

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, NOVEMBER 9, 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, Amber Greves, and Terry Schneider were present.

4. APPROVAL OF AGENDA

City Manager John Gunyou noted addenda to items 10D, 12B, and 14A.

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

5. APPROVAL OF MINUTES: None

6. SPECIAL MATTERS:

A. Present awards to 2009 photo contest winners

Schneider presented the awards.

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. Printing bids for the Minnetonka Memo

Gunyou gave the staff report.

Wagner moved, Allendorf seconded a motion to award the contract for printing the January 2010 through December 2011 Minnetonka Memo to Jessen Press, Inc. All voted "yes." Motion carried.

B. Quotations for Fingerhut water tower demolition

Gunyou gave the staff report.

Wiersum moved, Wagner seconded a motion to award project to General Construction Services, Inc. All voted "yes." Motion carried.

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

A. Claims for council authorization – November 9, 2009

Allendorf moved, Wiersum seconded a motion to approve the November 9, 2009 claims which includes electronic fund transfers (EFTs) numbered 1102 through 1110 and checks numbered 223304 through 223585, totaling \$1,352,943.37. All voted "yes." Motion carried.

B. Resolution terminating the Southwest Mutual Aid Association

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2009-101 terminating the Southwest Mutual Aid Association. All voted "yes." Motion carried.

C. Resolution certifying the results of the November 3, 2009 Municipal Election

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2009-102 certifying the results of the November 3, 2009 Municipal Election. All voted "yes." Motion carried.

D. Resolution authorizing the certification of delinquent fire alarm response fees to the Hennepin County Auditor

Allendorf moved, Wiersum seconded a motion to adopt Resolution 2009-103 authorizing the certification of delinquent fire alarm response fees to the Hennepin County Auditor. All voted "yes." Motion carried.

E. Resolution withdrawing from the Regional Mutual Aid Association

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2009-104 withdrawing from the Regional Mutual Aid Association. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES:

A. Items concerning the Opus Area Overlay Ordinance

Community Development Director Julie Wischnack, City Engineer Lee Gustafson, City Planner Loren Gordon, and Tony Heppelmann, WSB & Associates, gave the presentation.

Allendorf asked if the authorization was needed from the legislature or some other body in order to proceed with the cost allocation method. Gunyou replied that no law changes or other authorization were necessary. Allendorf asked how the ordinance would affect the property for the proposed light rail station and associated parking area. Wischnack said the light rail station parking ramp would be for about 100 spaces. The parking ramp would not create the trip generation in the ordinance but the development would trigger the provisions. Allendorf said if a restaurant were to open, there would be no allocated trips right now but new trips associated with the restaurant would fall under the ordinance to determine the costs allocated to the restaurant. Wischnack indicated that was partially correct. She clarified that everybody starts with some capacity and it would be the amount beyond the current capacity that would be charged.

Wagner asked how the light rail would impact the calculations of trips. Wischnack said the projections that were used to model the ordinance assumed the influx of development if light rail were there. She said the difficulty is figuring out how to discount the impact of light rail on the number of trips. Heppelmann said the Metropolitan Council's regional model was used in forecasting the number of trips. The future forecasts are based upon the assumption of additional transit service to the area. He said if the light rail does not happen then the amount of development might have been overestimated. Wagner asked if that was the case would the charge per trip be increased. Heppelmann said the charge per trip would not change but the capacity would be used up sooner than estimated.

Wagner asked how long the allocated trips go with the property. Wischnack said one issue staff discussed was what would happen if someone came in and bought all 789 trips. She said the ordinance would require some type of approval to dedicate trips to a project. City Attorney

Desyl Peterson said the trip assignments are in perpetuity. Additional trips could be purchased once a development is approved by the council. She said the ordinance does contemplate that the trips could be sold to someone else but the council would need to approve the sale. Schneider said the trips would be on a first come first serve basis so eventually the trips would be used up if development occurs.

Wiersum asked what would happen in a situation where the total trips are used up and somebody who has been grandfathered in with unused trips later develops. Heppelmann said it was taken into account that there are parcels that have not developed up to their capacity and the development may happen at some point. Wiersum asked if the unused trips that are grandfathered in at no cost to the current owner are sellable. Peterson said the trips are not sellable. Wiersum said potentially there is unused capacity that would never be used because the trips are there but cannot be sold. Wischnack confirmed that was correct. She explained the capacity was related to parcel size.

Greves asked how the approach was similar to the approach used for the 394 corridor and if the issues identified with the 394 ordinance have been addressed in the Opus ordinance. Peterson said the primary difference between the two ordinances was the concept of the additional trips that could be purchased. That provision was not included in the 394 ordinance. What was included in the 394 ordinance was the requirement that if more trips are generated than what was allocated, road improvements must be done in order to keep the level of service the same. She noted there had not been any challenges to the 394 ordinance.

Greves asked how the timing of potential road construction on Shady Oak Road north of Excelsior Boulevard could potentially work with the timing of this construction in the Opus area. Gustafson said when the ordinance comes back to council there may be an answer to a question about potential federal funding being allocated towards the project. If funds are allocated towards the project construction could occur in the next two and a half years. The interchange project should be complete prior to the Shady Oak Road project even if there is federal funding.

Wagner said that for the 394 ordinance, the city controls both sides of the freeway. In the Opus scenario the city controls just the west side. He asked how land use changes by other cities would affect the extra peak trips that could be done. Heppelmann said the allocation to other sources of traffic was included in the forecast. But he said this included just a small increase in terms of the trips allocated to the other parcels with the improved interchange. The assumption is that the parcels in Edina are mostly residential and that the commercial areas are already developed so there wouldn't be a major expansion on the east side. Wischnack said

Edina's comprehensive plan does not change much in terms of density in the area. Heppelmann said the Opus business park traffic was very directional. The Edina residential uses generally go counter to the business traffic while the commercial uses are right turns that do not affect the critical movements at the intersections.

Schneider asked if an inflationary adjustment would be included in the future similar to sewer and water connection fees. Gordon said there are two provisions in the ordinance related to Schneider's question. One factor is when the bridge is built and its actual cost. That adjustment will be made by an engineering news record report. Also, the amount of money adjusted over time for inflationary purposes would be taken into account.

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

B. Ordinance authorizing the sale of city-owned property on Spring Lane

Wischnack gave the staff report.

Hiller noted the timeline does not meet the timeline of the buyer. He asked if that was an issue. Wischnack said the ordinance had to be introduced and then eventually adopted. There is also a 30 day publication requirement. She said the buyer wants to close by January so the timeframe could be met. Schneider asked if a temporary lease arrangement could be arranged if there was a timing issue. Wischnack indicated that could be done.

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

13. PUBLIC HEARINGS: None

14. OTHER BUSINESS:

A. Applications for renewed liquor licenses for 2010

Gunyou gave the staff report.

Kevin Smith, 3525 Elmwood Place, asked for a status update on the seasonal lights on County Road 101 and Minnetonka Boulevard. Wischnack said there had not been a recent business meeting. Smith said he had been before the council the past couple of years bringing up the issue and it was frustrating not having such a simple task completed.

Wischnack said staff had been working with the property owners to setup snowplowing arrangements for the new improvement. She said that takes precedence over holiday lights. Schneider said he has received complaints about disability access in the area. That issue also rises to a higher level. He said without the cooperation of the association of businesses, the lighting probably would not happen. Smith agreed the safety issues should come first but asked if somebody were to come forward with a petition and funding if the lights could be installed this year. Wischnack said staff would welcome the assistance. Smith said he would be willing to take that on that role. Schneider suggested if a business meeting was scheduled that the item be included as an agenda item.

Hiller moved, Wagner seconded a motion to approve renewed on-sale and Sunday on-sale intoxicating liquor, off-sale intoxicating liquor, on-sale wine licenses, and on-sale and off-sale 3.2 percent malt liquor licenses for calendar year 2010, provided that no license shall actually be issued until all city and state requirements are completed. All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None

16. ADJOURNMENT

Greves moved, Wiersum seconded a motion to adjourn the meeting at 7:33 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk