WAYZATA CITY COUNCIL
MEETING MINUTES
February 5, 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, Engineer Kelly, and City Attorney Schelzel.

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).

b. Swearing-in Ceremony for New Firefighters

Fire Chief Klapprich introduced Scott Anderson, Josh Brunken, and Mike Wilson and described the training and experience of each. Following introductions, Ms. Nelson administered the oath of office for the new firefighters. Badges were then pinned by family members.

Fire Chief Klapprich extended the Department's appreciation to residents who are clearing snow from fire hydrants. He stated the Department recently delivered 2014 calendars and raffle tickets. Mr. Willcox congratulated the new firefighters and added his encouragement to support the Fire Department.

a. Planning Commission Service Awards

Mr. Willcox commented on the importance of the Planning Commission in providing recommendations to the City Council and presented Service Awards for former Planning Commissioners Sheri Cooper (who was not in attendance) and Russ Crowder who had served in this capacity for 13 years. Mr. Crowder was also presented with his nameplate and a commemorative clock.

Mr. Crowder stated his appreciation for the opportunity to serve Wayzata in this capacity.

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 January 21, 2014 and Minutes of January 21, 2014
b. Approval of Check Register
c. Approval of Lease Agreement with the Wayzata Historical Society for the Wayzata Depot at 402 Lake Street E.
d. Approval of Lease Agreement with the Greater Area Chamber of Commerce for the Wayzata Depot at 402 Lake Street E.
e. Approval of Municipal Licenses
f. Municipal licenses which received administrative approval (informational only)

The motion carried 5/0.

AGENDA ITEM 5. New Business.

a. First Reading of Ordinance #744 Vacation of Street Right-of-Way and Public Utility Easements at Elm Lane

Mr. Gadow reviewed that at its January 21, 2014, meeting, the Council voted 3-1 to adopt Resolution No. 05-2014 approving the redevelopment project for Walgreens/Anchor Bank and three residential homes. He explained that approval was contingent on the City Council also approving a street and public utility easement vacation request for Elm Lane, which requires a unanimous affirmative vote of the entire City Council. Mr. Gadow presented the site plan and described the two components of the requested vacation request: street vacation of Elm Lane; and, drainage and utility easement vacation. This street vacation allows reconfiguration of access into the commercial and residential sites by closing Elm Lane and relocating the commercial access north to align with the curb cut access at Colonial Square.

Mr. Gadow presented three options for the Council's consideration: Option A –Elm Lane is vacated, the City relinquishes its rights, an easement is granted over the existing utilities, the applicant would build a new commercial road and close access into the residential neighborhood with the exception of emergency vehicle and pedestrian access; Option B – Elm Lane is not vacated but the City would grant an easement over certain portions of Elm Lane to allow traffic to utilize the site, and a license to remove the pavement for the plan's green space not utilized for the roadways, and the City would maintain its perpetual rights to the street; and, Option C – The City approves the vacation as proposed and the applicant would provide the City with easement rights over a portion of the new commercial street to allow the City to re-establish a public street to connect Wooddale Avenue to the new commercial street and to Central Avenue. Under all three options, the City would still need to vacate the drainage and utility easements in order to allow the new Anchor Bank building to be located adjacent to what is now Elm Lane.

Mr. Gadow stated if the Council decides to not vacate Elm Lane under Option A and opts for a different option, Resolution No. 05-2014 would need to be amended to add new language to allow for that to occur without the lapse of the other project approvals. This would be necessary because as adopted at the last meeting, Resolution No. 05-2014 indicates the vacation of Elm Lane must occur. Mr. Schelzel described the Resolution language that would need to be revised and distributed a draft amended Resolution No. 05-2014 that would incorporate the necessary amendments to allow for the other options.

The Council discussed the options available and difference between a vacation (requiring a future negotiation or condemnation to reopen the street) and granting an easement instead of vacation. Mr. Gadow stated the site plan and building locations would remain the same under all three options.

The Council considered the likelihood of the applicant considering Options B or C in case the City should decide in the future that it wanted the property for a road. Mr. Schelzel explained that Option C as worded in the proposed amended Resolution would allow the City to exercise the easement should a new PUD or PUD amendment be approved on the property. In response to a question from Mrs. Anderson, Mr. Schelzel explained that if the City did not retain a right of way, it could obtain it in the future if there is a public purpose through negotiation at the PUD stage, or if that is not successful, then the City could start action to condemn the property, pay for appraisals, and proceed through condemnation.

With regard to the impact of "taxable dirt" versus "nontaxable dirt," Mr. Schelzel advised that with Option B, nothing likely would change relating to taxes. With Option C, it will depend on how the easement is structured. If platted, there would likely be some economic depreciation but if structured as an option agreement for the City to exercise, perhaps not.

Mr. Mullin commented on practical considerations for Hennepin County curb cuts and preference to not have an access/curb cut for traffic circulation onto Highway 101. He stated if the City preserves the flexibility of providing a road in the future, he would ask how realistic it would be to have it directly adjacent to a structure. Mr. Mullin stated he did not see the need for it given the structure of the project. In addition, he preferred to have the land become taxable.

Mrs. Anderson stated support for Option C as the taxes generated for the easement would only be about $1,000 annually. In addition, Option C leaves options open for future Councils and would create no obstacles.

Mr. Amdal stated support for Option C as it does not impact the site plan and allows easement for future access. He noted Central Avenue North will not remain the same into the future and Option C leaves open an option for access. It also gives comfort to the neighborhood to not even discuss it for 30 years. Mr. Amdal stated he would prefer that the trigger not be a change in the PUD.

Mr. Tanner stated after the Council Workshop, he thought there was agreement to vacate Elm Lane because the property would pay taxes and the City can bring back the property in the future, if needed. He stated support for Option A.

Mr. Willcox stated he also supported Option A as that is what the Council told the neighborhood it would do. He stated a lot of planning and legal dollars have now been spent on trying to accommodate a concern of the Council and in this case, the minority position will prevail.

John Kohler, architect with Semper Development representing the applicant, stated their preference for Option A in consideration of time spent and what the neighborhood wants. Their second preference would be for Option C as it keeps the plans as is.

Mrs. Anderson stated the “minority” being referred to is her. She stated she had requested, several weeks ago, information on other options besides a street vacation such as an encroachment agreement (Option B). She stated she wanted to understand this option and felt all on the Council should understand it since it had not been considered before to the severity of a street vacation. Mrs. Anderson stated she just received this information on Monday and it was not an attempt to spend the City’s legal or planning money but to assure due diligence on all of the City’s options. She supported Option C as it leaves the door open to future Council’s and future redevelopment of this property, which none can predict.

Mr. Gadow suggested the Council first address amending the conditions contained in Resolution No. 05-2014 and then direct staff and the City Attorney to further vet Option C with the developer. Mr. Schelzel stated if the Council wants a different trigger than a PUD amendment and more flexibility in the final wording for the easement rights in Option C, the wording of that condition in the proposed amended Resolution No. 05-2014 should be revised prior to adoption. He indicated if the Council proceeds without any amendments to current Resolution No. 05-2014, the prior approvals would lapse.

The Council discussed the type of “trigger” it would like attached to the conditions of Option C, such as a length of time, submittal of new project, or PUD amendment.

Mr. Tanner made a motion, seconded by Mr. Amdal, to revise Option C under proposed amended Resolution No. 05-2014 as recommended by staff with the trigger being based on agreement reached through further negotiations with the applicant. The motion to approve amended Resolution No. 05-2014, with the noted revisions, carried 5/0.

Mr. Mullin made a motion, seconded by Mr. Tanner, to approve Option A, not inclusive of Public Utility and Drainage Easements. Roll call vote: Members Mullin, Tanner, and Willcox voted aye; Members Amdal and Anderson voted nay. The motion to approve Option A failed 3/2 as a unanimous vote is required for street vacation.

Mr. Schelzel recommended the Council table further consideration to allow time for staff to work with the applicant on other options.

Mr. Amdal made a motion, seconded by Mr. Tanner, to table further consideration of Ordinance #744. The motion carried 5/0.

b. Consider Law Enforcement Labor Services, Inc. (LELS) 2014-2016 Union Contract

Ms. Nelson reported on staff’s successfully negotiation with Law Enforcement Labor Services, Inc. (LELS) on a multi-year contract of 2014 to 2016 and described the agreed upon terms including a 2% COLA and 2% market adjustment January 1, 2014; and a 2% COLA on April 1, 2015; and a 2% COLA on April 1, 2016. Ms. Nelson answered questions of the Council relating to the contract and what is meant by “modern policing themes.”

Mr. Amdal made a motion, seconded by Mrs. Anderson, to approve the Law Enforcement Labor Services, Inc. (LELS) 2014-2016 Union Contract. The motion carried 5/0.

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

a. Discuss Process for Considering Beach Concessions

Ms. Nelson stated the Council had previously discussed minor modifications to the southern end of the beach house to allow for concessions. She asked if the Council was supportive for staff to continue that effort with a local restaurateur.

The Council discussed the process and whether it should consider opening it to RFPs. Ms. Nelson stated this is a small project so it does not rise to the need for an RFP.

Mrs. Anderson stated support to move forward as it may be considered as a test/experiment to see how it goes and the Council has already set such a precedent with other local businesses. The Council agreed.

b. Other

Ms. Nelson announced upcoming meetings including those related to the Lake Effect. The Framework and Report will be presented at the March 4, 2014 Council meeting.

Ms. Nelson stated the landscape design by LHB for the East Lake Street corridor is proceeding with a design charette on March 8 and a Council Workshop discussion on March 18.

Ms. Nelson stated a meeting has been scheduled with the State Scenic Byway Office on February 24, 2014. During that meeting, information will be provided on options for implementation and estimated costs.

Ms. Pierson, Wayzata Chamber President, announced activities that will occur during this weekend's Chilly Open.

With regard to the Bushaway project, Mr. Kelly stated staff is working through details with CenterPoint Energy.

Mr. Willcox asked about the opportunity for the City to express concern related to rail transport of oil. Mr. Kelly stated staff could forward a statement of the Council to the City's federal legislative delegation.

Mrs. Anderson reported on the Communications Board's meeting and items under consideration.

Mr. Willcox announced that Dan Baasen, Wayzata's representative on the Lake Minnetonka Conservation District, was elected as Board Chair.

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

There were no comments.

AGENDA ITEM 8. Adjournment.

Mr. Tanner made a motion, seconded by Mr. Amdal to adjourn. There being no further business, Mr. Willcox adjourned the meeting at 8:22 p.m.

Respectfully submitted,

Becky Malone
Deputy City Clerk

Drafted by Carla Wirth
TimeSaver Off Site Secretarial, Inc.