

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, DECEMBER 22, 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 Brad Wiersum, James Hiller, Terry Schneider, Bob Ellingson, Tony Wagner, Dick Allendorf, and Jan Callison were present.

4. APPROVAL OF AGENDA.

City Manager John Gunyou noted addendum.

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

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

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

6. SPECIAL MATTERS:

A. Recognition of outgoing Metropolitan Council Member Mary Hill Smith.

Callison read the recognition.

Mary Hill Smith thanked the council for the recognition and for the leadership provided by the council to the city.

B. Presentation by LuAnn Tolliver, 9 Mile Creek Watershed District.

LuAnn Tolliver discussed some of the history and activities of the 9 Mile Creek Watershed District. She presented a check to the city for \$67,473 for easement and land acquisition during the Minnetonka lakes water quality project.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Gunyou reported on the schedule for upcoming council meetings.

The council wished Callison well in her new position as Hennepin County Commissioner and thanked her for her service to the city.

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 – December 22, 2008.**

Allendorf moved, Wiersum seconded a motion to approve the December 22, 2008 claims which includes checks numbered 216655 through 216968, totaling \$1,721,457.50. All voted "yes." Motion carried.

B. Request for twelve-month extension of preliminary plat approval of EVERGREEN SECOND ADDITION, a two-lot subdivision at 15549 Ranchview Court.

Allendorf moved, Wiersum seconded a motion to approve the twelve-month time extension. All voted "yes." Motion carried.

C. Request for twelve-month extension of multiple variances for construction of a new home at 16930 Grays Bay Blvd.

Allendorf moved, Wiersum seconded a motion to approve the twelve-month time extension of City Council Resolution No. 2008-031, which is the revised resolution removing the shoreland buffer and conservation easement requirement. All voted "yes." Motion carried.

D. Request for twelve-month extension of preliminary plat approval of SCHOEN ADDITION at 11405 and 11477 Fetterly Road West.

Allendorf moved, Wiersum seconded a motion to approve the twelve-month time extension. All voted "yes." Motion carried.

E. Agreement with the city of Excelsior to provide city code violation administrative services.

Allendorf moved, Wiersum seconded a motion to authorize the city to execute the agreement with the city of Excelsior. All voted "yes." Motion carried.

F. Ordinance regarding city history activities.

Allendorf moved, Wiersum seconded a motion to adopt Ordinance No. 2008-38 All voted "yes." Motion carried.

G. Labor agreement between the city of Minnetonka and Teamsters Local #320 – police officers.

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

H. Resolution authorizing 2009 nonunion employee salary and benefit adjustments.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2008-144 authorizing the 2009 nonunion employee salary and benefit adjustments. All voted "yes." Motion carried.

I. Items related to city manager's compensation.

Allendorf moved, Wiersum seconded a motion to approve the city manager's annual 2009 salary and lump sum 2008 performance pay, and amend the manager's employment agreement to change the city's deferred compensation contribution to the recommended percentage. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES: None.

13. PUBLIC HEARINGS:

A. Final plat and vacation easements at 5121 and 5125 Baker Road.

Callison opened the hearing at 7:01 p.m. No one spoke.

Callison closed the hearing at 7:01 p.m.

Schneider moved, Ellingson seconded a motion to:

- 1) Adopt Resolution No. 2008-145 which approves the vacation of the public drainage and utility easement at 5121 and 5125 Baker Road. This resolution is based on the following findings:
 - a. The petitioners are owners of the land abutting said easement and, therefore, are proper petitioners.
 - b. New drainage and utility easements would be dedicated in the plat of Minnetoga Estates.
 - c. Vacating this easement is in the public interest.

Approval is subject to the following:

 - a. This vacation is effective at the time of filing of the plat of MINNETOGA ESTATES
 - b. This resolution must be recorded with Hennepin County, and a copy of the recorded resolution returned to the city.
- 2) Adopt Resolution No. 2008-146 which approves the final plat for MINNETOGA ESTATES that was received on October 17, 2008, subject to the following conditions:
 - a. Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat.
 - b. All drainage easements must be dedicated as public drainage and utility easements.
 - c. Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.
 - d. The resolution vacating the drainage and utility easements must be recorded with the plat.

All voted "yes." Motion carried.

B. Amendment of an existing conditional use permit for a telecommunications tower at 12201 Minnetonka Blvd.

City Planner Loren Gordon gave the staff report.

Callison opened the hearing at 7:03 p.m. No one spoke.

Callison closed the hearing at 7:03 p.m.

Wiersum moved, Hiller seconded a motion to adopt Resolution No. 2008-147 which approves a conditional use permit for a wireless telecommunications tower and associated equipment to be installed at 12201 Minnetonka Boulevard and repeals and replaces Resolution No. 2008-124.

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 90-feet in height and 40-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.
- 11) This resolution repeals and replaces Resolution No. 2008-124 adopted on October 27, 2008.

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 Sherwood Forest Reconstruction Project No. 06608.

City Engineer Lee Gustafson gave the staff report. He indicated the project should be completed in October.

In a response to a question by Hiller, Gustafson explained the traffic on these streets is fairly light compared to other streets. He also discussed street widths.

In response to a question by Wiersum, Gustafson discussed the benefits of constructing the curb to city standard.

Gustafson indicated he does not believe the storm sewer system can be lessened by adding rain gardens.

Jay Shahidi, 11705 Live Oak Drive, agreed something needs to be done about the water but opposed the idea of concrete curb and gutter. He urged the council to maintain the rustic feel of the neighborhood. He suggested trying to control speeding and also improving the streets through filling the potholes.

Lee Harvey, 11420 Live Oak Drive, stated there would be limited on-street parking if curbs were added. He asked whether his pond elevation would increase as a result of this construction.

Gustafson indicated none of the pond levels should change. During final design, staff works with property owners to best address driveways. He indicated staff can provide suggestions to the residents regarding on-street parking.

Eileen Rice, 11305 Park Ridge Drive, expressed opposition to the reconstruction project, particularly as it relates to damage to neighborhood trees.

Greg O'Dell, 11510 Lake View Lane, indicated he and another neighbor took a survey of the neighborhood and found a variety of responses. He presented those results. He agreed there are flooding and erosion issues that need to be addressed, though he would prefer a second proposal by the city that would involve more resident input. Concrete curbs and gutters should only be included when absolutely necessary.

Jim Cooling, 11619 Live Oak Drive, stated the character of the neighborhood does not lend itself to curb and gutter. He agreed with O'Dell's comments that curb and gutter certainly is not needed throughout the entire neighborhood. He indicated that the character of the neighborhood would change with concrete curb and would defeat the reason many people live there.

Patrick Nolan, 11700 Live Oak Drive, asked about the reduction in road size at a couple of points on Live Oak. Gustafson indicated staff does not believe a 28-foot road is necessary at a couple of points, and it is also an effort to reduce impervious surfaces.

Wagner asked about the health of the roads in this neighborhood and whether a rain garden could be added in the cul-de-sac in lieu of curb and gutter.

Gustafson reported the roads are in need of reconstruction. Staff could look at areas that may be available for rain gardens.

Allendorf commented he does not see the need for curb and gutter on any street that is not a connector street. Additionally, he expressed support for the neighborhood paying a little more in the long run in order to maintain its character if maintenance costs were higher without curb and gutter.

Gustafson noted none of these roads are collector roads.

Wagner stated he supports concrete curb and gutter on Live Oak Drive, Park Ridge Drive, and Hilloway, because asphalt curb would have to be repaired in a few years. He also expressed support for a 4-inch curb rather than 6-inch. He supported a resident advisory group to assist planning of plantings and landscaping. He would like staff to bring back options for the cul-de-sacs.

Wiersum concurred with Wagner's suggestions.

Hiller expressed support for the project.

Schneider suggested increasing the curve in Hilloway from 24 to 26 feet.

Callison suggested the council needs to hold a discussion on concrete versus asphalt. She stated the character of the community does not lie in the curb and gutter, and it is really the trees in this neighborhood that create a unique feel. However, this may be a situation where some negotiation would be necessary.

Wagner moved, Allendorf seconded a motion to adopt Resolution No. 2008-148 receiving the feasibility report, ordering the improvements in, authorizing preparation of plans and specifications, with the following stipulations: that 4-inch curb and gutter be installed at Park Ridge Drive, Live Oak Drive, and Hilloway Road West, and staff return to council with options for the cul-de-sacs, related to bituminous or concrete curb and gutter, and staff work with the neighborhood on native plantings, and authorizing easement acquisition for the Sherwood Forest Reconstruction Project No. 06608.

Ellingson stated the modified motion does not address the concerns of the residents who live on the roads that will have the concrete curb and gutter.

Allendorf and Schneider agreed with Callison that there needs to be a council discussion of asphalt versus concrete.

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

Callison recessed the meeting at 8:30 p.m.

The meeting resumed at 8:35 p.m.

B. Items relating to the 2009 operating budget and tax levies.

Gunyou gave the staff report.

Hiller expressed support for the general budget as presented. He expressed concern about the capital improvement program, particularly two and three years from now. He expressed opposition to increasing the HRA levy, as it does not meet the affordable housing goal. He suggested using the \$100,000 that was cut from the general budget for affordable housing.

Wiersum expressed support for the general budget as proposed. He opposed the \$200,000 HRA levy, and suggested an HRA levy of \$100,000, which was the amount cut from the general budget.

Allendorf expressed support for the general budget and opposition to the HRA levy.

Wagner expressed support for the recommended \$200,000 HRA levy, but would also support it at the \$100,000 level. He would like a multifaceted council study session to discuss affordable housing and other issues.

Schneider expressed support for the general budget. He supported establishing the HRA levy at some comfortable level and then establishing a process with the EDA about future opportunities.

Ellingson expressed support for the general budget. He stated the HRA levy would be easier to support if there was a specific project in mind.

Callison noted the city does not special assess for road projects, as many other cities do. She would support the establishment of a minimal HRA levy.

Schneider moved, Wiersum seconded a motion to adopt the following resolutions:

- 1) Resolution No. 2008-149 adopting a budget for the year 2009, a revised budget for 2008, and setting a tax levy for the year 2008, collectible in 2009.
- 2) Resolution No. 2008-150 setting a tax levy for the Bassett Creek Watershed Management Tax District for the year 2008, collectible in 2009.

All voted "yes." Motion carried.

Wagner moved, Wiersum seconded a motion to adopt Resolution 2008-151 adopting an HRA budget for the year 2009 in the amount of \$100,000, and setting an HRA tax levy for the year 2008, collectible in 2009.

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

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointments to the senior citizen advisory board.

Callison moved, Wiersum seconded a motion to appoint the following:

- Allan Kind to the senior citizen advisory board, to serve the remainder of a two year term, effective December 23, 2008 and expiring on May 31, 2010.
- Jeanne Lutgen to the senior citizen advisory board, to serve the remainder of a two year term, effective December 23, 2008 and expiring on May 31, 2010. All voted "yes." Motion carried.

16. ADJOURNMENT.

Wagner moved, Wiersum seconded a motion to adjourn the meeting at 9:27 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk