

**WAYZATA CITY COUNCIL
MEETING MINUTES
September 1, 2015**

AGENDA ITEM 1. Call to Order and Roll Call.

Mayor Willcox called the meeting to order at 7 p.m. Council Members present: McCarthy, Mullin and Tyacke. Council member absent and excused: Anderson. Also present: City Manager Nelson, Public Works Director Dudinsky, and City Attorney Schelzel.

AGENDA ITEM 2. Approve Agenda.

Mrs. McCarthy made a motion, seconded by Mr. Tyacke, to approve the agenda, as presented. The motion carried 4/0.

Mr. Willcox reported Council met in Workshop prior to the City Council meeting and discussed tree trimming along Lake Street, a proposal for a building to be constructed on the site of the Gold Mine Antique house and reviewed the parks and trails budgets for 2016.

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

a. Wayzata High School Football Presentation

Mr. Willcox introduced Coach Brad Anderson with the Wayzata High School Football Team. Mr. Anderson introduced the following team captains: Christian Thomas, Jake Marsh, Max Underhill, Sam Kolpin, and Corrie King. The team captains reported on how they prepared for the upcoming season as well as how they have given back to the community.

The Council thanked the players for their work with the youth in the community.

b. Consider Approval of Resolution No. 32-2015 Proclaiming the Month of September 2015 as Wayzata Kindness Month; Presentation of Resolution to Girl Scout Troop 13750

Kenzie Germanson, Orono, Louise Rosenbaum, Wayzata, and Mara Kippels, Wayzata, representing Girl Scout Troop 13750, reported to the Council they created a video, posters and stickers to promote kindness in the community.

Mr. Willcox read a comment from Councilmember Anderson that thanked the ladies for their work and expressed her support for Proclamation of Kindness Day during James J. Hill Days. Mr. Willcox then read the proclamation.

Mr. Tyacke made a motion, seconded by Mr. Mullin, to approve Resolution No. 32-2015 Proclaiming the Month of September 2015 as Wayzata Kindness Month. The motion carried 4/0.

Mr. Willcox presented the proclamation to the Girl Scout Troop.

c. Presentation of Chamber Exceptional Service Award

Becky Pierson, Greater Area Wayzata Chamber of Commerce, and Mr. Willcox presented the Exceptional Service Award to Mary Kay and Jim Kopp, owner of Ben and Jerry's. Ms. Kopp thanked the City and Chamber for this recognition.

By request of the Council, Ms. Pierson announced James J. Hill Days will be on September 11-13, 2015. She stated some new additions will be a bike ride on Saturday morning, a family friendly youth fishing championship on Sunday morning, and an event called Splash Dogs.

AGENDA ITEM 4. New Agenda Items.

None.

AGENDA ITEM 5. Consent Agenda.

- 1 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to approve the consent agenda:
- 2 a. Approval of City Council Workshop Meeting Minutes of August 18, 2015 and City
 - 3 Council Regular Meeting Minutes of August 18, 2015
 - 4 b. Approval of Check Register
 - 5 c. Municipal Licenses which received administrative approval (informational only)
 - 6 d. Approval of Municipal Licenses
 - 7 e. Approval of Contract for Financial Services with Abdo, Eick & Meyers (AEM Financial
 - 8 Solutions LLC)
 - 9 f. Approval of Resolution No. 31-2015 Cancelling Scheduled General Obligation
 - 10 Improvement Bonds, Series 2010A Levy with Hennepin County
 - 11 The motion carried 4/0.
 - 12

13 **AGENDA ITEM 6. New Business.**

14 **a. Consider Resolution No. 29-2015 Approving Variance at 133 Ridgeview Drive East**

15 Mr. Schelzel reported the discussion on this resolution is being continued from the August 18,
16 2015 City Council meeting. He reminded Council the applicants, Graham and Nancy Gnos, are
17 requesting approval of a variance in order to construct an expansion to an existing garage at 133
18 Ridgeview Drive East. The requested variance would allow them to encroach into the 10-foot
19 sideyard setback to a distance of 5.6 feet. The Planning Commission recommends approval, on a
20 4-1 vote, with 1 recusal (Mr. Gnos) and 1 absence.

21 Mr. Schelzel explained that if the vote on the approval resolution is deadlocked again and
22 those voting against the approval resolution state their reasons for denial on the record, the
23 variance will be denied and the Council will have taken action for purposes of the 60 Day Rule.

24 By request of the Council, Mr. Schelzel reviewed the elements of establishing practical
25 difficulties for a variance outlined on page 51 of the meeting packet.

26 Mr. Tyacke referenced off street parking requirements in Section 801.20.9 C1 of the
27 zoning ordinance, and asked if off street parking also has a side setback of ten feet. He stated the
28 narrowness of the garage forces a car to be parked in the driveway, and this is due to a diagonal
29 property line. The owner is not meeting a 10-foot setback if they are parking the car in the
30 driveway. It is a characteristic of the property that would justify the variance.

31 Graham Gnos, 133 Ridgeview Drive, clarified where the neighbors live in relation to his
32 property. He also stated they have explored different options in getting a two-car garage on the
33 property, but that would include taking out trees, which they did not want to do as it would
34 disrupt the look and feel of the house and neighborhood.

35 Mr. Schelzel, in response to the comment by Mr. Tyacke on Section 801.20.9 C1, stated
36 staff would need to do more analysis of the application under this section, but as a general matter
37 driveways are generally not reviewed as parking areas in terms of zoning regulations. He again
38 pointed Council to the criteria for establishing practical difficulties in order to grant a variance
39 under the zoning ordinance.

40 Jane Cole, 181 Ridgeview Drive East, stated the garage had been altered by the previous
41 owner. She felt the proposal was very reasonable for this unique property and any alternative plan
42 would make the house look off balance and not be an asset to the neighborhood. Granting the
43 variance would not create a negative precedent, they are going back to the original precedent in
44 the neighborhood by having a two-car garage.

45 Mr. Tyacke stated he received a memo from the Interim City Planner that stated a double
46 garage should be a minimum of 20 feet wide and this property has been assessed for a double
47 garage.

48 Mr. Mullin asked if there is any compromise from the Council Members that do not agree
49 with this variance that could be discussed.

50 Mrs. McCarthy stated all of the elements specified in the zoning ordinance for practical
51 difficulties need to be established to satisfy the standard to grant the variance.

1 Mr. Willcox stated it is a question of principle rather than square footage. The ordinance
2 needs to be interpreted literally to uphold the principle because there is some ambiguity with the
3 ordinance.

4 Mr. Mullin stated that the garage, as is on the property, is non-conforming to the current
5 code and that is what makes these circumstances unique. This application is supported by the
6 Planning Commission. Mr. Mullin asked what the standard is for no Council action that would
7 automatically grant approval.

8 Mr. Schelzel stated there are two different rules on taking action: 1) In order for Council
9 to take action on anything, there needs to be an affirmative majority vote of Council; and, 2)
10 under state law, if Council must take action within 60 days to either approve or deny a variance
11 application and if not, the application is deemed automatically approved at the end of 60 days.
12 He further explained however that if those voting against an approval motion state their reasons
13 why they oppose the request for the record, it constitutes a denial.

14 Mr. Mullin recommended three options: 1) Move to table the application. If the majority
15 agrees, the no action provision stands; 2) If there is a motion to approve the application and it
16 deadlocks, it fails again; or, 3) A motion to deny. If that deadlocks and the facts are stated why,
17 then the Council can move on.

18 Mr. Schelzel reported that Councilmember Anderson has indicated that she will continue
19 to recuse herself from this application. Mr. Mullin withdrew his previous recommendations.

20 Mr. Willcox stated based on what he has heard, the neighborhood is better off with this
21 addition and there is enough ambiguity with the language of the ordinance as it applies to this
22 particular property and request, that he plans to vote in favor of the variance.

23 Mr. Mullin made a motion, seconded by Mr. Tyacke, to adopt Resolution No. 29-2015
24 Approving Side Yard Setback Variance at 133 Ridgeview Drive East.

25 Mrs. McCarthy stated for the record that she is not in favor of this variance because it is
26 based on economic considerations and circumstances created by a landowner. She felt it would
27 change the character of the neighborhood with the distances to lot lines. If this is allowed
28 continually, it will change the character of neighborhoods.

29 Upon roll call vote, with Mr. Mullin, Mr. Tyacke, and Mr. Willcox voting yes, and Mrs.
30 McCarthy voting no, the motion carried.

31 32 **b. Consider Ordinance to Amend Telecommunication Moratorium**

33 Mr. Schelzel reported the City has a six-month moratorium in place prohibiting any new wireless
34 communications facilities. The ordinance establishing the moratorium authorized a study to
35 determine whether, or to what extent, the City's new policies and official controls, including the
36 Zoning Ordinance, should be revised to address the wireless facilities and related services.

37 Staff is recommending the moratorium not be amended and allowed to lapse for three
38 reasons: 1) Progress has been made on the telecommunications ordinance; 2) There is a pending
39 agreement with the Wayzata Middle School for a new macro site; and, 3) The pressing need of
40 Verizon to address coverage issues in the east end of the City and relocate their former macro site
41 at Anchor Bank.

42 Mrs. McCarthy stated there is still more work to do with finalizing the
43 telecommunication ordinances and she is concerned if this moratorium were to lapse and an
44 application were to come in, it would fall under the old ordinance guidelines. She suggested
45 extending the moratorium for three more months.

46 Dan Goodmundson, 373 Park Street, stated he supports extending the moratorium.

47 Mr. Willcox stated he is not in favor of extending the moratorium because Presbyterian
48 Homes does not have cell phone service and this further delays that issue. He also stated it is
49 highly unlikely that a new vendor would approach the City knowing everything is going to be
50 changed in a few months.

1 Mary Bader, 117 Peavey Lane, stated she supports extending the moratorium and asked if
2 there was any way to fix service with Presbyterian Homes without letting the moratorium expire.

3 Mrs. McCarthy made a motion, seconded by Mr. Mullin, to declare that an emergency
4 still exists as declared in March 2015 in the original ordinance that imposed the moratorium.

5 Upon roll call vote, Mrs. McCarthy and Mr. Mullin voting yes, and Mr. Willcox and Mr.
6 Tyacke voting no, the motion failed.

7 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to amend Ordinance No. 753
8 On New Wireless Communications Facilities and Towers from a six-month term to a nine-month
9 term.

10 Upon roll call vote, Mrs. McCarthy, and Mr. Tyacke and voting yes, and Mr. Willcox and
11 Mr. Mullin voting no, the motion failed.

12
13 The Council recessed at 8:51 p.m. The Council reconvened at 8:57 p.m.

14
15 **c. Review Letter of Intent with Wayzata School District #284 for Telecom Study**

16 Mr. Dudinsky reported the City's communication consultants SEH recommended that the
17 Wayzata West Middle School property be considered as the primary location for a future
18 telecommunication macro site. Staff recommended having a feasibility study proposal prepared
19 for City Council consideration. He stated that a Letter of Intent on the potential new macro site
20 has been proposed and reviewed by the school district staff, and will be on the Wayzata School
21 Board's agenda of September 14. Staff recommends approval of the Letter of Intent.

22 The Council asked about the timing of the project and stated there needs to be a 'Plan B'
23 in place in case this site does not work out. Mr. Dudinsky stated timeframes of two to three years
24 are seen as a maximum and put in the document by the attorneys for the school district. If
25 approved, it is staff's intention to get started immediately on the feasibility study.

26 Mr. Schelzel stated the two to three year timeframe locks in the school to work with the
27 City on the study and a definitive agreement for the site, and it is in the City's interest to have that
28 timeframe last as long as possible, even if the goal is complete those items much sooner.

29 Mrs. McCarthy made a motion, seconded by Mr. Tyacke, to approve the Letter of Intent
30 with Wayzata School District #284 for Telecom Study. The motion carried 4/0.

31
32 **d. Consider Approval of Telecommunications Tower Feasibility Study Proposal at**
33 **Wayzata West Middle School**

34 The City's telecommunications consultants, SEH, recommended that the Wayzata Middle School
35 property be considered as the primary location for a future macro site. The City Council directed
36 staff to bring back a feasibility study proposal to the City Council for consideration. Staff
37 recommends the City Council approve the feasibility study proposed by SEH in the amount of
38 \$56,900. This study would be funded from the Telecommunications CIP Fund. It is SEH's intent
39 to complete the study within six months.

40 The Council asked for clarification on the length of time for the study, and what the
41 project schedule looks like.

42 Dale Romsos, SEH, 3535 Vadnais Center Drive, Vadnais Heights, stated the timing is
43 determined by the permitting process and the discovery process of the studies. After the
44 feasibility study, which takes about six months, it will be another three to five months to create
45 bid documents and award the bid. After that, the build period will be about six months depending
46 on what comes from the feasibility study. From start to finish, it will be about one year to 18
47 months.

48 Mrs. McCarthy requested SEH provide staff with information on the blended rate and
49 how many hours per week they will be working on this project.

Mr. Dudinsky stated they are not familiar with these studies with the FAA so it is hard to know about the fee. The lump sum fee will not be exceeded and there will be milestones along the way to show what is being spent.

The Council asked when the findings would be reviewed with the school board. Mr. Romsos stated this would be in draft form to the Council before it is brought to the school board.

Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to approve the Telecommunications Feasibility Study Proposal. The motion carried 4/0.

AGENDA ITEM 7. City Manager's Report and Discussion Items.

a. Update on the East Neighborhood Meeting

Ms. Nelson reported this meeting will take place on Wednesday, September 9, at 6:00 p.m. at the Pavilion. Discussion will take place on the east buffer landscaping, landscaping the roundabout and Eastman Lane, the pedestrian connections, and construction timelines.

b. Update on Lake Effect

Ms. Nelson stated at the September 15 Council meeting, the recommendation from the Lake Effect Selection Design Committee will be on the regular agenda.

Ms. Nelson reported the Lake Effect Display will be available for viewing at James J. Hill Days on Saturday from 11:00 a.m. to 6:00 p.m. and Sunday from 11:00 a.m. to 4:00 p.m.

c. Update on Parking

Ms. Nelson reported there will be a draft Programming and Predesign Report for the Council to review for the Mill Street Ramp at the September 15 Council meeting.

Mrs. McCarthy stated there is concern with the progress of work on Ferndale. According to the contractor, the work on Ferndale and the Peavey Bridge will not be done until next year.

Mr. Dudinsky stated that is not true. The Peavey Bridge will be completed this fall.

d. Flower Pull Volunteers Needed

Mr. Willcox asked for volunteers for the Flower Pull on October 24.

AGENDA ITEM 8. Public Forum Continued (if necessary).

There were no comments.

AGENDA ITEM 9. Adjournment.

Mrs. McCarthy made a motion, seconded by Mr. Tyacke to adjourn. There being no further business, Mr. Willcox adjourned the meeting at 9:25 p.m.

Respectfully submitted,

Becky Malone 09-15-2015

Becky Malone
Deputy City Clerk

Drafted by Shannon Schmidt
TimeSaver Off Site Secretarial, Inc.