

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JUNE 1, 2009**

1. CALL TO ORDER.

Mayor Schneider called the meeting to order at 6:32 p.m.

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL

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

4. APPROVAL OF AGENDA

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

5. APPROVAL OF MINUTES:

A. May 4, 2009 regular meeting

Greves moved, Wiersum seconded a motion to approve the minutes of the May 4, 2009 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Presentation by Sheriff Rich Stanek

Stanek summarized the services his office provides. Lieutenant Brian Kasbohm summarized the activities of the patrol division.

Allendorf asked what specific programs Stanek would point to that have helped reduce the amount of violent crime. Stanek cited the partnership with the Violent Offender Task Force and the Criminal Information Sharing and Analysis Unit. He also cited his office's work with local law enforcement agencies and understanding local autonomy as well as working collaboratively with the gang, narcotic and violent offender task forces.

Schneider asked if county budget issues were having a direct impact on the office's ability to provide services. Stanek replied that his office has taken a budget reduction but he always looks for

ways to provide better services. He said often elected officials think that when crime rates go down it means budgets can be cut but in order to sustain crime reductions funding needs to be continued.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS

Gunyou reported on the schedule for upcoming council meetings.

Wiersum said a couple of people told him that the recently adopted social host ordinance gave them another tool to talk to their children about underage drinking.

Schneider said he recently represented the city at the dedication of the Miracle Field. There was a great turnout.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

No one appeared.

9. BIDS AND PURCHASES:

A. Bids for manhole rehabilitation

Public Works Director Brian Wagstrom gave the staff report.

Greves asked if there was any data on the effectiveness of the residential initiatives in the I and I program. Wagstrom said there are variables that make it difficult to answer that question. Areas have been found where water is entering the system. These areas have been fixed. The goal is to reduce the two and a half times normal flow. Another thing working against the program is there has been a period of dry years causing the water tables to go down. One identifier is looking at the manholes to detect where they have been stained in the past. He said progress has been made but it is difficult to say just how much.

Schneider said the money being spent now was being replaced by the potential fee that would be paid to the Met Council. He asked if when the program ends and the results show the city has made a reduction but has not eliminated the problem, if the Met Council's future fee calculations would be based on the proportional reduction. Wagstrom said if the city gets under the two and a half times low flow, there would be no fee and that is the goal. Schneider asked if the city gets near the two and a half times low flow figure but remains slightly above, if the full fee would be

imposed. Wagstrom said the fee would be based on the flow. If progress has been made the fee could be prorated.

Schneider noted that the city was spending around \$3,200 per manhole to correct the 90 worst manholes in the city. He asked what the plan was to address the remaining 8,000 manholes. Wagstrom said for budgetary reasons staff has divided up two years worth of improvements. Next year he would come back to the council with another budget request to deal with 90 more manholes. Wagstrom said he believes the combination of the two years represent the 180 worst manholes in the city.

Wiersum said his understanding was that the city was being surcharged \$377,000 but the money from the surcharge was being spent back to improve the infrastructure to eliminate the problem. Wagstrom confirmed that was correct.

Wagner noted most of the streets in the city were public streets. He asked if the city was responsible for the manholes on the private streets. Wagstrom said at this point the manholes on private streets are the city's responsibility but generally those manholes are not the problem.

Wiersum moved, Greves seconded a motion to award the contract to Infrastructure Technologies, Inc. in the amount of \$287,930.00. All voted "yes." Motion carried.

B. Roof replacement for central fire station

Wagstrom gave the staff report.

Greves asked if there was any mold damage. Wagstrom said there was mostly corrosion on the deck and there was no mold from the moisture on the underlayment.

Schneider said he understood the life cycle value of going with copper over the prefinished metal but he was concerned that if a problem is identified in 20 years with a roof with an 80 year life cycle, the city would lose the benefit. Wagstrom said it was important to monitor the air space and if problems are identified they need to be fixed immediately. He said the existing problem would not have been identified if the remodeling of the fire station for the duty crews not occurred.

Allendorf moved, Hiller seconded a motion to award the contract to J. A. Dalsin Roofing in the amount of \$78,364. All voted "yes." Motion carried.

C. Items concerning the rehabilitation of fire station #4

Wagstrom gave the staff report.

Wiersum said given the recommendation, if Wagstrom discussed with Dalco Roofing the opportunity for reducing the bid amount due to potentially being awarded the other bids as well. Wagstrom replied that he had not discussed that option with Dalco. He said Dalco has done a lot of work in the city on a number of buildings and he believes the contractor gave the best number possible.

Greves asked for council discussion on the recommendation for not going with the lowest bidder. Schneider said he saw the benefit of one contractor due to the warranties and avoiding finger pointing if problems arise. He said that because bids were submitted in three categories, Dalco had to assume they could be awarded the bid in any of the categories. Overhead and other costs were likely included in each category based on only getting awarded one of the bids. He said it would be legitimate to go back to Dalco and negotiate a lower cost based on having gotten awarded all three bids. Wagstrom said he would discuss the matter with Dalco.

Wagner agreed with Schneider's comments about the benefit of having one warranty.

Wagner moved, Wiersum seconded a motion to:

- 1) award the metal roof replacement contract to Dalco Roofing and Sheet Metal, Inc. in the amount of \$53,400.00.
- 2) award the metal siding replacement contract to Dalco Roofing & Sheet Metal, Inc. in the amount of \$68,900.00.
- 3) award the low sloped roof replacement contract to Dalco Roofing and Sheet Metal, Inc. in the amount of \$51,295.00.

All voted "yes." Motion carried.

D. Forest Hills watertower demolition quotation

Wagstrom gave the staff report.

Wagner asked if either water tower was currently in operation. Wagstrom replied no.

Wagstrom noted the Ridgedale water tank was filled earlier in the day and as soon as it passed bacteria testing, would be put back in service one month ahead of schedule.

Allendorf said he recalled discussion about potentially selling the tower and lot that would be created by its removal. Wagstrom said the idea had been discussed. He said the price of the tower was included in the bid.

Greves asked if there would be additional costs not included in the bid such as environmental cleanup costs. Wagstrom said there are no anticipated additional costs.

Schneider said the Fingerhut tower was on an actual easement. He asked if the easement would be vacated at the time the tower was taken down. City Attorney Desyl Peterson said the water tower was constructed on the adjacent property in error and the landowner gave the city the easement at no cost. It would therefore probably be best to give the easement back to the landowner.

Wiersum moved, Greves seconded a motion to award contract to General Construction Services, Inc. in the amount of \$38,000.00. All voted "yes." Motion carried.

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

A. Claims for council authorization – May 26, 2009

Allendorf moved, Hiller seconded a motion to approve the May 26, 2009 claims which includes checks numbered 219865 through 220162, totaling \$1,508,620.91. All voted "yes." Motion carried

B. Contract for public works maintenance services

Allendorf moved, Hiller seconded a motion to approve a two-year "State of Minnesota Income Contract" for two ICWC work crews for the Public Works Department until May 31, 2011. All voted "yes." Motion carried.

C. Resolution authorizing Energy Efficiency and Conservation Block Grant application from the Department of Energy

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2009-043 authorizing Energy Efficiency and Conservation Block Grant application from the Department of Energy. All voted "yes." Motion carried.

D. Resolution approving the final plat of LAKE ROSE HIGHLANDS at 15407 Lake Shore Avenue

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2009-044 which approves the LAKE ROSE HIGHLANDS final plat, received on May 7, 2009. Approval is subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, including the specific conditions for release of the plat; and
- 2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES: None

13. PUBLIC HEARINGS:

A. Community development block grant recovery act funds

Community Development Director Julie Wischnack gave the staff report.

Wagner asked if it was possible to accelerate the EDA recommendation to the council. Wischnack confirmed that was possible.

Schneider opened the hearing at 7:24 p.m. No one spoke.

Schneider closed the hearing at 7:24 p.m.

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2009-045 approving the projected use of the community development block grant recovery act funds. All voted "yes." Motion carried.

14. OTHER BUSINESS:

Schneider recognized Brandon Niles from Eagle Scout Troop #207 and his brother Zack from Troop #477 who were in attendance working on their communication merit badges.

A. Preliminary plat for a two lot subdivision at 18200 Old Excelsior Boulevard

City Planner Loren Gordon gave the staff report.

Allendorf asked if there was an actual plan that shows where the garage would go. Gordon said there was not a plan accompanying the plat. That review would be done administratively at a later time through the building permit process.

Wiersum noted the garage had not been removed and there would be a lot split with the lot line going through the garage. He asked at what point the garage would need to be removed. Gordon said there was a condition included in the approvals specific to the demolition of the garage. The release of the plat would not occur until the demolition occurs.

Hiller moved, Allendorf seconded a motion to:

1) Adopt Resolution No. 2009-046 which grants approval to the preliminary plat, dated May 18, 2009, for a two lot subdivision at 18200 Old Excelsior Boulevard. Approval is based on the finding that the plat meets the required standards and ordinances, and is subject to the following conditions:

a. Prior to final plat approval, complete the following:

(1) Show the following on the final plat:

(a) A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way and minimum 7-foot wide drainage and utility easements along all other lot lines.

(b) Utility easements over existing or proposed public utilities, as determined by the city engineer.

(c) Drainage and utility easements over wetlands, floodplains, and stormwater ponds, as determined by the city engineer.

(2) Pay a park dedication fee of \$5,000.00.

(3) The gap between the subject parcel and the parcels to the east must be resolved with Hennepin County or the adjacent property owners.

b. The following items must be completed before the city releases the final plat:

- (1) The existing garage on Lot 1 must be removed such that the existing house meets all setback requirements from property lines.
 - (2) Submit the following items to the city:
 - (a) An electronic CAD file of the final plat in microstation or DXF.
 - (b) The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval:
 - (i) Title evidence that current within thirty days before release of the final plat.
 - (ii) A conservation easement extending 25 feet upland of the delineated wetland edge.
 - (iii) A private utility easement over Lot 2 benefiting Lot 1 over all utility service lines.
 - (iv) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat.

These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
 - (3) Pay pending sewer and water hookup fees.
 - (4) Any other requirements included with final plat approval.
- c. Prior to issuance of a building permit for any of the lots within the development:
- (1) Submit the following items for staff review and approval:
 - (a) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.
 - (b) Final grading and tree preservation plan for the lot. The plan must:

- (i) comply with the preliminary grading plan as depicted on the preliminary plat;
 - (ii) must preserve trees designated for preservation at the time of preliminary plat approval;
 - (iii) show sewer and water services to minimize impact to any significant trees. No trees may be removed for installation of services. One set of new services must be installed.
- (c) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the discretion of natural resources staff, mitigation inches may be decreased based on: the health of trees removed; the ability to appropriately install trees on the steep slope; and/or installation of under-story shrubbery.
- (d) Submit cash escrow in the 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.
- (e) Revised utility plan:
 - (i) The utility service lines for Lot 1 and Lot 2 must not cross.
 - (ii) The utility service lines for Lot 2 must have adequate cover for frost protection, as determined by the city engineer. The plans must incorporate an ejector pump sanitary sewer system or gravity

service to main level with lower level pump. Systems must be completely private and maintained by the owners.

- (iii) The city must install services within the right-of-way. The property owner is responsible for the extension of utility services on private property.
- (2) Submit the following documents:

 - (a) A recorded copy of the preliminary plat, all required easements, and restrictive covenants.
 - (b) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - (c) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.
- (3) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
- (4) 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.
- (5) The driveway for Lot 2 must maintain a minimum clearance of 6 feet from the fire hydrant on the east side of the site.
- (6) The location of the house, driveway and associated grading for each lot must be in substantial conformance with the plans dated May 18, 2009.
- d. Notwithstanding the requirements outlined above, all lots and structures within the development are subject to the all R-1 zoning standards. In addition:

 - (1) All portions of first-story walls as measured by an approved route around the exterior of the house must be within 150 feet of the street. If access requirements cannot be met, the house must be protected with 13D automatic fire sprinklers.

- e. During construction, the streets must be kept free of debris and sediment.
- f. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

All voted "yes." Motion carried.

B. Revised plans for BMW Imported Autos at 15802 and 15810 Wayzata Boulevard

Gordon gave the staff report.

Schneider said one of the concerns originally discussed was to make sure that a car carrying vehicle could get into the site to unload. He asked if staff was certain that the vehicle could maneuver the corners. Gordon said when the project was originally reviewed the applicant included turning templates put on to where the access movements would occur. Staff would make sure that still remains.

Greves noted that information in the council packet indicated the footprint had been increased by 1.9 percent. Staff confirmed that was correct.

Wiersum moved, Greves seconded a motion to Resolution No. 2009-047 which approves revised site and building plans for BMW Imported Autos at 15802 and 15810 Wayzata Boulevard.

Approval is based on the following findings:

- 1) The revised plans are consistent with the site's existing master development plan approved on September 29, 2008.
- 2) The revised site and building plans meet required zoning standards as outlined in City Code 300.31 Planned I-394 District.

Approval is subject to the following conditions:

- 1) 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 May 14, 2009
 - Building elevations date-stamped April 10, 2009

All voted "yes." Motion carried.

C. 2010-14 Capital Improvements Program

Gunyou gave the staff report.

Allendorf said during the study session discussion about the community investment fund (CIF), staff looked at expanding the use of the fund with public safety items. At that time there was no proposed property tax increase. He asked staff to comment on the change to a proposed one percent property tax increase. Gunyou confirmed the original plan did fund public safety projects through the CIF. The council direction was to remove those items and fund them through the regular capital budget. The change required a \$1.3 million adjustment over the five year period. The two major adjustments involved the public works cold storage building and new breathing apparatus for fire fighters. The storage building is now listed as unfunded in the CIP. He said it was unclear if the SCBA breathing equipment would be leased or purchased, and that decision could be made as early as next year. He said staff was confident that the budget actions taken in the past few weeks would result in significant savings in 2009, so those funds are being reserved to pay for the breathing apparatus. Gunyou noted when the council adopts the 2010 budget at the end of the year the capital plan would be adopted for 2010 as well.

Hiller said he had some concern about the additional spending but he thought the plan was reasonable at this time. He noted \$150,000 worth of trail improvements have been moved back a year. He asked for the reasoning behind that decision. City Engineer Lee Gustafson said the change related to a change in the timing of the Vine Hill Road project.

Wagner asked if there were any projects that could be moved ahead due to the lower than normal prices of commodities and the favorable bidding environment. Gustafson said staff was looking into the possibility of overlaying additional streets this year, specifically those streets that likely wouldn't last for another two to three years. The additional streets would be identified when the contractor overlay project comes before the council. Gunyou noted that major road projects usually require a long lead time, which makes it difficult to readjust the scheduling. As a result, staff usually looks for opportunities to add nearby streets to scheduled neighborhood projects. Wagner said there also might be opportunities for burying overhead utility lines. Gustafson said the burying of overhead utility lines also requires a lot of lead time to establish rights of way and resolve other issues.

Hiller moved, Wagner seconded a motion to adopt Resolution No. 2009-048 adopting the 2010-14 Capital Improvement Program All voted "yes." Motion carried.

15. **APPOINTMENTS and REAPPOINTMENTS:** None

16. **ADJOURNMENT**

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:58 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk