

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, OCTOBER 5, 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 Dick Allendorf, Amber Greves, Brad Wiersum, Bob Ellingson, Tony Wagner, James Hiller, and Terry Schneider were present.

4. APPROVAL OF AGENDA

City Manager John Gunyou noted addenda to items 10D and 10F

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

5. APPROVAL OF MINUTES:

A. September 14, 2009 regular meeting

Wiersum moved, Wagner seconded a motion to approve the minutes of the September 14, 2009 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS: Proclamation declaring October 6, 2009 as City Wide Open House Day

Allendorf read the proclamation

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS

Gunyou encouraged people to attend the city's Open House. He gave an update on the Bren Road/Highway 169 interchange project. He reported that Community Development Director Julie Wischnack is continuing to meet with the area businesses. There was also a meeting with Twin West to discuss the plan. A proposed ordinance will come back to the council in November. Gunyou also updated council on light rail planning. The technical advisory committee has recommended the 3A alignment that runs through the Opus and Golden Triangle area. The cities of Minnetonka and Eden Prairie have expressed preference for that route. The policy advisory committee that Wagner serves on will make its

recommendation on October 14. The Hennepin County Regional Railroad Authority, which is the county board of commissioners, will be conducting a public hearing on October 20. The authority will take final action on November 3.

Gunyou reported on the schedule for upcoming council meetings.

Wagner said the policy advisory committee Gunyou mentioned had a public open house at Eisenhower Elementary School a few weeks ago that was well attended mainly by people on the Minneapolis side of the line who support the Uptown route.

Greves said over the past weekend there was the Community Days of Service. The event wrapped up the previous night at Central Park in Hopkins with a free meal sponsored by ICA. She thanked ICA for the wonderful meal. There were around 370 participants with 18 different projects ranging from staining park benches to creating quilts. She thanked Minnetonka and Hopkins residents who participated. Greves also reported that at the city's Open House there would be more information available about different volunteer opportunities in the city. One opportunity is through the HOME Program that allows people to help with maintenance of other people's homes. The community commission would also be distributing information for people interested in volunteering in their neighborhoods.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

No one appeared.

Schneider noted Boy Scout Troop #208 based out of Oak Knoll was in attendance.

9. BIDS AND PURCHASES:

A. Quotations for concrete work items for the Public Safety storage project

Gunyou gave the staff report.

Wagner moved, Wiersum seconded a motion to award project to Gresser Companies, Inc. for \$ 35,500.00 All voted "yes." Motion carried.

B. Approve property purchase at 4700 Woodland Road

Gunyou gave the staff report.

Wiersum moved, Wagner seconded a motion to approval of the purchase agreement with Mr. and Mrs. Clark and amendment of the 2009-2013 CIP. All voted "yes." Motion carried.

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

A. Claims for council authorization – September 28, 2009

Allendorf moved, Hiller seconded a motion to approve the September 28, 2009 claims which includes electronic fund transfers (EFTs) numbered 1093 through 1095 and checks numbered 222461 through 222742, totaling \$963,148.62. All voted "yes." Motion carried.

B. Resolution adopting the 2010 meeting schedule for the Minnetonka City Council

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2009-090 adopting the 2010 meeting schedule for the Minnetonka City Council. All voted "yes." Motion carried.

C. Resolution appointing election judges for General Election on November 3, 2009

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2009-091 appointing election judges for General Election on November 3, 2009. All voted "yes." Motion carried.

D. Labor agreement between the city of Minnetonka and Law Enforcement Labor Services (public safety dispatchers)

Allendorf moved, Hiller seconded a motion to approve the 2009 – 2010 labor agreement between the city of Minnetonka and LELS for public safety dispatchers with the addendum. All voted "yes." Motion carried.

E. Resolution approving preliminary and final plats of PREMIER PLACE located at 16229 Temple Drive South and 16103 and 16115 Temple Lane

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2009-092 which grants preliminary and final plat approval to PREMIER PLACE, date-stamped August 10, 2009 and September 25, 2009 respectively. Approval is based on the finding that the plat meets all required standards and ordinances. Approval is subject to the following conditions:

- 1) Prior to release of the final plat, complete the following:
 - a. The city must vacate existing and obsolete drainage and utility easements.

- b. Submit a revised final plat drawing. The final plat must include:
- (1) A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
- c. Submit the following documents for the city attorney's approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
- (1) Title evidence that is current within thirty days before release of the final plat.
 - (2) 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.
- d. Submit an electronic CAD file of the final plat in microstation or DXF.
- 2) All electricity and other utility connections between the existing home at 16115 Temple Lane and the existing detached garage must be disconnected.
 - 3) Driveways on all properties must conform with regulations outlined in City Code Section 1105.
 - 4) Notwithstanding the requirements outlined above, all lots, land uses, and any future structures within the development are subject to all R-1 zoning standards.
 - 5) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.
 - 6) A recorded copy of this resolution, the final plat, and required restrictive covenants must be returned to the city.

All voted "yes." Motion carried.

F. Resolution requesting municipal agreement funding for the TH 169/Bren Road interchange project

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2009-093 requesting cooperative agreement funding for the TH 169/Bren Road interchange project, City of Minnetonka Project No. 4922 with the addendum. All voted "yes." Motion carried.

G. Resolution approving a conditional use permit, with variance, to locate a pediatric mental rehabilitation center at 10273 Yellow Circle Drive

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2009-094 which approves a conditional use permit for a pediatric rehabilitation center within the existing building at 10273 Yellow Circle Drive. Approval is based on the following findings:

- 1) Aside from the location of the rehabilitation center on a local street, the proposal meets the required conditional use permit standards as outlined in City Code 300.21 Subd. 2, City Code 300.21 Subd. 6(e) and City Code 300.21 Subd. 3(h):
 - a. The use is consistent with the intent of this ordinance.
 - b. The use is consistent with the goals, policies and objectives of the comprehensive plan.
 - c. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.
 - d. The use is consistent with the city's water resources management plan.
 - e. The use is in compliance with the performance standards specified in section 300.28 of this ordinance.
 - f. The use does not have an undue adverse impact on the public health, safety or welfare.
 - g. The use is in compliance with the performance site and building plan standards specified in section 300.27 of this ordinance.
 - h. The use is not adjacent to low density residential areas.
 - i. Emergency vehicle access is not adjacent to or located across a street from any residential use.
- 2) A variance from the required access to collector or arterial street standard is reasonable, as the proposal meets the intent of the standard. Unlike a traditional medical clinic which may experience a high number of vehicle trips daily, The Holland Center, as a rehabilitation center does not. It is anticipated that trips to the site would be less than those to any industrial or office use of the building.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
 - a. Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
 - b. Submit an emergency response plan for review and approval of the police department.
- 2) The following changes to the site or operation require review and/or amendment of the conditional use permit by the city council.

- a. Decrease in the square-footage of the indoor play/observation area.
 - b. Increase in enrollment to over 25 students.
 - c. Any other change to the approved use that results in a significant increase in traffic or a significant change in character.
- 3) Any delinquent taxes and utility bills must be paid by October 31, 2009 or this approval will be rendered null and void.
 - 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - 5) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES:

A. Ordinance amendment regarding discharges from swimming pools

Gunyou gave the staff report.

Wiersum moved, Greves seconded a motion to introduce the ordinance.

All voted "yes." Motion carried.

B. Ordinance rezoning an existing property at 16611 Black Oaks Lane from R-1 to PUD to accommodate a 7-lot residential development

City Planner Loren Gordon gave the staff report.

Allendorf said after reading what was submitted by the applicant he would like the planning department to explain what a controversial wetland is to the planning commission and to himself.

Greves noted the proposed ordinance was going through the traditional process rather than the newer conceptual review process. She asked if this was an indication that there was nothing controversial related to trees, grading or with the wetlands. Gordon said the parcel is guided for low density residential and zoned R1. The parcel doesn't require rezoning or a comprehensive plan amendment. There also is not a woodland preservation area on the property. He noted there were significant trees on the property. The property owner had a neighborhood meeting with the residents to the north on Black Oaks Lane. There were concerns about traffic raised but the residents acknowledged they expected development of the property at some point in time.

Hiller said his concern was there were five foot and ten foot conservation easements. He questioned the practical value of getting any nature in that narrow of space or if conservation easements were to be used for the purposes of getting a row of arborvitae or something similar. He asked for more information about the conservation easements and guidance from staff about what was necessary for a healthy or practical conservation easement. Gordon said an easement that was five to ten feet in width would be difficult to manage from a staff and resource standpoint. Staff would be fine if the desire is to have the easement managed by the homeowners association.

Schneider said he would like to have the planning commission address the city's policy of three lots on a private drive. Even though the proposal involves a PUD he said would be beneficial to look at how the proposal fits in or does not fit in with the general policy.

Gunyou noted the planning commission would hear the item on November 5.

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

13. PUBLIC HEARINGS:

A. **Modifications to the Glen Lake Station Housing and Redevelopment project plan and the Beacon Hill and Glenhaven TIF district plans**

Gunyou gave the staff report.

Allendorf asked what risk the city would run if the county and school district did not do the required approvals. Gunyou said if the district was decertified at the earlier date then the funds would return to the tax rolls earlier than if there is an extension. He said it would be a minor amount and typically the extensions are noncontroversial. He noted Wischnack had been working with the county and school district and it was anticipated there would be no issues. Schneider clarified the school district would be reimbursed either way but the county could have a differential. Gunyou said that was correct. Under the state funding formula the school district would be basically held harmless.

Hiller said questions had been coming up related to Beacon Hill. Currently all the financial obligations have been paid off. The choice now is whether to start collecting property taxes or continue to collect the TIF. He asked if the funds could be used for any housing redevelopment in the total TIF district or project area or if the funds have to be used for affordable

housing related projects. Wischnack said the funds could be used for projects as long as the income guidelines were met as defined by the housing district regulations. If the funds are used for rental units the regulations are different than if they are used for an owner occupied affordable housing unit.

Hiller asked what would happen to the funds if they went unused. Wischnack said if there was a balance left at the point of decertification the council would need to state the purpose in order to redistribute the dollars for an approved purpose or the TIF plan had to be amended. Hiller asked if the city would be obligated to return the funds. Schneider indicated the city would be obligated. Wischnack said there would be the obligation if the council did not approve another use of the funds. She said with the likely size of the balance, a special action would likely be asked for as has been done in the past. Gunyou noted the funds would not be freed up to be used for something different but would still have to be used for the affordable housing purposes that they were generated under.

Hiller noted the city decided to give up property taxes each year in order to get the TIF. He asked for the amount of the tax impact. Gunyou said the city piece of the total tax collection was about one fourth of the total, so that was the share that would benefit the city. Hiller said he thought it was a good deal to have the county and others contribute. Looking through information provided by Wischnack, he indicated the amount being given up was \$73,000 in order to get around \$246,000 a year in development. Wischnack noted that was for 2009 taxes and the amount would shift over time.

Schneider opened the hearing at 7:02 p.m. No one spoke.

Schneider closed the hearing at 7:02 p.m.

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

- 1) Resolution No. 2009-095 adopting a modification to the housing and redevelopment plan for the Glen Lake Station housing development and redevelopment project area and the proposed adoption of a modification to the TIF plan for the Beacon Hill TIF district.
- 2) Resolution No. 2009-096 adopting a modification to the housing development and redevelopment plan for the Glen Lake Station housing development and redevelopment project area and the proposed adoption of a modification to the TIF plan for the Glenhaven TIF district. .

All voted "yes." Motion carried.

B. Items concerning “Gifts and Greens Show” fundraiser at the Episcopal Parish of St. David at 13000 St. Davids Road:

- 1) Temporary on-sale liquor license
- 2) Temporary banners

Gunyou gave the staff report.

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

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

Hiller moved, Allendorf seconded a motion to:

1) Grant the license.

2) Approve a one-year temporary sign permit for display of temporary banners at 13000 St. Davids Road for advertisement of the “Gifts and Greens” fundraiser.

Approval is subject to the following conditions:

a. Banners must not exceed 30 square-feet in total area.

b. Banners must not be located within public right-of-way associated with the regional trail.

c. Banners may be displayed October 6 through October 25, to be removed on October 26.

All voted “yes.” Motion carried.

14. OTHER BUSINESS: None

15. APPOINTMENTS and REAPPOINTMENTS:

A. Reappointments to the police advisory committee

Schneider moved, Wagner seconded a motion to approve the following reappointments to the police advisory committee:

- Carl Adamek, to serve another two-year term, effective October 1, 2009 and expiring on October 1, 2011.
- Darrell Ansel, to serve another two-year term, effective October 1, 2009 and expiring on October 1, 2011.
- Corey Rueben, to serve another two-year term, effective October 1, 2009 and expiring on October 1, 2011.
- Monica Sadar, to serve another two-year term, effective October 1, 2009 and expiring on October 1, 2011.

All voted “yes.” Motion carried.

16. ADJOURNMENT

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:05 p.m.
All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk