

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, AUGUST 22, 2011**

1. CALL TO ORDER.

Schneider called the meeting to order at 6:24 p.m.

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL

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

4. APPROVAL OF AGENDA

Wiersum moved, Hiller seconded a motion to accept the agenda with addenda to items 10D and 14A. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES: August 1, 2011 regular meeting

Hiller moved, Wiersum seconded a motion to approve the minutes of the August 1, 2011 regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Retirement recognition of Harold Johnson

Schneider read the recognition and presented Johnson with a plaque.

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

Schneider recognized members of Boy Scout Troop #477 in attendance earning their citizenship merit badges.

9. BIDS AND PURCHASES:

A. Replacement of the police department boiler

Gunyou gave the staff report.

Wiersum noted the energy savings were estimated to be in the 25 percent to 35 percent range and asked what the savings would be in a dollar amount. Gunyou indicated staff would get back to the council with that figure.

Wiersum moved, Hiller seconded a motion to award contract to Owens Companies Inc. in the amount of \$231,300 for the base bid and alternate #2 paid for by American Recovery and Reinvestment Act Funds. All voted "yes." Motion carried.

B. Bids for Cedar Lake Road Mill and Overlay Project

Gunyou gave the staff report.

Hiller moved, Allendorf seconded a motion to award the contract for the Cedar Lake Road Mill and Overlay Project No. 11407 to Midwest Asphalt Corporation in the amount of \$526,052.25. All voted "yes." Motion carried.

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

A. Ordinance with minor amendment to pawnbroker regulations

Allendorf moved, Wiersum seconded a motion to adopt Ordinance No. 2011- regarding pawnbrokers. All voted "yes." Motion carried.

B. Annual permit application to Three Rivers Park District requesting winter use of the Regional Trail Corridors

Allendorf moved, Wiersum seconded a motion to authorize permit application submittal to Three Rivers Park District requesting winter use of the two Regional Trail Corridors within the City of Minnetonka through the 2011/2012 season. All voted "yes." Motion carried.

C. Resolution authorizing the issuance, sale and delivery of the Revenue Note for the St. David's Center project

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2011-056 authorizing the issuance, sale and delivery of the Revenue Note. All voted "yes." Motion carried.

D. Resolution approving a conditional use permit to operate a transportation business at 5208 Mayview Road

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2011-057 approving the request All voted "yes." Motion carried.

E. Resolution concerning Ranchview Court roadway and utility improvements Project No. 4990

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2011-058 accepting plans and specifications and authorizing the advertisement for bids for the Ranchview Court Roadway & Utility Improvement Project No. 4990. All voted "yes." Motion carried.

F. Resolution authorizing the installation of no parking signs on Highwood Drive

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2011-059 authorizing a no parking zone and the installation of "No Parking" signs on the south side of Highwood Drive from Wilson Street to Timber Woods Lane. All voted "yes." Motion carried.

G. Resolutions pertaining to levying the 2011 Special Assessments

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

- 1) Resolution No. 2011-060 declaring costs for Hookup Fees, ordering the preparation of special assessment rolls, and scheduling a public hearing.
- 2) Resolution No. 2011-061 declaring costs for Project No. 4894 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.
- 3) Resolution No. 2011-062 declaring costs for Project No. 4894 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.
- 4) Resolution No. 2011- 063 declaring costs for Project No. 4894 (5-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.
- 5) Resolution No. 2011-064 declaring costs for Diseased Tree Removal – Project No. 4902 (1-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.
- 6) Resolution No. 2011-065 declaring costs for Diseased Tree Removal – Project No. 4902 (3-year) nuisance abatement projects, ordering the preparation of special assessment rolls, and scheduling a public hearing.
- 7) Resolution No. 2011-066 declaring costs for Diseased Tree Removal – Project No. 4902 (5-year) nuisance abatement projects.

ordering the preparation of special assessment rolls, and scheduling a public hearing.

All voted "yes." Motion carried.

H. Resolution approving a master amendment agreement between the city of Minnetonka, the Minnetonka Economic Development Authority and Crown Ridge Apartments Limited Partnership

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2011-067 approving a master amendment agreement. All voted "yes." Motion carried.

I. Resolution approving a conditional use permit for a promotional event with a variance to allow for amplified music at 11400 State Hwy 7

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2011-068 which approves the request. All voted "yes." Motion carried.

11. Items requiring Five Votes: None

12. INTRODUCTION OF ORDINANCES: None

13. PUBLIC HEARINGS:

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

Gunyou gave the staff report.

Schneider closed the public hearing at 6:37 p.m.

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

14. OTHER BUSINESS:

A. Items concerning a 2-lot subdivision of existing properties at 12910, 12918 Rutledge Circle and a parcel with an unassigned address on Rutledge Circle

Item was pulled from the agenda at the request of the applicant. City Planner Loren Gordon indicated the item would be brought back at the September 12, 2011 council meeting.

- B. Items related to the Greenbrier Road Sidewalk**
- 1) Ordinance and resolutions approving construction of a paved sidewalk along the north and west sides**
 - 2) Bids for the Greenbrier Road Sidewalk**

Gordon gave the staff report.

Allendorf asked how people were supposed to get from the end of the trail to the stoplight. Gordon said there was an existing trail on the north side of Cedar Lake Road. He said the access to the stoplight would be on the south side of the road along the edge of the roadway. City Project Engineer Nate Stanley indicated the crossing would be at Hopkins Crossroad where there is an existing crosswalk and a traffic signal on Cedar Lake Road. He said there was discussion at the planning commission hearing about the possibility of Hennepin County installing a striped crosswalk where the trail comes to an end.

Wiersum moved, Hiller seconded a motion to: Adopt Resolution No. 2011-069 which approves a wetland and floodplain alteration permit to accommodate a pedestrian trail along Greenbrier Road; adopt Ordinance No. 2011-017 which approves a wetland and floodplain rezoning associated with the requested wetland and floodplain alteration permits; and adopt Resolution No. 2011-070 which approves a conditional use permit, with variances, for construction of a pedestrian trail adjacent to Greenbrier Road.

All voted "yes." Motion carried.

Wiersum moved, Hiller seconded a motion to: Award the contract for the Greenbrier Road Sidewalk Project No. 11206 to O'Malley Construction Inc., in the amount of \$152,483.16.

All voted "yes." Motion carried.

- C. Land use ordinances:**
- 1) Southwest Light Rail Transit (SWLRT) Overlay**
 - 2) Interim Use**

Gordon gave the staff report.

Allendorf asked if the ordinances were adopted how the process would work with the CVS project. Gordon said the way that project would probably be permitted would be for the council to look at the southwest overlay first considering provisions in the ordinance related to pedestrian and transit improvements. The site plan elements would be evaluated under the ordinance. The interim use permit then would likely have to be

looked at in order to approve the project. The CVS plan included a drive through that would not be considered as part of the ordinance's pedestrian or transit friendly site plan feature. He said he would expect with an interim use approval the next zoning district that would cover the transit district around the station would have some of the provision's standards with the CVS interim use permit in it to allow the interim use permit to be continued going forward. Allendorf asked if that meant the CVS proposal could occur if the ordinances were approved. Gordon indicated that was correct.

Hiller asked what time frame was related to the interim use permit. Gordon said the interim use permit would be in place at least until the station is open. The current expected date for the station is 2018. Hiller asked what would happen in 2018 if the property owner got an interim use permit for the drive through. Would a new approval be required? Gordon said the city would want to anticipate things within the district that were approved through the interim use permit so they would come in line with the new zoning for the station area. Hiller asked if the property owner would have any certainty about continuing the drive through after seven years. Gordon said the interim use permit would provide certainty for the seven years and the city would probably like to provide certainty after that time period but he wasn't sure what the mechanism to provide that would look like. Community Development Director Julie Wischnack said terms would be negotiated upfront through the interim use permit process. Expectations would be set for the owner. One example would be requiring the owner to connect a sidewalk to an adjoining sidewalk on the property. She said the expectations would be established on a case by case basis.

Wiersum indicated the ordinances and the interim use permit made sense and provided some flexibility but created uncertainty for developers.

Schneider said he was concerned about tying things in with the opening of the station since that date may get pushed out indefinitely. He said the objective of the ordinances was for the city to develop a stationary plan for how things were expected to look when the station opens. Once a concept plan was adopted establishing how uses would be integrated around the station, it would trigger the compliance of the interim use provision. Hopefully this would occur within a couple of years. He said that would implement what was trying to be achieved. He asked if the council decided the drive-through could be done in such a way that would not have ongoing negative implications and the property owner committed to doing certain things related to connectivity, could the council grant an exception or a variance to the interim use ordinance so the property owner did not have to worry about what would happen in the future. City Attorney Desyl Peterson indicated that was an option.

Hiller noted that during the discussion about the CVS plan, there were preferences stated to not shoe-horn the store on to the property, but rather expand the area to allow the drive-through to work properly. He said this would not be allowed under the overlay ordinance provisions. Gordon said the interim use ordinance would give the council some flexibility.

Allendorf agreed with Wiersum that the ability to grant a variance took away the uncertainty concern that would hold back developers.

Allendorf moved, Wiersum seconded a motion to adopt:

- 1) Ordinance No. 2011-018 regarding Southwest Light Rail Transit (SWLRT) Overlay
- 2) Ordinance No. 2011-019 regarding Interim Use

All voted "yes." Motion carried.

D. Ordinance amending the master development plan for Opus Corporate Center at 10350 Bren Rd West

Gordon gave the staff report.

Wiersum moved, Ellingson seconded a motion to adopt Ordinance No. 2011-020 amending the existing master development plan. All voted "yes." Motion carried.

E. Resolution approving a conditional use permit and variance to reconstruct the garage at 3013 Lake Shore Boulevard

Gordon gave the staff report.

Gunyou noted that one of the applicant's concerns about removing the pavement from the right of way was the cost for the removal. The city has offered to cover the costs because similar costs connected to street reconstructions are covered by the city.

Richard Kopy, 3013 Lake Shore Boulevard, said his only concern related to the pavement area in front of his home. The pavement was installed during the 1960's when the garage was built. He noted two of the planning commissioners had come out to look at his property and ended up voting in favor of removing the condition. He said after the fire, he and his wife decided to use the insurance money to upgrade the garage and decided on an accessory apartment approach because of the number of grandchildren in the family. This would also be beneficial to the new owners of the house when the Kopy's decide to sell.

Koppy noted the parking issue wasn't raised until late into the process. He said the streets in the area are not good because when homes are sold the streets are dug up for utility work. There are edge control problems and the width of the streets is less than 20 feet wide. He said he needed the parking for the apartment. He asked the council to bring some value to the neighborhood by looking at street improvements in the area.

Schneider asked if there were any prohibitions on the applicant widening the driveway to the southwest in order to get another parking space. Gordon said there was available room to widen the driveway and to keep the curb cut the same as staff's proposal at the street. Allendorf asked if there was a grade change on the side of the driveway. Gordon confirmed the road sloped from the garage to the street but a driveway expansion would still fit. Allendorf asked if the expansion could be done without a lot of expense. Assistant City Engineer Will Manchester agreed the expansion could be done and the cost would depend on the size of the parking stall. Koppy said he wouldn't necessarily have a problem with widening the driveway but at the planning commission hearing and in the staff report it was indicated that if he widened the driveway he would have to do a survey to make sure the impervious surface coverage did not exceed 30 percent. He indicated during the preliminary work the impervious surface coverage was already determined to be close to 30 percent.

Wiersum said he worked with Koppy and the staff to try to find a win-win solution. He said while Koppy had raised good points, at the same time allowing an extension into the right-of-way was something he could not support.

Schneider said his expectation was that even if a small retaining wall were installed, the net paving would still be reduced from the current amount. This would be rationale for a variance or deviation from the 30 percent limitation given it would also remove a parking space from the roadway. Wiersum suggested that if the current impervious surface was 28 percent and Koppy was allowed to add the amount being removed, it would be possible compensation that allowed the parking stall to be added and the net result would be the city would not lose anything in terms of hard surface coverage. This would remedy the issue that the applicant did not create. Schneider agreed that sounded reasonable.

Allendorf asked if and when the street was improved, would the city allow the strip to remain. Staff indicated that would not be allowed. He said this meant that the waterways would not be harmed by measuring the section that would be gone ultimately at some point and allowing Koppy to expand his driveway by that amount.

Wiersum moved, Allendorf seconded a motion to adopt Resolution 2011-071 approving the request, with the stipulation that the parking space adjacent to the roadway be removed and the applicant be allowed to replace the square footage of lost hardsurface for a driveway expansion in an area adjacent to the garage. All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointments to the Bassett Creek Watershed Management Commission and the park board

Schneider moved, Wiersum seconded a motion to approve the following appointments:

- Jacob Millner, to the Bassett Creek Watershed Management Commission, to serve the remainder of a three-year term, effective August 23, 2011 and expiring on January 31, 2013.
- Tom O'Reilly, to the park board, to serve the remainder of a two-year term, effective August 23, 2011 and expiring on January 31, 2013.

All voted "yes." Motion carried.

16. ADJOURNMENT

Wiersum moved, Allendorf seconded a motion to adjourn the meeting at 7:32 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk