

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, SEPTEMBER 13, 2010**

1. CALL TO ORDER.

Mayor Schneider called the meeting to order at 6:49 p.m.

2. ROLL CALL

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

3. APPROVAL OF AGENDA

Gunyou noted addenda to items 10F and 10I.

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

4. APPROVAL OF MINUTES: August 16, 2010 regular meeting

Allendorf moved, Wagner seconded a motion to approve the minutes of the August 16, 2010 Minnetonka City Council regular meeting. Greves, Hiller, Wagner, Allendorf, Schneider voted "yes." Ellingson "abstained". Motion carried.

5. SPECIAL MATTERS

A. Resolution accepting donation of the property at 5901 Bell Circle from Christine Reily

Peterson stated the city has a wonderful resident named Christine Reily who was interested in donating the parcel to the city.

Reily indicated she has been a resident of Minnetonka for 25 years and stated she was moving out of state. The donated piece of property was a very special place, full of wildlife and numerous plant species. She thanked the city for being dog friendly and for working with pet owners. Reily encouraged the city to further investigate possible dog parks.

Schneider thanked Reily for the care she has taken with the special property. He assured her the city would continue to maintain the property.

Greves moved, Hiller seconded a motion to adopt Resolution No. 2010-085 accepting donation of the property at 5901 Bell Circle from Christine Reily. All voted "yes." Motion carried.

6. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS

Gunyou reported on the schedule for upcoming council meetings.

Schneider indicated he attended a Southwest Light Rail Steering Committee meeting. The meeting was well attended and there was a good discussion.

7. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

No one appeared.

8. BIDS AND PURCHASES:**A. Bids for replacement of Public Safety Answering Point (PSAP) E 9-1-1 phone system**

Gunyou presented the staff report. He indicated the 911 phone system was over 20 years old and was in need of replacement. The new system is internet based and will provide greater interconnectivity.

Allendorf questioned how maintenance on the system would be funded. Gunyou stated there was a special fund from the state levy on 9-1-1 services that is included on phone bills to assist with the system maintenance.

Wagner moved, Greves seconded a motion to amending the 2010 CIP and award the bid to IES, authorizing staff to enter into an agreement to purchase the Viper system (\$227,578) in a form acceptable to the city attorney. All voted "yes." Motion carried.

B. Purchase of police department in-car cameras

Gunyou gave the staff report.

Allendorf moved, Ellingson seconded a motion to approve purchase of nine in-car camera systems and associated accessories from Digital Ally in the amount of \$64,045.00. All voted "yes." Motion carried.

C. Bids for 2010 miscellaneous drainage improvements

Gunyou gave the staff report.

Wagner moved, Greves seconded a motion to award the contract to Machtemes Construction in the amount of \$34,166.00. All voted "yes." Motion carried.

D. Bids for the Ridgedale Drive/I-394 South Frontage Road Project

Gunyou gave the staff report.

Wagner moved, Greves seconded a motion to award the contract for the Ridgedale Drive/I-394 South Frontage Road to Midwest Asphalt Corporation in the amount of \$651,747.15. All voted "yes." Motion carried.

10. CONSENT AGENDA (Items Requiring a Majority Vote):**A. Claims for council authorization – August 23, 2010**

Allendorf moved, Greves seconded a motion to approve the August 23, 2010 claims which includes electronic fund transfers (EFTs) numbered 1319 through 1326 and checks numbered 229087 through 229417 totaling \$1,929,747.18. All voted "yes." Motion carried.

B. Claims for council authorization – September 13, 2010

Allendorf moved, Greves seconded a motion to approve the September 13, 2010 claims which includes electronic fund transfers (EFTs) numbered 1327 through 1338 and checks numbered 229418 through 229818 totaling \$2,763,760.86. All voted "yes." Motion carried.

C. Ordinance amending the insurance requirements for liquor licenses

Allendorf moved, Greves seconded a motion to adopt Ordinance No. 2010-12 amending the insurance requirements for liquor licenses. All voted "yes." Motion carried.

D. Ordinance amending the tattooing regulations

Allendorf moved, Greves seconded a motion to adopt Ordinance No. 2010-13 amending the tattooing regulations. All voted "yes." Motion carried.

E. Ordinance amending the definition of tobacco

Allendorf moved, Greves seconded a motion to adopt Ordinance No. 2010-14 amending the definition of tobacco. All voted "yes." Motion carried.

F. Ordinance amending the master development plan for United Health Group, Phase II, located at 9703 Data Park Drive

Allendorf moved, Greves seconded a motion to adopt Ordinance No. 2010-15 approving the amendment of the master development plan approving final site and building plans for United Health Group Data Park Expansion Phase II at 9703 Data Park Drive.

Approval is based on the following findings:

- 1) The proposal would meet all ordinances and standards for a site and building plan approval.

Approval of the site and building plans 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 Layout Plan date-stamped August 2, 2010
 - Grading and Erosion Control Plan date-stamped August 2, 2010
 - Utility Plan date-stamped August 2, 2010
 - Landscaping plan date-stamped August 2, 2010
 - Building elevations date-stamped August 2, 2010
- 2) A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
 - a. The following must be submitted for the grading permit to be considered complete.
 - (1) Final site, grading, drainage, utility and erosion control plans must be submitted for staff approval. Revised plans must be submitted for approval after the issues below have been addressed prior to construction of the site improvements. All sheets must be signed by a professional engineer or architect as applicable, licensed in the state of Minnesota. Based on the plans received, the following was noted:
 - a) All documentation must be provided for the vacation of Data Park Drive east of Blue Circle Drive. All easements deemed necessary by the city shall remain; including access, trail, and utility. An all inclusive maintenance agreement for Data Park Drive must be provided and include streets, utilities (water, sanitary sewer, storm sewer, etc.) and streetlights, and include maintenance responsibilities on city owned Blue Circle Drive to and from Data Park Drive to Bren Road E.
 - b) Provide document illustrating city owned vs. private owned utilities, streets, streetlights, etc.

- c) Provide cross access agreements for all properties affected by the Data Park Drive vacation.
- d) Show all existing easements.
- e) Provide temporary traffic control as applicable for demolition operations.
- f) Provide detail/standard plate for curb and gutter type.
- g) Provide plan for any proposed signage or striping revisions to Data Park Drive and site areas.
- h) Provide SWPPP.
- i) Confirm all erosion control meets current NPDES and regulatory agency requirements.
- j) An estimate of the volume of material being moved within the site, onto the site, and away from the site should be included in the plans.
- k) Provide soil stockpile locations on the plan.
- l) Gate valves must be installed on Blue Circle Drive at Data Park Drive and approximately 700-ft south of Data Park Drive to separate city water lines from private water lines created from the vacation of Data Park Drive.
- m) The plans show bypassing the existing storm sewer system by routing stormwater along the east side of the property, extending south through the Comcast property. This plan requires MnDOT and Comcast property approvals. If approvals are not obtained, the originally approved April 5, 2010 storm sewer design would be required.
- n) Core drill must be provided on connections to all existing sanitary manholes.
- o) Provide invert elevation for the proposed 8-inch sanitary sewer service. Confirm 8-inch service line capacity is adequate for proposed demands.
- p) Confirm all proposed watermain crossings do not conflict with existing or proposed storm sewer.
- q) City of Minnetonka Fire Department must confirm hydrant placement and fire protection is adequate.
- r) Label all storm sewer casting types.
- s) Consider drain tile at low point catch basins.

- t) Confirm/clarify property boundaries, individual city right of way and MnDOT right of way limits on the plans.
- u) Obtain Nine Mile Creek Watershed approval. All watershed requirements must be met independent from the city's review.
- v) Provide MnDOT approvals to construct the proposed infiltration basin within MnDOT right of way.
- w) Provide Comcast approvals to construct the proposed storm sewer on Comcast property.
- x) Provide proposed soil boring (SB1) information as shown per the plans for the proposed infiltration area.
- y) Provide Phase I analysis to document contamination status of the infiltration area.
- z) Submit stormwater calculations for review. This includes:
 - i. Stormwater narrative describing compliance with the city's stormwater design guidelines and standards.
 - ii. Stormwater runoff rate analysis for the 2-, 10-, and 100-year storms.
 - iii. Stage-volume calculations on the proposed infiltration basin.
- aa) Provide stormwater proprietary device to capture sedimentation within UHG site. The device shall trap sediment prior to stormwater entering the proposed outlet pipe to the proposed infiltration basin.
- bb) Submit maintenance plan for all stormwater facilities including proprietary devices and infiltration basin.
- cc) The proposed plan provides quality treatment within the city's regional water quality pond. The city of Minnetonka owns the north half of the pond and the city of Eden Prairie owns the south half of the pond. Currently, the city has no dedicated easement to access this pond to perform necessary maintenance.
 - i. Provide city with a permanent access easement for future regional pond maintenance.
 - ii. Provide city with agreement to contribute 30% funds for any future regional pond maintenance.

- (2) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, landscaping requirements, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
 - (3) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
- b. Prior to issuance of a grading permit:
- (1) Submit an electronic PDF copy of the plans and specifications.
 - (2) Submit two full size and three 11x17 sets of construction drawings and three sets of project specifications.
 - (3) Submit all required administration and engineering fees.
 - (4) Submit a SWPPP.
 - (5) Install a temporary rock driveway, erosion control, tree and wetland protection fencing for staff inspection. These items must be maintained throughout the course of construction.
 - (6) Permits may be required from other outside agencies including, but not limited to Hennepin County, the Nine Mile Creek Watershed District, MnDOT and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits. Copies of all required permits must be submitted to the city.
- 3) Prior to issuance of a building permit:
- a. Submit the following items for staff review and approval:
- (1) A landscaping and tree mitigation plan. The plan must meet minimum landscaping and mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be decreased based on any of the following: the health of trees removed; the ability to appropriately install trees and other shrubbery given existing vegetation and/or topography.
 - (2) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost of all required landscaping.
 - (3) An illumination plan for staff approval.
 - (4) All required hook-up fees.

- (5) Evidence of the release of the obsolete access easements to 9705 Data Park Drive (Comcast site) and a copy of a deed for a new access easement to 9705 Data Park Drive for the relocated access drive.
 - (6) Payment for public and on-site traffic signs and installation, as required by the city engineer.
 - (7) Record this ordinance with the county.
 - (8) The project architect must verify the required volume of water for the building and ensure that there will be adequate fire flow to the building.
 - (9) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
 - (10) Cash escrow in an 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:
 - 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
 - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
 - (11) Payment of fees as calculated under the Opus Area Overlay Ordinance.
 - (12) Vacation of Data Park Drive subject to the following conditions:
 - a) The city will retain easements over the vacated right-of-way for drainage, utilities and trail purposes.
 - (13) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.
- 4) Submittal of a traffic demand management (TDM) plan to staff for review and approval.
 - 5) The Bren Road / Trunk Highway 169 interchange must be open for traffic before occupancy of the Phase II building.
 - 6) A signed and executed development agreement with the city. The agreement must obligate the developer to the conditions contained

in all project develop approvals and payment of all related project fees. The agreement must guarantee that the developer will complete all public improvements and meet all city requirements. Aside from this and other standard items outlined in the city's template agreement, the agreement must outline the developer's responsibility associated with necessary repair of existing public streets. The developer is responsible for any and all repairs deemed necessary to bring the roadway back to "predevelopment" conditions.

- 7) The property owner is responsible for replacing any required landscaping that dies.
- 8) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
- 9) Construction must begin by December 31, 2011, unless the planning commission grants a time extension.

All voted "yes." Motion carried.

G. Resolutions amending previously adopted resolutions pertaining to easement vacations

Allendorf moved, Greves seconded a motion to adopt the following resolutions:

- 1) Resolution No. 2010-086 amend previously adopted easement vacation resolutions for 11405 and 11477 Fetterly Road.
- 2) Resolution No. 2010-087 amend previously adopted easement vacation resolutions for 1904 and 1910 Linner Road
- 3) Resolution No. 2010-088 amend previously adopted easement vacation resolutions for 15920, 19524, 15946, 15950, and 15730 Portico Drive and 2249 Portico Green

All voted "yes." Motion carried.

H. Permit application to Three Rivers Park District requesting winter trail use

Allendorf moved, Greves seconded a motion to authorize permit application submittal to Three Rivers Park District requesting winter use of the two Regional Trail Corridors within the City of Minnetonka through the 2009/2010 season. All voted "yes." Motion carried.

I. Amended resolution approving preliminary and final plat for the Broin Creek Addition at 14802 and 14814 Timberhill Road

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-089 approving preliminary and final plat for the Broin Creek Addition at 14802 and 14814 Timberhill Road. All voted "yes." Motion carried.

11. Items requiring Five Votes:

A. Cooperative agreement with Hennepin County for snow and ice control equipment

Gunyou reviewed the staff report noting the cooperative equipment agreement with Hennepin County would reduce expenses for snow and ice removal for the city.

Greves thanked the city staff for being forward thinking on this issue while remaining environmentally conscious.

Greves moved, Wagner seconded a motion to approval of the agreement with Hennepin County and amendment of the CIP to purchase and install the brine maker and appurtenances. All voted "yes." Motion carried.

12. INTRODUCTION OF ORDINANCES:

A. Ordinance amending the city charter regarding the community investment fund

City Attorney Desyl Peterson presented the staff report.

After reading the minutes from the meeting, Hiller indicated he spoke with a charter commission member and discussed the amendment. He did not feel the charter commission and city council were on the same page. He said he was not opposed to the amendment, but the council had to make some of the factors more clear for the charter commission because some of the concerns raised by the council are not reflected in the amendment. He suggested the council take a step back and communicate to the charter commission what the council wanted to accomplish. The charter commission could then recommend the best way to get that done.

Schneider indicated he attended the charter commission meeting discussing how the new fund would function and the process for determining how it would work through the EDAC. He said there was a clear understanding that it would be an on-going process. The charge for the charter commission was not to determine how the economic investment fund should work. The commission was charged with

determining whether it was reasonable to use the excess in the special assessment fund for purposes other than adding it to the community investment fund. Schneider said he did not feel it was necessary to send the ordinance back to the charter commission to revisit the concept. The council and the EDAC would determine the exact structure.

Peterson said she made it clear to the charter commission when she explained what the fund might be used for that she was referring to a draft staff report that had not gone to the council yet. The charter commission had to act first to allow the change to happen before the council could formulate the details on what the plan was going to be used for.

Schneider said he made it very clear that the EDAC would be charged with making the recommendation to the council as to what the structure would be and whatever criteria was established. Peterson added she thought the charter commission would be surprised if the item was brought back to them because they were comfortable with the final decision.

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

13. PUBLIC HEARINGS:

A. Ordinance amending the city charter regarding the primary election and city manager's purchasing authority

Wagner moved, Ellingson seconded a motion to continue the public hearing to the October 4, 2010 meeting. All voted "yes." Motion carried.

B. Resolutions for special assessment of 2009-2010 projects

Gunyou gave the staff report.

Schneider opened the hearing at 7:35 p.m.

Dick Enrico, 14274 Trace Ridge Road, questioned if the nuisance assessment would have to be paid by him, if the property was recently purchased, or if these expenses were the concern of the previous owner. Peterson indicated if the property violates the nuisance ordinance and the city has to bring the property into compliance, the costs attach to the property, and a new property owner would be responsible for the assessment.

Jeff Mallace, 4206 Lindsey Lane, indicated he purchased his home in November of 2007. His lot however, was previously owned and was originally sold in March of 2006, when the \$4,000 for the stewardship fund

should have been collected. Mallace indicated he enjoys living in this community and felt the \$4,000 for the stewardship fund was not his responsibility, but was willing to pay the \$500 annual assessment. Arbor Homes or the first homeowner should be responsible for the assessment.

Schneider indicated the project was unique and asked Peterson to give some background. Peterson explained there was a stewardship fund agreement for the property that required a \$4,000 deposit into the fund from each of the lots. This was to be collected at the time of sale. For some reason the city was not paid for this lot. Because of this problem, a new system was put in place to assure that no building permits are issued without the payment. She indicated the assessment stayed with the property and was currently due from the property owner. Schneider said the bottom line was the city needed recoup the money it has spent in improving the area. The money spent for restoring the area has increased the home values.

Mallace presented the Council with a notarized document of the stewardship fund agreement explaining who was responsible for paying the \$4,000. He indicated the deposit should have been collected at the time of the original sale. Mallace did not feel he was responsible for the expense as there was no reference or disclosure of a lien when he purchased the home and had a title search conducted. At this time, the city was asking him to pay off someone else's debt.

Peterson stated this was a liability of the property and the property owes the city \$4,000. Unfortunately this issue has now become the Mallace's concern.

Mallace questioned why a lien was not placed on the property years ago. He indicated this may have led them to purchase another home. Peterson stated the assessment was being placed on the property at this time.

Schneider asked if this item should be removed and brought back for further discussion. Peterson indicated staff had been working to resolve the issue for over a year so sending it back to staff might not serve any purpose.

Wagner said if the council did not approve the assessment, it would create a liability in the fund and then it would be paid by all the property taxpayers in the city. Peterson confirmed this was correct.

Allendorf questioned what triggered staff to investigate the matter. Peterson stated she did not know the specific information. At the time the building permit was issued, there was not a trigger to notify staff to collect the \$4,000 deposit. Allendorf said it was important to understand the

timing of what triggered staff involvement and it might make him more amenable to a compromise.

Gunyou noted due to the timing of certifying the assessments, one option would be to delay the assessment for a year. Interest would continue to accrue during that time. He encouraged the council to consider how the \$4,000 would be made up if not paid by the current homeowners.

Schneider did not feel the assessment should be made up by other taxpayers. He said the project was done as an experiment for a natural restoration of a major wetland area for both public benefit as well as the residents benefit. He suggested one resolution would be not doing a special assessment and splitting the difference for the three lots involved.

Allendorf indicated when the original ownership transfer occurred, that should have been when the \$4,000 was paid. That did not occur but it wasn't the city's fault. He suggested the current property owner seek compensation from the previous owners. Mallace pointed out everyone who lives in the community were the original homeowners except his wife and himself.

Hiller stated the assessment was associated with the property and not the home and the city should not be responsible because the deposit wasn't collected at the ownership transfer. Mallace said he did not have any recourse and it wasn't his responsibility to collect the money in the first place.

Greves agreed that if there were an avenue for the Mallace's to pursue recourse that would be the best solution but she also agreed there were culpability on the city's part and would be interested in reaching a compromise if possible.

Ellingson expressed sympathy to the homeowners because hiring an attorney would likely cost more than \$4,000. He indicated the title company would likely not pay because they checked the property records and there were no pending or filed special assessments at that time. He felt the council needed to balance out the inequities of this situation.

Wagner stated there was an error in this situation and the homeowners should not be to blame. However, he did not want the fund to be shortchanged either. He indicated he would be willing to consider a compromise as the city did have some missteps along the way. Wagner wanted to see the council take action on the issue this evening.

Schneider said the assessment should have been disclosed to the new property owners. He felt this was a unique situation as the other outstanding assessments were paid by the original property owners.

Greves indicated she was okay with a compromise given the fact these were not the original property owners.

Hiller agreed he would be willing to a compromise given the distinction that the Mallace's were not the original owners.

Wagner recommended \$2,100 be assessed to 4206 Lindsey Lane with the rest to be paid by city funds.

Mallace questioned where the extra \$200 came from for the assessment, as the original assessment was for \$4,000. City Engineer Lee Gustafson indicated the extra \$200 was an administrative fee added to all the assessments.

Eric Doty, a builder working on the property at 15803 Minnetonka Boulevard, stated he received an assessment on August 30 for \$1,937.91. He questioned the assessment with city staff as he was not the original builder of this property. His company acquired the property late June 2009 to refurbish the home and put the home back on the market. The city has since mowed the property twice, first on August 5, 2009 and again on September 3, 2009. The mowing was \$160 for each occurrence plus \$800 in fines. Only the backyard of the home was mowed and was on a periodic mowing program. He said he did not receive either of the two notices that were sent.

Doty explained JMS was taking the site from a nuisance condition and transforming the site into a nicely refurbished home complete with new grading. He felt the mowing expenses charged by the city were overpriced and not fair or equitable to the property owner.

Wischnack reviewed the history of the nuisance issues with the property. She explained enforcement has been stepped up by the city to assure that nuisance issues were addressed. The original assessments were paid when the property transferred.

Doty expressed frustration that the city did not forward notices to JMS prior to the assessments being incurred as he had no prior knowledge. JMS was working with the city through several permits, and the city had the correct contact information for his company.

Ellingson understood there was an increase in fines with each violation. He questioned if this applied to the property or the property owner. Wischnack said it applied to the property.

Wagner indicated he had sympathy for the property owner as he was trying to better the site. He recommended the two \$800 fines be waived.

Schneider stated it did not benefit new property owners to carry the previous owner's record on nuisance abatements. He suggested this policy be reviewed. Wischnack indicated the current ordinance had a 60 month look back period.

Greves stated she was in favor of assessing the owner for the mowing and not the fines.

Thomas Fretham, 4930 Baker Road, expressed concerns regarding an assessment at 3515 Meadow Lane. He explained he has faithfully mowed the lot every 10 to 14 days since 2007 and did not feel it was fair to be charged \$937 for mowing completed by the city. He expressed concern that he had not received notice from the city prior to the current notice. He said that the person to whom the notice was directed did not pick up the certified mail. He suggested the city make phone calls to ensure that the homeowners are aware of the nuisance to reduce the need to charge a homeowner \$800 in fees. Fretham indicated commercial companies would charge \$45 per week to mow the site and the \$160 charged by the city for one mowing was unfair.

Schneider closed the hearing at 8:24 p.m.

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

- 1) Resolution 2010-090 adopting special assessments for the Marshes of Meadow Woods Stewardship Program Agreement as amended for Project #7113, reducing the amount for 4206 Lindsey Lane to \$2,100.
- 2) Resolution 2010-091 adopting special assessments for the St. Therese Senior Project.
- 3) Resolution 2010-092 adopting special assessments for 2010 Nuisance Abatement Projects, one-year assessment term.
- 4) Resolution 2010-093 adopting special assessments for 2010 Nuisance Abatement Projects as amended on Project #N224, three-year assessment term, reducing the amount for 15803 Minnetonka Boulevard by \$1600.
- 5) Resolution 2010-094 adopting special assessments for 2010 Nuisance Abatement Projects, five-year assessment term.

- 6) Resolution 2010-095 adopting special assessments for 2010 Diseased Trees Project, one-year assessment term.
- 7) Resolution 2010-096 adopting special assessments for 2010 Diseased Trees Project, three-year assessment term.
- 8) Resolution 2010-097 adopting special assessments for 2010 Diseased Trees Project, five-year assessment term.

Greves, Hiller, Wagner, Allendorf, Schneider voted "yes." Ellingson "abstained". Motion carried.

C. Resolution authorizing use of additional funds from the Community Investment Fund to finance renovation of the Williston Center

Gunyou gave the staff report.

Schneider opened the hearing at 8:27 p.m. No one spoke.

Wagner moved, Greves seconded a motion to continue the public hearing to October 25, 2010. All voted "yes." Motion carried.

D. Public hearing to consider a resolution that vacates an existing sanitary sewer easement at 3318 Groveland School Road and 17408 Minnetonka Boulevard

Gunyou presented the staff report noting an existing sanitary sewer easement was being vacated.

Schneider opened the hearing at 8:28 p.m. No one spoke.

Schneider closed the hearing at 8:28 p.m.

Allendorf moved, Greves seconded a motion to adopt Resolution 2010-098 vacating an existing sanitary sewer utility easement at 3318 Groveland School Road and 17408 Minnetonka Boulevard. Approval is based on the following findings:

- 1) The petitioner is the owner of the land abutting the subject right-of-way and are, therefore, proper petitioners.
- 2) Upon relocation of the existing sewer line and establishment of a new easement, the city will no longer require the subject easement.
- 3) Vacating the subject easement is not counter to the public interest.

The vacation is subject to the following conditions:

- 1) Submit an as-built survey of the sanitary sewer line and structure.
- 2) Submit 20-foot wide utility easement over the new sanitary sewer line. The new sanitary sewer line must be centered within the easement. The easement document must be drafted by an attorney

knowledgeable in the area of real estate and is subject to the review and approval of the city attorney.

- 3) This vacation of an existing easement is effective only when:
- (a) The new sanitary sewer is accepted into service by the city engineer; and
 - (b) An approved replacement easement has been recorded with Hennepin County.

All voted "yes." Motion carried.

E. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Bukhara Indian Bistro, 15718 Wayzata Boulevard

Gunyou reviewed the staff report.

Schneider opened the hearing at 8:29 p.m. No one spoke.

Schneider closed the hearing at 8:29 p.m.

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

Schneider called for a ten minute recess.

14. OTHER BUSINESS:

A. Items related to use of tax increment for the St. Therese project

Wischnack reviewed the staff report stating this item would offset the water and sewer hookup fees for St. Therese.

Wagner questioned if the previous action on the assessment should be amended. Wischnack stated this would be the best course of action.

Schneider opened the hearing at 8:29 p.m. No one spoke.

Schneider closed the hearing at 8:29 p.m.

Wagner moved, Allendorf seconded a motion to reconsider and revise the previously approved special assessment Res. 2010-091 to insert the amount of \$115,000, and to adopt Res. 2010-105 approving a spending plan for redevelopment tax increment financing district no. 2. All voted "yes." Motion carried.

B. Items for the 2011 Preliminary Tax Levy

Gunyou indicated the council was being asked to approve the 2011 preliminary tax levy. He noted the city's budget plan reflects a long-term comprehensive repositioning of city services that was initiated last year. The plan achieves and maintains structural balance in the budget, while ensuring the city's long-term capacity to provide quality services at a reasonable price.

Gunyou explained the city has implemented new ways of doing business to better serve the residents both now and into the future. The long term solution was to reduce ongoing spending to keep it in line with expected revenues. The permanent downsizing will save \$4 million over two years. He said there would be a moderate tax increase in 2011, with a preliminary levy increase of 2.9 percent, or \$28 for the average homeowner. The operating budget increase is being held to 1.1 percent, and has been flat for two years. An additional 1.2 percent increase will finance a new fund dedicated to fire trucks and equipment. An additional 0.5 percent could be added to the levy to leverage \$3.2 million over the next five years as an option for housing and economic development.

Gunyou reviewed the proposed tax increase with respect to neighboring communities stating Minnetonka was still near the lower end. He explained an official public hearing was scheduled for December 6, 2010 at 6:30 p.m. and public input was always welcome at any time.

Paul Ansolabehere, 4475 Gaywood Drive, thanked the council and staff for preparing an efficient preliminary budget for the city. He said the new norm is not what it was. Property values were decreasing across the metro area, while taxes continued to increase. Ansolabehere requested the city stay within the means of its residents. He recommended the council further review how the levy could be reduced further from 2.9 percent. The city must be responsible when approving the levy as this affected the residents long-term as taxes continue to steadily rise.

Schneider noted the city has made numerous cuts and has a reasonable tax base given the services provided to the residents.

Allendorf agreed commenting that a 1.1 percent operating budget increase was great work by the staff in cooperation with the employees and he was not interested in additional cuts. He suggested the fire apparatus fund of the budget needed to be better explained to residents. Allendorf indicated he would need additional information on the .5 percent EDA option before he could support it.

Schneider agreed with Allendorf's comments on needing a better explanation for the fire apparatus fund. Greves noted fire costs were up 50

percent for replacement costs and that was important information for residents to know.

Hiller said residents were willing to pay for the services received from the city but wanted to be assured the levy was justified. He supported the 1.1 percent operating budget increase and was also in favor of the fire apparatus fund. Hiller requested the council seriously consider the preliminary levy amount as it would more than likely be approved as the final levy in December.

Wagner moved, Hiller seconded a motion to adopt Resolution No. 2010-100 setting preliminary 2011 tax levy and budget.

Wagner said the budget has been discussed in great detail by the council during work session meetings. He stated the council would continue to review the value of the services provided. He encouraged the council to continue to debate the budget over the next three months for the benefit of all residents.

All voted "yes." Motion carried.

Hiller moved, Greves seconded a motion to adopt Resolution No. 2010 - 101 setting preliminary 2011 tax levy for the Bassett Creek Watershed Management Tax District. All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointments to the community commission and senior citizen advisory board

Schneider moved, Allendorf seconded a motion to appoint:

- Priscille Biehlmann, to the community commission as a student member, to serve the remainder of a two-year term, effective September 13, 2010 and expiring on January 31, 2012.
- David Simon, to the community commission, to serve the remainder of a two-year term, effective September 13, 2010 and expiring on January 31, 2012.
- Jean Ansolabehere, to the senior citizen advisory board, to serve the remainder of a two-year term, effective September 13, 2010 and expiring on May 31, 2012.

All voted "yes." Motion carried.

16. ADJOURNMENT

Greves moved, Wagner seconded a motion to adjourn the meeting at 9:24 p.m.
All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk