

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, FEBRUARY 9, 2009**

City Clerk David Maeda administered the oath of office to Amber Greves.

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

Council members Bob Ellingson, Tony Wagner, James Hiller, Dick Allendorf, Amber Greves, Brad Wiersum, and Terry Schneider were present.

Greves thanked the council for her appointment.

4. APPROVAL OF AGENDA

City Manager John Gunyou noted addenda to items 13A and 14A.

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

5. APPROVAL OF MINUTES: January 5, 2009 regular meeting

Wagner moved, Allendorf seconded a motion to approve the minutes of the January 5, 2009 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS: None

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS

Gunyou said that there was record attendance at this year's Kid's Fest. He reported on the schedule for upcoming council meetings.

Schneider said he attended a Tonka Cares event with Greves. The event included a discussion about promoting a social host ordinance. He asked that staff look at the practicality of an ordinance that would fill the gap between people who buy and distribute alcohol to under aged drinkers and those who host a party but do not buy the alcohol.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

Aaron Kane of 5616 Lakeland Road expressed concern about changes around Scenic Heights Elementary School that have led to worsening traffic problems. He said he would like the city to put in a sidewalk along the road. Last week the police department put in no parking signs on one side of the street that made the area a little safer but did not fully address the issues. Additional police presence also helped.

Gunyou said the police chief believes the posting of no parking signs made a significant difference. He said it makes sense to post permanent no parking signs once the snow is gone. The area was monitored in the past few days and the congestion seemed to be limited to five to seven minutes during the peak period. Gunyou said there are no current plans for a sidewalk in the area but there is a petition process for a neighborhood to request that a sidewalk or trail be added to the list for council consideration. He suggested Kane contact the city's trails and parks manager.

Schneider said that coordination would be needed with the school to connect a sidewalk with the school's parking lot. Gunyou agreed.

9. BIDS AND PURCHASES: None**10. CONSENT AGENDA (Items Requiring a Majority Vote):****A. Claims for council authorization – February 9, 2009**

Allendorf moved, Wagner seconded a motion to approve the January 9, 2009 claims which includes checks numbered 217723 through 217993, totaling \$1,825,093.82. All voted "yes." Motion carried.

B. Ordinance establishing appeal and variance process for fire code

Allendorf moved, Wagner seconded a motion to adopt Ordinance No. 2009-02 establishing appeal and variance process for fire code. All voted "yes." Motion carried.

C. Resolution approving an amendment to management agreement for Minnetonka Mills Townhouses

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2009-006 approving an amendment to management agreement for Minnetonka Mills Townhouses. All voted "yes." Motion carried.

D. Order for liquor license stipulation for Champps Operating Corporation

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

E. Amendment to the joint powers agreement for the Lindbergh Center

Allendorf moved, Wagner seconded a motion to approve the changes to the Lindbergh Center Joint Powers Agreement. All voted "yes." Motion carried.

F. Time extension for filing of the LEWIS ADDITION final plat, a two-lot subdivision at 15616 Highwood Drive

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

G. Supplemental agreement with United Health Care re Bren Road interchange improvements

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

11. Items requiring Five Votes: None

12. INTRODUCTION OF ORDINANCES:

A. Items pertaining to an Existing Master Development Plan for Sears Imported Autos located at 13500/13502 Wayzata Boulevard

City Planner Loren Gordon gave the staff report.

Schneider noted that in reviewing the BMW proposal, the council discussed modifying the ordinance to include architectural quality metal panels on the approved list. He asked if that could be moved forward in conjunction with this proposal. Gordon said the ordinance has not been updated but an amendment could be included as part of the process.

Allendorf said there has been concern with the dealer encroaching upon the Northridge/Southridge area. This includes parking cars and doing other things that should not be done in a residential area. He asked what authority the city has in the ordinance to ensure that type of activity is monitored. Gordon said the current ordinance gives the city the authority to address the issues.

Schneider suggested sending the dealership a letter notifying them of the restrictions.

Wiersum agreed corrective action should be taken. He said violation of rules would factor into his final decision on the proposal.

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

B. Items concerning St. Therese located at the corner of Woodhill Road and Tree Street

Gordon and Community Development Director Julie Wischnack gave the staff report.

Greves noted the project is scheduled to start no later than June 30, 2010. She asked if there is a possibility to begin the project sooner. Wischnack said that date is the latest date the project could start. She said the city needed to provide some flexibility for St. Therese.

Greves suggested the Planning Commission consider whether there are enough affordable units associated with the project as well as if there is sufficient parking being proposed. Another suggestion would be for the commission to look at the areas along the exterior of the site to see if they are pedestrian friendly and provide connectivity with the commercial areas.

Wagner said residents have asked for a stoplight at Woodhill Road. He asked if adding 15 more units would affect the ability to have a stop light approved by Hennepin County. City Engineer Lee Gustafson said even though there is more density, less traffic would likely be generated than the 100 units of owner occupied condominiums. Therefore there would be no impact on the warrants needed for a traffic signal.

Wagner said he was concerned about the change in what was approved and the intent of what was approved for the area. He said

site A was being looked at in isolation. The original project was approved to revitalize Glen Lake and the business community. He said this has been done with the Exchange Building and this proposal could help achieve that goal. His concern is moving from affordable and midrange units totaling 27 percent of the project to 10 percent, and moving from 30 years to 15 years.

Allendorf said he has received two emails asking what is being done with the requirement that the Gold Nugget be opened by the end of January. The opening has been moved back to the end of April. Wischnack said the opening of the Gold Nugget is part of the current contract and will remain part of the contract. The passing of the January 31 deadline has put the developer into a 30 day cure period. The developer has been sent a notice of default. She said the council is expected to review the project at its March 9 meeting. The EDA will review the proposed new contract that includes an April 30 deadline. The permits have been issued for the restaurant. She said there still is a \$1,500 daily penalty included in the proposed contract. City Attorney Desyl Peterson clarified the accruing penalty is not a cash fine, but rather it is a deduction from the profit allowed under the contract. The amount will be calculated at the end of the development. She said the plan is for the developer to request on March 9 that the city council grant an extension to April 30.

Allendorf said a number of people had the Gold Nugget as one of the most important element to remain in the new development and were unhappy with the extension to January 31. Peterson said it is the council's decision whether or not to grant the extension to April 30. Staff has sent out the default notice so the clock is running.

Ellingson asked that the term "new urbanism" be changed in the proposal because the city has gone to a village concept in its comprehensive plan.

Hiller said if the issue was if the council wanted such a proposed development to come to the city, it would be encouraged. The original goals included cleaning up the south side of Excelsior Boulevard. This has been done. Another goal was to add to the diversity of housing and to have smart development that included new urbanism along with affordable housing. He said he supported the comprehensive plan's inclusion of the village concept. The original proposal was going to bring new families into the city to add to the diversity. Without that piece there needs to be some compensation to address the pressing issue. Senior housing is the only development occurring in the metro area. The Metropolitan

Council's 2030 blueprint included a goal to emphasize increasing housing production that reflects market demand.

Hiller said the Glen Lake development was a rare chance to bring in diversity of housing to the city. He insisted the EDA, the Planning Commission and the council respond to the question if the opportunity is being given up for affordable housing and diversity of housing how it will be made up for in other areas? He said because the EDA is now a taxing authority their role has changed. He requested that the EDA make it clear to residents what has been traded off. He also asked the EDA to review if what has been traded off can be leveraged to advance the diversity of housing issue and recommendations on how that can be accomplished. Since the EDA will dictate the funding they will have to implement some of the Planning Commission's methods of notifying and informing the community. He said when the project is complete staff and council have to demonstrate to the community that the goals have been met.

Schneider asked for a breakdown of the number of independent and assisted living units. Gordon said it would be a 150 unit complex with 67 independent living units, 59 assisted living units, and 24 memory care units. There would be 20 affordable housing units with 13 of those units in the independent living area and seven in the assisted living area.

Schneider agreed the EDA is responsible to come forward with a recommendation that informs the council on how the proposal compares with the original plan. The council ultimately decides to approve or not approve the proposal. His only concern with the site planning is the original plan included a central plaza that was oriented toward the Glenhaven area. The plaza had character and aesthetic appeal. He said he understands why the entrance is on the north but he is concerned that there won't be a feeling of a plaza. He asked staff to comment on the timing of the TIF renegotiation and the master plan approval. Peterson said both will be considered at the March 9 meeting. She recommended not approving anything until the entire package is worked out.

Wiersum said under the current economic circumstances the council has to demonstrate enough flexibility to get things done in Glen Lake that makes sense for the community. At the same time, the makeup of the population will be different with the senior housing facility than it would be with condominiums. This makes it a necessity for the council to look at the implications of the change

and make sure what happens in Glen Lake is consistent with the comprehensive plan.

Allendorf said he was also disappointed that the south side of the proposal looks like a loading dock and back office facility rather than a courtyard. He said he hopes the Planning Commission and staff looks creatively at addressing the issue.

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

13. PUBLIC HEARINGS:

A. Ordinance amending the city charter regarding council vacancies, employee ethics code, acquisition of property for park purposes, street vacations, and managing rights-of-way

City Attorney Desyl Peterson gave the staff report.

Schneider opened the hearing at 7:42 p.m. No one spoke.

Schneider closed the hearing at 7: 42 p.m.

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

14. OTHER BUSINESS:

A. Items concerning TERRATONKA, an 8-lot subdivision of existing properties at 3100 Forest Lane, 3200 and 3218 Eldorado Trail West

At the request of the applicant, the item was postponed until the February 23 meeting.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointment of representatives to various advisory boards, commissions and committees

Wagner moved, Allendorf seconded a motion to approve the following appointments:

- Terry Schneider as the Minnetonka City Council Legislative Contact to Metro Cities.

- Terry Schneider as the Minnetonka City Council representative to the Municipal Legislative Commission Board of Directors.
- Dick Allendorf as the Minnetonka City Council representative to the I-494 Joint Powers Organization.
- Robert Ellingson as the Minnetonka City Council representative to the Southwest Suburban Cable Commission.
- Desyl Peterson as the Minnetonka City Council's appointed representative to the Suburban Rate Authority and Geralyn Barone as the alternate.
- Perry Vetter as the Minnetonka City Council's appointed representative to the Bennett Family Park Board.
- Dave Johnson as the Minnetonka City Council's appointed representative to the Minnetonka School District Community Education Advisory Council.
- Dave Johnson as the Minnetonka City Council's appointed representative to the Music Association of Minnetonka.
- Terry Schneider as the Minnetonka City Council representative to the West Hennepin Affordable Housing Land Trust (Homes Within Reach).
- Elise Durbin as the Minnetonka City Council's appointed representative to the Wayzata Schools Community Collaboration Council.

All voted "yes." Motion carried.

B. Appointment to the park board

Schneider moved, Allendorf seconded a motion to appoint Patty Acomb to the park board, to serve a two year term, effective February 10, 2009 and expiring on January 31, 2011.

All voted "yes." Motion carried.

16. ADJOURNMENT

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:48 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk