

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, NOVEMBER 8, 2010**

1. CALL TO ORDER.

Schneider called the meeting to order at 6:37 p.m.

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL

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

4. APPROVAL OF AGENDA

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

5. APPROVAL OF MINUTES: October 4, 2010 regular meeting

Wagner moved, Wiersum seconded a motion to approve the minutes of the October 4, 2010 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS: None

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: None

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

A. Claims for council authorization – November 8, 2010

Allendorf moved, Greves seconded a motion to approve the November 8, 2010 claims which includes electronic fund transfers (EFTs) numbered

1375 through 1382 and checks numbered 230692 through 230972 totaling \$1,368,135.75. All voted "yes." Motion carried.

B. Subordination agreement for the Exchange development in Glen Lake

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

C. Resolution adopting the 2011 meeting schedule for the Minnetonka City Council

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010- 110. All voted "yes." Motion carried.

D. Resolution relating to the city's health reimbursement arrangement plan amendment

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-111 to amend the health reimbursement arrangement plan to include a limited-scope HRA for participants participating in a HSA. All voted "yes." Motion carried.

E. Approval of 2010 performance pay for the city manager

Allendorf moved, Greves seconded a motion to approve a lump sum merit pay amount of \$1,271.72. All voted "yes." Motion carried.

F. Resolution for transfer of membership from the Twin Cities Community Capital Fund to the Minnesota Community Capital Fund

Allendorf asked that the item be pulled from the consent agenda. He asked for more information about the fund.

Community Development Director Julie Wischnack gave background information about the fund.

Allendorf stated he was in favor of the fund as this would spur additional economic investment in the city. He suggested putting information in the Minnetonka Memo to inform residents about the program.

Schneider saw the benefit of the fund but recommended focusing the potential use of the gap financing for assisting businesses for start up costs in the village centers. Allendorf agreed but said he did not want to see an economic development tool not be used given the city's focus on being more proactive.

Wiersum indicated in the past the funds have not been used. Tying the funds to the village center development would better ensure that they were used but if other worthy projects came up, he would like to see the funding used for those projects as well.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2010-112. All voted "yes." Motion carried.

G. Amended joint powers agreement for public safety purchasing

Allendorf moved, Greves seconded a motion to approve the third amended and restated joint powers agreement to authorize public safety purchasing. All voted "yes." Motion carried.

H. Line of credit extension for Homes Within Reach

Allendorf moved, Greves seconded a motion to approve a \$18,000 line of credit extension to HWR for the High Point Court property. All voted "yes." Motion carried.

I. Resolution approving loan documents with the Public Facilities Authority for the 169/Bren Road project

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-113 accepting the offer of the Minnesota Public Facilities Authority to purchase a \$5,000,000 general obligation street reconstruction note of 2010, providing for its issuance, and authorizing execution of a project loan agreement. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

A. Applications for renewed liquor licenses for 2011

Gunyou presented the staff report.

Wiersum moved, Allendorf 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 2011, provided that no license shall actually be issued until proof of liquor liability insurance for 2011 is received. All voted "yes." Motion carried.

B. Applications for renewed precious metal dealer licenses for 2011

Gunyou gave the staff report.

Wiersum moved, Allendorf seconded a motion to approve renewed precious metal dealers license for both Evergreene Jewelers and Gold Buyers At The Mall for the license year January 1, 2011, through December 31, 2011. All voted "yes." Motion carried.

12. INTRODUCTION OF ORDINANCES:

A. Ordinances related to the creation of a new economic investment fund

Gunyou gave a brief staff report and requested the council postpone any action on this item, indicating that several issues remained to be resolved for certain councilmembers. The Council agreed with this recommendation.

13. PUBLIC HEARINGS:

A. On-sale liquor licenses for Applebee's Neighborhood Grill and Bar, 12653 Wayzata Boulevard

Gunyou presented the report.

Schneider indicated the public hearing was continued from the previous meeting.

Schneider closed the hearing at 6:45 p.m.

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

14. OTHER BUSINESS:

A. Items concerning Intercongregation Communities Association (ICA) at 12990/13000 St. Davids Road

City Planner Loren Gordon presented the staff report.

Cathy Maes, executive director of ICA, described what was happening at the local foodshelf. She indicated the average number of families who receive food has risen steadily since 2008 with almost 600 families needing assistance. The clients are unemployed, underemployed or are late on rent/mortgage payments. ICA also offers assistance for rent/mortgage or utilities. Hennepin County has increased its funding for this purpose.

Maes explained the number of second food visits has doubled over the last year. She further reviewed the number of emergency bags given to tide family over for three days. Families are in need and the ICA was meeting those emergency needs. To receive a full order of food families currently must wait seven to eight days and more recently the wait has grown to around 12 days. She requested the council be flexible and allow the ICA to be open until 7:00 p.m. on weekdays and from 10:00 a.m.-3:00 p.m. on Saturdays. The organization would continue to be sensitive to the neighboring properties.

Ellingson questioned if any long term planning had been done regarding a second location given the great success of the foodshelf and to meet the needs of those coming from Hopkins. Maes indicated no one foresaw the incredible growth the foodshelf would have over the past three years. She stated she has looked for space in Hopkins, but there was no economical solution at this time, except for the Eisenhower school. Her organization was continuing to look forward to plan for the needs of the area.

Kathy Benhardus, 9809 Ann Lane, president of the board of directors of the ICA, explained how the decision was made to request an extension to the hours of operation. The residents being served are seeking stability given the current unstable economy. She noted the voices of the clients are speaking loudly as the recession was far from over. ICA was extremely conscious of its finances and only nine percent of funds were spent on administrative expenses. She requested the council approve the proposal for extended hours.

Joan Ahrens, ICA executive board member, highlighted how ICA has created critical partnerships with local businesses to ensure its success. She said the business partnerships have been very effective and would continue into the future.

Natalie Thomas indicated she was a recipient of food from the ICA. She stated her family has had medical expenses and she was very thankful for ICA's assistance.

Steve Fredrickson, member of the executive board of the ICA further reviewed the strengths of the ICA in the community. He noted the Hopkins School has been a great partner in raising funds and food for the ICA. The Rotary Club was also involved with food drives to assist with helping its neighbors in times of need. Fredrickson explained the ICA was fortunate to have enough food to meet the needs of the public. The additional operation hours would assist with meeting the current demands.

Ken Ferguson, 2195 Westin Lane, thanked all partners and congregations working with the ICA. He recognized there was a growing need for the services provided by the ICA. He said the additional hours of operation would greatly assist with meeting the needs of the public, and the ICA would continue to work at minimizing the impact on neighboring properties.

Newell Searle, 11558 Fetterly Road, supported the increased hours of operation for ICA. He worked with Second Harvest Heartland and distributed food to those in need. He explained ICA was becoming a model foodshelf with incredible efficiencies. Searle said the amount of pounds of food distributed over the past three years has dramatically increased. He recommended the council approve the increased hours of operation to assist the ICA in meeting the needs of the residents.

Beverly Baker, 12900 St. Davids Road, indicated she has lived at this address for 26 years. She read a letter from Jack and Becky Barbier, 13001 St. Davids Road. The letter disapproved of the commercial use in a residential area stating all neighboring properties were suffering because of ICA's operation. The Barbiers requested another location be sought for this use.

Baker said she supported the food shelf in the community but stated the location was not appropriate. The future growth of the site was never addressed and should have been planned for from the beginning. She requested the hours not be extended as the site was zoned R-1 and the neighborhood did not want additional traffic/delivery trucks. Baker reviewed the hours of operation of neighboring food shelves. The other locations were operating less than 45 hours per week and were not adjacent to residential homes. She asked that the council treat the area as a residential neighborhood and suggested ICA seek a new location given their level of growth.

Baker questioned why a traffic study was not completed. Schneider stated staff indicated the current level of traffic on this street did not warrant a new study. Baker asked if the current facility can support the additional hours of operation and increased clientele. Schneider indicated this would be determined by ICA as the council did not address the internal functions of the food shelf. Baker questioned if growth continued at ICA would it be acceptable for them to be back requesting additional hours of operation. Schneider explained this was the right of any applicant within their permit. Baker asked if the Eisenhower facility would remain in use if the hours of operation were increased. Schneider asked representatives from ICA to respond to that question.

Linda Deroode, 3426 Shady Oak Road, stated she has lived in her home for 18 years and supports the ICA. She supported the mission of these facilities, but opposes what has happen to the neighborhood. A commercial operation should not be allowed to function in a residential neighborhood. Deroode wanted to protect her family, her property value and keep the area residential. She had concerns about her children playing in the yard, and people looking in her windows. The increased traffic along St. Davids would greatly affect the adjacent homes especially given that the road is a dead end road. She suggested ICA present the council with plans for the future to keep the neighbors apprised of their plans. ICA has not considered the quality of life of the property surrounding their site but was only working to assist their clients. She requested the council not allow for extended hours of operation as this would not solve the problems they are facing. She added there have been issues of communication between the ICA and residents throughout the process.

Ellen Simon, 13005 St. Davids Road, indicated four years ago ICA had a problem with space. The solution was to build within a residential area and increase the traffic impact in this area. She stated cars were parked near her home from 7:00 a.m. through 9:00 p.m. each day of the week. The ICA has increased the number of police calls to the area which impacts the neighbors.

William Putnam, 3414 Shady Oak Road, indicated the traffic on St. Davids Road was a growing concern, along with the size and noise from trucks. He noted ICA was a great organization and needed in this economy, but should never have been located in a residential area. No other commercial use would have been approved at this site. He requested the hours not be increased.

Shirley Koski, 3514 Kohnens Circle, understood the importance of the ICA and appreciated their informational meetings and dialogue with the neighbors. Koski stated she has lived at this home for 46 years and requested the council approve the extended hours of operation.

Gwin Pratt, pastor at St. Luke Presbyterian Church reminded the council that it was not ICA's intention or wish to expand their hours. It was to meet the needs of the people in this area, given the state of the economy. He was thankful that there was a resource for those in need and felt the ICA was providing hope and healing for those in need. He requested the council allow for an extension to the hours of operation.

Schneider asked if ICA would still use the Eisenhower facility if the hours were extended at this location. Maes stated no final decisions had been

made, but she would advise the board this location be operational several days a week and on Saturdays.

Wagner asked if the deliveries could be met within the existing hours of operation or if additional time would be needed. Maes stated no additional time would be needed for deliveries, they would be made during operational hours. She understood the concerns of the neighbors and stated ICA would continue to meet the needs of those in the community and those along St. Davids Road.

Wiersum requested ICA review the process on how to secure food for a new family. He questioned if greater efficiencies could be found within this process. Maes reviewed the process in detail with the council. She noted a family was helped every 15 minutes every day. After food is offered, additional resources are offered to assist the families with school and other items.

Greves asked if there were processes used in other areas of the cities to ensure the delivery/garbage trucks are not arriving too early. Gordon noted the operations plan could add provisions for garbage hauling which are tighter than other areas in the city. This would minimize the noise on neighboring properties. Wischnack indicated enforcement can be difficult, but the police department could be brought in for additional assistance.

Wagner indicated land use was discussed for this use. In the past, the council agreed that the use was appropriate and the decision facing the council was what impact the changes would have on the original intent of the council's approval. The challenging economic environment has led ICA to make this request. He was in favor of committing to the extended operating hours for ICA but was reserving support on expanded delivery hours pending further council discussion.

Allendorf noted the peak hours were from 6:00 p.m. to 9:00 p.m. in this neighborhood. With the expanded hours, there would be an overlap with this traffic. He asked if consideration was given to extending the ICA's deliveries to 6:00 p.m. only. Gordon stated peak hour traffic in residential areas was from 6:00-9:00 p.m. with 10 percent of the daily trips happening in these hours. Staff did not discuss the one hour overlap on traffic as the traffic levels on this street were low. Allendorf supported Wagner's recommendation of not expanding the delivery hours.

Schneider stated the one hour overlap would only serve four clients at ICA, so there would not be a huge influx of traffic from 6:00-7:00 p.m. He was in favor of limiting the delivery trucks as suggested by Wagner or changing the delivery hours to 9 a.m. to 5 p.m. to coincide with staff working hours.

Ellingson questioned why the model of four families per hour was chosen. Maes stated it took approximately 15 minutes per family to distribute food and allow the family to meet with a case manager. This model was chosen to keep the meetings discreet. Ellingson asked if home deliveries were made. Maes indicated 4-6 home deliveries were made each day for people that are homebound.

Wiersum asked if the weekday hours would be increased five days a week. Maes clarified the extended hours requested would be for one or two nights per week and the additional hours on Saturday. She explained the church had night activities that would not allow for increased hours Monday through Friday. Maes then reviewed the garbage situation at ICA.

Ellingson asked if it was inefficient to serve only one household at a time at ICA stating that it would be more efficient to allow more people to come each hour. He cited as an example another food shelf that did not require clients to schedule appointments, but to line up each day to wait for service. Maes indicated this model offered greater anonymity and reduced the traffic on St. Davids Road. She felt this model was working smoothly given the number of volunteers at the site.

Wiersum reiterated that ICA provides a valuable service to the community. He agreed with Wagner's suggestion to minimize the commercial aspect of deliveries. Wiersum saw ICA as a mission of the church and if this was not located on this site, perhaps another use would be generating traffic. He did not want to see the current model changed as it would increase traffic along St. Davids Road. Wiersum requested that a time limit be set on the extended hours, perhaps 24 months, and that the operations plan be reviewed at that time to minimize the impacts on the neighborhood if applicable.

Greves noted the charge of the council was to look at the land use for this site. She did not see there would be great adverse effects on the neighborhood by increasing the hours one or two nights a week. Greves requested the commercial deliveries be limited as suggested by Wagner. She was in favor of amending the CUP and operations management plan as recommended by staff. She noted that keeping the anonymity aspect of the ICA process was important.

Schneider commented the community was facing stressful times. While there would be minor inconveniences, the greater needs of the community were being met. He indicated the mode of operation that ICA uses was working well to serve the public. He asked that the neighbors be tolerant at this time and understand that the recession would end, and therefore ICA hours could be reduced. He explained he was supportive of the extended hours.

Allendorf questioned if the neighbors were included in the annual review. Gordon stated the review was currently completed at staff level. He stated the mediation results would involve the neighbors in the future.

Wiersum indicated ICA's operation method was providing their clients privacy and protecting their dignity during a difficult time. He asked that this not be changed.

Wiersum moved, Greves seconded a motion to:

- 1) Adopt Resolution No. 2010-114 which amends and replaces Resolution 2006-031, the existing conditional use permit, for a religious use of the property at 13000 St. Davids Road. Approval is based on the following findings:
 - a) In adopting resolution 2006-031, the city council found that the proposed new building would meet the required conditional use permit standards. The findings of Resolution 2006-031 are incorporated here by reference.
 - b) Extended hours of operation would not alter the findings of Resolution 2006-031.
 - c) Extended hours of operation would not negatively impact peak traffic times on St. Davids Road, which occurs on Sundays and weekday evenings. The projected increase in vehicle trips associated with an increase in hours of operation would continue to meet the finding of the 2006 traffic study: "[while] high for a cul-de-sac residential street ... it is also on the low side of a thru residential street."
 - d) Extended hours of operation would not negatively impact peak parking demand associated with St. David's Episcopal Church, which occurs on Sundays and weekday evenings.
 - e) Extended hours of operation would be nearly indistinguishable from weekend activities and deliveries at St. David's Episcopal Church, which are not regulated by an operation management plan.
- 2) Approve the updated Operation Management Plan for ICA Center at St. David. Approval is subject to the following conditions:
 - a) Appropriate representatives from St. David's Episcopal Church, the property owner, submit to the city written approval of the updated operation management plan.
 - b) ICA makes copies of the updated operations management plan available to all residents.

Wagner, Allendorf, Greves, Wiersum, Hiller and Schneider voted "yes." Ellingson voted "no". Motion carried.

B. Audio system plan for Minnetonka High School located at 18301

Highway 7

Greves recused herself from this discussion.

Gordon gave the staff report.

Hiller asked how the city would be assured that the settings were not readjusted. Gordon indicated there were fail safes within the system to assure that no one user could override the settings. There was a governor to limit the sound coming out of the speakers.

Mike Condon, building supervisor with the Minnetonka Schools, explained the testing was completed without the governors in place but would be in place upon installation.

Schneider stated a median decibel level would benefit the neighboring properties. He questioned if the two speakers in the proposed audio system would be able to produce enough sound at the football stadium. He asked if six speakers at a lower volume would provide a better quality system. Gordon indicated the plan for the baseball field does call for two speakers as the four speakers were too much for the field. He explained that if additional seating were added at the stadium the speaker situation could be revisited.

Dan Cincoski, ATS&R Architects, indicated the two speakers for the baseball field would cover the bleacher area and the two in the field would be removed.

Al Ritchie, 18420 Spring Crest Drive, stated he has lived in the area for 43 years. He enjoys the football games but noted the sound level has increased over the past five years. He spoke with Condon on several occasions. Ritchie requested better contact information be published on the school web site to assure that volume levels can be addressed if there is a concern. The Relay for Life event registered 75 decibels inside his home. He explained his property was to the south and was elevated above the football field. The sound waves are traveling farther and louder than shown within the completed tests.

Hiller noted Spring Crest Drive and at the end of Kingwood Terrace has been an area of concern. Cincoski stated his tests were taken at ground level on the property line. He noted decibel levels were taken again 10 feet in the air at the September 2 game. He indicated the new system would reduce the sound levels and he would be willing to measure the decibel levels at Ritchie's home.

Schneider stated it may be worth the city's time to complete a sound test at Ritchie's home as the wetlands may create an echo effect. He suggested the school district have a central point of contact for the residents to call if sound problems occur during an event at the ball fields.

Allendorf moved, Wiersum seconded a motion to approve the audio system plan for the Minnetonka High School at 18301 State Highway 7 with the following condition:

1) Any change to athletic fields or audio system equipment will require system testing and review.

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

C. Resolution providing for the issuance and sale of approximately \$2,710,000 General Obligation Open Space & Park Improvement Refunding Bonds, Series 2010A

Finance Director Merrill King presented the staff report. She noted one of the upsides of the recession was improved interest rates for bonds. The city was prepared to sell the bonds which would save the city \$260,000 over the life of the bonds.

Wagner moved, Greves seconded a motion to adopt Resolution No. 2010-115 providing for the issuance and sale of approximately \$2,710,000 General Obligation Open Space & Park Improvement Refunding Bonds, Series 2010A. All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None

16. ADJOURNMENT

Greves moved, Wiersum seconded a motion to adjourn the meeting at 8:56 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk