

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, NOVEMBER 22, 2010**

1. CALL TO ORDER.

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

4. APPROVAL OF AGENDA

Wiersum moved, Greves seconded a motion to accept the agenda with an addendum to Item 10B. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES: None

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:

A. Bids for the Williston Center indoor play structure

Gunyou presented the report.

Allendorf asked if staff could review why Clearwater Recreation was chosen, as this was not the low bid. Williston Center Manager Kelly O'Dea indicated five bids were received. The major differences were the size and scale of the play structures. The bid recommended by staff had more square footage and features.

Schneider indicated this play structure would be a huge draw to the Williston Center. He suggested an open day for kids be planned at the Center once or twice a month. O'Dea agreed that was a good idea.

Greves stated Clearwater Recreation had provided a great deal of amenities through their plan while also going beyond minimum ADA requirements.

Greves moved, Wagner seconded a motion to award the contract to Clearwater Recreation, LLC. All voted "yes." Motion carried.

B. Quotes for document management system

Gunyou gave the staff report. He indicated the new system would allow the city, with all of its departments, to have one document management system, while becoming more online friendly.

Allendorf moved, Greves seconded a motion to award contract to Loffler Companies. All voted "yes." Motion carried.

C. Items regarding the acquisition of structural firefighting turnout gear

Gunyou presented the report. He indicated the fire department was requesting to purchase equipment through the joint powers agreement, which has become a cost effective way to purchase equipment. Collective bids were received for the turnout gear.

Wagner moved, Greves seconded a motion to:

- 1) Award the contract for acquisition of structural firefighting turnout gear on behalf of the joint powers group to Honeywell First Responder Products;
- 2) Approve the 5-year lease of structural firefighting turnout gear equipment off this contract at a total cost of \$141,394.95.

All voted "yes." Motion carried.

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

A. Claims for council authorization – November 22, 2010

Allendorf moved, Greves seconded a motion to approve the November 22, 2010 claims which includes electronic fund transfers (EFTs) numbered 1383 through 1390 and checks numbered 230973 through 231271 totaling \$2,984,645.69. All voted "yes." Motion carried.

B. Approval of the Minnetonka Housing Action Plan

Wagner asked for this item to be pulled from the consent agenda. He indicated he was unable to attend the study session the past Monday and he wanted to share his thoughts. He said there were two goals included in the comprehensive plan related to the item. The comp plan indicates that the city should preserve its housing stock, while maintaining affordability; and secondly, to attract more young families to the city. He encouraged the council to consider these goals while proceeding with the HRA levy related to programs for first time home buyers and housing rehabilitation.

Wagner moved, Wiersum seconded a motion to approve the Housing Action Plan. All voted "yes." Motion carried.

C. Resolution adopting Hennepin County Hazard Mitigation Plan

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-116 approving the Hennepin County Hazard Mitigation Plan. All voted "yes." Motion carried.

D. Resolutions approving a conditional use permit to operate a daycare on the property at 1712 Hopkins Crossroad

Allendorf moved, Greves seconded a motion to:

- 1) Adopt Resolution No. 2010-117 approving a conditional use permit for a daycare center serving up to 25 children at 1712 Hopkins Crossroad. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:
 - a. Prior to issuance of a building permit,
 - (1) Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
 - (2) Submit evidence of all applicable state, county, and city licenses.
 - b. The daycare must have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements.
 - c. The daycare must have outdoor play areas located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas.
 - d. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - e. 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.
 - f. The applicant must agree to these conditions in writing.

- 2) Adopt Resolution No. 2010-118 amending and replacing Resolution 2008-035 for a religious institution and facility at 1712 Hopkins Crossroads. Approval is based on the following findings:
- a. A daycare use is a complimentary use to the existing religious use in the building.
 - b. The parking demands of the religious use occur during off-peak hours, opposite of the daycare use, whose peak hour parking demands occur during normal business hours. This mitigates for impacts on the nearby residential neighborhood and daily traffic on Hopkins Crossroad.
 - c. A daycare use would require less parking stalls than any permitted office use, which would be allowed to locate within the leasable office space without city review.
- Approval is subject to the following conditions:
- a. Prior to issuance of a building permit, record this resolution with the county. A copy of the recorded resolution must be returned to the city.
 - b. The first level leasable space may only be occupied by uses permitted by ordinance and uses which would not require parking in excess of an office use.
 - c. Snow may not be stored within the paved surface of the existing parking lot.
 - d. Any intensification of the synagogue use which results in additional parking requirements or observable parking problems would require city review of the conditional use permit.
 - e. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - f. Any change to the approved use that results in a significant increase in traffic or a significant change in character (additional membership or building occupancy) would require an amendment to the conditional use permit.
 - g. The property owner must agree to these conditions in writing.
 - h. This resolution amends and replaces City Council Resolution 2008-035 adopted on April 7, 2008.

All voted "yes." Motion carried.

E. Resolutions and modified sign band concerning a restaurant at 12977 Ridgedale Drive

Allendorf moved, Greves seconded a motion to:

- 1) Adopt Resolution No. 2010-119 approving a conditional use permit for a 2,910 square foot fast food restaurant with outdoor patio at

12977 Ridgedale Drive. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- a) Complete the following prior to issuance of a building permit:
 - (1) Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
 - (2) Submit a final landscape plan for staff review and approval. The plan must meet the landscape standards outlined in the zoning ordinance.
 - b) The restaurant must be developed and maintained in substantial conformance with the plans date-stamped September 22, 2010.
 - c) The restaurant must obtain all applicable food and liquor licenses from the city.
 - d) The patio must be shifted slightly to the north and a sidewalk must be provided around the patio to maintain the existing walkway from front of the building to the back parking lot.
 - e) The outdoor patio must be equipped with refuse containers and patrolled daily for litter pick-up.
 - f) The outdoor patio must not have speakers or audio equipment that is audible from adjacent residential parcels.
 - g) The outdoor seating area must be surrounded by a physical barrier that prevents access to the area except through the building. Any openings or gates must be required by the building code and must be equipped with self-closing and self-latching gates.
 - h) A sign must be installed indicating additional parking at the rear of the building.
 - i) The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - j) 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.
 - k) The applicant must agree to the above conditions in writing.
- 2) Adopt Resolution No. 2010-120 which repeals existing sign covenants at Ridge Square North shopping center. Approval is based on the following findings:
- a) Elimination of the covenants is appropriate because the covenants are more restrictive than the current sign ordinance.
 - b) Signage for the property can be appropriately regulated by the provisions of the sign ordinance.
 - c) Elimination of the sign covenants ensures that future signs on the property would be subject to the current ordinance standards at the time.

- d) Regulating signs through the sign ordinance, rather than with covenants, decreases complication for the property owner, tenants, sign contractors and city staff. It also ensures that the shopping center is regulated the same as comparable commercial properties.
- 3) Approve a modified sign band for the location of Noodles & Company wall signs at Ridge Square North at 12977 Ridgedale Drive. Approval is based on the following findings:
 - a) City Code Section 300.30 Subd. 5(b)(1)(e) allows the planning commission to approve a modified sign band to allow for architectural integration of the tenant sign.
 - b) The proposed signs are attractively designed to integrate into the architecture of the shopping center.
 - c) The proposed signs have a proportional relationship to the scale of the building.
 - d) The signs address the unique visibility of the tenant space. The tenant space is located on the end-cap of the building and functions similar to an anchor tenant of the shopping center.

Approval is subject to the following conditions:

 - a) Sign permits are required for the wall signs. Prior to issuance of the sign permits, the resolution eliminating the sign covenants for Ridge Square North must be filed with the county and copy of the recorded resolution returned to the city.
 - b) The signs must be constructed in substantial conformance with the plans date-stamped September 22, 2010.
 - c) The signs graphics shown on the awnings are not allowed.

All voted "yes." Motion carried.

F. Resolution authorizing correction of Ordinance No. 2010-07 and 2010-15

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-121 authorizing correction of Ordinance No. 2010-07 and 2010-15.

All voted "yes." Motion carried.

- 11. **Items requiring Five Votes:** None.
- 12. **INTRODUCTION OF ORDINANCES:** None
- 13. **PUBLIC HEARINGS:**

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

City Attorney Desyl Peterson recommended the council open and close the public hearing and take no action at this time as there was not unanimous consensus between the members on the issue.

Schneider opened the hearing at 6:47 p.m.

Schneider closed the hearing at 6:47 p.m.

14. OTHER BUSINESS:

A. Concept plan for 12708 and 12720 Wayzata Boulevard

City Planner Loren Gordon presented the report.

John Duffy, Duffy Development, explained the site would provide a great location for a high density residential unit in close proximity to transportation and jobs.

Wagner indicated the site has been underutilized. He would support proof of parking instead of the proposed extra parking to provide additional green space. He wondered if the council would support a land use amendment for the two properties rather than the four properties going up to the dealership. It might make more sense to do the two properties given the current economy. He indicated he was supportive of the concept plan.

Schneider noted if the guide plan were changed and the land use remained the same, there would be an incompatibility between the two that the Met Council typically frowns upon. Community Development Director Julie Wischnack stated this may be a problem with the neighboring properties to the east. However, the principles set in the comprehensive plan would assist with the land use change.

Wagner asked if rezoning the two parcels to high-density residential would negatively affect the city's ability to redevelop the adjacent properties in the future. Wischnack indicated staff has had discussions with the developer about expanding the scope of the project area to see if that would be a possibility.

Wiersum believed changing the land use from commercial to residential was much less controversial than the reverse. Although the location off Wayzata Boulevard was less than ideal, he felt the concept plan made sense given the opportunity for affordability and proximity to transportation.

Greves asked for further information on the affordability of the proposed units. Duffy explained the majority of the units would be affordable. He noted a market study would be conducted to assist with providing additional information. Income levels would be considered with Met Council standards.

Greves expressed concern with how the unit would fit along Wayzata Boulevard. Duffy indicated the main entrance would be off Marion Avenue with doors also exiting to a bus stop.

Allendorf asked what expectations the developer had in TIF or grants to complete this development. Wischnack explained there was a financial gap. The EDAC would be approached to discuss TIF pooling money, or a TIF district. She indicated it made more sense to use the TIF pooling for the million dollar gap. The developer was applying for a tax credit as well. Duffy stated federal and state tax credits would be applied for along with a first mortgage and a deferred mortgage through Minnesota Housing. After meeting with them, the development's numbers were within range. However, without city and county support, the development could not continue.

Allendorf asked how the county could contribute and if they were supportive of the concept plan. Duffy stated he has completed several similar projects in Hennepin County and his company has a long working history with the county. The application for the concept plan was due in January. Wischnack explained the project, if approved, was scheduled for 2012. Allendorf indicated he was supportive of the plan as there were a number of positives for the city while also providing more affordable housing within the city.

Hiller felt the comprehensive plan should not be amended just because the economy was down. He was not convinced this was a more appropriate use than a commercial use along Wayzata Boulevard. He wanted to be assured that by placing a residential structure on this site that it would not hinder commercial growth in the area.

Ellingson asked if staff could discuss the pros and cons from a planning perspective. He expressed concern with placing a residential unit in the middle of a commercial district adjacent to a major freeway. Gordon stated the surrounding uses could also become high density residential or office. Much would depend on the road improvements that might be made.

Wagner agreed this side of Wayzata Boulevard was challenging for commercial businesses. He indicated this site may also be challenging for

a high-density residential unit, but the close proximity of transportation was key. He asked what measures would be taken to reduce the noise impact on this building. Duffy explained he had two other developments close to freeways. The topography change was the difficult issue to deal with, but the construction of the building would make the difference. The unit would be stick built with triple glazed glass windows to reduce noise. He noted that the site was difficult for commercial use because of the lack of visibility and the difficulty in getting back to the site.

Wiersum indicated the site had a great deal of strong pros and cons. Good developable land was scarce in Minnetonka. He stated he was open to considering a creative use on this site.

Schneider asked if the parking requirement was one inside and one outside for these types of developments. Gordon stated the current requirement was two parking spaces per unit. Schneider said he was concerned that if one inside space and one outside space was not doable, a variance would be needed or the number of units would need to be reduced.

Schneider asked if the trash receptacle would be visible and if this would remove additional parking spaces. Duffy indicated each unit would have one space within an underground garage and exceeds the city's parking requirements by two stalls. He stated the trash and recycling plan could be forwarded to council.

Wagner stated the appeal of this project would be the transit opportunity. Wischnack indicated staff was discussing this site being a planned unit development.

Schneider explained the site did create a lot of challenges but he was generally supportive of the concept plan. He wanted to see the site become compatible with the surrounding commercial uses while providing additional affordable housing units in the city.

B. Extension of the FETTERLY VIEW final plat at 11519 Fetterly Road West

Gordon presented the report.

Wagner noted the issue was discussed in July. He expressed concern with staff's recommendation given the fact the neighbors have raised no objections to the final plat. Gordon said the approvals from 2005 contain language that is different than language that would be included as part of going through the process now. The storm water and wetland delineation plan would have to be updated along with a tree review. The approval

documents are different from what they were five years ago because of the new rules in place. Wagner said that was known in July and the landowner still went through the process. He suggested separating the staff argument about going through the public process that has already been done, and allowing the plat to proceed with updated technical documentation.

Schneider questioned if it was feasible to allow the extension of the plat with conditions. Gordon stated a level of review would have to be completed to be assured everything was being addressed. Peterson stated the council has the ability to deny the extension and therefore has the ability to approve it with attached conditions instead. The issue was one of timing. Staff review may not be completed by the end of December.

Wiersum stated that the council had made the decision the extensions should not be automatic. At the same time the applicant has complied with what he was asked to do. Considering the economy downturn the city could be creating a hardship on the applicant. But he did not want to see the city lose money on staff time on these issues. He suggested the item be denied as the staff has recommended or that a hybrid approach be taken with an additional fee to bring the documentation into compliance.

Dick Heimerl, 11519 Fetterly Road, indicated he had requested numerous extensions as the economy had changed over the past five years. This plat has become a financial disaster and a great deal of money has been spent to date. He indicated a denial of this request could kill the project altogether. He said he did not have the funds to upgrade the roadway but would not object to updating the wetland delineation or storm water plans. Heimerl requested the council approve the extension with upgraded documentation.

Allendorf commented that since nothing had changed since July and there are no negative comments from the neighbors, conditions for approval should be put on the plat to let it be extended. He was conflicted with the age of this plat but did not want to see the council put an undue hardship on the applicant.

Hiller explained there was a reasonable amount of time for the plat documentation and he was reluctant to approve the extension. He understood this would place a hardship on the applicant, but felt there was a limit on the amount of time and the extensions should not just be continually approved.

Greves agreed with Hiller's comments. She was sympathetic with the applicant, but felt the established process was created to eliminate

increased costs and staff time to resolve these types of issues. She said the storm water issue was also a concern for her. She was in favor of denying the extension.

Schneider stated he was conflicted as well, given the fact the market for single family homes has changed over the past five years. He originally thought the plat should be denied unless this would lead to foreclosure of the property. He indicated in this case the applicant had tried his best to do the right thing all the way through the process, and it wasn't right to penalize the applicant by making him start all over if conditions could be established before the final plat was approved.

Wagner stated he would be in favor of approving the extension contingent upon the completion of an updated storm water plan, wetland delineation and validation that the approved plan complies with the city's tree ordinance by a date specific. Peterson said she was concerned some of the changes could end up changing the lot lines. Wagner asked if the council could remove the final plat approval but reinstate a preliminary plat based on the conditions stated above. Peterson indicated the council could extend the approval of the final plat subject to the contingencies being met with perhaps an amendment made to the final plat.

Allendorf asked if the additional staff time for this issue could be tracked and passed along to the applicant. Gordon stated staff time could be tracked and billed accordingly. He indicated applications were typically \$1,300, but he felt the time to resolve this issue would be less than a full application. Allendorf said he would support the extension with conditions and wanted to see the additional staff time reimbursed.

Wiersum agreed stating an appropriate charge was a reasonable request.

Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2010-122 approving a twelve-month time extension of the FETTERLY VIEW final plat contingent upon the applicant providing an updated storm water plan, wetland delineation, and tree inventory and bringing the plat into conformance with current requirements. Any amendments to the final plat would be brought back to council. An appropriate and reasonable fee must be paid by the applicant to reimburse the city for staff time. Ellingson, Allendorf, Wiersum, Wagner, and Schneider voted "yes." Greves and Hiller voted "no". Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None

16. ADJOURNMENT

Wagner moved, Wiersum seconded a motion to adjourn the meeting at 7:54 p.m.
All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk