

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, JANUARY 26, 2009**

**1. CALL TO ORDER**

Mayor Schneider 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, Bob Ellingson, Tony Wagner, James Hiller, Dick Allendorf, and Terry Schneider were present.

**4. APPROVAL OF AGENDA**

City Manager John Gunyou noted the addenda.

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

**5. APPROVAL OF MINUTES:** December 22, 2008 regular meeting

Allendorf moved, Wiersum seconded a motion to approve the minutes of the December 22, 2008 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:**

**A. Recognition of Jan Callison**

Schneider read the recognition and presented Callison with a Reflections Award.

Callison said whenever she was asked why she ran to be on the council and to be mayor she gave the same answer. Our form of government depends on citizens to be informed and communicate with their elected officials, to vote, and for some people to run for office. She said she thought what she could do for the community and nation was to run for office.

Allendorf said Callison joined the council around the same time as he did. He said he appreciated and was privileged to have the opportunity to serve with her.

**B. Recognition of 2008 absentee voting election judges**

Schneider recognized Cindy Broin, Bonnie Carlson, Bev Jennis, Mary Owen, Beth Shearer, and Kitty Zimba.

**C. Recognition of the Lake Minnetonka Garden Club for their donation**

Schneider read the recognition. Natural Resources Manager Jo Colleran accepted the check.

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

Gunyou reported on the schedule for upcoming council meetings.

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

No one appeared.

**9. BIDS AND PURCHASES:****A. Bids for the Shady Oak Drive pond dredging project**

Allendorf moved, Hiller seconded a motion to award the bid for the Shady Oak Drive Pond Dredging Project, No. 08605 to Sunram Construction, Inc. in the amount of \$50,994.00. All voted "yes." Motion carried.

**10. CONSENT AGENDA (Items Requiring a Majority Vote):****A. Claims for council authorization – January 12, 2009**

Allendorf moved, Hiller seconded a motion to approve the January 12, 2009 claims which includes checks numbered 216969 through 217371, totaling \$800,658.52. All voted "yes." Motion carried.

**B. Claims for council authorization – January 26, 2009**

Allendorf moved, Hiller seconded a motion to approve the January 26, 2009 claims which includes checks numbered 217372 through 217722, totaling \$1,541,981.29. All voted "yes." Motion carried.

**C. Ordinance regarding abatements and collections**

Allendorf moved, Hiller seconded a motion to adopt Ordinance No. 2009-01 regarding abatements and collections. All voted "yes." Motion carried.

**D. Amendments to the city policy regarding public purposes personnel expenditures**

Allendorf moved, Hiller seconded a motion to approve the policy amendments. All voted "yes." Motion carried.

**E. Agreement with Minnetonka and Hopkins school districts for fiber optic connections**

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

**F. Resolution ordering the abatement of nuisance conditions**

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

- 1) Resolution No. 2009-002 ordering the abatement of nuisance conditions at 16304 Temple Drive.
- 2) Resolution No. 2009-003 ordering the abatement of nuisance conditions at 17007 The Strand.

All voted "yes." Motion carried.

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

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance establishing appeal and variance process for fire code**

City Attorney Desyl Peterson gave the staff report.

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

**13. PUBLIC HEARINGS:**

**A. Public hearing for on-sale liquor licenses for Gold Nugget Grille LLC restaurant, 14405 Excelsior Boulevard**

Community Development Director Julie Wischnack gave the staff report.

Allendorf noted the staff report included a sentence that read, "... as of this date no trade name, certificate approving another name for the restaurant has been filed for the state therefore the restaurant must use the corporate name." He asked procedurally what was being approved. Wischnack said if a trade name certificate was filed in the interim, the matter would come back to the council. Officially what was before the council was the Gold Nugget Grille.

Schneider noted Wischnack indicated that on March 9 the overall development agreement would be before the council. He asked if it was correct that the license would be in effect separate from the development agreement. Wischnack said the license did stand alone.

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

Wiersum moved, Allendorf seconded a motion to continue the hearing to March 9, 2009. All voted "yes." Motion carried.

#### 14. OTHER BUSINESS:

##### A. **Conditional use permit for wireless telecommunications antennas on the existing building at 2000 Plymouth Road**

City Planner Loren Gordon gave the staff report.

Wagner said normally with full towers there is a requirement for co-location. He asked if there was a similar policy for a rooftop tower. Gordon said there are opportunities for co-location for the roof mounted equipment depending on the separation of the antennas. Wagner asked if the proposed antenna has the ability for co-location. Gordon said the question has not been asked of the applicant and at this point since there isn't interest from other communication companies.

Wiersum said he was concerned about a provision in the staff report related to advertising on the tower or antennas. He said the antennas should be as unobtrusive as possible. Gordon said the provision is in the city's ordinance. Peterson said the city's sign code prohibits any billboard that is off-site advertising.

Kelly Swenseth of FMHC Corporation said she was available to answer questions.

Wagner moved, Hiller seconded a motion to adopt Resolution No. 2009 –004 which approves a conditional use permit for wireless telecommunications antennas to be located on an existing office building at 2000 Plymouth 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 the 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 and associated landscaping must be installed in substantial conformance with the site plan and elevations date stamped November 24, 2008.
- 3) The canisters in which the antennas are enclosed must be a color similar to the existing building.
- 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.

**B. Minnetonka Mills Committee**

Wischnack gave the staff report.

Allendorf asked for clarification for why the committee was being appointed and if it was being used for the Minnetonka Mills area because the area is unique. Wischnack said the LISC organization requested an advisory committee be formed as part of the process. Allendorf said the neighborhood was the advisory committee for a neighborhood project.

Schneider said he has seen the process work in other communities. He said the innovative process tries to engage neighborhood groups in a facilitative format, and the goal is to figure out what is best for an area without a preconceived development plan. The technique engages residents and the stakeholders in the process and interjects some of the financial background that presents the pluses and minuses of different options. He said it is important to keep in mind that the council is not committing to anything until a formal application is submitted by the developer.

Allendorf said he was concerned that the process would add another layer and could take the place of direct neighborhood group input.

Wagner said the Minnehaha Creek area is a unique area and the council has set broader goals for the area. He said he agreed with Allendorf that the process would not be very efficient for every development but the committee has representatives from boards and commissions with a vested stake in the area.

Gunyou said staff doesn't view the committee as another layer, but rather, it is a group that will advise the process. There will still be neighborhood meetings and focus groups.

Hiller noted the committee will answer questions about the process and not discuss the merits of the project itself. Gunyou confirmed that was correct.

Wiersum said the process is an effort to solicit more input. By trying something new, the city may learn something important.

Wiersum moved, Ellingson seconded a motion to approve the recommended members:

Council/EDA: Tony Wagner  
Planning Commission: Steve Adams  
Park Board: Denny Lambert  
Residents: Karen Anderson and Paul Tegan  
Developer: Scott Bader

All voted "yes." Motion carried.

**C. At large, Seat B council discussion**

Schneider said the council had the option to either approve a candidate at the meeting or could decide to do a second round of interviews. He said the feedback he has received about the process is that people think the process is working, but they have questions about the evaluation criteria used by individual council members.

Schneider then asked for public input on the process.

Grace Sheely of 14325 Grenier Road, urged the council to do a proper vetting of the candidates. The council had the opportunity to bring some new ideas and diversity to the council. She said the applicant should show they have an understanding of upcoming issues and how city government works.

George Welles of 15658 Woodgate Road, said the selection process had not been properly thought out. With the country facing unprecedented economic issues, the city does not have time to have a candidate come up to speed on a complex issue.

Paul Ansolabehere of 4475 Gaywood Drive, said there was no hurry to fill the position because looking back at recent council decisions, there have been few split votes. Part of the job is to provide a seventh vote on the council but part of the job was to bring information to the council from the community. He said diversity comes from a person's background and who they are. Experience doesn't just come from serving on a board but also comes from life experience. He proposed having a town hall meeting involving the top four candidates. After the town hall meeting public input should be solicited.

Schneider then asked each council member to share the criteria they used to evaluate applicants.

Wagner said there are challenging issues facing the council in the next year. His evaluation criteria included the quality of the answer to the question about what challenges the city faces; experience

working on an independent board; and how the applicant would add value to the council discussion. He said he respected Ansolabehere's comments about incorporating a public input process but the council owes it to the residents to have a full council sooner rather than later.

Ellingson said several of the applicants commented they wanted to serve to give back to the community. He said his criteria included looking at the kind of service the applicant has given. He also looked at the answers to issues that attract people to the city including the quality of the schools, public safety, natural resources, and affordable housing. He also considered the applicant's professional background. He said he gave higher consideration to people who have worked with people. Experience on a city board or commission was also important.

Wiersum said he initially considered such qualifications as work experience, educational background, volunteer work, and the person's involvement with the city. He said after the first ranking his sense was that the council wanted a fresh perspective. A fresh perspective is important because an organization does not want too much like-minded thinking and diverse teams make for stronger teams. He said his second ranking took into consideration what groups are underrepresented on the council. Other criteria were how articulate the candidates were, and their community involvement. He questioned whether more could be learned from another round of interviews or whether there was enough information to make the decision tonight.

Allendorf said his perspective was different because he wasn't able to participate in the interviews but had to watch them later online. His criteria included interest in the city, experience, quality of answers, and understanding the issues. He said diversity wasn't as big a factor to him as it was for others. As for the need for another round of interviews, he said he didn't think he would learn any more that he didn't already know about the candidates.

Hiller said seven out of the eight candidates answered the question about what they would do in a situation where a project meets the city's regulations but faces strong neighborhood objection. All said it was important to have consensus. He disagreed and said consensus was not an objective. Rather, the council is a committee of seven independent voices with seven equal votes and is an egalitarian oversight committee. It is essential to bring in different viewpoints. He said his criteria included finding someone willing to add a different opinion to the discussion and what is behind the

person's desire for the position. He also considered the letters of recommendation that were submitted because they showed the desire of the applicant to solicit comments from friends and neighbors.

Schneider said he was looking for somebody who compliments the strengths of the existing council by adding a different type of strength. He placed value on finding someone with a fresh perspective. Another value he looked at was being articulate and having a clarity and depth of answers. A history of involvement with the community was also considered. He said because the position is an at large position the ability to represent the city in a larger regional community was also important. He also paid attention to where applicants might fit in with the city's boards and commissions and where their skills might be used to provide vibrancy.

Schneider suggested the council decide how to proceed with only the top four candidates, since the rankings indicated a clear break after these candidates.

Hiller noted some of the candidates were asked more specifically about how to solve affordable housing issues while others were not. He suggested to get a better understanding of the candidates, a forum was needed where all the candidates were given the opportunity to answer the same questions.

Wiersum said after the first round there were no natural breaks in the council rankings. After the second ranking, the biggest difference in the top half was between the top two candidates. He said the council could not go wrong in selecting any of the top four candidates, but there was a clear difference between the top two candidates. His preference was to select the top candidate from the ratings and rankings, because she met his selection criteria and because there was broad agreement across the council.

Allendorf said there is a math theory when there is an array different from others to not count that array and look at the remaining results. Taking Hiller's divergent rating out of the rankings, the difference between the top two candidates grew even larger. He noted his top candidate was highly regarded by other Park Board members, and is not someone who merely agrees and goes to consensus but expresses her point of view.

Wagner said he agreed with Allendorf and Wiersum. His top choice did not have the city background but had comparable board experience. His second choice received good feedback from the

Park Board and the Park Board staff. She also received high rankings from all but one council member and thus there was a clear difference between the top two candidates. Because of the importance of having a full council as soon as possible, he said he was comfortable making the appointment at the meeting.

Ellingson said the numerical rating system worked well. The top candidate received the top score from every council member after the first ranking. Using the two methods for the second round also resulted in nearly identical results. He said the top candidate after the second round had a perfect rating from four council members and was ranked as the top choice by three council members. This shows there was a top candidate on paper and also after the interviews.

Schneider said his criteria evolved after the interviews and he got more feedback. He said he has previously heard of Greves' good work on the Park Board but didn't have any firsthand knowledge until the interview. His second choice had good qualities and background but he didn't meet the fresh perspective criteria as well. Schneider said he was inclined to go with the majority to make an appointment at the meeting.

Wiersum said there was an article in the Star Tribune that had quotes from people saying the council needed more diversity. He said one commentator stated the council needed the most qualified person. He said if the council appointed someone simply because that person didn't look like the rest of the council but wasn't qualified, the council would not be doing its job. He said Greves was an individual who was very qualified and also represents women, the least represented group on the council. She also brings in the perspective of a parent and works in the schools.

Allendorf moved, Wiersum seconded a motion to select a new council member to fill the vacancy of the At Large, Seat B council seat. Wiersum, Ellingson, Wagner, Allendorf and Schneider voted "yes." Hiller voted "no." Motion carried.

Allendorf moved, Wagner seconded a motion to appoint Amber Greves to the At large, Seat B council seat. All voted "yes." Motion carried.

**D. Resolution nominating Brad Wiersum to serve on the Metro Cities board of directors**

Hiller moved, Ellingson seconded a motion to nominate

Council Member Wiersum to serve on the Metro Cities board of directors. All voted "yes." Motion carried.

**15. APPOINTMENTS and REAPPOINTMENTS:** None

**16. ADJOURNMENT**

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 8:32 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk