WAYZATA CITY COUNCIL
MEETING MINUTES
February 17, 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 and Building Gadow, City Engineer/Assistant Director of Public Works Kelly, Public Works Director Dudinsky, and City Attorney Schelzel.

AGENDA ITEM 2. Approve Agenda.
Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to approve the agenda, as presented. The motion carried 5/0.

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

a. Update on Legislative Session
This item was considered following Agenda Item 5c upon arrival of Minnesota State Representative Hertaus.

AGENDA ITEM 4. Consent Agenda.
Mrs. McCarthy made a motion, seconded by Mr. Mullin, to approve the consent agenda:

a. Approval of Workshop Minutes of February 3, 2015 and Minutes of February 3, 2015
b. Approval of Check Register
c. Second Reading of Ordinance No. 750, Allowing Installment Payments of City's On-Sale Liquor License Fees in Years 2015 and 2016
d. Consider Policy for City Council – Board, Commission, and Committees Communication
e. Approval of Municipal Licenses
f. Municipal licenses which received administrative approval (informational only)
g. Police Activity Report
h. Building Activity Report

The motion carried 5/0.

AGENDA ITEM 5. New Business.

a. Consider Resolution No. 10-2015 CUP Amendment, 700 Lake Street, CōV
Mr. Gadow presented Resolution No. 10-2015, which had been revised based on Council comments during the February 3, 2015, City Council meeting and noted the items that had been changed.

The Council noted that the one allowable storage container in existence on the public right-of-way should be labeled as 'general storage' and not 'wood storage' to give CōV the opportunity to choose to store its wood in a different location. Mr. Gadow answered questions of the Council relating to current parking requirements, future parking requirements, and the 1988 Development Agreement. Mr. Schelzel commented that the City had the authority to change the parking requirements in the future and assess benefited properties under City Code and State Statute and staff would carefully engineer the language of the future development agreement. The Council requested staff to look into other businesses that might be using public right-of-way and how to address the issue moving forward.

Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to Adopt Resolution No. 10-2015, Approving CUP Amendment and Temporary Encroachment Permit at 700 Lake Street. The motion carried 5/0.

b. Consider Resolution No. 12-2015 Supporting the Minnehaha Creek Watershed District Design and Construction of Vegetated Soil Slopes along the Causeway Portion of CSAH 101 in Wayzata

Mr. Kelly reported that on February 26, 2015, the Minnehaha Creek Watershed District would hold a public hearing regarding a project along the causeway, in Wayzata, as part of the overall CSAH 101/Bushaway Road reconstruction. The project proposed to construct vegetated soil slopes along both the Wayzata Bay and Grays Bay sides of the causeway. The Minnehaha Creek Watershed District was seeking a resolution of support from the local government as stipulated in its Comprehensive Plan prior to ordering capital projects in excess of $300,000. Mr. Kelly presented a map of the area planned for reconstruction.

Mr. Kelly answered a question of the Council, indicating that there were not any budget implications for the City because the agreement was between Hennepin County and the Minnehaha Creek Watershed District. Mr. Kelly stated that there could be possible tax implications in regard to Hennepin County taxes.

James Wisker, Minnehaha Creek Watershed District, shared the project was to create an ecologically functioning shoreline that was contained within the District's ten year Capital Improvement Plan. Mr. Wisker answered questions of the Council relating to the materials, purpose of the shoreline, and the estimated project start date.

Mr. Kelly answered questions of the Council relating to the Indian burial grounds discovered at the intersection of Minnetonka and Woodland explaining that there were ongoing conversations with the Minnesota Indian Affairs Council and the County was considering a modified curve in that area.

Mayor Willcox thanked the Minnehaha Creek Watershed District for all of its forethought and hard work.

Polly Pabst, 217 Bushaway Road, presented a letter in support of Resolution No. 12-2015 from Ron Anderson, 663 Bushaway Road. Mr. Anderson was a professor of Sociology at the University of Minnesota and had dedicated countless hours to Bushaway Road preservation.

Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to Adopt Resolution No. 12-2015, Supporting the Minnehaha Creek Watershed District Design and Construction of Vegetated Soil Slopes along the Causeway Portion of CSAH 101 in Wayzata. The motion carried 5/0.

The Council asked for updates on Bushaway Road, such as the Indian burial ground, to be passed on as soon as staff received them and encouraged staff to begin forming a new landscape committee as early as possible so discussions would not be rushed.

c. Update on Telecommunications Site

Mr. Dudinsky presented a short history of the telecommunication site for the new Council Members and explained that this item was back before the Council to explore the current options and get Council feedback. Mr. Dudinsky discussed one monopole options including 402 Gardner Street and Wayzata West Middle School and two monopole options including one monopole at Wayzata Public Works and one monopole on Minnesota Department of Transportation right-of-way property.

Mrs. Anderson asked if the monopole site on Minnesota Department of Transportation right-of-way property was the site that Mr. Dudinsky took from former Council Member Amdal's suggestion for the lift station site on Frontage Road. Mr. Dudinksy replied no, the lift station site was questionable because of possible future development. Mrs. Anderson noted the possibility of one of the subdivision lots that face Frontage Road. Mr. Dudinsky responded that they could be looked at.

Mr. Dudinsky also updated the Council on the current status of the four tenants noting that AT&T and Verizon were still against moving their buildings because the City was considering moving locations.

Mrs. McCarthy asked if staff was dealing with the tenants directly or through a third party. Mr. Dudinsky replied that it was typically through a consultant.

Mr. Dudinsky presented estimated costs for the monopole options discussed and finally, a proposal from the City's consultant, SEH, to provide an aerial video of the telecom sites for $3,700. If approved, the video would provide the feasibility for each site and the minimum height each monopole tower would need to be to provide optimum coverage.

Mr. Mullin asked how to get the additional the radio frequency data that the City needs to determine if a site was feasible. Mr. Dudinsky answered the plan was to work through a consultant to sit down with each of the tenants and have them commit early on.

Mayor Willcox asked if the drone used in the aerial video needed line of sight and if the tenants would second guess the height estimates. Mr. Dudinsky replied yes, for the most part the drone needed line of sight and the tenants would use it as additional information. It would also make the City smarter and able to argue if a tenant claims something different.

Mrs. Anderson noted the feasibility studies that had been done were based only on what was in Wayzata and did not take into account the overlap in coverage from other communities. Only the tenants could provide that information so there would be value in requiring them to do their own studies and provide that information. Mrs. Anderson asked if there were two towers, would the two towers then not need to be as tall as the one monopole option. Mr. Dudinsky responded that he was unsure. Mrs. Anderson noted the private tower on the east end of town behind Gerring's and suggested it could be increased.

Mr. Dudinsky communicated that the intention of staff was to sit down with each of the tenants and if support could be gained from one or two, then it just came down to a money issue.

Mrs. Anderson mentioned contacting the Minnesota Association of Community Telecommunications Administrators or the Minnesota Public Broadband Alliance, who regularly work with these vendors, to find out what had been done in other communities.

Mr. Tyacke asked where the access to Wayzata West Middle School site would be. Mr. Dudinsky answered that access would be coming off the parking lot along the tennis courts.

Mrs. Anderson expressed concern for the school site noting they were familiar with a micro site, but not a macro site and all the traffic that a macro site entailed.

Mr. Tyacke asked if using the school site would mean a requirement for a second pole. Mr. Dudinsky replied that they were hoping not.

Mr. Dudinsky stated that moving forward, he needed two answers from the Council. Did the Council support spending the money on the aerial video and did the Council want staff to continue to pursue AT&T and Verizon to remove their buildings?

Dan Goodmundson, 373 Park Street, asked if there was a leasing agent involved between the tenants and the City. Mr. Dudinsky answered yes. Mr. Goodmundson expressed concern over the revenue, suggesting it was ill gotten gain and argued that the City should not be in the telecommunications business.

Cathy Carlson, 226 Minnetonka Avenue North, expressed concern over taking down a property near the water tower to move the site. She suggested this would increase traffic and problems for many neighbors.

Susan Hughes, 415 Gardner Street, asked about additional antennas for some of the tenants and whether or not the City could deny the antennas. Mr. Dudinsky answered that the City could not deny them, but could review the proposal and make it minimal from a visual perspective. Ms. Hughes stated there was no way to improve the site and this was a tough issue, but even tougher for those who lived in the neighborhood.

Mary Bader, 117 Peavey Lane, stated that she served on the Council for six years and first heard about this in 2007. She noted that last summer, 500 people had signed a petition asking the Council to move the telecommunications site and encouraged the Council to seek a long-term solution to provide better service and a better place for vendors.

Mayor Willcox asked each Council Member to share which site they preferred.

Mrs. McCarthy shared that she had concerns for safety at the school and believed the best option to be a two monopole solution with one at Public Works and let the vendors figure out a location on the east side.

Mr. Tyacke was supportive of the single monopole at the school for cost reasons, but did have safety concerns. He suggested an alternate access off Highway 12. Mr. Dudinsky answered that there was a drainage ditch, but it could be bridged. Mr. Tyacke added that the two monopole option would be his second choice.

Mrs. Anderson was against the Gardner site because it continued to devalue other properties and was also against the school site. She was not sure that the school site was feasible and had huge safety concerns. Mrs. Anderson was in support of the two monopole option with one located at Public Works, noting that it was free land and a consultant had confirmed it was the best site. She shared that the FCC had recently upgraded the minimum standards for broadband download usage from 4 megabytes to 25 megabytes. If the City started saving 25% of the money made over the next five years, it could cover the cost of one site. The City was also assuming that it would have to cover the entire cost, but the vendors would probable share the cost. Mrs. Anderson voiced concern over the lack of policy for telecommunications. Staff was to start working on a telecommunication ordinance or draft policy that looked at equitable service for all, safety, fiscal responsibility, and stealth design.

Mr. Mullin suggested that one fact had been overlooked and that was the more intense the macro site was, the less intense the micro sites could be. He shared the objectives of safety and access, to mitigate noise and visual impact, maintain quality coverage, and not degrade another neighborhood. Mr. Mullin was interested in getting more information on the school site versus the two monopole solution and advancing the refurbishing of the water tower.

Mayor Willcox shared that the showstoppers for him included losing the revenue source, degrading another neighborhood, degrading cellular service, and not improving the current location in some way. He believed the school made the most sense because of cost and because the two monopole option transferred the problem to another neighborhood.

Mayor Willcox asked each Council Member to weigh in on their first choice for a site. Mr. Tyacke responded the school. Mr. Mullin supported the school. Mrs. McCarthy was in favor of the school. Mrs. Anderson responded that she did not have enough information on the sites or cost and felt like she needed to understand the sites better.

Mrs. McCarthy noted that the City was dealing with four tenants that had incredible proprietary information and suggested telling them that the water tower was off the table and ask them to share information and find a location to make it work. She also had an issue with spending $3,700 for the video.

Mr. Dudinsky responded that the City had asked for information before, but it was like 'pulling teeth' to get the vendors to share information with the City or each other. Mrs. McCarthy suggested speaking to them individually and offering a confidentiality agreement.

Mr. Schelzel advised that the City could request that information under a confidentiality agreement, and there was an exception in the Data Practices statute for Trade Secrets and he assumed this would fall under that category.

Mr. Dudinsky mentioned the earlier reference to the tower behind Gerring's Car Wash and stated if the location was acceptable, it would need to be replaced with a larger monopole.

Mrs. Anderson supported that stating the City did not need to gain more revenue from a second site.

Mayor Willcox concluded the guidance to staff was that the school site was the first preferred option and a two monopole option with the first being at Public Works was the second preferred option. He then asked the Council if they supported the aerial video expenditure. Mrs. McCarthy thought it was premature. The rest of the Council was in support.

Mayor Willcox moved the discussion on to timing and asked if the Council wanted to move up the schedule or allow leases to expire. The advantage of the lease expiration was the City does not have to bear any cost for the tenants to move.

Mrs. Anderson agreed with Mr. Mullin's suggestion of moving forward the date of the water tower refurbishment. Mr. Tyacke voiced his support.

Mr. Dudinsky noted that the water tower was not due for refurbishment until 2020. Mayor Willcox asked about the cost the tenant's would incur during the refurbishment. Mr. Dudinsky estimated $75,000 to $100,000.

Mrs. McCarthy supported the idea of moving the water tower refurbishment to 2018 and suggested that the City have another site ready in 2017. Mr. Dudinsky noted it would be very hard to be completed by 2018.

Ms. Nelson requested time to meet with the City Attorney to better understand the process of getting a new tower sited. She confirmed that legal would prepare a letter notifying the tenants that it was the City's intent to move away from the water tower and look at other potential sites. The City would need cooperation to identify the feasibility of the other sites named. Ms. Nelson also notified the Council that if a private site was utilized on the east side, there could be financial implications to the City's current telecommunications revenue.

Mayor Willcox requested a financial analysis.

Mrs. Anderson stated she understood that a site was needed to draft a telecommunications ordinance, but a telecommunications guidance policy was still needed.

Mr. Gadow suggested creating a separate document from the ordinance that would be guidance and put the tenants on notice.

Mr. Mullin asked about the plan for improving interim conditions on the water tower site. Mr. Dudinsky responded that AT&T and Verizon implied that they might be willing to replace the fence if they did not have to move their buildings.

Mr. Mullin noted $50,000 had been allocated toward the project and suggested the City plan to spend that and ask the tenants to match.

Mrs. Anderson was against spending the $50,000 on something the vendors might pay for. She suggested asking the neighborhood what it wanted and working with the Parks and Trails Board.

Mr. Dudinsky explained that both AT&T and Verizon need to add three antennas and both have implied that they would replace the fencing and add landscaping.

Mayor Willcox recapped where the Council stood and polled the Council on how it felt about using the $50,000 as a 'bargaining chip' in order to get the vendors to participate in site beautification. Mrs. Anderson was uncomfortable with using the $50,000 as a 'bargaining chip' and suggested putting it aside for future cost. The rest of the Council agreed to use the money only if necessary.

Mr. Tyacke made a motion, seconded by Mr. Mullin, to authorize the aerial video; notify the tenants of the two site options including Wayzata West Middle School and a two monopole option with one located at Public Works; consider moving up the water tower refurbishment; beautify the current site with vendor participation; and draft a policy statement including the public versus private uses. The motion carried 5/0.

Mrs. Anderson requested a follow up e-mail from staff with all of the key points.

<u>AGENDA ITEM 3. Public Forum – 15 Minutes (3 minutes per person) – continued.</u>

a. Update on Legislative Session

Minnesota State Representative Jerry Hertaus shared that he was the State Representative for 33-A, one of the larger metro districts and served on the Education Finance Committee, the Property Tax Committee, Public Safety, Mining and Outdoor Recreation, Co-Chair of Hennepin County delegation, and Financial Crimes Advisory Board. Currently at the capitol, bills were being introduced and once the bills were introduced on the floor they were assigned to the respective committee for the real work. Mr. Hertaus noted the different types of bills and mentioned a few that might affect Wayzata. He also discussed the City's bonding request stating that it had been jacketed and bonding was typically completed on even years.

Mr. Hertaus answered questions of the Council relating to a bill that would allow municipalities to pass tax exemptions to qualified businesses, Sunday liquor sales, and the minimum wage tip credit.

Mr. Hertaus thanked the City for allowing him to represent it and mentioned a Property Tax Committee listening session being held in Wayzata on February 27, 2015 at 7:00 p.m.

The Council recessed at 9:57 p.m.

The Council reconvened at 10:03 p.m.

AGENDA ITEM 5. New Business – continued.

d. Consider Scope of Work with Mary deLaittre for Next Steps Lake Effect

Mr. Gadow reported that on December 2, 2014, the Council adopted a set of next step recommendations and an Implementation Strategy for the Lake Effect project through the assistance of Ms. Mary deLaittre of Groundworks Consulting. On January 20, 2015, the Council discussed whether it wanted to continue its work with Ms. deLaittre in a consulting role or if other consulting options should be explored for project implementation. The Council directed staff to define a scope of work with Ms. deLaittre for moving forward with the Lake Effect. Mr. Gadow presented the scope of work and cost.

The Council discussed the scope of work and requested that staff work with Ms. deLaittre to define a more detailed work plan and deliverables. The Council noted the amount of money it had already spent on this project and was concerned with how much it was going to spend in the future, wanting to keep it in check.

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

a. Update on 227 Walker Lot Combination

Mr. Gadow reported that in January, the City Council reviewed and approved a lot combination at 227 Walker Avenue. Since then, staff had received a building permit application for an addition to the home that complied with all of the Code requirements. The applicant was proposing a 365 square foot addition to the property. However, the applicant had stated that there were not plans for an addition when requesting the lot combination. Staff recommended adding language to the development agreement, adding a condition requiring an applicant to submit plans to the Planning Commission and City Council after a lot combination had been approved.

The Council discussed lot combinations and supported a one-year time period after a lot combination that an applicant would need to submit building plans to the Planning Commission and City Council. The Council also suggested having the Planning Commission review the codes in different districts to ensure the language was appropriate and up-to-date.

b. Update on New Website

Ms. Nelson shared that the City's new website goes live on Thursday, February 19, 2015.

c. Upcoming Dates

Ms. Nelson noted the joint workshop on February 18, 2015, at 5:00 p.m. for the Parks and Trails Board and the City Council to discuss the east corridor landscape; the Bushaway listening session on February 19, 2015 at 9:00 a.m.; and, the State of the City event on March 18, 2015 at 12:00 p.m. at the Wayzata Country Club.

d. Announcements

Mr. Mullin noted that two business owners in the Wayzata Village Shops area were very concerned about the sustainability of their businesses and asked for improved communications and engagement with Heidi Brenneman, Manager of the Village Shops, regarding the shared collaboration on cost sharing for the marketing plans.

Becky Pierson, Wayzata Chamber of Commerce, shared that the Chilly Open had been a success with good weather and a good turn-out.

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

There were no comments.

AGENDA ITEM 8. Adjournment.

Mrs. McCarthy made a motion, seconded by Mr. Tyacke to adjourn. There being no further business, Mr. Willcox adjourned the meeting at 10:36 p.m.

Respectfully submitted,

Becky Malone

Becky Malone
Deputy City Clerk

Drafted by Sarah Peterson
TimeSaver Off Site Secretarial, Inc.