

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, FEBRUARY 14, 2011**

**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**

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

**4. APPROVAL OF AGENDA**

Wiersum moved, Greves seconded a motion to accept the agenda with addenda to items 14A and 14B. All voted "yes." Motion carried.

**5. APPROVAL OF MINUTES: None**

**6. SPECIAL MATTERS: None**

**7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS**

Gunyou said that there was record attendance for this year's Kid Fest. He 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 – February 14, 2011**

Allendorf moved, Hiller seconded a motion to approve the February 14, 2011 claims which includes electronic fund transfers (EFTs) numbered 1443 through 1450 and checks numbered 232658 through 233080 totaling \$2,306,902.47. All voted "yes." Motion carried.

**B. Resolution amending the ICMA Retirement Corporation Administrative Services Agreement for Plan Number 300158**

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2011-006 amending the ICMA Retirement Corporation Administration Services Plan Agreement for Plan #300158. All voted "yes." Motion carried.

**C. Resolution approving a conditional use permit, expansion permit, and site and building plan review to expand the school's existing school bus loading area and east parking lot for Groveland Elementary School at 17310 Minnetonka Blvd**

Allendorf moved, Hiller seconded a motion to adopt Resolution No. 2011-007 which approves a conditional use permit, site and building plan review, and an expansion permit for expansion of the school bus loading area and east parking lot at Groveland Elementary School. Approval is based on the following findings:

- 1) The proposal meets the general conditional use permit standards as outlined in city code.
- 2) The proposal meets the site and building plan review standards as outlined in city code.
- 3) The applicant has met the burden of proof for an expansion permit outlined in City Code §300.29 Subd. 7(c):
  - a. REASONABLE EXPANSION: The proposed expansion is a reasonable use of the property. The expansion would maintain an increased setback from the east property line, which provides for a more functional parking lot layout.
  - b. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The nonconforming setback and the jog in the east property line are circumstances not common to every property. This is not caused by the property owner, is not solely based on the convenience of the property owner, and it is not based on economic considerations.
  - c. NEIGHBORHOOD CHARACTER: The expansion would not adversely affect or alter the essential character of the neighborhood. The parking lot would provide adequate separation from the east property line for access, landscaping, and snow storage.

Approval is subject to the following conditions:

- 1) A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit applicant has been submitted, reviewed by staff, and approved.
  - a. The following must be submitted for the grading permit to be considered complete:
    - (1) A recorded copy of this resolution.

- (2) Final site plan and parking layout plans. The east parking lot configuration must be revised to provide angled-parking to establish the one-way circulation plan, subject to staff review and approval.
  - (3) Final grading and erosion control plans.
  - (4) Final drainage and stormwater plans. The plans must meet the Rule A Criteria for all areas of new or disturbed existing impervious surface. The stormwater management plan must also include a narrative documenting compliance with these standards.
  - (5) Final landscape plans. The plans must meet the minimum landscape value outlined in the zoning ordinance.
  - (6) 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.
  - (7) 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) Install a temporary rock driveway, erosion control, and tree protection fencing for staff inspection. These items must be maintained throughout the course of construction.
  - (2) Submit cash escrow in the 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: (1) 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 (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- 2) Permits may be required from other outside agencies including, but not limited to, MnDOT, Hennepin County, Riley Purgatory-Bluff Creek Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.

- 3) Comply with all monitoring requirements of other appropriate regulatory agencies.
- 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 5) 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.
- 6) The applicant must agree to the above conditions in writing.

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

**D. Resolution approving a conditional use permit to operate a retail store in an existing office building at 11320 Minnetonka Mills Road**

Allendorf moved, Greves seconded a motion to adopt Resolution No. 2011-008 which approves a conditional use permit for a retail shop of not more than 1,450 square feet at 11320 Minnetonka Mills Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) 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.
- 2) Any retail use of the space must be limited in scope and must compliment the office tenants located in the building.
- 3) The retail use must comply with the city's sign regulations.
- 4) The retail use may not result in any exterior building modifications, including truck docks, separate entrances, freestanding signs or overnight truck parking.
- 5) The retail use may not exceed more than 1,450 square feet.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) 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.
- 8) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**E. Resolution amending the existing conditional use permit for cemetery use of the existing properties at 3300 and 3228 Woodlawn Avenue**

Wiersum asked that the item be pulled from the consent agenda. He noted there had been much previous discussion about the item. He reported that he attended a recent meeting between the cemetery association and the

neighbors. All the parties came to an agreement. The cemetery association agreed to put a hedge halfway into the new area of the cemetery that would provide screening for the neighbors while providing additional area for the cemetery. The city's natural resources staff will assist in the selection of the hedge. He said the solution appeared to be viewed favorably by all involved although he noted he received a note from one of the neighbors concerned about where the backhoe would be stored. The neighbor asked that the backhoe not be stored in the new section but farther away from the residences. The association indicated the backhoe was only there on a temporary basis but would work to keep it away from the houses. The resident's other concern was for better screening on the north side where the cemetery's trash area is located. The association said that in the past the gate has sometimes been left open but it would work to keep the gate closed.

Community Development Director Julie Wischnack said the items Wiersum noted about the backhoe and trash are not included as conditions in the agreement but were courtesy items the association agreed to.

Schneider thanked Wiersum for the extra time he put in working on the item.

Wiersum moved, Hiller seconded a motion to adopt Resolution No. 2011-009 with the following added conditions. This resolution amends and replaces Resolution 2008-062 for cemetery use of the existing properties at 3300 and 3228 Woodlawn Avenue.

- 1) The south 4 rows of cemetery grave sites will be made available for sale from 2011 through the year 2026 (Section 7, Lots 56-99; Section 8, Lots 46-81). Lots will only be sold in the southern 2 rows until a landscape buffer is planted in row 45.
- 2) A new row of lots will be made available for sale every 5 years based on the following schedule:
  - Row 45 – 2026 (Section 7, Lots 45-55; Section 8, Lots 37-45)
  - Row 28 – 2031 (Section 7, Lots 34-44; Section 8, Lots 28-36)
  - Row 27 – 2036 (Section 7, Lots 23-31; Section 8, Lots 19-27)
  - Row 10 – 2041 (Section 7, Lots 14-22; Section 8, Lots 10-18)
  - Row 9 – 2046 (Section 7, Lots 1-9; Section 8, Lots 1-9)
- 3) A row of landscape plantings or fence will be placed within row 45. The landscape material will be determined after consultation with natural resources staff for site suitability while achieving desired screening qualities. When lots in row 45 become available for sale in 2026, landscaping or fencing may be removed as needed. Landscaping that dies would be replaced with material of a reasonable size to achieve screening.

Approval is based on the following findings:

- 1) Cemeteries are conditionally permitted uses in residential areas. In designated cemeteries as such, the zoning ordinance grants that the use is not incompatible with residences.
- 2) The staging plan provides a reasonable and orderly use of the cemetery that balances expectations of the neighborhood.
- 3) Additional landscaping within the cemetery will provide screening from residential properties promoting compatibility of these adjacent uses.
- 4) The ordinance does not contain any physical restriction on the use of cemetery property for cemetery purposes.

All voted "yes." Motion carried.

11. **Items requiring Five Votes:** None

12. **INTRODUCTION OF ORDINANCES:** None

13. **PUBLIC HEARINGS:**

**A. 2011 Community Development Block Grant funds**

Community Development Supervisor Elise Durbin gave the staff report.

Schneider noted he attended a regional mayor's meeting earlier in the day and there was discussion about federal legislation that would eliminate the CDBG program.

Wagner said that historically there was an even split of the funds between the emergency repair program and the owner occupied rehabilitation program. He asked Durbin to comment on the proposed allocations. She said typically the funds had been evenly divided but there are around 30 people on a waiting list to receive an application for any amount of funds. By putting more funds into the emergency repair program, more people would be served.

Schneider opened the public hearing at 6:52 p.m.

Timothy Morin, 10005 2<sup>nd</sup> Street NE, Hopkins, the H.O.M.E. coordinator for Senior Community Services, said his organization relies on the CDBG funds and the need has never been greater for the services that are provided.

Beth Kodluboy, director of HOMEline, said there were a record number of calls last year from Minnetonka residents. Ten percent of the callers were facing eviction issues.

Cathy Maes, 4019 Thrushwood Lane, noted ICA was celebrating its 40<sup>th</sup> year. The CDBG funding would be used to help keep Minnetonka families in their homes.

Kelly Goddard, Community Action Partnership of Suburban Hennepin County, 8800 Highway 7, St. Louis Park, said last year 98 Minnetonka residents were served by the home ownership program. She said the number of people needing assistance continues to rise.

Judy Elling, executive director of Resource West, 117 8<sup>th</sup> Avenue N, Hopkins, said there continues to be a significant increase in the number of people seeking assistance and that over 30 percent of those people live in Minnetonka. She said support from individuals is down 50 percent this year so the CDBG funds are truly needed.

Schneider closed the public hearing at 6:58 p.m.

Schneider asked if any group aggregates all the information about the use of CDBG funds in the western suburban communities. Durbin indicated she was not aware of anyone aggregating the information. She said the League of Minnesota Cities is looking for information from the communities about the use of the funds. Schneider said that at the regional mayors meeting the status of CDBG funding was a major concern. He noted aggregate information would be useful.

Hiller moved, Greves seconded a motion to adopt Resolution No. 2011-010 approving the projected use of funds for year 2011 of the community development block grant program. All voted "yes." Motion carried.

**B. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for American Pie Pizza of Minnetonka, 11056 Cedar Lake Road**

Wischnack gave the staff report.

Schneider opened the public hearing at 7:02 p.m. No one spoke.

Wagner moved, Wiersum seconded a motion to continue the hearing to March 28, 2011. All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Resolution adding a council policy prohibiting tobacco use in city parks**

Recreation Services Director Dave Johnson gave the staff report.

Wiersum asked if either of the two options provided for signage in the parks. Johnson said signage would be provided but would be kept to a minimum.

Leslea Strauss, Golden Valley, said her student group has been working hard on the policy to help keep the community clean as well as help the environment. The group has received much support. She noted in 2005 enough cigarette butts were collected in international coastal cleanup that if stacked end to end, they would go to the moon and back twice. She said the city has been moving to protect open spaces and its park and this policy would be in line with that.

Zoe Korengold, Plymouth, urged the council to approve a comprehensive policy that would prohibit tobacco use on all city owned park property. She said second hand smoke was the second leading cause of preventable death in the United States.

Greves thanked the students who attended the meeting. She said it was important for students to take the lead on prevention issues because they were a big part of creating environmental and behavioral change.

Hiller asked for clarification on difference of the enforceability between a policy and an ordinance. City Attorney Desyl Peterson said if the council approved the item through an ordinance, then a violation could be enforced through the court system that could include criminal penalties. A council policy is not a law and was more a statement of intent. She said the proposed policy would be enforced by asking a violator to leave.

Schneider said the approach of designated banned areas focused around youth activities was the correct approach. His one concern was the language on how the designated area would be defined. Including an area within 100 feet of a designated area especially around a ballpark could make an entire neighborhood park a non smoking area. He questioned how the 100 foot area was arrived at for the definition and if that was really the appropriate distance. Johnson said the 100 foot setback was consistent with other policies but agreed Schneider made a valid point that in certain areas the 100 foot area would include an entire park.

Allendorf said he had a similar concern as Schneider's concern. He noted the staff report said the staff recommendation was consistent with the Three Rivers Park District policy on tobacco use. He asked how the Three Rivers Park District defined a designated area. Johnson said the Three Rivers Park District policy was consistent with the staff recommendation in that it wasn't a comprehensive ban for the entire park system.

Wiersum commended the students for their work. He said he supported the staff recommendation but could support the buffer area being reduced from 100 feet to 50 feet. He preferred the staff recommendation over the park board recommendation. He wanted to discourage smoking in city parks because the costs of smoking to society were vast and the proposed policy would do that effectively. He said he gets concerned about government overreach. The residents owned the park and some of the residents were smokers who had a right to use some of the property as long as they were not interfering with other people and smoking in areas where second hand smoke would not be a significant problem.

Greves said she also supported the staff recommendation but if there was other support on the council for the park board recommendation she would be willing to support that as well. She noted the city's voters approved a referendum about a decade ago that included around \$7.5 million for parks renewal. She said that reflected a broad community value of making sure that the youth had safe and inviting places to play, learn, and grow therefore it was important to consider who the playgrounds and swimming areas were geared for. She said those areas are geared for children to use. She said it was important for the council to support policies that protected children in those areas and to put the children's health and welfare and right to breathe clean air ahead of the priority of people who desire to smoke.

Greves said another pertinent issue to recognize was that over the past couple of decades Minnesota has seen dramatic shifts in attitudes towards smoking. She said it was largely accepted by the scientific and medical communities that second hand smoke causes death and disease in nonsmokers. Despite the shift in attitudes and understanding about the dangers of smoking, kids continue to be targeted at younger and younger ages by the tobacco industry. She said there was still a lot of work in the prevention area and also room for local governments to help facilitate the efforts by passing public policies.

Hiller agreed that the city should look at restricting tobacco use to protect children but he was concerned about what the council should do. He said the staff recommendation was wide ranging and the 100 foot buffer would make many park areas unavailable for smokers. His biggest concern was approving a policy rather than an ordinance. This meant the council was agreeing a restriction was a good idea but there would be nothing to enforce it. He said the council either had to make a commitment by approving an ordinance or it should do nothing at all. He did not want laws on the book that did not have any mechanism for enforcement. He said he could support adopting an ordinance to deal with the issue.

Wagner said he was very supportive of the staff recommendation. He agreed with Wiersum's comments about the balance between protecting high use areas of the parks versus the overall acres of park land. There should be some protection provided and encouragement of prevention in areas where there is a high use as outlined in the staff report but he was uncomfortable with supporting a wide reaching plan. He noted the staff report indicated there were zero complaints outside of the high use play areas. He supported approving a policy rather than an ordinance because smokers were likely to comply with the policy if they were aware of the policy. If there were issues of noncompliance the council could revisit the issue. He said he would also be open to changing the definition of the buffer area.

Schneider said he agreed with Wagner and Wiersum's comments. The city had to achieve a balance and not overreach. He said a policy would not have the teeth of an ordinance but in reality with the wide diversity in the city, there were not the resources available to police all the areas. Historically the best enforcement mechanism is the peer pressure of people involved in the activity. People have the ability to point to a no smoking sign would be more effective than calling a police officer to deal with the situation. He said an unintended consequence of adopting an ordinance could be having someone challenge the legality of the ordinance and having the city spend money defending something that had not been tested. He indicated the staff recommendation was a good solution although he wasn't sure there was an actual problem that needed to be solved. He didn't remember a time that he attended one of his grandchildren's baseball game where someone was in the stands smoking. The policy would address the potential of someone smoking and then being made aware of the policy.

Wiersum said he did not agree adopting a policy rather than an ordinance showed a lack of council commitment. He said if a neighbor plays a stereo too loud, a police car is not immediately dispatched. What actually happens is that the two neighbors talk to each other and if the problem is not resolved, then the police are called. In this situation people would point to the nonsmoking sign and ask the smoker to move.

Allendorf commended the students for bringing the important issue forward.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2011-011 adding a council policy prohibiting tobacco use in all city-maintained swimming beaches, playgrounds and athletic facilities. Tobacco use in any form is prohibited in and within 50 feet of the designated areas.

Greves indicated she could see reducing the buffer area from 100 feet to 50 feet for athletic fields but she would still like the restricted area to be within 100 feet for playground areas. Schneider indicated he would be more comfortable reducing the buffer area to 25 feet.

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

**B. Items concerning a 6-lot subdivision of the existing property at 4625 Highland Road**

Wischnack gave the staff report.

The applicant, Cory Lepper, said the proposal was a straight R-1 plat with additional land dedicated for Highland Road and for future improvements on Highland Lane.

Hiller asked if the determination had been made that there was enough space to do the project if it included the "T" intersection. City Engineer Lee Gustafson confirmed there was enough space available. Hiller asked if the 20 mile per hour speed limit was in place because of the location of the stop sign. Gustafson noted the speed limit applied to northbound traffic only. Hiller noted that there was neighbor concern about the proposed removal of the stop sign because it might lead to more speeding on the road. He asked if there would be a safety issue if the stop sign were removed and what the options would be in the long term if a problem did arise. Gustafson said currently a safety issue exists because drivers do not come to a complete stop at the stop sign. The intersection is not safe for pedestrians.

Gary Gauger, 15108 Highland Lane, said the traffic study included erroneous information. Gauger said the staff report indicated that the posted speed limit is 30 miles per hour with no mention that the actual speed limit is 25 miles per hour and drops down to 15 miles per hour. He indicated the road is tricky to drive even under ideal conditions.

Allendorf said he had not seen a posted speed limit of 15 miles per hour anywhere in the city. Gustafson said typically the 15 miles per hour signs in the city are advisory signs used to forewarn drivers that a curve is coming up. He noted there are no legal 15 miles per hour speed limit areas in the city and that for the majority of 25 miles per hour areas the legal speed limit is 30 miles per hour by state statute.

Schneider said he did not want the discussion focused on the speed limit issue because the item in front of the council was whether to approve a

subdivision of six lots. He noted a new road configuration likely would be safer than what currently exists.

Janice Gauger, 15108 Highland Lane, said the process has been extremely confusing. There was a presentation at the planning commission about what would happen to the intersection if the subdivision was approved. She indicated the neighbors had no problem with the proposed development but were concerned about the safety of the road and were frustrated that the traffic study did not include the accurate speed limit. She said the concept of making the Highland Road a through street similar to neighboring streets like Williston Road and Woodland Road was an issue because the curves, hills, the width and the use of the roads were not comparable.

Peterson agreed the speed limit issue was confusing. She noted the 25 miles per hour speed limit signs were not the legal speed limit. The signs were placed years ago but were not enforceable because they violated state law. A decision was made years ago to keep the signs in place in hopes that it would encourage drivers to slow down.

Schneider said the neighbors' concerns were about wanting some certainty about how the intersection would be changed. The staff report indicated the applicant was dedicating the right of way so the revised road configuration would work. The city would take responsibility to make the reconstruction happen. Gustafson confirmed that was correct. He said the neighbors were sent an information sheet a month back explaining that they would be invited in to look at detailed drawings.

Hiller asked what the timeline was for fixing the road. Gustafson said the neighborhood meeting would likely occur early in the spring. By that time the bids should be in for the 2011 street reconstruction projects. Once the bids are in staff will evaluate if funds were available for the Highland Road reconstruction. Money would not be taken away from a project that was already planned. If additional money is available and there are needed projects, the information would be brought back to the council for approval. Schneider said he tended to place safety improvements over surface repair in terms of priority. He noted that the Highland Road reconstruction involved a significant safety improvement and for him that would bump it up higher on the list.

Greves noted with the next phase that would allow more public input, neighbors would have the opportunity to comment on the alignment and placement of stop signs. Gustafson confirmed the residents would have the opportunity to comment on any issue. He said the "T" intersection was meant to address sight issues and was separate from the speed limit issue. Greves said the planning commission discussion included

comments about the number of stop signs. She asked if the council would have the opportunity to review that issue. Gustafson said council would have the opportunity to provide input about all the issues.

Wiersum asked what the earliest possible date that the road reconstruction could be complete if everything fell into place. Gustafson said the earliest the road reconstruction could be completed would be in the fall but that was predicated on everything falling into place.

Greves asked if Schneider would consider formalizing the process related to the street plan. Schneider said the council could not tie the road reconstruction to the recording of the plat but could tie in the easement dedication to the plat. If the city obtained the right of way it would control the road reconstruction.

Steve Arnold, 15017 Highland Lane, thanked Hiller for coming out and taking photos showing the problems with the intersection. He said the proposal was to move the intersection to the right. The photos indicated it would be difficult to see a car waiting to turn on to the new Highland Lane intersection. He said the stop sign currently offered some protection. He supported Greves suggestion of formalizing the process related to the street plan because the neighbors were concerned that the road reconstruction would be buried. Schneider asked if Arnold was advocating leaving the intersection as it currently was. Arnold said leaving the intersection alone was a safer solution.

Hiller said the main issue for the neighbors was related to visibility for southbound traffic. The neighbors remain concerned that the issue was still not being looked at. Gustafson said that type issue was exactly what would be addressed at the information meetings. Concept plans would be shown that would allow the sight lines to be drawn up. Arnold said the problem was not pulling out of Highland Lane. The problem was getting on Highland Lane from highland Road.

Schneider noted that Highland Road could not be changed but Highland Lane could be improved due to the acquisition of property required from the plat. The only area that the neighbors could participate in improving the geometrics would be in granting additional right of way on the other side of the road to make the road a little wider in the curve. Gustafson confirmed that was correct.

Hiller said he was looking forward to the project and the neighbors had raised legitimate concerns that the city's normal process would address. He noted that the council discussion also indicated the issues raised would be addressed. He added the residents also could come back to the council to make sure the issue with the intersection was addressed.

Hiller moved, Wiersum seconded a motion to adopt Resolution No. 2011-012 which grants preliminary approval to the Rabbit Hill subdivision.

Approval is based on the following findings:

1) The proposal meets the required standards and ordinances for a preliminary plat.

Approval is subject to the following conditions:

1) The subdivision must be developed in substantial conformance with the following plans, unless modified by the conditions below:

- Preliminary Plat and Site Plan date stamped February 2, 2011.
- Tree Inventory and Preservation Plan date stamped February 2, 2011.
- Grading, Drainage and Erosion Control Plan date stamped February 2, 2011.
- Utility Plan date stamped February 2, 2011.

2) Prior to final plat approval, complete the following:

a. Show the following on the final plat:

(1) A minimum 15-foot wide drainage, utility and snow storage easement outside the public right-of-way(s) on the cul-de-sac, a 10-foot wide drainage and utility easement adjacent to public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.

(2) Utility easements over existing or proposed public utilities, as determined by the city engineer. Additionally, a drainage and utility easement must be provided over a water main connection to the existing stub in the Highland Bluff subdivision.

(3) Drainage and utility easements over wetlands, floodplains, and stormwater ponds, as determined by the city engineer.

(4) Right-of-way dedication on the north east corner of the lot for the Highland Road and Highland Lane intersection as outlined in the traffic study.

(5) Show the new right-of-way width of Highland Road on the plat.

b. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.

3) The following items must be submitted to the city before the city releases the final plat:

a. An electronic CAD file of the final plat in microstation or DXF.

b. The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval:

(1) Title evidence that is current within thirty days before release of the final plat.

- (2) Stormwater pond maintenance agreement establishing the responsibility for maintaining required drainage ponding and any other required drainage improvements approved by the City. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the basins, ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the grading and building permits.
- (3) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat.  
These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
- c. Pay a park dedication fee of \$30,000.
- d. Any other requirements included with final plat approval.
- 4) A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit applicant has been submitted, reviewed by staff, and approved.
- a. The following must be submitted for the grading permit to be considered complete.
- (1) Final grading, stormwater, utility, drainage and erosion control plans must be submitted for staff approval.
- The new street must meet minimum city engineering standards.
  - Maximum grade of the new street at the intersection with Highland Road must not exceed 3% for 30 feet.
  - The infiltration basin area should be final graded after the tributary drainage area has been established. A note prohibiting heavy construction traffic and compaction within the area should also be included.
  - The new drainage system must be connected to the existing culvert at Highland Road. The casting on the connecting culvert must be a ditch grate type, which meets city standards. During construction of this connection, the city will evaluate the condition of the culvert. If it is deemed the culvert needs to be replaced, the developer will be responsible for the work and costs associated with the culvert replacement. Culvert replacement work shall be completed to city standards.

- The water main pipe must be extended and directionally bored to connect to the existing stub in the Highland Bluff subdivision to the south.
  - A fire hydrant is required at the connection to the existing water main in the Highland Bluff subdivision.
- (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) If the developer is constructing any public improvements, the following must be submitted for staff review and approval:
- (a) Final street and utility plans.
  - (b) A signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.
  - (c) A letter of credit or cash escrow in the amount of 125% of a bid cost or 150% of an estimated cost of the improvements.
  - (d) The city will only reduce or release the letter of credit or cash escrow upon receipt of as-built drawings and a letter certifying that the streets and utilities have been completed according to the plans approved by the city.
- (4) An engineering/utility inspection fee.
- (5) Payment for traffic signs and installation, as required by the city engineer.
- (6) 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) 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.
  - (2) The final plat must be released by the city and filed with Hennepin County for recording.
- 5) Prior to issuance of a building permit for any of the lots within the development:
- a. Submit the following for items staff review and approval:

- (1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.
  - (2) Final grading and tree preservation plan for the lot. The grading for each lot must be located within the grading limit indicated on the preliminary grading plan. City staff may approve adjustments to the grading limits only if the revised grading does not have any additional impact to the critical root zone of adjacent trees and does not remove any high priority trees indicated for preservation. The plan must also:
    - (a) comply with the preliminary grading plan as depicted on the preliminary plat;
    - (b) must preserve trees designated for preservation at the time of preliminary plat approval;
    - (c) show sewer and water services to minimize impact to any significant trees. No trees may be removed for installation of services. One set of new services must be installed.
  - (3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance.
  - (4) Submit cash escrow in the 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: (1) 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 (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- b. Submit the following documents:
- (1) A recorded copy of the preliminary plat, all required easements, stormwater maintenance agreement, and restrictive covenants.
  - (2) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
  - (3) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.

- c. Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
  - d. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot. These items must be maintained throughout the course of construction.
  - e. Pay a hookup fee for sanitary sewer and water.
  - f. Driveway grades must not exceed 10%.
  - g. Water services must be 1-1/2" and sanitary sewer services must be 6".
- 6) Notwithstanding the requirements outlined above, all lots and structures within the development are subject to the all R-1 zoning standards. In addition:
- a. Lowest floor elevation must be a minimum of 2 feet above the designated floodplain elevation.
  - b. Houses within the development must be protected with 13D automatic fire sprinkler systems if:
    - (1) Access to the property on which the house is being constructed is via a private roadway;
    - (2) Any portion of the first-story walls, as measured by an approved route around the exterior of the house, is more than 150 feet from a public street; or
    - (3) The property on which the house is being constructed is located more than 499 feet from a public, looped water line.
- 7) During construction, the streets must be kept free of debris and sediment.
- 8) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

All voted "yes." Motion carried.

**15. APPOINTMENTS and REAPPOINTMENTS: None**

**16. ADJOURNMENT**

Greves moved, Wiersum seconded a motion to adjourn the meeting at 8:08 p.m.  
All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk