

**WAYZATA CITY COUNCIL
MEETING MINUTES
November 4, 2015**

AGENDA ITEM 1. Call to Order and Roll Call.

Mayor Willcox called the meeting to order at 7 p.m. Council Members present: Anderson, McCarthy, Mullin and Tyacke. Also present: City Manager Nelson, Director of Planning & Building Thomson, Interim Planner Zweber, Management/Planning Intern Peters, and City Attorney Schelzel.

AGENDA ITEM 2. Approve Agenda.

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

Mr. Willcox reported Council met in Workshop prior to the City Council meeting and interviewed Interim City Manager candidates and reviewed options for funding of a City parking ramp.

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

Terri Huml, 293 Grace Point Court, expressed her and other business owners' support of a grade plus two level City parking ramp.

Mayor Willcox reported he received a letter from Karen Walker that expressed concern about moving the cellular equipment on the City water tower to a new cell tower on the school property.

AGENDA ITEM 4. New Agenda Items.

Councilmember Anderson requested City Manager Nelson provide a report to Council on her tenure here in order to have a smooth transition to the new Interim City Manager.

AGENDA ITEM 5. Consent Agenda.

Mrs. Anderson stated she had concern with the October 20 regular meeting minutes with regard to item No. 7f Consider Grant Applications for the 2016 Hennepin County Youth Sports Program. Mr. Mullin requested this be transcribed verbatim.

Mr. Tyacke reference page 7, line 7 of the meeting packet stating TIFF should be TIF. He also reported lines 11 through 13 were misstated. Ms. Nelson suggested staff review the meeting minutes and have them on the Consent Agenda at the next Council meeting.

Mr. Mullin made a motion, seconded by Mrs. Anderson, to approve the amended consent agenda, removing the October 20, 2015 Regular Meeting Minutes:

- a. City Council Workshop Meeting Minutes of October 6, 2015 and October 20, 2105 ~~and City Council Regular Meeting Minutes of October 20, 2015~~
- b. Approval of Check Register
- c. Approval of 2016 Liability Insurance Coverage Waiver Form

The motion carried 5/0.

AGENDA ITEM 6. New Business.

a. Consider First Reading of Ordinance No. 756 - Telecommunications

Interim Planner Zweber reported on the proposed Ordinance to repeal a section of the City's existing Telecommunications Ordinance and replace it with a new Telecommunications Ordinance that would address the new federal regulations and technology that is now available. He reported on the changes made by staff with input from the Planning Commission, and stated the proposed new Ordinance would allow the antennas to extend fifteen feet above a structure on

1 which they are mounted if certain conditions were met. Mr. Zweber summarized the October 19
2 Planning Commission meeting discussion and the revisions proposed by the City's
3 telecommunications vendors.

4 The Council asked questions about zoning areas in relation to stealth technology, and the
5 proposed Ordinance's feasibility standard for underground equipment. Mr. Paul Kaminski, Best
6 & Flanagan, stated telecom providers are concerned about having underground facilities and will
7 most likely not find it feasible.

8 The Council asked for clarification with antennas on existing buildings and the C-1, C-3,
9 and PUD zoning within 300 feet of Wayzata Boulevard. There are areas along Wayzata
10 Boulevard that could be redeveloped in the future and become PUD. The Council expressed
11 concern with being able to put antennas there given the proximity to residential areas and would
12 like this to be discussed further. City Attorney Schelzel stated a PUD gives the City a lot of
13 control, and any proposed PUD site would still need to go through a process of approval for the
14 installation of a new tower.

15 The Council expressed concern about traffic in residential areas and asked if lift stations
16 and utility boxes are included in the definition of a utility structure within a public right-of-way.
17 Mr. Zweber stated they are included, but because they are not very tall, they would likely not be
18 used.

19 The Council referred to page 50, line 20 and stated some multi-family residences are
20 PUDs. Mr. Zweber clarified that with a PUD, an approval process would still be needed for the
21 installation of a tower.

22 The Council stated it seemed that the storage of underground equipment by the vendors
23 was very unlikely and should not be included in this Ordinance.

24 The Council asked why 300 feet from Wayzata Boulevard was used as the standard. Mr.
25 Zweber stated Wayzata Boulevard is a higher elevation in relation to the rest of the City. It was
26 intended to allow the block on both sides of Wayzata Boulevard as the only location where
27 antennas on buildings were allowed.

28 The Council stated a goal of the Ordinance is to provide quality cell service to the
29 residents of Wayzata and this may not be delivered when antennas are restricted to 300 feet from
30 Wayzata Boulevard. It referred to page 50, line 26, and asked why these areas in the Downtown
31 Commercial district would be prohibited if there is a problem with coverage, and suggested the
32 language should state it would be preferred if antennas were located within the designated area
33 along Wayzata Boulevard, but that the Downtown Commercial district could be considered if
34 needed.

35 Mr. Schelzel stated the Ordinance could include language that would allow for a CUP
36 within a prohibited area if it was demonstrated by the vendor that coverage would not be
37 available otherwise. The Ordinance could also be amended in the future, if needed, to address
38 coverage issues.

39 The Council suggested language be added that the intent is everyone be provided with
40 equal cell coverage. If after going through the criteria of the Ordinance there are still issues with
41 equal coverage, then something else could be looked at. Mr. Kaminski cautioned against
42 requiring vendors to provide equal coverage and recommended stating the goal of the Ordinance
43 is quality coverage for everyone.

44 Mr. Zweber summarized the concerns raised by the Council and changes that had been
45 requested to the proposed Ordinance.

46 Mrs. Anderson made a motion, seconded by Mr. Tyacke, to direct staff to prepare a
47 revised Telecommunications Ordinance that would: 1) remove the language about underground
48 equipment; 2) add language that would allow antennas in an otherwise prohibited area if a vendor
49 can demonstrate there is a coverage need that cannot be solved any other way; and, 3) add
50 language under Purpose and Intent section stating the goal is to have quality service throughout
51 the City. The motion carried 5/0.

1
2 The Council recessed at 8:20 p.m. and reconvened at 8:26 p.m.
3

4 **c. Consider Resolution No. 39-2015 240 Manitoba Avenue South Variance**

5 Interim Planner Zweber reported on a variance request by applicant, David Frey, 240 Manitoba
6 Avenue South, to install a second stall on his garage. This proposed second stall would require
7 two variances: 1) a 20-foot rear yard setback requirement decreased to 10.2 feet; and, 2) a 30
8 percent lot coverage requirement increased to 31.4 percent for a residential structure in the C-1
9 Office and Limited Commercial District. The Planning Commission recommends approval of the
10 proposed Resolution.

11 Mr. David Frey, 240 Manitoba Avenue, stated the reason for his request is to have a place
12 to park in the winter.

13 The Council stated they support this variance request.

14 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to adopt Resolution 39-2015
15 approving a rear yard setback variance and a lot coverage variance at 240 Manitoba Avenue
16 South. The motion carried 5/0.
17

18 **b. Consider First Reading of Ordinance No. 757 – Tree Preservation**

19 Interim Planner Zweber reported the purpose of this proposed Ordinance is to update the City's
20 existing regulations on abatement of diseased trees and to create a new section of the zoning
21 ordinance that would protect and preserve the most valued trees in Wayzata, and provide a
22 framework for replacing such trees removed by developers and property owners.

23 Mr. Zweber reported on the differences between diseased tree abatement and healthy tree
24 preservation, when the proposed Tree Preservation Ordinance would go into effect and how the
25 Ordinance works. The Planning Commission recommended the following additions to the
26 Ordinance as drafted by staff: 1) To require the City Forester be a Certified Arborist by the
27 International Society of Arboriculture; 2) The removal of trees due to the Emerald Ash Borer
28 must be based on the Department of Agriculture guidance; 3) Under Protections for Utilities, the
29 phrase Critical Root Zone would replace Drip Line throughout the Ordinance; and, 4) Require the
30 Zoning Administrator review the financial securities at least once during the growing season and
31 perform inspections and release the securities when warranted.

32 The Council asked if there are guidelines about what the tree replacement formula should
33 be, and what would happen if a tree that is not slated to be removed is damaged during
34 construction. Mr. Zweber stated the Ordinance allows the City to negotiate with the developer
35 when trees are damaged and the City could also use Code enforcement, if needed. The tree
36 replacement formula is included in the Ordinance.

37 The Council asked what happens if homeowners want to replace trees that are damaged
38 during a storm with the same kind of tree but they are not on the list. Mr. Zweber stated because
39 they are dead or damaged due to a storm, the Ordinance does not require replacement. If the
40 homeowner damaged the trees during construction, they would then need to meet the criteria in
41 the Ordinance.

42 The Council asked about homeowners who are re-landscaping their property. Mr. Zweber
43 stated if the landscaping requires a grading permit, then the homeowner would have to meet the
44 criteria in the Ordinance. There are conditions in the Ordinance that would allow the City
45 Forester to approve a different type of tree that is not listed within the Ordinance.

46 A majority of the Council indicated they are not comfortable limiting the type of trees
47 homeowners are allowed to put on their property.

48 The Council noted that the City's Forester, Manuel Jordan, is working with other lake
49 communities to draft standards that contractors cannot exceed when trimming trees within the
50 community. Mr. Zweber stated that utility companies are not exempt from this Ordinance. Mr.
51 Schelzel stated anyone using land in Wayzata has to follow this Ordinance but that pruning and

1 maintenance of the tree canopy is different, and this Ordinance would not apply unless an entire
2 tree was removed.

3 Mrs. Anderson stated she does not see a formula for tree replacement that would be
4 applicable to County and State construction projects and suggested it be looked at more closely.
5 She also asked about the critical root zone and if it applies only to private property. Mr. Zweber
6 stated this Ordinance applies to any critical root zone, including public parks and adjacent
7 properties.

8 The Council asked how this Ordinance would apply to a commercial landowner that
9 wanted to remove trees for a lift station that benefitted the commercial property. Mr. Zweber
10 stated if that lift station was in the City's sewer plan as a piece of trunk infrastructure, it would be
11 exempt from replacement. If the lift station was not part of the City's sewer plan, it would not be
12 exempt.

13 The Council asked how this Ordinance would apply if the Lake Effect requests the
14 removal of trees for the purpose of view scape. Mr. Zweber stated it would require tree
15 replacement somewhere in the City, not necessarily on that site. It is up to the City Manager
16 where there is a need for trees.

17 Mr. Mullin stated he cannot support the Ordinance as drafted. It has many unintended
18 consequences for home and commercial construction and redevelopment. He does favor
19 landowners providing trees when they are removed.

20 Mrs. McCarthy stated the definitions of developer versus property owner seem to be
21 interchangeable. Mr. Zweber stated using the term developer assumes they are creating a new lot.
22 Mrs. McCarthy requested more clarity with these definitions within the Ordinance.

23 Mrs. McCarthy asked if a person is allowed to cut down all their trees under this
24 Ordinance. Mr. Zweber stated some removal is allowed and it is outlined in the Ordinance.

25 Mr. Willcox stated he does not agree with requiring the Forester qualifications in the
26 Ordinance, and would like it to state the qualifications are preferred. He also stated the potential
27 cost of removing large trees is expensive and he does not agree with the tree replacement formula
28 as it would impose a huge financial burden to a homeowner. Mr. Zweber replied there could be
29 two standards for replacement, one for homeowners and one for developers.

30 Ms. Nelson stated staff will need to address the definition of homeowner versus
31 developer.

32 Mr. Zweber summarized the concerns raised by the Council and the changes that Council
33 would like to see made to the proposed Ordinance.

34 Mrs. McCarthy made a motion, seconded by Mr. Tyacke, to direct staff to prepare a
35 revised Ordinance addressing the following four items: 1) the possibility of a formula for tree
36 replacement with County and State Construction projects; 2) Change list of trees allowed to trees
37 that are not allowed; 3) Provide more information on replacement ratios in other cities; and, 4)
38 Qualifications for Arborist possibly be preferred, but not required. The motion carried 5/0.
39

40 **d. Consider Proposal from Forecast for Public Art located in Circle A/Lake Street**
41 **Roundabout and Review Draft Citywide Public Art Policy**

42 Management/Planning Intern Peters reported Forecast Public Arts submitted a proposal to assist
43 the City in developing strategies, formulating the call for artists, contracting with selected artists,
44 overseeing design/construction projects, and preparing documentation in regard to the Circle
45 A/Lake Street Roundabout public art project. Staff is requesting approval to enter into a
46 consulting contract with Forecast Art, based on the Consulting Services Scope.

47 Management/Planning Intern Peters reported on a draft of the Public Art Policy for the
48 City of Wayzata. The intent of this policy is to guide the City in the Circle A/Lake Street
49 Roundabout project as well as future projects as needed.

50 The Council requested clarification on some of the language under list of tasks provided
51 by Forecast Public Art. Ms. Nelson reported there is about \$75,000 available for the project.

1 The \$6,000 fee for Forecast Public Art will come out of that amount. The remaining money
2 would be used for the remainder of the project facilitated by a Public Art Selection Committee.

3 The Council suggested more clarity with the role of the Project Committee, stating it is
4 not a standing board, but an advisory to the Council, who then has the final decision. It was also
5 suggested there not be a City Council member as part of the Public Art Selection Committee.

6 Mrs. Anderson stated she would like to keep a City Council member as part of the Public
7 Art Selection Committee. She suggested staff look at page 172 of the Council packet, item Nos.
8 5 and 6 and make sure they are not contradictory as well as include clarity when the public will
9 be able to give ideas on the art to be included.

10 Mr. Mullin made a motion, seconded by Mrs. McCarthy, to approve the proposal for
11 Forecast Public Art for Public Art to be located in Circle A/Lake Street Roundabout. The motion
12 carried 5/0.

13
14 **e. Consider Resolution No. 41-2015 Revoking the Rental Dwelling License of David**
15 **Supplee**

16 City Planner Thompson summarized the proposed resolution to revoke a rental dwelling license
17 held by David Supplee for property at 503-505 Broadway Ave. N. Mr. Thompson noted the
18 revocation of the rental license is due to unpaid State taxes of the license holder. Mr. Schelzel
19 advised that State Statute requires the City to revoke the rental license when the Dept. of Revenue
20 so directs.

21 Mr. Tyacke made a motion, seconded by Mr. Mullin, to approve Resolution No. 41-2015
22 revoking the rental dwelling license of David Supplee. The motion carried 5/0.

23
24 **AGENDA ITEM 7. City Manager's Report and Discussion Items.**

25 **a. Update on City Manager Nelson**

26 City Manager Nelson stated her last meeting with Wayzata as City Manager will be December
27 15. She will begin her new position shortly thereafter as Maple Grove City Administrator.

28
29 **b. Update on Lake Effect: Signature Project**

30 Ms. Nelson stated there will be a Lake Effect Signature Project meeting November 9 at 7:00-8:30
31 p.m. in the Boatworks building. Civitas will give a brief update at 7:30 p.m. and the public will be
32 able to meet the designers and give feedback on the project.

33 The Technical Committee will meet November 9 from 3:00-4:30 p.m. in the Conference
34 Room and the Steering Committee will meet from 5:00-6:30 p.m. at the Boatworks building prior
35 to the open house.

36
37 **c. Acknowledgement of Eric Zweber, Interim Planner**

38 Ms. Nelson and the Council thanked Mr. Zweber for his work as Interim Planner, and
39 complimented him on his ability to get caught up on a lot of different projects.

40
41 **d. Other**

42 The Council acknowledged the volunteers for the work that was completed in the gardens on
43 Pull-It Day.

44 Mr. Willcox announced there will be an event on November 11 from 11:00-1:00 p.m. at
45 Veterans Memorial Park.

46
47 **AGENDA ITEM 8. Public Forum Continued (if necessary).**

48 There were no comments.

1 **AGENDA ITEM 9. Adjournment.**

2 Mr. Tyacke made a motion, seconded by Mrs. McCarthy to adjourn. There being no further
3 business, Mr. Willcox adjourned the meeting at 10:20 p.m.

4
5 Respectfully submitted,

6  11-17-15

8 Becky Malone
9 Deputy City Clerk

10
11 Drafted by Shannon Schmidt
12 *TimeSaver Off Site Secretarial, Inc.*
13