WAYZATA CITY COUNCIL
MEETING MINUTES
April 15, 2014

AGENDA ITEM 1. Call to Order and Roll Call.

Mayor Willcox called the meeting to order at 7 p.m. Council Members present: Amdal, Anderson, Mullin and Tanner. Also present: City Manager Nelson, City Planner Gadow, City Engineer Kelly, Public Works Director Dudinsky, and City Attorney Schelzel.

Mr. Willcox announced that prior to tonight's meeting, the Council met in Closed Session to conduct a performance evaluation of City Manager Nelson. He reported that City Manager Nelson received a glowing report, exceeding expectations in every category.

AGENDA ITEM 2. Approve Agenda.

Mr. Tanner made a motion, seconded by Mr. Amdal, to approve the agenda, as presented. The motion carried 5/0.

AGENDA ITEM 3. Public Forum – 15 Minutes (3 minutes per person).

a. State Senator Dave Osmek to Provide Legislative Update

State Senator Dave Osmek updated the Council on legislative highlights and advised of awards and appointments he had received. Senator Osmek commented on the City's bonding request of $5.2 million and stated he will work with the City to identify regional benefit/significance of that request.

Senator Osmek answered questions of the Council relating to Excelsior bonding bill projects and importance of identifying a regional significance/asset. With regard to MSA funding and the City's joint task force with Long Lake, Senator Osmek stated he is unsure whether you can combine populations to meet MSA's population threshold of 5,000. He encouraged joint ventures between cities and stated he will research the feasibility of legislation to combine populations to meet MSA's threshold and report back.

The Council thanked Senator Osmek for his service and work on the City's behalf. Senator Osmek encouraged the Council and residents to contact him if he can be of assistance.

b. Recognition of Matt Majka, Former Chair of the Communications Board

Mr. Willcox stated this item will be rescheduled when Matt Majka can be in attendance.

c. Recognition of Lieutenant Michael Murphy, Recipient of the MN Chiefs of Police Association's Distinguished Service Award

Police Chief Risvold introduced Lieutenant Michael Murphy and described the presentation of the Minnesota Chiefs of Police Association's Distinguished Service Award in recognition of his detective work of jewelry store burglaries.

Mr. Willcox noted that Lieutenant Murphy has a distinguished record of service and had received a similar award four to five years ago. The Council congratulated Lieutenant Murphy on this recognition. The Council and audience responded with a round of applause.

d. Introduction of New City Employees

Chief Risvold introduced newly hired Police Department Administrative Records Specialist Nichole (Nikki) Fernandez. Ms. Nelson introduced newly hired Communication Specialist Kristin Classey. The Council welcomed Ms. Fernandez and Ms. Classey.

e. Roundabout Design and Huntington Avenue Neighborhood Entrance/Exit

Gordy Straka, 130 Huntington Avenue, read prepared statements from Audrie Eckman of 209 Central Avenue South and Dale and Gloria Purnick of 257 Central Avenue South expressing concern with the roundabout entrance/exit to their neighborhood and resulting congestion. Mr. Straka then expressed his concern with the roundabout design that attempted, unsuccessfully, to eliminate cut through traffic into their neighborhood by restricting exit/entrance points. He described traffic circulation, suggested additional police enforcement, and asked the Council to rectify this situation. Mr. Straka suggested the installation of sidewalks on the west side of Circle A Drive to improve safety.

The Council commended Mr. Straka for his fact-based assessment of this situation and acknowledged that if a change is made, it should be sooner rather than later. It was noted the Council's decision on the roundabout design was based on resident input. The Council indicated a willingness to look again at traffic flow, safety of the Circle Drive and Circle A Drive alignment, and effectiveness of the roundabout design.

Patrick Murphy, 173 Huntington Avenue S., stated why he does not like the roundabout, finding it to be a nuisance and requiring him to drive through the neighborhood. He also supported making a change before construction is completed.

AGENDA ITEM 4. Consent Agenda.

Mr. Amdal made a motion, seconded by Mr. Tanner, to approve the consent agenda:

a. Approval of Workshop Minutes of April 1, 2014, and Minutes of April 1, 2014
b. Approval of Check Register
c. Approval of Municipal Licenses
d. Municipal Licenses which received Administrative Approval (informational only)
e. Police Activity Report
f. Building Activity Report

The motion carried 4/0/1 (Mullin).

AGENDA ITEM 5. New Business.

a. Review Concepts for East Lake Street / Eastman Lane Corridor Landscaping

Michael Schroeder, LHB, presented highlights of a compilation landscape concept for the East Lake Street/Eastman Lane corridor that had been distilled from five concepts. He explained a budget had not yet been established and a sequencing plan could be created to keep pace with funding. Mr. Schroeder displayed slides of corridor sections and described elements proposed for each.

The Council asked about the area of prairie landscaping. Mr. Schroeder stated they intend to work on that area with the Wayzata Yacht Club to honor the PUD arrangements. He explained how the concept addresses the Council's direction to assure the corridor "looks more like Wayzata" and respects its understated character.

The Council acknowledged constituent's request for additional communication, especially when their yards would be impacted, and asked Mr. Schroeder to create connection with the two-acre Great Lawn Park and assure it has purpose. Concern was expressed relating to the attempt to blend the mini woods and sculpture and diminished form and function of the roundabout. The option was raised to relocate the sculpture to the west terminus of Eastman Lane and Shady Lane and to include a flagpole/nautical element within this corridor. Mr. Kelly indicated the new concepts would be presented to the Park and Trail Board and Heritage Preservation Board to gain their perspective and comment.

Mr. Kelly reported that Hennepin County continues to work with the railroad to finalize the agreement. He estimated this project would be bid in June with construction starting in July and utility work and basic restoration completed in 2014. The finalized streetscape/sidewalks likely would occur in 2015. Mr. Kelly stated staff will further refine concepts, as directed by the Council, for future presentation.

The Council thanked Mr. Schroeder for his work.

b. Review SEH Telecom Compound Proposal

Mr. Dudinsky reviewed that at the November 19, 2013, Telecommunication Workshop, staff had provided a recap of events from 2008 to present related to the telecommunication compound and telecommunication equipment on the water tower. At the conclusion of that Workshop, the Council directed staff to revisit former plans for making improvements at the existing compound site to reduce impacts to the neighborhood. Mr. Dudinsky stated he reviewed the 2008 plans and bid that included a telecom site on the west side of the building; however, the cost came in way over budget ($300,000). That project was re-bid and the west end of the public works site was graded so it could accommodate a new compound in the future.

It was noted that SEH had submitted a proposal to perform a feasibility study for telecommunications site improvements to the existing water tower site to analyze options that will improve the aesthetics of existing ground equipment and several options to relocate the existing telecom compound to the east. The estimated cost to perform the Telecommunications Compound Site Improvements Study is $9,535. Mr. Dudinsky indicated that all options with associated cost estimates and aesthetics would be presented to the Council.

Mrs. Anderson stated one suggested option is to relocate access to the existing site; however, a key element is neighborhood concern with the high amount of vendor traffic all times of the day and night. Mr. Dudinsky stated tenant upgrades provide additional traffic and it is his understanding the only time vendors are on site after hours is to address equipment failure.

Mr. Dudinsky stated he is not sure how far underground the equipment could be buried, as it would have to meet OSHA requirements and address groundwater issues.

Susan Hughes, 415 Gardner Street East, stated this compound has grown and is located very near their homes. In addition, vendor traffic is on site weekly and she does not think the proposed access relocation will work for the vendors. Ms. Hughes stated this is an historic park and the neighborhood finds the option to bury the compound equipment at the current location to be unacceptable. The neighborhood finds the telecom equipment to be a blight and want it moved out of the park, as it does not enhance the park or the City. In addition, it is not a secure site and should not be allowed to expand.

Mary Bader, 117 Peavey Lane, thanked the Council for continuing to address this issue, noting it has been under discussion for at least six years. She reviewed the number of meetings held and SEH studies conducted to improve the site. Ms. Bader agreed with Ms. Hughes that it does not improve anything to bury the compound or add landscaping. She stated she was surprised to learn that the cost of improving the existing site would be almost as much as creating an entirely new telecom site at public works. Ms. Bader noted that the $300,000 per year received from telecom companies is used to subsidize streets and water at the expense of this impacted neighborhood. Rather, she supported relocating the telecom site as an issue of fairness and as a moral issue. Ms. Bader stated this neighborhood has been impacted long enough and urged the Council to direct SEH to not focus on improvements to the existing site but to look at the other options to create a new site at public works.

Mr. Mullin noted the purpose for the cellular telephone equipment is to provide high quality communication and data services to the citizens of Wayzata so a location that degraded that service would be a disservice. In addition, there is a water treatment plant at the same location as the water tower. Mr. Mullin stated he does not support spending additional funds on consultants for additional studies and stated he has enough facts to support making substantial improvements at the existing site.

Mr. Dudinsky explained that all tenants have different coverage needs so there may be different ramifications based on the location of the site. It has been indicated that moving from the center of Wayzata to the far west end of Wayzata, would create degradation of signals to the east end and for some providers, in the downtown area. Vendors have also indicated that if relocated to the west end, supplemental towers would be needed to enhance service on the east end of Wayzata. From a legal perspective, the City Attorney has expressed concern that to avoid a legal issue, the City needs to assure that moving the equipment must keep them whole.

Mr. Tanner asked about the feasibility of the option to underground the telecom equipment and potential impact on existing buried infrastructure. Mr. Dudinsky agreed with the need to assure that water treatment plant operations are not impacted. He stated the study will identify all elements, including underground infrastructure, and provide comprehensive financial estimates. It was noted the study would address improvements to the current site as well as relocating the compound.

Mrs. Anderson stated there are many issues to this challenging problem and her concern is that the site can be changing, even if improved based on new technologies. She finds the entire community is impacted as all use the park and the interaction of commercial business and maintenance with the neighborhood is the issue. Mrs. Anderson felt it is a vendor issue if their service is degraded as the vendor can make improvements to their equipment. She stated her opinion that the City has made more than enough money on telecom contracts when compared to the small cost to relocate the telecom equipment.

Mr. Willcox thanked the neighborhood for continuing to provide input on their perspective. He stated this is not an easy decision due to consideration of the important lease revenue that may be at risk depending on the decision made. Mr. Willcox noted the City has been gathering information from the vendor, costs to relocate, sense of tenant's response, and tenant's costs; however, the City does not have information on the alternative of retaining the current site and costs of improvements to make it palatable. He felt this study was a reasonable way to put that last piece of the puzzle in place so the Council can make the best decision.

Mr. Tanner made a motion, seconded by Mr. Amdal, to approve the SEH proposal relating to the telecom compound.

Mr. Mullin stated he supports investing now and into the future to improve the existing site and mitigate impact inclusive of changing the policy on how the site is used by vendors. He stated he has enough facts to make that decision and does not support spending additional tax dollars for an additional consultant study.

The motion carried 5/1 (Mullin).

c. Consider Resolution No. 10-2014 Cru Outdoor Dining Development Agreement

Mr. Gadow reviewed that at the April 1, 2014, meeting, staff had informed the Council of the change in ownership of Sunsets Restaurant and name change to Cru. Staff had also presented the new owner's desired modifications to the 2013 approval. Mr. Gadow summarized the requested modifications and stated staff has updated the Development Agreement to address the new owner's desired modifications and removed conditions that no longer apply. The revised agreement language also reflects the Council's direction to maintain the existing trees in the planter boxes, modify the proposed bench seating, maintain the bicycle rack, and to replace concrete in the area of the outdoor sidewalk café in the City's right-of-way. He displayed a site plan depicting the indented location of benches to create visual interest.

The Council considered whether to include the parking clause to address change in use over time. Mr. Gadow explained that the 2013 approvals included an 18-seat enclosed bar on the patio, which triggered the additional parking requirement for 14 spaces. Because the new owner is not building that 18-seat bar, the parking requirement is not triggered and should not be part of the Development Agreement.

Mr. Mullin stated support to include a parking clause that will run with the land to address future potential and possible change in use over time. He stated the City is conceding use of public right-of-way and if parking is taken away from the back lot, it triggers transfer of land to the property owner. Mr. Mullin explained he is not suggesting a financial commitment but supports a clause that the property owner will work cooperatively to address parking deficit based on future uses not contemplated at this time, especially in consideration of the Lake Effect.

Mr. Schelzel advised that the Development Agreement calls out the fact the applicant has to continue a license from the City to use of the right-of-way. That could be revoked at any time so the City is not precluded from doing anything in the future with the right-of-way if the Lake Effect plan requires use in another way. With respect to the parking shortage, the City has the general right to assess benefited properties for any future parking solution. That power will not go away depending on what is in this Development Agreement. Mr. Schelzel stated there could be a negotiation with this developer recognizing the City is granting some rights that could be confirmed in the Development Agreement. In addition, nothing in the existing Development Agreement is in effect with regard to the ability of the property owner to object to an assessment.

Mr. Mullin stated the existing Development Agreement contains a definition of parking and that if any parking is taken away, the lakeside of the property goes back to the property owner. This clause was part of the original land deal to protect the City, which gave them land, and protect the landowner. He would like to clearly and specifically state that this use and future uses will impact how that was calculated and constructed and for the land owner to acknowledge the City will likely come back to them. Mr. Mullin stated the clause he is suggesting is not intended to constrain the land owner/lessee, but to state the City's policy perspective that parking is an issue.

Mr. Schelzel stated he has no concern with that type of clause; however, it is an acknowledgement and not an obligation on their part. He indicated it is not necessary for the City to exercise any of its rights but would remove the argument they had no idea. Mr. Schelzel advised the City could add language to the resolution to make this point, which would be part of the public record and reflect the voice of the Council.

Neil Weber, Neil Weber Architects, Long Lake, representing the applicant, stated he thought the process was to come to the Council with the request to use part of the right-of-way as used by Gianni's and other establishments. He noted that all Lake Street properties impact parking so he does not know why this building would be called out in a different manner.

Mr. Mullin agreed that all landowners will have to work together to address parking; however, the difference in this case is that the existing CUP and Development Agreement includes a quid pro quo clause related to status of parking on the property. He stated he is attempting to protect the City's future rights and clearly state the City's intent. Mr. Gadow clarified that the underlying CUP remains enforce but the ability for the City to assess for parking (per the 1988) has expired.

The Council considered whether to amend the resolution to add a Whereas paragraph to address the parking concern. Mr. Schelzel stated the legal force will revolve around the language of the resolution or Development Agreement, noting it would be an acknowledgement of the City putting the applicant on notice there may be future parking needs. Should the Council desire more of an obligation, it would have to be included in the Development Agreement.

Mr. Schelzel described the two-step process to consider the original CUP for the sidewalk café and annual consideration of the license (for right-of-way use). Mr. Gadow stated the license application form could include a statement to address Mr. Mullin's suggestion. In an effort to remain consistent, the Council indicated support to add similar language when considering annual sidewalk café licenses for similar establishments.

Mr. Mullin made a motion, seconded by Mr. Amdal, to Adopt Resolution No. 10-2014 Approving Amendment to Development Agreement and Conditional Use Permit and Modified Approval Conditions for 700 Lake Street East, as revised to add: "WHEREAS, the City wishes to make clear that in the future, the property owner may be required to participate in resolving potential parking shortages;". The motion carried 5/0.

d. Consider Resolution No. 11-2014 Study of Lake Minnetonka Scenic Byway Concept

Mr. Gadow reviewed the City's past consideration of a Lake Minnetonka Scenic Byway designation for Bushaway Road, Lake Street, Shoreline Drive, and Eastman Lane within the

City's borders and outcome of the February 24, 2014, meeting to further discuss that concept. He presented the draft resolution that would be considered by all involved cities to authorize additional study of this concept to pursue a State-level Scenic Byway designation.

Mr. Willcox noted this initiative came out of the Lake Effect and as Senator Osmek mentioned earlier, you need to be part of a broader regional effort. He stated this resolution will assure a regional effort is fostered and to highlight amenities within each community around Lake Minnetonka. Mr. Willcox announced a meeting of Lake Minnetonka Mayors on April 25, 2014, and encouraged the Council to consider adoption of the draft resolution. The Council agreed with Mr. Amdal that the Bushaway Road project also raised awareness of creating a scenic byway.

Mrs. Anderson made a motion, seconded by Mr. Mullin, to Adopt Resolution No. 11-2014 Authorizing a Feasibility Study for a Lake Minnetonka Scenic Byway Concept. The motion carried 5/0.

e. Discuss Benton Avenue / Wayzata Boulevard Interim Traffic Control

Mr. Kelly noted, as part of the Anchor Bank/Walgreen's site construction, Elm Lane has been removed so the residential neighborhood immediately west of Highway 101 and north of Wayzata Boulevard has only one access to the roadway system (Benton Avenue/Wayzata Boulevard intersection). He stated the most likely improvement would be to place a detector on Benton Avenue that would place a delayed call to the traffic signal controller at the Wayzata/Superior intersection. Mr. Kelly described the equipment involved and that if the vehicle was still present after the delay period, the traffic signal would cycle to a phase to clear the queue on eastbound Wayzata Boulevard while preventing westbound-to-westbound Wayzata Boulevard shallow angle right turns. This would create adequate gaps to allow vehicles to make a left turn from Benton Avenue onto eastbound Wayzata Boulevard. This option was presented to Hennepin County who found it to be reasonable. Staff will provide final programming of the two traffic signals to Hennepin County.

Mr. Kelly stated Hennepin County recommended that the signal cabinet at the Wayzata/Superior Boulevards intersection be replaced, as it has not been properly functioning. He recommended a loop detector on Benton Avenue and replacement of the controller and signal cabinet, noting the cost estimate is $40,000.

The Council asked whether the neighborhood concern relating to the location of the current cabinet and impact on lines was being addressed. Mr. Kelly stated it was not because the cost to relocate the wiring and cabinet, on an interim basis, would be very costly. The optimal cabinet location has not yet been determined so the recommendation is to take advantage of existing wiring. Mr. Kelly stated the existing cabinet sits on a pedestal to prevent water intrusion and it will be considered whether that pedestal height can be lowered. He stated staff will also look into low-profile cabinet designs. Mr. Kelly described the difference between a loop detector (which is more reliable) and a video detector.

The Council asked about a right turn on red movement. Mr. Kelly stated this was discussed with Hennepin County as it would back up traffic at the intersection and greatly impact the functionality of the Central Avenue intersection. The intent is to create a pause to allow a left turn out of Benton Avenue; however, Hennepin County was not receptive to a no right turn on red scenario. Mr. Kelly explained that may be a possibility as part of a modified intersection at Central Avenue to create additional storage, which is possible because the Walgreens plat provided additional right-of-way along its eastern property line.

The Council considered asking the developer to contribute towards the interim costs as the traffic situation is a result of the development closing off one access point. Mr. Kelly stated that is an option as the Wayzata Bay Center has contributed towards resolving impacts that project has created. He stated staff can consider mechanisms to require contribution from the Walgreens/Anchor Bank and Wayzata Bay Center, as these improvements are necessary to create the new intersection.

Mr. Dudinsky explained the timing of the traffic signals. Mr. Kelly stated the timing will be addressed with Hennepin County to assure a safe intersection is created from all directions including pedestrians. The Council supported pursuing a no right on red scenario.

Informational; no action required.

f. Consider Compensation and Classification Study

Ms. Nelson presented a proposal to perform a Compensation and Classification Study for non-union, regular City Hall positions to establish a market-based compensation system for these positions. She recommended moving forward with the Springsted proposal with funding from the Administration consulting budget. Ms. Nelson stated it is recommended, if approved, that the Compensation Plan be implemented on an incremental basis as planned for in the budget process.

Ms. Nelson also recommended staff be provided with latitude in advance of completion of this study to address the below-market condition of the Building Inspector position.

With regard to statutory requirements relating to pay equity, Ms. Nelson advised the City complies with that requirement. She answered questions of the Council relating to the higher level of training for the Building Inspector when compared to an entry-level positions.

Mr. Tanner made a motion, seconded by Mr. Amdal, to approve the proposal of Springsted to conduct a Compensation and Classification Study and to give staff latitude to address the below-market condition of the Building Inspector position. The motion carried 5/0.

AGENDA ITEM 6. City Manager's Report and Discussion Items.

Ms. Nelson reported that Mr. Majka was detained, offered his apology, and indicated that presentation will be scheduled for a future meeting.

Mr. Dudinsky described the impact of Emerald Ash Borer and invited residents to attend the April 26, 2014, informational meeting.

Ms. Nelson advised of agenda items for next week's HRA meeting and upcoming Council meetings. She announced the Dig-It volunteer event.

Mrs. Anderson announced the volunteer opportunity on June 7, 2014, for cleanup at the Foreman's House and ability to sign up on line.

a. Lake Effect Next Steps

Mr. Gadow presented Lake Effect discussion points and Council direction provided at the April 1, 2014, Workshop. He advised of items in play, upcoming meetings, information on committee member job description, and topics for future meetings.

Ms. Nelson requested Council direction on whether to proceed with an interim dock. Due to the late hour, the Council deferred this issue to a future Workshop.

Mr. Kelly provided updates on road projects and indicated the roundabout discussion will need to occur eminently. He reported that a separate contractor is making modifications to the Met Council lift station adjacent to the marina, which will impact parking. Mr. Kelly stated a clean up operation will be starting relating to grading that occurred on the east lot of the Yacht Club. It was indicated that the Yacht Club was not responsible for the grading.

AGENDA ITEM 7. Public Forum Continued (if necessary).

There were no comments.

AGENDA ITEM 8. Adjournment.

Mr. Tanner made a motion, seconded by Mrs. Anderson, to adjourn. There being no further business, Mr. Willcox adjourned the meeting at 9:56 p.m.

Respectfully submitted,

Becky Malone

Becky Malone
Deputy City Clerk

Drafted by Carla Wirth
TimeSaver Off Site Secretarial, Inc.