

**WAYZATA CITY COUNCIL
MEETING MINUTES
April 7, 2015**

AGENDA ITEM 1. Public Meeting.

a. Open Local Board of Appeal and Equalization Meeting

Mayor Willcox opened the Local Board of Appeals and Equalization at 5:40 p.m. Members present: Anderson, McCarthy, Mullin, and Tyacke.

Assessor Distel described his work as the assessor, noting that Chris Bennett was in attendance to represent Hennepin County who assesses apartments, commercial property, and Presbyterian Homes in Wayzata. Assessor Distel provided an overview of the Assessor's responsibilities and explained how valuations were determined that provided for equalization.

b. Hear Appeals

The Council considered the request from Gary and Kelley Knight, appealing the valuation of 146 Benton Avenue.

Gary Knight, 146 Benton Avenue, suggested that the Council had not adequately reviewed the Anchor Bank development and it had negatively affected the value of his home because of a lack of screening. However, the valuation of his home had increased by 6.1%. Mr. Knight presented pictures of the development as viewed from his home.

Assessor Distel stated the purchase price of the home, \$580,000.00, was a good deal in his opinion. He had increased the property the previous year but at a much lower rate than the rest of the neighborhood. Mr. Distel asked why Mr. Knight was building a home two doors away if he believed the commercial use devalued the neighborhood.

Mr. Knight explained that he felt the negative impacts were the highest for his home and that the other piece of property was blocked, higher, and had room to plant trees.

Mr. Knight answered a question of the Council sharing the increases from the surrounding homes that might be affected by the development. The two long lots on Wayzata Boulevard were increased by 15% in 2014, 6% in 2015, 16.5% in 2014, and 5.6% in 2015. The second lot that Mr. Knight owned was increased by 15% in 2014 and was decreased in 2015 because the home was removed. The next lot was increased by 13% in 2014 and 6% in 2015. The Knight's home was increased only 3.8% in 2014 and 6.1% in 2015.

Mr. Gadow answered a question of the Council indicating the landscaping for the development had not been completed and would be finished this spring.

Mr. Mullin acknowledged that the gap in screening was for public safety but did impact the property value and supported a slight reduction.

The Council requested that staff ensure the landscaping plan was carried out and to monitor the area in regard to the effects the development had on surrounding property values.

Mr. Tyacke made a motion, seconded by Mrs. Anderson, to maintain the valuation of 146 Benton Avenue at \$661,000.00. The motion carried 4/1 (Mullin).

The Council considered the request from David Heil, appealing the valuation of 190 Gleason Lake Road.

David Heil, 190 Gleason Lake Road, stated that he purchased the property in December, 2012 for \$399,000.00. There were substantial issues with the home and he had been making improvements as a hobby. Mr. Heil stated there had been a substantial increase of 30%. The assessor had assigned a value of \$50,000.00 for improvements, but he could provide receipts for only \$5,000.00 to \$10,000.00 in improvements.

Assessor Distel stated that he had been in contact with Mr. Heil in November and had warned him that he was considering a substantial increase. He had offered to walk the home to

1 analyze actual improvements and correct the data, but Mr. Heil had not scheduled a meeting.
2 Assessor Distel had looked at the home and noted new siding and improvements to the porch.

3 The Council asked questions related to the assumptions made around the home
4 improvements and the home next door that had been given a reduction.

5 The Council agreed that it could not make a judgment without the Assessor having an
6 opportunity to enter the home.

7 Assessor Distel stated the owner had every opportunity to arrange for an appointment to
8 have the Assessor view his home and did not do so. Mr. Distel felt it was the intention of the
9 owner to come to the meeting without having his home viewed. Assessor Distel stated the owner
10 should be given the opportunity to appeal to the Hennepin County Board of Equalization since
11 the time had passed for him to enter the home and there seemed to be a conflict with the property
12 owner.

13 Mrs. Anderson made a motion, seconded by Mr. Mullin, to maintain the valuation of 190
14 Gleason Lake Road at \$519,000.00. The motion carried 5/0.

15 The Council explained the process of appealing to the Hennepin County Board of
16 Equalization and believed that it would give the property owner a fair and unbiased appeal
17 process.

18
19 The Council considered the request from Eric Fortney, appealing the valuation of 195 Lakeview
20 Lane South at \$1,732,000.00.

21 Mr. Fortney stated that his property had increased by a total of \$252,000.00 over the last
22 three years. The previous year's valuation was \$1,630,000.00 and this year's valuation was
23 \$1,732,000.00. Mr. Fortney expressed concern over this rate of increase and presented
24 comparable homes in the Highlands neighborhood. 180 Lakeview Lane was assessed at
25 \$1,426,000.00 for the previous year. 161 Ferndale Road South was assessed at \$1,537,000.00 for
26 the previous year. 182 Westwood Lane South was assessed at \$1,387,000.00 for the previous
27 year. 175 Westwood Lane South was assessed at \$1,700,000.00 this year. Mr. Fortney shared
28 that his home was 5,300 square feet, was built in 2009, and did not have high-end finishes.

29 Assessor Distel stated that he had been able to go into the home and there was a quality
30 factor used by assessors to account for high-end finishes and other items.

31 The Council asked a question relating to how the quality grade was used in determining
32 valuation and increases in valuation in comparable properties.

33 Mrs. Anderson stated that the quality grade did not seem equitable with comparable
34 properties and she was uncomfortable with the consistency.

35 The Council agreed that the property might be overvalued, but the percentages were
36 consistent in the neighborhood. The Council advised of the option to appeal to Hennepin County.

37 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to maintain the valuation of
38 195 Lakeview Lane South at \$1,732,000.00. The motion carried 3/2 (Anderson, Mullin).

39
40 The Council considered a letter from Del Johnson, appealing the valuation of 403 Waycliffe
41 Drive North at \$639,000.00.

42 Assessor Distel stated that Mr. Johnson had sent a letter requesting that 403 Waycliffe
43 Drive North be entered into the record for appeal of valuation. Mr. Johnson noted, in his letter,
44 that 323 Waycliffe Drive North was very similar to his home and had the same views of the pond,
45 but sold for \$500,000.00 in 2014. Mr. Distel provided a map of sales of similar homes
46 surrounding the pond that listed a home that sold in 2012 for \$635,000.00, a home that sold in
47 2013 for \$657,000.00, a home that sold in 2013 for \$580,000.00, and a home that sold in 2014 for
48 \$670,000.00. Mr. Distel confirmed that the 323 Waycliffe Drive North home sold for
49 \$500,000.00. The details concerning that sale included that the home was sold after the owners
50 had passed away and needed a total update.

1 The Council asked a question relating to a seasonal/recreational classification. The
 2 Council agreed it was comfortable with the assessment and that the sale of 323 Waycliffe Drive
 3 North seemed to be out of the normal range.

4 Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to maintain the valuation of
 5 403 Waycliffe Drive North at \$639,000.00. The motion carried 5/0.

6
 7 The Council considered a letter from Jeff Rotsch, Bushaway LLC, appealing the valuation of 167
 8 Bushaway Road at \$574,000.00.

9 Assessor Distel stated that the property had been for sale off and on since 2008 and that
 10 Mr. Rotsch had purchased the home at auction in January, 2015 for \$488,250.00. The home was
 11 in a state of disrepair and Mr. Rotsch believed that the property value should be equal to the
 12 amount he paid.

13 The Council asked a question relating to the Bushaway LLC ownership and the break out
 14 in cost between land and buildings.

15 Assessor Distel stated that the LLC was owned by Mr. Rotsch and his children and he
 16 was unaware of their intentions for the property. The land was valued at \$381,000.00 and the
 17 building was valued at \$193,000.00 for a total of \$574,000.00. Assessor Distel suggested an
 18 adjustment because he was not previously aware of the state of disrepair. He recommended
 19 maintaining the land value at \$381,000 and reducing the building value to \$163,000 for a total of
 20 \$544,000.00.

21 Mrs. McCarthy made a motion, seconded by Mrs. Anderson, to reduce the valuation of
 22 167 Bushaway Road to \$544,000.00. The motion carried 5/0.

23
 24 The Council considered a letter from Connie and Al Draves, appealing the valuation of 435 Lake
 25 Street West at \$643,000.00.

26 Assessor Distel stated that he received the letter in today's mail. He called the property
 27 owner and visited the property, but received no answer. The valuation increased from
 28 \$563,000.00 in 2014 to \$643,000.00 in 2015. The land value had been decreased in the past
 29 because of the proximity of a City pump house, but the trees had grown and Assessor Distel
 30 believed that it no longer had the same negative effects. The property also received a discount of
 31 \$30,000.00 because of its proximity to a commercial parking lot.

32 The Council agreed to include the appeal in tonight's Local Board of Appeals and
 33 Equalization.

34 Assessor Distel reported on sale prices of comparable properties.

35 The Council discussed the best course of action and agreed to maintain the current
 36 valuation and preserve the owner's right to appeal to Hennepin County.

37 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to maintain the valuation of
 38 435 Lake Street West at \$643,000.00. The motion carried 5/0.

39
 40 Assessor Distel noted that the owner of 1120 and 1200 Wayzata Boulevard had received his
 41 notice in the mail only one day prior and requested to be entered into the record so that he could
 42 appeal to Hennepin County.

43 Mrs. Anderson made a motion, seconded by Mr. Tyacke, to accept the appeal of 1120
 44 and 1200 Wayzata Boulevard. The motion carried 5/0.

45
 46 **c. Adjourn Local Board of Appeal and Equalization Meeting**

47 Mrs. McCarthy made a motion, seconded by Mrs. Anderson, to adjourn the Local Board of
 48 Appeal and Equalization meeting at 7:02 p.m.

49
 50 **AGENDA ITEM 2. City Council Meeting.**

51 Mayor Willcox called the meeting to order at 7:07 p.m.

AGENDA ITEM 3. Roll Call.

Council Members present: Anderson, McCarthy, Mullin, and Tyacke. Also present: City Manager Nelson, Director of Planning and Building Gadow, Administrative Services Director Uram, Public Works Director Dudinsky, Police Chief Risvold, and City Attorney Schelzel.

AGENDA ITEM 4. Approve Agenda.

Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to approve the agenda, as presented. The motion carried 5/0.

AGENDA ITEM 5. Public Forum – 15 Minutes (3 minutes per person).

a. Recognition of Bob Nash, Owner of the Barbers Inn

Mayor Willcox shared that the Council recognizes citizens from time to time and tonight the Council would recognize Bob Nash as an extraordinary citizen of Wayzata.

Jake Beard, Greg Rye, Chief Risvold, Don Scanlon, Chris Pierson, and Paul Webster each thanked Mr. Nash and described his many contributions to Wayzata.

Mayor Willcox thanked Mr. Nash for the roles he had played in Wayzata as a barber, a volunteer, and a caring human being. He then read the Proclamation recognizing Robert E. Nash and designated April 11, 2015 Bob Nash Day in Wayzata.

Mr. Nash thanked the Council and everyone in attendance.

The Council recessed at 7:37 p.m. and reconvened at 7:54 p.m.

b. Bushaway Road Construction Update

Trudy Richter, representative for Shafer Contracting Co., shared that McGinty Road and Eastman Lane would re-open in June. A current issue was that the mailboxes along Bushaway Road had to be removed, but house numbers were being installed per police request. She indicated there had been communication issues with the railroad. Ms. Richter discussed the Native American burial remains that were discovered at the intersection of County Road 101 and Breezy Point Road. An archeological study had been completed and an archaeologist was on site at all times. A mutually acceptable area had been established and would be checked for remains.

The Council asked a question relating to the utilities using common ductwork and issues with the high water table.

Mrs. Anderson shared an update on the Minnehaha Creek Watershed District who had given final approval for the work that they were doing. She also recognized Ron Anderson who volunteered his time and worked with their staff to increase the number of trees planted along the causeway.

c. Dig It Day

Pat Broyles, 212 Benton Avenue, shared that Saturday, May 16, 2015, had been set for Dig It Day. Volunteers were welcome and would meet at 8:30 a.m. at Public Works.

Mayor Willcox announced that a closed special meeting of the Council was held at 4:30 p.m. to conduct a performance evaluation of City Manager Heidi Nelson pursuant to Minnesota Statute Section 13D.05, Subdivision 3. He shared the positive conclusions from the meeting stating that Ms. Nelson exceeded expectations in all categories.

AGENDA ITEM 6. Consent Agenda.

Mr. Tyacke requested to pull Item 6.d. Consider Peavey Bridge Agreement – Amendment No. 1, from the consent agenda for discussion.

1 Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to approve the consent
2 agenda:

- 3 a. Approval of Workshop Minutes of March 17, 2015 and Minutes of March 17, 2015
 - 4 b. Approval of Check Register
 - 5 c. Approval of Municipal Licenses
 - 6 ~~d. Consider Peavey Bridge Agreement Amendment No. 1~~
 - 7 e. Municipal licenses which received administrative approval (informational only)
- 8 The motion carried 5/0.

9
10 **AGENDA ITEM 7. Public Hearing.**

- 11 **a. Consider Approval of an On-Sale Wine License and an On-Sale 3.2% Malt Liquor**
12 **License for Anderson Franchise Investments Inc. dba "Peoples Organic Coffee and**
13 **Wine Café"**

14 Ms. Nelson presented the request of Anderson Franchise Investments Inc. dba "Peoples Organic
15 Coffee and Wine Café" for an on-sale wine license and on-sale 3.2% malt liquor license for
16 People Organic Coffee and Wine Café, a restaurant located at 765 Lake Street East. The licensed
17 premises would include the first floor indoor restaurant and a compact and contiguous outdoor
18 patio. Staff recommended approval of both licenses as the applications were in order.

19 Mr. Willcox opened the public hearing at 8:15 p.m. There being no input, Mr. Willcox
20 closed the public hearing at 8:15 p.m.

21 Mrs. Anderson made a motion, seconded by Mr. Tyacke, approving an On-Sale Wine
22 License and On-Sale 3.2% Malt Liquor License for Anderson Franchise Investments Inc. dba
23 "Peoples Organic Coffee and Wine Café" located at 765 Lake Street East. The motion carried
24 5/0.

25
26 **AGENDA ITEM 8. New Business.**

- 27 **a. Consider Resolution No. 17-2015 151 Westwood Lane Two Lot Subdivision**

28 Mr. Gadow presented a request for concurrent preliminary and final plat subdivision approval for
29 a new two-lot subdivision at 151 Westwood Lane from White Birch Properties and Development
30 Group. The project would require the removal of the existing structure on the property and a
31 subdivision of the parcel. Access would be through an existing private driveway that would be
32 widened to 20 feet to meet State Fire Code requirements and would require approval of variances
33 from the Subdivision Ordinance. Building plans were not currently available so approval should
34 include a condition requiring future owners to submit building plans to the Planning Commission
35 and Council for review prior to submitting building permits. Mr. Gadow presented the existing
36 conditions survey, final plat, and tree inventory. He also noted that the Planning Commission had
37 recommended approval.

38 The Council asked questions relating to the private roadway instead of a public road, the
39 parkland dedication fee, and the Poling driveway.

40 Scott Roe, 5128 Bryant Avenue South, Minneapolis, stated that he had spoken with Mr.
41 Poling about the driveway and was willing to work with him. There was not currently an
42 easement.

43 The Council asked questions relating to a property buffer and construction time frame.

44 Mr. Tyacke made a motion, seconded by Mrs. Anderson, to Adopt Resolution No. 17-
45 2015, Approving Concurrent Preliminary and Final Plat and Subdivision Variances at 151
46 Westwood Lane, with additional conditions to submit building plans to the Planning Commission
47 and City Council and to resolve the easement for the Poling's driveway. The motion carried 5/0.

- 48
49 **b. Consider On-Sale Intoxicating Liquor License including Sunday Sales for: Gianni's**
50 **LLC dba "Gianni's Steakhouse"; McCormick Hospitality Group LLC dba**
51 **"McCormick's"; and Sushi Fix LLC dba "Sushi Fix"**

1 Ms. Nelson reported that liquor licenses were normally approved on the Consent Agenda, but
2 these were being considered in the Regular Agenda because of two or more violations.

3 Chief Risvold reported on the details of the three liquor license violations of Gianni's
4 Steakhouse during the previous year.

5 Teri Huml, Gianni's Steakhouse, explained that these violations were situational and
6 happened because of events. She expressed her appreciation of having a liquor license.

7 Chief Risvold reported on the details of the two liquor license violations of McCormick's
8 during the previous year.

9 Tim McCormick, McCormick's, apologized for the violations and stated that he took
10 them very seriously. Both violations were due to events and the restaurant had learned from these
11 instances.

12 Chief Risvold reported on several incidents concerning the owner of Sushi Fix including
13 a 2013 failed alcohol compliance check, three DWI's in 10 years, and a dispute between the
14 owner and a patron where the police were called.

15 Enkhbileg Tserenbat, Sushi Fix, apologized for his actions and stated that he was
16 working on becoming more responsible. He also expressed appreciation over the privilege to
17 have a liquor license.

18 Staff recommended approval of the liquor licenses, but would note the violations and
19 expect no violations in the following year. The Council encouraged all businesses to work with
20 the City staff to find solutions especially in regard to special events.

21 Mr. Tyacke made a motion, seconded by Mr. Mullin, to approve On-Sale Intoxicating
22 Liquor License including Sunday Sales for: Gianni's LLC dba "Gianni's Steakhouse",
23 McCormick Hospitality Group LLC dba "McCormick's", and Sushi Fix LLC dba "Sushi Fix".
24 The motion carried 5/0.

25 26 **c. Consider Approving Year End Transfers**

27 Mr. Uram explained that in 2013, the City adopted a Fund Balance Policy to establish a minimum
28 fund balance of 40% for general fund operations and establish a process for the allocation of
29 excess revenues at yearend. Staff anticipated that the General Fund would have excess revenues
30 in 2014, allowing the City to transfer funds consistent with past practices or to fund other priority
31 projects as determined by the Council. For 2014, a transfer of \$1,466,140 was possible compared
32 to \$951,548 in 2013. There was a short-term deficit in the Street Improvement Fund that could
33 be eliminated with a transfer of \$312,000.00. If that transfer was made, there was approximately
34 \$1.15 million available for other projects. Staff suggested possible options for the remaining
35 funds including Lake Effect, Pilot Parking Projects, Downtown Parking Ramp, Admin/Planning
36 Intern, and Dock Master.

37 The Council discussed each of their priorities and suggested additional items including
38 Telecommunication, Eastman Lane landscaping, Bushaway Road landscaping, and Contingency.
39 The Council discussed whether to continue discussions in a workshop and how to conduct a
40 survey of the Council for what each Member would like to allocate and then compile results.

41 Ms. Nelson noted that a Telecommunication Fund had been set up.

42 The Council directed staff to conduct a survey with total fund availability, priority
43 projects, and how much money each project had been allocated.

44 Ms. Nelson asked if there was a consensus from the Council concerning the \$312,000.00
45 transfer to the Street Improvement Fund, as this would affect the next agenda item.

46 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to transfer \$312,000.00 to the
47 Street Improvement Fund. The motion carried 5/0.

48 The Council discussed the Admin/Planning Intern and Dock Master noting that these
49 items were continuing cost. Ms. Nelson discussed possible grants and other options for funding.
50

51 **d. Consider Authorization to Obtain Bids for 2015 Street Maintenance Projects**

Mr. Dudinsky reported that the Public Works Department was proposing that the following streets be considered for reconstruction as part of the City Street Project STR-2015-01: Beaver Dam Street, Edgewood Court, Ferndale Road South, Ferndale Road West, Gardner Street, and Bovey Road/Ferndale Woods. The project was designed by WSB and Associates and the engineer's estimate for the project was \$1,764,550.00. The project was proposed to be funded by the Street CIP, Stormwater CIP, and a Minnehaha Creek Watershed District Low Impact Development Grant. The project would start in late May, 2015 and be completed in October, 2015. The Council asked a question relating to oil prices.

Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to approve the authorization to obtain bids for 2015 Street Maintenance Projects. The motion carried 5/0.

The Council discussed a request from residents on Beaver Dam Road for noise abatement. Mr. Dudinsky shared that a noise study had been completed by the Minnesota Department of Transportation 12 to 15 years ago. He shared the length of time and challenges for receiving Minnesota Department of Transportation funding, noting the four or five locations that were the lowest were on the list.

e. Consider Award of Bid for 2015 Sewer Lining Project

Mr. Dudinsky shared that the Wayzata sewer system was very old, but that it had been very cost effective and efficient to line the sewer system instead of total replacement. Public Works had received six bids on April 1, 2015, for the 2015 Sanitary Sewer Rehabilitation project. The project involved the lining of approximately 6,860 lineal feet of eight-inch clay sewer main in the Highlands neighborhood and on Bovey Road and Peavey Lane. The Sewer CIP had \$415,800.00 budgeted for the project. Staff recommended the low bidder, Insituform Tech USA, Inc. at \$156,578.00.

As there was available funding, the Council suggested adding other areas of concern to this project. Mr. Dudinsky responded that it could be increased up to 20% without rebidding.

Mrs. Anderson made a motion, seconded by Mr. Tyacke, to award the bid for the 2015 Sewer Lining Project to Insituform Tech USA, Inc. at \$156,578.00, and give the staff the discretion to increase the project up to 20%. The motion carried 5/0.

AGENDA ITEM 4. Consent Agenda - continued.

d. Consider Peavey Bridge Agreement – Amendment No. 1

Mr. Tyacke stated concern over possible gaps in insurance. The report from Public Works stated the reason for the change was that the bridge was designed by SRF Consulting but the City was responsible for the design risk. Mr. Tyacke asked if SRF Consulting had a contract and whether it had professional liability insurance.

Attorney Schelzel replied that this particular contract was only removing the type of insurance that would not be applicable to those who were building the project, but he would confirm that SRF Consulting had liability coverage.

Mrs. Anderson made a motion, seconded by Mr. Tyacke to approve the Peavey Bridge Agreement – Amendment No. 1, subject to City Attorney review of the architectural and engineering contract with SRF Consulting for the bridge design and whether they have professional liability insurance coverage.

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

a. Update on Transient Docks

Ms. Nelson stated she hoped to finalize application with the Lake Minnetonka Conservation District for 15 additional transient docks.

b. Update on Downtown Parking

1 Ms. Nelson reported that downtown parking was moving forward. A meeting was scheduled with
2 the Widsten neighborhood on April 16, 2015 at 5:00 p.m. at the home of Chris and Jack
3 Morrison. The intent was to listen to the concerns of the neighborhood. Staff was also working
4 to set up a community engagement process.

5
6 **c. Update on DNR Trail**

7 Mrs. Anderson requested an update on the DNR trail project underneath the freeway. Mr.
8 Dudinsky reported that heavy rains last June had caused an erosion problem and a pipe under the
9 trail had collapsed. The DNR assessed the collapse and accepted responsibility. The pipe was
10 replaced, but the area was still fenced until vegetation was established.

11 Mrs. Anderson asked Mr. Dudinsky to look at the area for safety concerns because it was
12 steeper with jagged rocks.

13
14 **AGENDA ITEM 7. Public Forum Continued (if necessary).**

15 There were no comments.

16
17 **AGENDA ITEM 8. Adjournment.**

18 Mrs. Anderson made a motion, seconded by Mr. Tyacke to adjourn. There being no further
19 business, Mr. Willcox adjourned the meeting at 10:11 p.m.

20
21 Respectfully submitted,

22
23 *Becky Malone 4/21/2015*
24

25 Becky Malone
26 Deputy City Clerk

27
28 Drafted by Sarah Peterson
29 *TimeSaver Off Site Secretarial, Inc.*