf moved, Schneider seconded a motion to adopt Resolution No. 2008-139 receiving the feasibility report, ordering the improvements in, authorizing preparation of plans and specifications as proposed, including concrete curb and gutter, working with residents on the size of sidewalks to minimize impacts, and taking alternate bids for asphalt and concrete for the

sidewalk, authorizing easement acquisition for the Dominick Drive Reconstruction Project No. 09401.

Gustafson indicated staff will present different retaining wall options to the council and as well as different bids for concrete or asphalt sidewalk.

Ellingson proposed an amendment to include asphalt curb rather than concrete on the south portion of Dominick Drive, adjacent to the lake.

Lacking a second, the amendment failed.

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

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

Callison left the meeting at this point. Gunyou gave the staff report.

B.J. Novotny, 14319 Stewart Lane, discussed the history of freedom of speech and freedom of voting and election in this country. He expressed opposition to appointing a new mayor.

In response to a question by Allendorf, City Attorney Desyl Peterson explained the mayoral position will be vacant January 5. The next mayoral election will be held in November 2009.

Dave Larson, 15733 Randall Lane, stated he has no objection to the council appointing a mayor from within its ranks. He thanked Callison for her service as mayor.

Grace Sheely, 14325 Grenier Road, stated it is arrogant for the council to assume only one of them should be appointed mayor. She advocated for an open appointment process.

Hiller stated the council may appoint the right person for the mayoral position but may be doing so for the wrong reasons. He advocated opening up the appointment process to the public.

Hiller moved, Ellingson seconded a motion to delay for two weeks and take applications for the position of mayor.

In response to a question, Gunyou noted that at the council meeting two weeks ago, the council solicited comment from the

public regarding this process. Two emails were received and included in the council packet.

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

Wagner stated he believes it is in the pragmatic best interests of the public to have a fully seated council and not to delay the selection process for possibly a few months.

Wiersum commented it is not in the best interests of the city to seek applications for mayor, when it would take up months of an already abbreviated term of service.

Wagner moved, Wiersum seconded a motion to establish a process to replace mayor vacancy by appointing a council member.

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

Peterson advised that any existing council member who is being considered for the appointment to the mayoral position should not participate in the appointment.

Schneider recused himself from further discussion and voting on this issue.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2008-140 as amended, appointing Council Member Terry Schneider as mayor. Wagner, Allendorf, Wiersum, Hiller, and Ellingson voted "yes." Schneider abstained. Motion carried.

Gunyou outlined the advertising process for the council vacancy, noting the deadline is December 30, 2008.

Hiller asked whether the application includes a job description. Gunyou responded there is not a specific job description for council member, but that he will be available to speak with any applicant who may have questions, and a briefing will occur prior to candidates interviewing.

Schneider suggested including a paragraph at the top of the application, letting applicants know that the duties of an at-large council member includes representing the city in other venues as well.

The council was in general agreement with the application and interview process outlined by staff.

**15. APPOINTMENTS and REAPPOINTMENTS:**

**A. Reappointments to Minnetonka boards, commissions and committees.**

This item was moved to the consent agenda.

**16. ADJOURNMENT.**

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 11:17 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk