

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, MAY 3, 2010**

1. CALL TO ORDER.

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

4. APPROVAL OF AGENDA

Greves moved, Wagner seconded a motion to accept the agenda with addenda to items 10D, 13A, and 14A. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES: April 5, 2010 regular meeting

Wiersum moved, Greves seconded a motion to approve the minutes of the April 5, 2010 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS

A. Retirement recognition of Gary Cayo and John Lane

Schneider read the recognitions.

Cayo thanked the city for his years of employment.

Lane said he appreciated all the opportunities he was given.

B. Proclamation declaring May 9-15, 2010 as National Police Week

Hiller read the proclamation.

C. Proclamation declaring April 30, 2010 as Arbor Day with a celebration planned at Covington Park on May 12, 2010

Greves read the proclamation.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS

Assistant City Manager Geralyn Barone reported on the schedule for upcoming council meetings.

Schneider noted that he received an email from the mayor of Hopkins challenging the council once again to participate in the Step to It program. Last year the council accepted the challenge and lost to the Hopkins council. Schneider received confirmation from other council members that they would like to accept the challenge again.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

No one appeared.

9. BIDS AND PURCHASES:**A. Bids for an electric ice resurfacer**

Barone gave the staff report.

Greves said earlier in the day she asked City Manager John Gunyou if there was a possibility to delay the purchase for a few years. Gunyou confirmed for Greves that the current zamboni is in bad shape and with rising production costs and increasing demand from other ice arenas, now would be a good time to make the purchase.

Greves moved, Wiersum seconded a motion to award the contract for a new electric ice resurfacer machine to Frank J. Zamboni Company, Inc. in the amount of \$99,594.32. All voted "yes." Motion carried.

B. Replacement of the community center boiler

Barone gave the staff report.

Allendorf moved, Greves seconded a motion to award the replacement of the Community Center boiler to UHL, Inc. in the amount of \$53,650 paid for by American Recovery and Reinvestment Act Funds. All voted "yes." Motion carried.

10. CONSENT AGENDA (Items Requiring a Majority Vote):**A. Claims for council authorization – April 26, 2010**

Allendorf moved, Wagner seconded a motion to approve the April 26, 2010 claims which includes electronic fund transfers (EFTs) numbered

1226 through 1236, checks numbered 226758 through 226787, and checks numbered 226805 through 227053 totaling \$1,177,187.13. All voted "yes." Motion carried.

B. Proclamation declaring May 9-15, 2010 as National Police Week

Item moved to special matters.

C. Proclamation declaring April 30, 2010 as Arbor Day with a celebration planned at Covington Park on May 12, 2010

Item moved to special matters.

D. Resolution establishing the disposition of funds from the sale of 5425 Spring Lane

The item was delayed for action at a future meeting.

E. Resolution approving a conditional use permit for a dental clinic at 5101 County Road 101

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2010-041 approving a conditional use permit for medical use of the existing building at 5101 County Road 101. Approval is based on the finding that the proposal meets all required conditional use permit standards outlined in City Code 300.21 Subdivision 3(e).

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit for full medical use of the building, record this resolution with the county and return a copy of the recorded resolution to the city.
- 2) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 3) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- 4) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

F. Extension of the COYOTE SONG preliminary plat located at 2714 Oakland Road

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

G. Approval to install temporary signs on the Civic Center Campus for the Minnetonka Farmers' Market at 14600 Minnetonka Blvd.

Allendorf moved, Wagner seconded a motion to approve three temporary signs associated with the Minnetonka Farmers' Market to be displayed on the Minnetonka Civic Center Campus. Signs may be displayed every Tuesday from Tuesday, July 6th, 2010 to Tuesday, September 28, 2010. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES:

A. Ordinance authorizing the sale of 1707 Hopkins Crossroad to the West Hennepin Affordable Housing Land Trust

Community Development Director Julie Wischnack gave the staff report.

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

B. Ordinance rezoning the property at 2700 Oakland Road from R-1, low-density residential, to PUD, Planned Unit Development

City Planner Loren Gordon gave the staff report.

Wagner asked what the access situation would be if Coyote Song didn't seek an extension in the future and this property did subdivide and the landowner wanted to build on the land. Gordon said one of the conditions in the planning commission staff report was that the improvements coincide so the access is from the public road. If the scenario Wagner described were to happen, staff would need to revisit the re-platting of the property to determine the best way to provide access.

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

13. PUBLIC HEARINGS:

A. Precious metal dealer license for Evergreene Jewelers, Inc., 3500 County Road No. 101

Barone gave the staff report.

Schneider opened the hearing at 6:55 p.m. No one spoke.

Schneider closed the hearing at 6:55 p.m.

Greves moved, Wiersum seconded a motion to grant the license. All voted "yes." Motion carried.

B. On-sale liquor licenses for 13th Day, LLC, 11544 Wayzata Boulevard

Wischnack gave the staff report.

Schneider opened the hearing at 6:57 p.m.

Wiersum moved, Wagner seconded a motion to continue the hearing to June 7, 2010. All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Appeal of the planning commission approvals associated with the Goodwill Retail Store at 13820 Wayzata Boulevard

Gordon gave the staff report.

Wiersum said the biggest issue appeared to be traffic concerns. A related issue was the stacking. He said the staff recommendation to put the drive aisle along the west side of the building would help address the issues. He asked how many cars could stack assuming there was a car located in the donation location. Gordon said the plan the planning commission approved would allow stacking of approximately nine vehicles within the drive area. Wiersum said the applicant indicated that typical stacking at a Goodwill store was three or four cars and asked if that was accurate information. Gordon said he did not have other data to indicate the information provided by the applicant was accurate or not accurate. Wiersum said the suggestion to close the extra entrance on to Wayzata Boulevard had merit but leaving the entrance open could alleviate some of the stacking issue. He said the trial period idea was a good suggestion. If a problem does not exist then the entrance could be closed but if there was a stacking problem it might be worthwhile to leave the entrance open. Gordon said the planning commission discussed what else could be accommodated if the driveway remained open. City code requires six stacking spaces for a drive through type facility. He noted that having additional stacking within the parking plane may cause some issues with vehicles trying to maneuver in the area and that staff would monitor the situation if the item were approved.

Wagner noted that the recent Hopkins Crossroads and Wayzata Boulevard project required mitigation because the property exceeded its

traffic count. The council had a discussion about the effects on other businesses that wanted to expand as a result of the property using up a lot of capacity. He asked if the traffic capacity number related to a parcel or if the number was related to a district and how future redevelopment in the area would be impacted. City Attorney Desyl Peterson said the I394 traffic overlay was intended to be a limitation on the size of a building. The size of a building is determined by how many trips would be generated by the building use. She said when a building is constructed the ordinance establishes the maximum building size. In this case there is an existing building so any use could go in the building without further review of the traffic trips. She said the ordinance was a construction limitation ordinance and doesn't require the council to look at the number trips every time a use goes into a building. One unusual aspect to this proposal is the small addition on to the back of the building. She said the addition is so small that the ITE rates indicate that it would not generate any additional trips.

Greves said the parking study indicated that an alternative drop off configuration could be created to reduce vehicle conflicts in the southwest part of the site. She asked why that option was not explored more in depth. The worst case scenario with that option would be that there could be stacking back into the parking area. She said that it appeared at least seven cars could queue in the area but it was stated at the planning commission hearing that three cars could stack in the area. Gordon said one of the considerations with the staff recommendation was about where the drop off should be located if it were to be moved. The southwest location indicated by Greves would allow stacking to occur almost to the same level as what was being proposed. He said the issue would be with the building setbacks. The drop off area would extend almost to the property line and staff felt that would be a difficult variance.

The traffic engineering consultant, Craig Vaughn, from the SRF Consulting Group, agreed Greves question was a valid question that was identified as part of the study for recommendation with the counterclockwise circulation. Further discussion with staff took into account residents' concerns looking at access from Horn Drive being an exit only while allowing the Wayzata Boulevard access to serve as the only access to the site. This option was seen as a negative for the residents because it would increase traffic on to Horn Drive. The pros and cons of the site plan were subsequently looked at. The clockwise rotation would provide the same amount of stacking space, if not more, as well as reducing the number of vehicles accessing the site from Horn Drive.

Greves asked if the option of entering from Wayzata Boulevard had been looked at even though it would be cumbersome to have to circle around the building. That option would greatly increase stacking capacity on the worst day. Vaughn said the option was discussed but closing the eastern

access point would create safety issues given the close proximity to Horn Drive and the increased pedestrian conflicts internal to the site. Schneider noted that the staff report included information that the Horn Drive had to be available for truck deliveries and therefore could not be eliminated or made an exit only. He said that human nature was that a driver wouldn't drive through a parking lot if a public road was available.

Allendorf asked Gordon to clarify the ordinance's requirement for the number of stacking spaces. Gordon indicated the ordinance requires six spaces. Allendorf asked how many spaces were included in the proposal. Gordon said there was capacity for nine spaces. Allendorf said that the discussion about stacking was really a discussion about traffic on Horn Drive. He asked what had been done since the planning commission meeting to address the concerns about traffic around the area. Police Chief Mark Raquet said he and a planning staff member went out to evaluate the site. New signing was later posted since some of the signage had been taken down from Horn Drive and had not been replaced when new curbing was installed. Some of the signs along Wayzata Boulevard were faded and couldn't be read. There were also large gaps between signs. He said he visited all the car dealerships on I394 and spoke to all the general managers about the concerns. The general managers told him the issue wasn't being caused by the regular drivers that deliver cars but rather the issue was being caused by the internet sales when drivers are sent in that are not familiar with the area. The general managers were advised that any complaint or violation that the police see will be cited. He said the department will be taking action on the complaints much more vigorously than in the past. Wischnack noted a letter was sent out to the neighborhood to address each item other than parking and ticketing that was brought up during the meeting.

Allendorf asked if keeping the eastern entrance open would help with traffic circulation for those coming to the store and not dropping off items. Gordon said the loop drive serves a purpose for something other than a retail use. For the type of use for this facility, the concerns are with the proximity of the access point. He said after a period of time people would learn to better navigate the site if the eastern entrance was closed. There also might be a better opportunity to consolidate the site accesses for one access point closer to the front door of the building on Wayzata Boulevard. This option had not been explored and more review would be needed.

Vaughn said safety concerns were factored in with the recommendation to close the eastern access point. He said the circular drive that Gordon referenced would be a two way directional drive aisle. The area by the front door of the building with the angled parking would be one way northbound. He said the amount of traffic that would use the additional site access point would be the 13 vehicles parked by the south face of the

building. In the off chance that one of those vehicles made a left turn southbound on to Wayzata Boulevard from the eastern access point, there would be an interlocking movement that would occur between that access point and the Horn Drive/Wayzata Boulevard access point where vehicles would be making a southbound right turn. He said a driver's natural tendency is to watch the left hand movement more than the right hand movement when making a right turn. This was the reason for the recommendation to close the eastern access point. He agreed with Gordon that the retail function of the site should work well with the consolidated access point.

Wagner said one of the issues the neighbors had expressed was the orientation of the main entrance from a visual standpoint. Most of the businesses on Wayzata Boulevard have their front facing Wayzata Boulevard. He asked the applicant to comment on what drove their decision on the orientation of the building and if there was flexibility to change the orientation. Peter Coyle, from Larkin Hoffman law firm, said he was speaking on behalf of the applicant and the proposed tenant. He said it was a common retail design to try to place the primary entrance as central on the parking field as possible. For this proposal with the parking spread generally from the south to the east and back around to the north, the most equidistant location and the most operationally efficient location for Goodwill would be to place the primary entrance on the east side.

Greves asked Coyle if there had been any discussions about potential access from the adjacent Festival property. Coyle said there had not been specific discussion with the neighboring property owner.

Linda Stewart, 13910 Knollway Drive, said in the I394 corridor study the total number of trips was allocated based on square footage of buildable property in each zone regardless of present or future use. The study also states that the trip generation number is the maximum number of p.m. peak hour trips that maybe generated in any permitted use of property. She said the study indicates the maximum amount of trips for the property was 80 and the proposed development would generate 1,000 to 1,600 trips.

Stewart said staff, the traffic consultant, and MNDOT, concluded for the Ridgedale Festival development in 1988, that the "Plymouth Road/I394 intersection would function at a fairly poor level of service in the future. From a policy standpoint the city has adopted an ordinance which allows for reasonable development and redevelopment of the properties in around I394/Plymouth Road interchange and that will maintain a level of service at E and F. This interchange will function more poorly than any other interchange in the city." She noted when traveling north on Plymouth Road turning left on to Wayzata Boulevard that MNDOT has put different

cycles for the stoplights. The majority of the time there are four cars when the left turn light turns green and one to two more cars pass through on the red light. For an "F" level this would mean a driver would have to wait multiple cycles to get through an intersection. She said the discussion was about a specific property but the discussion needed to include a broader look at the entire area. She noted that a traffic study was conducted in October 2008 after the neighbors requested a three way stop sign at Horn Drive and Wayzata Boulevard. At that time 482 trips were counted. She said she was concerned that without a three way stop to help control the intersection there will be a lot of confusion.

Stewart said the neighbors have had very few problems with the commercial problems. The concern is with the huge increase in the traffic generation from one property. The neighbors are also concerned about the retail and a drop off type of use. She said Goodwill is a great employer and noted that there is an adult group home in the Knollway neighborhood and the neighbors embrace people of all different abilities. The issue is not about Goodwill but rather is about traffic generation.

Schneider asked Vaughn to clarify the confusion about daily trips and the p.m. peak hour trips. Vaughn said the p.m. peak hour trip generation is a number that takes into account when the adjacent street traffic is at its highest level. This is when the most traffic conflicts tend to be seen at one location. He said from a daily perspective this could occur at any hour of the day that the business is in operation. Typically this includes the larger proportion of the trips generated over the daily period during the peak hour of the actual site generation. This might not match up with the p.m. peak hour trip generation number. He said Stewart mentioned that the daily trip generation for the site was estimated to be between 1,100 and 1,600 and that went along with information from Goodwill that stated for other stores the trip generation ranges from 850 to 1,250. He said the p.m. peak hour estimate was 138 trips.

Schneider asked City Engineer Lee Gustafson to address the possibility for a three way stop. Gustafson said typically when a stop situation is looked at some type of criteria needs to be met. There are roughly 8,000 vehicles on the frontage road and less than 500 on Horn Drive. If a three way stop were installed at the intersection, most motorists would wonder why they needed to stop with little traffic from the side street. He said people would develop habits of rolling through the stop sign or go right through it. This would create enforcement and safety issues. A safer situation would be not having a three way stop at the intersection but having a stop sign for Horn Drive so drivers on Horn Drive know to be careful and know the cross traffic would not stop and had to be taken into consideration when making a turn.

Wagner asked staff to comment on the assertion that the ordinance was being violated. Peterson said she could understand why a resident might find the ordinance confusing because it is a unique type of ordinance. She said the trip generation number that is assigned is what is used to determine the maximum square footage of building space by using the ITE rates. The intent of the ordinance was to place a structural limit. There is nothing in the ordinance that provides any mechanism for going out and counting the trips and restricting someone from having more trips. She said the enforcement mechanism was a structural mechanism on the size of the building.

Rachel Anderson, 13540 Knollway Drive, said the issue was not about a neighborhood trying to prevent a Goodwill store. The issue was the serious concern about traffic and the increased intensity of use where commercial area abuts to a residential area. She said the way the proposal currently stood, nearly all the traffic would exit on to Horn Drive. This would be an 800 percent increase in the amount of traffic on a residential road. She said currently she estimates around 150 and 200 vehicles on Horn Drive during one day. Horn Drive is a feeder road that serves as the only way in and out of the Knollway neighborhood. She pointed out the other five business strips along Wayzata Boulevard between Plymouth Road and Cheshire all back up to residential neighborhoods but none of them have access to a residential road. When Morris Mazda made a request to cut a curb into Horn Drive, the request was turned down due to traffic concerns. She said this developer is now asking to put even more traffic on to Horn Drive than the car dealership would have.

Anderson said when Home Value was in operation the impact on the road was minimal because shoppers would come to the store and shop and then leave in a slow trickle. Goodwill would have shoppers that park and shop and donation traffic throughout the day. She said the amount of traffic would create safety concerns for people with young children. She would be hesitant to allow her son to go to the Toys 'r' Us because of all the traffic. The best solution would be to turn the store's main entrance to the west side of the building and require all traffic to enter and exit from Wayzata Boulevard or the shopping center next door. Tying the Goodwill and existing retail shopping center together would also benefit shoppers, retail owners and the neighborhood. Heavy traffic would stack up in the parking lot with this configuration. She noted that every other Goodwill store in the metro area handles its donation traffic by backing it up into a parking lot. She added that the city's 30 year development plan calls for making the city more pedestrian friendly and tying the retail stores together would make the area more pedestrian friendly.

Gunyou suggested it might be helpful for Gustafson to provide information about traffic volumes on residential streets. Gustafson said the city has

estimated the amount of trips coming out of Horn Drive as slightly below 500. Typically a house averages eight to ten trips per day. With the amount of houses in the neighborhood this would equate to around 500 trips per day. He said that amount of trips was relatively low amount of trips for any residential street.

Hiller said one of the residents' primary traffic concerns was trying to exit Horn Drive during heavy morning traffic. He has seen heavy traffic backup at the Hopkins and Maple Grove Goodwill stores during the holiday season. Looking at the plan he was relieved to see that the primary overflow would end up on Wayzata Boulevard. Drop off traffic at a Goodwill store exits every couple of minutes and thus there would not be a huge runoff onto Horn Drive trying to make a turn off the intersection. The only concern would be the traffic flow on to Wayzata Boulevard. He asked if staff agreed with that evaluation. Gustafson agreed with Hiller's evaluation. He added because of the time spacing, as one car leaves the preceding car would have likely already exited on to Wayzata Boulevard. Schneider said another factor was that the Goodwill store would not open until 9 a.m. This would mean many people going to work would have already exited.

Karen Parisian, 910 Horn Drive, said one positive thing that has come from the process is being able to work with the police department to address the issue about loading and unloading at the car dealerships. She noted a police sergeant told her that at the Hopkins Goodwill store there can be times when 25-30 cars are stacked. She said crossing a double yellow line to get across Wayzata Boulevard would be dangerous. She asked if there were 25-30 cars lined up on Wayzata Boulevard how the police would address the situation.

Stewart said she had been contacted by the local representative of the management company of the Ridgedale Festival building. The representative told her that he knew employees from Morris Mazda parked in the Festival parking lot and the Goodwill customers would likely do the same. He also said that if the customers get frustrated with the line for donations, drivers would drive over the curb and over the grass in order to get in line. She said it would be worthwhile for the developer to have a discussion with the owners of Ridgedale Festival about working together.

Coyle urged the council to reject the appeal and approve the site plan as it was unanimously adopted by the planning commission. He also asked the council to approve leaving the second entrance on to Wayzata Boulevard open for a trial period to alleviate the traffic on to Horn Drive. He said the intention of the orientation of the drive aisle was to take advantage of the existing warehouse space and truck dock area in the back of the building.

Greves said at the beginning of the planning commission hearing the applicant appeared to be amenable to the staff recommendation of having the Horn Drive access be an exit only with access for trucks. The planning commission recommended that access point be full access. She asked Coyle if the applicant was still amenable to a right turn exit only right turn on to Horn Drive with access for trucks. Coyle said the applicant's preference has always been that the Horn Drive access point allow for entry and exiting. The traffic consultant agreed with an in/out access point. The staff recommendation was to limit the access point to exit only.

Peterson noted that the discussion about the inter-connection with the neighboring Ridgedale Festival complex would involve different property owners and the city could not force one property owner to talk to another property owner to get access from that property when there already was access on to two city streets.

Wiersum said it was his understanding that when the applicant first submitted his plan, there was nothing that required city council approval or planning commission review until staff made suggestions to improve traffic flow and do some other things that were in the best interest of the neighborhood. He asked Peterson if this was correct. She said there was a site plan approval required from the planning commission. Typically a site plan approval does not come to the city council after the planning commission.

Wiersum asked what the city could legally compel the applicant to do. Could the council prohibit the Horn Drive access or was that a property right the applicant has? Peterson said the city had the right to regulate access to the public street. The applicant has a right to have access to the public street. In both cases the access has to be reasonable. The city has the right to put conditions on the how access gets to the public street and could require that access points be closed off as long as what is remaining is reasonable. She said she thought three access points on to two public streets was more than what was needed and most courts would likely agree. The city has the ability to regulate the curb cuts and how they are configured as long as reasonable access was provided. Wiersum asked if the fact the curb cuts had been in place for long time and the access has been there for a commercial use had any influence on the reasonableness of the request for a change. Peterson said she didn't think that had a significant weight in the sense there could be a new street reconstruction that would limit the number of curb cuts that used to exist. There have been court cases where that situation has occurred and the courts have ruled that was allowable. The internal circulation on the property would need to be looked at to determine if the access points were needed.

Greves said she would support endorsing the staff recommendation of a right out on to Horn Drive with entrance available for trucks. This would minimize the impact on to Horn Drive. She said one and a half access points with the closure of the easterly access point on to Wayzata Boulevard would be reasonable. She would also like to see significant signage placed by the western entrance off of Wayzata Boulevard so that people would know that was where the entry was to drop off items. This would reduce the errors of people turning right on to Horn Drive and ending up in the neighborhood. Schneider said one issue with that concept was to allow truck access while prohibiting car access.

Wiersum said if he were going to go to the Goodwill and determined that he was going to enter from Horn Drive, he would go down Wayzata Boulevard and then would see the sign indicating that cars could not enter that access point. He would then likely drive into the neighborhood and loop around. The one thing the neighbors did not want was more traffic in the neighborhood. He said he wanted to ensure that whatever the council decided would not increase the amount of traffic in the neighborhood.

Hiller said he shared the concerns about traffic going up Horn Drive and the need for good signage to ensure that people went to the correct entrance. The ordinance needed to include requiring the signage.

Greves said she thought clear signage would alleviate the issue of drivers turning on to Horn Drive.

Allendorf said he heard the neighbors' concern was with the stacking and not being able to get out on to Wayzata Boulevard. Preventing cars from making the left hand turn toward the front of the building would likely force the cars into the neighborhood and make them come back adding to the stacking problem. His suggestion would be to look at a right turn out only or a two way.

Wagner said he agreed with Parisian that there was good coming out of the process with neighborhood concerns being addressed about how the city manages the loading and unloading as well as better signage. He said intensity on the site would naturally increase because there has been nothing going on for the last few months. The proposal is a permitted use so he supported the staff recommendation. He had concerns with creating any turning patterns that defy logic. If a driver sees an entry way, he/she will want to make a left hand turn into the site. Rather than have people violate it on a regular basis he said it would be better to make sure the area is appropriately signed. He agreed with Stewart that if he were developing the property a better orientation would be to link it with the neighboring property if the other property owner agreed to do so. He noted the council cannot force the property owner to agree to the link. He

supported the proposal and keeping the second entrance open on Wayzata Boulevard for further study.

Gordon said the site was challenging in a number of ways in that there are multiple ways to manage traffic. Generally the driveway that exists as an in and out on Horn Drive would make sense putting aside neighborhood concerns. The access point could also function as just an out as the staff recommended. Other counterclockwise movement options could also be looked at. Without a different building placement and reorientation of parking, there would be just a few options to work with. He said staff had provided the council a couple of workable options that would manage neighborhood expectations and access for the users. He noted the planning commission took another approach that would also give the council the ability to work the site differently.

Gustafson said he agreed with the comments made about having full access on to Horn Drive. Allowing less than full access on to Horn Drive may create the problems of cars going into the neighborhood and trying to find a way into the site. He said cars will likely do that anyhow creating a further enforcement issue for an area that has had past enforcement problems. Providing some alternative to get drivers off Horn Drive into the site would be the best solution in trying to limit the number of cars that drive into the neighborhood. Hiller asked if signage would work or if signs are generally ignored. Gustafson said many times staff tries to limit signs because if there are too many signs, they go unnoticed. An attempt is made to make things geometrically logical for people to follow. Some signs will help but there still will be a certain percentage of people who do not see the signs or choose to ignore them. Peterson said she was also concerned about how the city would enforce a sign that would be located on private property. The city could not issue citations to the cars turning in even if the sign said "no cars" because it would not be a public traffic management sign.

Wiersum said he would support the staff recommendation because it was well thought out and most logically optimized the use of the site. He said the site would remain commercial with a more intense use and therefore did not have the authority to deny the use on the site because it was an appropriate use for the property. He said the issue he was concerned about was the site would be the tightest Goodwill site in the area from a parking and stacking perspective. It also appears there were no great solutions to address the issues. He believed Goodwill that the typical stacking was three or four cars and that the staff recommendation allowed for nine car stacking and that should be adequate most of the time. But he was concerned that if as Hiller mentioned 25 or 30 cars stacked around the holidays, the site could not handle the situation. He said it would be appropriate for the council to ask the applicant for a plan to handle the

times when stacking was above ten. Another issue involved exiting Horn Drive. Currently there is not a problem in the morning and he would support a stipulation that Goodwill could not take donations before 9 a.m. He said there would not be an exit problem in the evening either because the p.m. is the time people are returning from work and not typically exiting to go to work. Schneider asked Wiersum to clarify if he supported the Horn Drive access point allowing in and out traffic. Wiersum said that was what he supported to minimize the traffic going into the neighborhood.

Gunyou clarified the original staff recommendation was that the Horn Drive access point be exit only. The planning commission recommended the access point be in and out and now the staff recommendation was to adopt the planning commission's recommendation.

Ellingson said the staff report indicated the planning commission's recommendation was that the driveway be a left in, right out. He asked for clarification if that was the current staff recommendation because that would not allow a driver exiting the site to make a left hand turn into the neighborhood. Gordon clarified the staff recommendation was for full access.

Allendorf said he had always been taught that you shouldn't plan a shopping mall parking area for Christmas time. He said the city had an ordinance that required six cars stacking and the site's capacity was for nine cars in the stacking area. He supported the staff recommendation regarding stacking and full Horn Drive access. He said he was torn about the eastern access on to Wayzata Boulevard. Rather than closing that access off and possibly opening it up if there were problems, he would rather see it open and have staff analyze if a safety problem exists.

Wiersum said he agreed the site should be designed for the preponderance of use but that a plan and approach to handle the holiday traffic was needed since the site was tighter than other Goodwill sites. He would not make that a condition of approval but he would like the applicant to work with staff to figure out a plan.

Greves agreed with Wiersum that she would like to see that type of plan in place. She noted staff had said that there would be a point of contact with the business to address concerns. She asked if there was a way to make a condition that a discussion had to occur if problems occur. Wischnack said it would be appropriate if the council wanted to condition the approval with an extra requirement for monitoring and a review in a year. Peterson said she agreed with Wischnack that the council could add a condition requiring staff to monitor the two access points on Wayzata Boulevard. She had concerns with requiring more stacking than the ordinance requires. Greves said she would like to include conditions related to monitoring the two

access points as well as the stacking. Peterson said if the applicant met the ordinance requirements, the council could not require anything more. Schneider agreed the council could not require more stacking than the ordinance but if the actual stacking backed up on to Wayzata Boulevard and blocked traffic, the city could enforce that issue.

Wagner said he was hearing from other councilmembers that there was a concern during peak periods that a specific plan be drawn up by the developer to address stacking on Wayzata Boulevard during the holiday season. He agreed the council could do little in terms of further enforcement if the applicant met all the city's ordinances.

Wiersum said the applicant had been exceedingly collaborative with the proposal but he asked the applicant to consider developing a plan for the peak period during the holiday season. This would help alleviate some of the neighborhood's concern as well as his own.

Hiller said he had a concern with an in/out Horn Drive access point. He said the back parking lot was intended for employees only. There also would be a flow of cars coming from the drop off. The heaviest traffic would be at the access point so drivers entering at the access point would have to drive through the traffic. Any driver that enters at that point would generate three trips as they go up, and come back down, and go over to the drop off point. They would then exit on Horn Drive. He asked why the staff was now recommending an in and out access point. Gunyou clarified the planning commission recommended left in and right out at the access point. The staff was recommending the same but the council had different options. Hiller reiterated his concerns. Wagner noted that the parking in back was not just for employees.

Schneider noted that he regularly drives by the site and also frequently makes drop offs at Goodwill stores. He said people tend to look for the most logical and obvious way to get in and out of a site. The biggest argument for reducing the awkward situation would be to keep the east entrance open and sign it as the entrance to the Goodwill. During busy times the Goodwill store employees would probably park in the shopping center parking lot. The east entrance was more a true entrance and people would likely exit at the Horn Drive exit to get to Wayzata Boulevard. He said that Goodwill stores typically are located in industrial buildings that have a large parking lot with an enclosed drop off bay. His experience is that if there are more than five or six cars waiting in line the driver tends to leave and come back at another time. He has never seen close to ten or twenty cars waiting in line at the Hopkins site. He said the benefit of the proposed site even though it was a tight site, was that it has a dedicated stacking line. Once a driver gets in the line they are committed to

completing the drop off. He said it would be unlikely that a driver would see a line of cars and decide to wait on Wayzata Boulevard.

Greves asked if the required construction management plan would include a discussion about construction traffic. Staff indicated traffic construction would be discussed. Greves said at a bare minimum she would like to see a sign indicating where the drop off is located. Gordon said the applicant was interested in having that signage and it would be required as part of the site plan. Greves agreed with Wiersum that the applicant has been cooperative in working with the neighbors, staff, and the consultant but given all the concerns in the area, good faith hasn't always worked well. She said she would like to see the access points reviewed in a year.

Allendorf agreed with Schneider that if a driver sees people waiting in line he/she would choose to come back. If there was backing up on to Wayzata Boulevard it would be a traffic enforcement issue that the police would address. Raquet said if traffic does back up on Wayzata Boulevard the police would get the traffic to move. If it becomes a recurring problem, the department likely could not address the problem on a daily basis. This is where a plan might come into place requiring the owner to hire somebody to help manage the traffic. He noted the applicant by statute was not authorized to direct traffic on a public street.

Gunyou suggested including language requiring monitoring on a monthly basis for traffic control and reporting back to the council in two years.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2010-042 upholding the planning commission's approval of the site and building plan review, with drive-aisle setback variance, and a variance from the master development plan requirement for the Goodwill Retail Store at 13820 Wayzata Blvd. Stacking will be on the west side with appropriate signage. The access point on Horn Drive will allow full in and out access. The entrance on the east side of Wayzata Boulevard will remain open with appropriate signage directing drivers to enter the site at the access point.

Greves moved to amend Allendorf's motion requiring staff to monitor traffic control on a monthly basis and report back to the council in May 2011. The motion was seconded by Wiersum.

Wagner asked Greves what the action of the monitoring was supposed to do. He said if the monitoring came back indicating there were issues, then action would need to occur. His preference would be to require if a problem existed, then an action needed to occur. Greves said her amendment would prompt further discussion with the applicant about how to address the issues. Wagner said the council could require a study but if

the only condition was to conduct the study, there would be no ability to enforce a solution with the property owner.

Schneider said he interpreted what Greves was attempting to do with the amendment was if there was a problem like stacking on Wayzata Boulevard, then the applicant would be required to come up with an action plan to solve the problem. He asked if Greves wanted other issues covered by the monitoring or if the primary issue was the stacking. Greves said parking could also be a potential issue. She said parking would require a more specific recommendation to the applicant that she felt staff might not be comfortable requiring from a legal perspective. Wagner said his concern was that the applicant was meeting all the ordinances and he wasn't sure what more the council could require from the applicant. Schneider said that stacking on to public property was a valid issue. He suggested amending Greves amendment to state, "If there is evidence of backing up on to Wayzata Boulevard, the applicant is required to come up with a mitigation plan to address that issue." The maker and seconder of the motion agreed to this change.

Hiller said one other concern was that there would be a significant number of people driving up Horn Drive that would be coming in and coming back out. Schneider noted Horn Drive was a public street so it would be difficult limiting who could go up the street.

All voted "yes" on the amendment as revised. Motion carried.

All voted "yes" on the main motion as amended. Motion carried.

Stewart asked what the residents could do to have the Horn Drive access closed if traffic became an issue. Schneider said the council would get a report back in May 2011 indicating if there has been a stacking issue. If stacking has been an issue, a mitigation plan would be required to eliminate the stacking. Stewart asked if the only action residents could take if traffic was an issue on Horn Drive would be to call the police or if a petition process was possible. Schneider said the council approval did not include a condition providing an appeal process. Peterson confirmed that was correct. She said if the city were reconstructing the street, additional conditions could be approved but the council had just granted approval to include the access point.

B. Resolution of intent to cooperatively develop proposal for possible joint facility with Minnehaha Creek Watershed District

Gunyou gave the staff report.

Allendorf said whenever somebody talks about building a new building in the current marketplace he wonders if they realize they could buy an existing building for around half the cost. He said he was concerned that the proposal was too narrow because it seemed to limit the exploration of those looking for property to look only at building a new building. Also, specifying a piece of property might also eliminate a number of other alternatives that fit the criteria. Gunyou said the district has looked at lease/buy and partner options. The site was not the only attractive thing but also the city might be willing to partner and provide the land if there was enough public benefit to do that.

Eric Evenson, Executive Director of the Minnehaha Creek Watershed District, said he and the seven board members shared Allendorf's concerns about the proposal being too narrow. The board has shown a strong interest in partnering with another community given the nature of the way the district works. He said it makes less sense for the district to go on its own than it does to have a facility that is used by the broader public. The opportunities that present themselves at the site are unique. He acknowledged that at this point there were more questions than answers and said he appreciated the city was willing to explore the concept. There would be no commitment at this point to build. The resolution would pull a group of people together to answer some of the questions Allendorf asked.

Schneider said he didn't envision the resolution would limit the watershed district from doing what it wanted to do. The resolution states that the city was willing to have staff from the district and the city look at options to determine if there was a win/win for both parties. Allendorf agreed there was nothing wrong with working with the district but the proposal seemed very narrow in limiting the option to a new building on a specific piece of land. He wanted to make sure that broader options are also looked at. Gunyou said the city's interest was not to find a home for the watershed district. This was one option the district was considering. He said the city's interest was the specific site but it would not limit the district from considering other options as well.

Wiersum said he thought the proposal was a good idea with potential benefits for all involved. He agreed with Allendorf that the city needed to keep monitoring the pulse of the market. He said the city needed to make sure it didn't lose sight of other options that could be half the cost.

Hiller agreed the proposal presented interesting opportunities for the city to work with the watershed district to improve the creek. He did have a concern that providing a pretty office space with pretty conference rooms was not a valuable use of the city's parks. There had to be a much more integrative feature or some reason for existing there. Schneider agreed

there had to be a strong public benefit. Gunyou said the city was not in the market to look for space to house city programs. He said the district was looking for space the city had a need and saw this as an opportunity.

Wagner said the city has spent a lot of time over the last three years studying the creek corridor. He said this proposal had always been in the plans and now was the opportunity to explore if there were legs to it and if not how the future view of the creek corridor would be adjusted. This would be an opportunity if there was a public purpose that the council and watershed district could support. Schneider said that it was also an opportunity for the district to determine if there was not a valid public purpose or if the economics did not make sense.

Greves said she agreed with the comments made about ensuring the city was being prudent as well as the proposal fitting in with the creek visioning process. She said one reason she was supportive of the idea was that during the Minnetonka Mills process there were a lot of residents who expressed interest in an interpretive center along the creek. She said this would be a great opportunity to provide that. In terms of community benefit, she would like to see a portion of the facility used in educating the kids in the community and surrounding communities. She said there were exciting potential options with providing community history. She noted there were other facilities that provide hands on interactive features that might provide ideas. One such facility is the Lowry Nature Center in Victoria. She would also like to see this facility provide an option for recreational programs in the community.

Wiersum moved, Greves seconded a motion to adopt Resolution No. 2010-043 of intent to develop a proposal for a joint facility with the Minnehaha Creek Watershed District. All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None

16. ADJOURNMENT

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 9:15 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk