

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, DECEMBER 6, 2010**

1. CALL TO ORDER.

Schneider called the meeting to order at 6:31 p.m.

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL

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

4. APPROVAL OF AGENDA

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

5. APPROVAL OF MINUTES: October 25, 2010 regular meeting

Wagner moved, Greves seconded a motion to approve the minutes of the October 25, 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.

Greves indicated she attended a National League of Cities conference last week. The event was very well done with the majority of the sessions geared towards sustainability. She distributed information from the conference.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

Kevin Smith, 3525 Elmwood Place, requested the city work with the business owners/proprietors to provide assistance with hanging Christmas lights along County Road 101. He explained that nearly every neighboring community has holiday lights. Schneider indicated it was not the role of the city to get the businesses to put up lights. He encouraged Smith to take up this issue with the business owners. The city was not in the position of funding Christmas lights.

Gunyou indicated staff had been willing to facilitate the process, but no interest had arisen from the area business owners.

9. BIDS AND PURCHASES: None

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

A. Resolutions to authorize use of Hennepin County Affordable Housing Incentive Funds by Homes Within Reach

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

- 1) Resolution No. 2010-123 authorize use of 2009 Hennepin County Affordable Housing Incentive Funds in Minnetonka by Homes Within Reach.
- 2) Resolution No. 2010-124 authorize use of 2010 Hennepin County Affordable Housing Incentive Funds in Minnetonka by Homes Within Reach.

All voted "yes." Motion carried.

B. Resolution authorizing the Minnetonka Police Department to enter into a DWI Enforcement grant agreement

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-125. All voted "yes." Motion carried.

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

Schneider requested an update on this item. Gunyou reviewed the bond information and stated through this refinancing the City would save tax payer dollars.

Kathy Aho, Springsted Inc., said the city has maintained a Aaa bond rating, which was a positive reflection on the city's strong financial position. She indicated the lowest bond financing rate came from Piper Jaffray from among seven bids received. The present value savings for the city would be \$230,000. The future value dollars the savings will average around \$47,500 per year for the years the issue is outstanding.

Wiersum moved, Allendorf seconded a motion to adopt Resolution No. 2010-126 awarding the sale of approximately \$2,710,000 General Obligation Open Space and Park Improvement Refunding Bonds, Series 2010A. All voted "yes." Motion carried.

D. Resolution reaffirming previous preliminary and final plat approvals for STRATFORD WOODS SECOND ADDITION

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-127 which reaffirms the previous preliminary and final plat approvals, subject to previous conditions of approval. All voted "yes." Motion carried.

E. General services agreements with consulting engineering firms for the period of 2011-2013

Allendorf moved, Greves seconded a motion to approve the general services agreements for the three-year period of 2011-2013 with the following firms:

Engineering - General Municipal, Structural and Traffic Engineering / Transportation Planning

- a. Hansen Thorp Pellinen Olson Inc.
- b. Kimley-Horn and Associates, Inc.
- c. Short Elliott Hendrickson Inc.
- d. SRF Consulting Group, Inc.
- e. WSB & Associates, Inc.

Water Resources and Environmental Engineering

- a. Barr Engineering Company

Geotechnical Engineering and Materials Testing

- a. American Engineering Testing, Inc.
- b. Northern Technologies, Inc.

Public Works - Utility, Mechanical and Electrical Engineering

- a. Advanced Engineering and Environmental Services, Inc. (AE2S)
- b. Albertson Engineering, Inc.
- c. In-Control, Inc.

Planning, Landscape Design/Parks, and Natural Resource Management

- a. Brauer & Associates, Ltd.
- b. Kjolhaug Environmental Services Company

All voted "yes." Motion carried.

F. Resolution approving agreement with the city of Shorewood for Vine Hill Road

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010-128 approving the Joint Powers agreement with the city of Shorewood. All voted "yes." Motion carried.

G. Extension request for APPLEWOOD POINTE OF MINNETONKA located at 5709 Rowland Road

Hiller expressed concern with how the extensions are being handled. He said there have been changes in the city code that affect this development since the original application came before the council. Peterson indicated the recent variance court decision does not apply to this application because the variances were granted before the decision.. No new variances would be approved through this extension.

Hiller suggested in the future, the language within the extension be amended to reduce confusion.

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

H. Resolution amending the city's flexible spending account plan

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2010- amending the flexible spending account (FSA) plan to incorporate summary material modifications and the most recent and relevant regulatory changes. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES: None

13. PUBLIC HEARINGS:

A. Items concerning TERRATONKA:

- 1) Reaffirmation of previous preliminary plat approval;**
- 2) Final plat; and**
- 3) Vacation of public right-of-way, and drainage and utility easements**

City Planner Loren Gordon presented the staff report.

Wagner asked if the lot to the north of lot number four was new or an outlot. Gordon indicated the lot would be a buildable lot with access from Forest Lane. He clarified that there were actually eight lots within this subdivision and not seven.

Wagner recalled the previous debate was deciding on six or seven lots within this subdivision and not eight. He was not comfortable with the change in lots.

Schneider asked staff to research this item further and provide additional information to council regarding the original number of lots. The item was continued to allow staff time to do the research.

Gordon reviewed the lot lines in further detail. There are in fact only seven lots. There are easements lines across Lot 4 that make it look like two lots, but there is only one.

Schneider opened the hearing at 7:53 p.m.

Schneider closed the hearing at 7:53 p.m.

Wagner moved, Hiller seconded a motion to:

- 1) Adopt Resolution No. 2010-130 which reaffirms the previous preliminary plat approval and grants final plat approval to TERRATONKA. Approval is subject to the following conditions:
 - a. Compliance with all preliminary plat conditions outlined in Resolution 2009-042.
 - b. In addition to the items outlined in Resolution 2009-042, the existing private easement on the east side of the subject property must be released and proof of this release provided to the city prior to the city's release of the plat.
 - c. Unless the city council receives and approves a request for time extension, the final plat must be recorded within one year of council approval of the final plat. If not recorded within one year, the approval of the council will be null and void.
- 2) Adopt Resolution No. 2010-131 which vacates existing public right-of-way and drainage and utility easements. Approval is based on the following findings:
 - a. The petitioner is the owner of the land abutting the subject right-of-way and easements and is, therefore, proper petitioner.
 - b. Upon filing of the TERRATONKA plat, the city will no longer require the subject right-of-way or easements.
 - c. Vacating the subject right-of-way and easements is not counter to the public interest.

The vacation is subject to the following condition:

 - a. This vacation of an existing right-of-way and easements is effective only upon proper recording of TERRATONKA.

All voted "yes." Motion carried.

B. Development District No. 1 and Tax Increment Financing District No. 2 modifications

Community Development Director Julie Wischnack presented the staff report. She explained not all documentation was available at this time and requested the council continue the public hearing on this item to December 20th, at which time further action can be taken.

Schneider opened the hearing at 7:00 p.m.

Hiller expressed concern that this was considered the first public hearing when no information was provided this evening. Wischnack indicated statute required only one public hearing and the continuance would allow for two public hearings on this item.

Wiersum moved, Hiller seconded a motion to continue the public hearing on this item to December 20, 2010. All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. 2011 Street Rehabilitation, Holdridge Drive/Sheridan Hills Road Area

City Engineer Lee Gustafson presented the staff report.

Gustafson noted an informational meeting was held on October 4. At this meeting, discussion ensued regarding the possibility of burying overhead utilities. Staff made it clear at the meeting that the city does not participate financially in burying utility lines in residential neighborhoods similar to this one. The expense would be assumed by those benefiting from this service. Cost estimates were then reviewed with the neighborhood and no further comments had been made from the residents. The schedule for this project was reviewed in detail.

Greves requested further information on the costs projected for this project related to the utility fund. Gustafson stated the plans were preliminary and would be finalized over the winter. He indicated additional costs would require a CIP amendment.

Allendorf asked for clarification if the residents were willing to cover the entire \$3.2 million expense to bury the power lines. Gustafson clarified that this was the total project cost, and not the cost to bury the overhead utilities. He further explained that the residents who submitted the petition have not made any indication or shown interest in covering the utility line burial expense.

Wiersum questioned what the cost of burying the utilities would be. Gustafson noted the expense per property would be \$6,900-\$7,600 per property.

Wiersum noted the \$3.2 million cost was the total cost of the rehabilitation project. He asked what the cost of burying the utility lines would be in the area. Gustafson indicated the cost for burying the lines would range from \$6,900 to \$7,600 per property. Wiersum pointed out that the city does not assess for streets. If the project were taking place in another city, a percentage of the total project cost would be assessed to the homeowners. Gustafson indicated the state requires that at least 25 percent be assessed, but some neighboring communities assess over 40 percent of the project cost. Wiersum noted that the expense to bury the utility lines would be less than the state minimum assessment if the costs for the project were assessed.

Karen Holmberg, 15800 White Pine Drive, expressed concern about the concrete curb and gutter due to safety concerns and the added mess created in the road. She requested a lay-down curb, as has been done in Plymouth, be further investigated. Schneider indicated this issue has been discussed by the council for the past 20 years and the consensus was that concrete curb was better for drainage and long term life cycle costs. He acknowledged not all on the council shared that opinion.

Holmberg said with the curve in the road, if there were cars parked on the street, the road would be blocked. Schneider asked how compatible the impact of the curbing was on the narrower widths because if people see a curb they don't park as close as they normally would. Gustafson said at times that is an issue but it was an infrequent issue. What was being proposed was no different than what is currently being experienced. He said in general the situation for on street parking was being improved. Schneider asked if the storm sewer system and curbing would drain water off the road during a normal rainfall in most of the areas. Gustafson indicated that it would, and one benefit of concrete curb and gutter is that it maintains the drainage patterns.

Luke Van Santen, 2148 Sheridan Hills Road, also requested no concrete curb and gutter on his street because of safety concerns. He suggested the modified curb be used instead. He also suggested for some of the wider sections, the width be narrowed down to a maximum of 24 feet that would provide a slight cost savings for the city and reduce the speed along Sheridan Hills Road.

Wagner asked if staff would consider a lower profile curb for this improvement project. Gustafson said curb could be reduced to 4" as was done in Sherwood Forest but the difference would not be that detectable. His preference would be to keep the city standard of 6" to keep the water within the curb line rather than creating the possibility of it overtopping and running through yards. He indicated surmountable curb added further

width to the white and would reduce the width of the already narrow roadways.

Wiersum asked what was meant by the term "flat curb". Gustafson said a flat curb was the same width but would be flattened in low areas to allow for drainage into a grassy swale. These details would be further honed through the design period. He explained the deterioration of streets was greatly enhanced when water was not draining properly from the surface of the roadways. The goal was to provide the upgrades of curb and gutter to lengthen the life expectancy of city streets.

Greves asked if the city was considering curb cut rain gardens if residents were open to the possibility. Gustafson said city staff was willing to work with homeowners as this could be completed at no cost to the resident. He encouraged the residents to speak with city staff if interested. Greves also encouraged all residents interested in pursuing a rain garden to speak with city staff.

Holmberg said currently her road drains very well and she felt she and her neighbors' concerns about parking and the dangerous curves were not being heard. She questioned why if the residents don't want concrete curb and gutter they were being installed. Schneider indicated that they had heard the concerns but there was a difference in opinions about the correct solution.

Van Santen volunteered his property for a rain garden. He requested the installed curb be provided for the residents who live in the neighborhood and not for those who are driving through it.

Allendorf suggested it might be beneficial to get feedback from other residents who lived in the neighborhood. He indicated he would be in favor of a bituminous curb but did not support the residents' request of no curb at all.

Wagner agreed no curb would degrade the roadway over time. He questioned what level of flexibility the city was willing to take with concrete and the size of the curb. He requested staff provide information about rain gardens and curb cuts for future projects.

Wiersum said the issue of curb height was becoming more of a concern than the material being used. Clearly a 6" curb was not going to be jumped by a car and would reduce the width of the roadway for this neighborhood. He said he supported concrete curbs in general because they were fiscally prudent.

Ellingson indicated the 4" curb may be a good compromise for this street rehabilitation area and should be considered for future projects as well.

Hiller requested information from staff as to the differences between a 4" and 6" curb. Gustafson described the differences as the holding capacity of the curb during a rain event. Water could run into the street or boulevard if a shorter curb was used.

Wiersum said he preferred to give staff flexibility in determining if there are places where a 6" curb was necessary for a water holding capacity.

Schneider was in favor of the 4" curb as this provided for greater safety in the neighborhood.

Wagner moved, Allendorf seconded a motion to Adopt Resolution No. 2010-132 with 4" rather than 6" curb, to receive the petition and deny the request to bury the overhead power lines. All voted "yes." Motion carried.

B. 2011 Budget Hearing

Gunyou reviewed the proposed 2011 budget indicating the city has repositioned for long-term stability given the economic downturn. He explained the preliminary levy was reduced from a 3.4 percent increase to a 2.9 percent increase, which will now result in a city property tax increase of \$26 for the average value home in Minnetonka.

Allendorf asked if the HRA levy was going to be addressed at this meeting. Gunyou indicated this could be discussed either at this meeting or at the next meeting. Schneider stated no formal decision would be made this evening and suggested the HRA levy would be better discussed at the next meeting.

Schneider asked if there was a shift in property taxes between residential and commercial properties. Gunyou indicated Minnetonka has not seen a big drop in residential property values that has been seen in other cities. Similarly, Minnetonka's commercial property values have remained relatively steady compared to other cities. This has helped homeowners because the commercial properties have shouldered a little bit more of the overall tax burden. This has not been the case in other cities.

Greves asked if the existing balance from the homebuyer assistance and home renovation funds could be transferred to the 2011 budget. Gunyou indicated this would provide a source of funds for 2011, but would not continue past 2011 if the HRA levy was reduced.

Thomas Keenan, 5378 Beachside Drive, thanked Gunyou for the thorough report that answered most of his questions. He asked how often a home was evaluated for the taxable market value. Gunyou indicated there was a system based on property characteristics and actual sale prices during the year that allowed for each home to be revalued on paper annually. In addition, 20 percent of the homes were valuated on site each year.

Keenan asked where the budget increases were for 2011. Gunyou explained a percentage of increases were going to the new fire apparatus fund as well as city services. Health benefits were also another area of increase, given the double digit increases in health care costs. State mandates also caused some of the budget increases.

Robert Schmidt, 16001 Tonkawood Court, indicated the fees charged for stormwater had increased. While he did not object to the expense, he felt this should not be a fee but rather an addition to the property taxes because property taxes can be deducted from income taxes. He recommended the city not charge fees for services that cannot be refused and requested the recycling fee also be added to property taxes. Gunyou said Schmidt was correct that fees were not tax deductible. If the stormwater fees were shifted over to property taxes it would require a seven percent increase in the levy. The city would not want to do that nor could it due to levy limits. Schmidt suggested the city hire a better lobbyist.

Greves indicated the city has discussed fees in a recent study session. There may be some changes in the basic utility charges based on the discussion.

Schneider closed the hearing at 8:31 p.m.

15. APPOINTMENTS and REAPPOINTMENTS: None

16. ADJOURNMENT

Wiersum moved, Greves seconded a motion to adjourn the meeting at 8:32 p.m.
All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk