

**WAYZATA CITY COUNCIL
MEETING MINUTES
May 16, 2017**

AGENDA ITEM 1. Call to Order.

Mayor Willcox called the meeting to order at 7:00 p.m.

AGENDA ITEM 2. Pledge of Allegiance.

AGENDA ITEM 3. Roll Call.

Council Members present: Koch, McCarthy, Plechash and Tyacke. Also present: City Manager Dahl, Director of Planning and Building Thomson, City Engineer Kelly, Director of Public Service Dudinsky, and City Attorney Schelzel.

AGENDA ITEM 4. Approve Agenda.

Mr. Plechash made a motion, seconded by Mrs. McCarthy, to approve the agenda. The motion carried 5/0.

AGENDA ITEM 5. Public Forum – 16 Minutes (3 minutes per person).

a. Heritage Preservation Board Presentation of the Mayor's Best Historic Restoration Award 2017

Kim Anderson, Chair of the Heritage Preservation Board (HPB), outlined the process for choosing the home at 495 Highcroft Road for this award. After reporting on the history of the home, she presented the 2017 Mayor's Best Historic Restoration Award to Peter and Kimberly Walsh and their children, along with a sketch of the home done by Merrily Babcock.

Mayor Willcox thanked the Walsh's for the work they have done on their home.

Ms. Walsh thanked the HPB for the award and for preserving some of the City's past.

b. Recognition of Retiring Police Officer Bob Vanderheiden

Police Chief Risvold reported Bob Vanderheiden has been in law enforcement for 31 years, 23 of which were with the City of Wayzata. He recently retired and moved with his wife to East Grand Forks. Police Chief Risvold thanked him for his service, professionalism, and character with the City. There are several pictures on Facebook from an open house held in his honor last night.

Mayor Willcox commented Mr. Vanderheiden was the first police officer he met when he first moved to Wayzata and he was very friendly, outgoing, and competent. He thanked him for his years of service with the City.

Mr. Plechash commented Mr. Vanderheiden was also a great friend of the Fire Department.

c. Sidewalk Request

Daniel Drotning, 120 Westwood Lane, commented on the sidewalk that stops at Old Wayzata Boulevard and does not pick up again until Lake Street. He requested the Council consider extending the sidewalk, or include it in the next budget year as a good improvement toward the walkability of Wayzata. He clarified the area is along Ferndale Road starting at Old Wayzata Boulevard and running south towards Meyers Dairy.

City Engineer Kelly commented with utilities and right-of-way, they do not have the space to support a sidewalk. They will be implementing a trail with Three Rivers Park District to improve connections from Dakota Rail Trail to the Luce Line Trail with "Share the Road," which includes additional striping and signage along the roadway. They will look into furthering the sidewalk in the area suggested by Mr. Drotning.

AGENDA ITEM 6. New Agenda Items.

None.

AGENDA ITEM 7. Consent Agenda.

Mr. Plechash referred to item No. 7(f), and inquired if two electric charging stations in the ramp are enough, and if the City would have a fee for the cars to be electrically charged.

City Manager Dahl responded the two charging stations allows for four charging stalls. City Engineer Kelly stated the technology of the charging stations have the ability to be extended with additional electrical work. They are looking into what the market rate is to charge for this service and how to implement it.

Mrs. McCarthy commented the University of Minnesota has similar charging stations in their various ramps. Mr. Dahl stated they would look into how they handle their fees.

Mr. Koch inquired if parking in front of the charging stations is limited to electric cars only. Mr. Kelly stated they will be designated and signed for electric cars only.

Mr. Koch inquired about the remaining contingency balance for the ramp. Mr. Dahl commented they have used about half of the contingency, with a couple more change order requests. These will be presented at the June Council meeting, and include a directional kiosk sign and security cameras. With these requests, they still plan to be at \$200,000 under budget.

Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to approve the consent agenda:

- a. Approval of City Council Workshop Minutes of May 2, 2017, and City Council Regular Meeting Minutes of May 2, 2017, and Special City Council Meeting Minutes of April 24, 2017.
- b. Approval of Check Register
- c. Approval of Municipal Licenses
- d. Police Activity Report
- e. Building Activity Report
- f. Approval of Change Order Request for Mill Street Parking Ramp

The motion carried 5/0.

AGENDA ITEM 8. New Business.

a. 2016 Audit Report Presented by Bill Lauer, MMKR

Bill Lauer, MMKR, described their role in preparing the 2016 Audit Report. He stated that MMKR has issued an unmodified "Clean" opinion on the City's basic financial position of the City. Similar to past years, they have identified "Segregation of Duties" as a weakness in internal control over financial reporting. This is primarily caused by the limited size of the City's office staff, but does not recommend any changes.

Mr. Lauer commented there were no compliance items to note on the financial statements or the Minnesota legal compliance level. The two findings with the Minnesota Legal Compliance that were part of the 2015 audit were corrected in 2016. While the Council is involved in reviewing financial information quarterly, they recommend it receive summarized data more frequently and in a timely manner.

The Council asked questions about the "Segregation of Duties" finding, if there was a way to mitigate this finding in future years, and if the audit would uncover fraudulent transactions.

Mr. Lauer responded the finding indicates that due to a smaller amount of people in the office, there is a higher level of risk than if the financial duties were spread out among more people working in the office. It is not a comparison based on the size of the City and does not affect the City's credit rating. A possible way to mitigate this finding would be to use an outside consultant for some financial transactions that would in turn move some of the checks and balances outside of the internal organization. The audit is not designed to detect fraud, but they do

1 interview people outside the finance department to see if anything comes up as a risk area they
2 should look into.

3 Mr. Lauer completed the presentation of the 2016 Audit Report.

4 Mrs. McCarthy referred to the report that showed the sewer and water fund fees are not
5 covering depreciation, and inquired if staff will review fees to be charged in the future. Mr. Dahl
6 responded based on this recent report, they plan to do a rate analysis to make sure they are
7 keeping up.

8 Mr. Tyacke referred to the 2011 interfund loan of \$600,000 for liquor operations, and
9 inquired if there are restrictions of the funds that require it to be paid back or if the Council needs
10 to take action every year to transfer an excess back to the City. Mr. Lauer stated they are
11 following an amortization schedule to pay it back and it is included in the operating expenses.

12 Mr. Koch stated the staff is doing a great job with their limited resources and he thanked
13 them for their cooperation in preparing the Audit Report.

14 Mayor Willcox pointed out their reserves are back at 40 percent, which is their target.

15 Mr. Tyacke made a motion, seconded by Mr. Koch to accept the 2016 Audit Report. The
16 motion carried 5/0.

17
18 **b. Consider Resolution No. 17-2017 Approving Excess Revenue Transfers**

19 City Manager Dahl reported the City has \$1,365,000 in excess funds to transfer into its capital
20 improvement funds. As a result of previous Council action, \$130,000 of that amount has been
21 approved for Bushaway Road Landscaping and \$499,000 has been allocated for the Mill Street
22 Parking Ramp, leaving balance of approximately \$736,000. At a workshop held in May, the
23 Council determined the following priorities for this excess: Lakefront Fund (Lake Effect),
24 \$305,500; General CIP Fund, \$305,500; Parks and Trails CIP, \$75,000; and, General CIP (JW
25 Anderson Memorial), \$50,000.

26 Mrs. McCarthy inquired about the Lakefront Lake Effect designated money and
27 requested an update on the police memorial. Mr. Dahl confirmed the Lakefront money would go
28 toward improvements north of the railroad tracks. Regarding the police memorial, the committee
29 has met with a designer of monuments and received good feedback. When they come to a
30 consensus, the cost of the memorial will be clearer and they can start to talk about if more than
31 the designated \$50,000 is needed and how it will be funded.

32 Mayor Willcox inquired if the \$305,500 designation to the General CIP is adequate to
33 cover future deficits. Mr. Dahl confirmed it is adequate.

34 Mayor Willcox commented they had requested Parks and Trails board come up with a
35 plan to show how any specific project might fit into the future growth and plan.

36 Mr. Plechash made a motion, seconded by Mr. Tyacke to approve Resolution No. 17-
37 2017 approving excess revenue transfers. The motion carried 5/0.

38 Mayor Willcox pointed out these excess funds are generated by development and as that
39 starts to die down, so will the excess funds.

40
41 **c. Update on Fishing Restriction in Marina**

42 City Engineer Kelly reported at a previous meeting, a citizen voiced concern with fisherman
43 fishing between boats at the marina, hooks being found in boat covers, and the possibility of lines
44 getting tangled in propellers. In response to this concern, staff suggests the Council consider
45 restricting fishing to three loading docks within the marina. Chapter 309 of the City Code may
46 require an amendment to appropriately define any suggested changes to fishing allowances.

47 Mrs. McCarthy inquired about the hours of operation. Mr. Kelly responded currently
48 there are restricted hours for fishing within the current park hours, which limits it from 5:00 a.m.
49 to 10:00 a.m. He suggested it be similar on the loading docks to ensure the daily use of the
50 loading docks.

1 Mrs. McCarthy inquired if signage will be posted. Mr. Kelly suggested signage be posted
2 at the entrance points to the boardwalk around the marina along with at the end of each of the
3 loading docks.

4 Mrs. McCarthy suggested due to language barriers, and image be used to show where
5 fishing is allowed. She also inquired about hiring someone to be at the marina, similar to the dock
6 masters at the Broadway docks. Mr. Kelly stated the dock masters show transient boats where to
7 park, and at the marina, each slip holder has a permit for annual use of their slips and the slip
8 holders know where their slip is. They could possibly look into enforcement by the administrative
9 staff when they do their routine checks at the marina.

10 Mr. Tyacke inquired about people fishing in the marina before opening fishing and if the
11 Department of Natural Resources (DNR) checks to see if people have fishing licenses. Mr. Kelly
12 stated there are specific dates relating to what is allowed to be fished and he is not aware if the
13 DNR has checked people for fishing licenses in the marina.

14 Mr. Plechash commented when the amendment is made, there is a misspelled word that
15 should be corrected and Sunsets is no longer at the Broadway dock.

16 Dan Gustafson, 1040 E Circle Drive, commented there is good fishing from the walking
17 bridge, questioned whether it is practical to have all the fishing on the loading docks, and
18 requested the Council gather more feedback from the community before making a decision.

19 Mr. Koch commented after visiting the marina, he can see the concern of the boat
20 owners. The marina is there for the boats, fishing is a benefit, and this is a reasonable solution to
21 allow fishing, but also respecting boat owners.

22 City Manager Dahl pointed out with Lake Effect, there will be more fishing opportunities
23 in the future.

24 Mr. Kelly commented the primary concern is fishing between the boats. There may be
25 other areas that fishing could be allowed besides the loading docks.

26 Mr. Tyacke stated when he is at the marina, the people he sees fishing are not from
27 Wayzata and they may not have the same level of caution as someone from Wayzata would.

28 Mrs. McCarthy pointed out that the area between slips 52 and 53 could also be a safe area
29 for fishing without risking damage to boats. Mr. Kelly agreed and confirmed the area on the north
30 end of the marina, the area adjacent to the bridge, the loading docks, and south of slip 24 in the
31 channel are all possibilities.

32 Mr. Tyacke made a motion, seconded by Mrs. McCarthy to direct staff to recommend
33 amendments to the ordinance and bring them back to the Council. The motion carried 5/0.

34 35 **d. Award Bid for 2017 Street Improvements**

36 City Engineer Kelly reported this portion of the 2007 Street Improvement Project will include full
37 reconstruction of Glenbrook Road with curb and gutter, and mill and overlay on Hillside Drive
38 and Huntington Avenue South. Additionally, Edina Realty has verbally agreed to cover the cost
39 of repaving behind their building (Alternate 1). The Public Works Department received 7 bids
40 and staff recommends awarding the low bid of \$377,978.42 including Alternate 1, to Valley
41 Paving, Inc. The project will be funded through the Street Capital Improvement Program which
42 has \$835,000. Other projects programmed for 2017 from this fund include Circle E Drive and
43 converting the one-way portion of Grove Lane to a two-way.

44 Mr. Tyacke inquired if the mill and overlay will close Hillside Drive. Mr. Kelly
45 responded it will be done in a way that will maintain access to the road.

46 Mrs. McCarthy inquired about the history of street improvements on Glenbrook. Mr.
47 Kelly responded in 1994, they did the northern portion of Glenbrook Road as part of the Gleason
48 Creek improvements.

49 Mr. Plechash inquired if they have previously done business with any of the listed
50 contractors. Mr. Kelly stated they have done business with all of them except Park Construction,
51 and based on prior work, he would be happy to work with any of the contractors listed.

1 Mr. Plechash made a motion, seconded by Mr. Tyacke to award the low bid of
 2 \$377,978.42, including Alternate 1, to Valley Paving, Inc. for the 2017 Street Improvement
 3 Project. The motion carried 5/0.

4
 5 **e. Consider Ordinance No. 772 Amending Chapter 710 and Section 8001.36 of the City**
 6 **Code Pertaining to Tree Regulations**

7 Director of Planning and Building Thomson reported on the background of the tree ordinance
 8 amendment and highlighted three categories of proposed changes: 1) "Clean-up" items: Several
 9 sections were identified where the regulations and standards could be stated more clearly; 2)
 10 Adds a look-back clause: a two-year lookback for subdivision, public infrastructure projects, and
 11 construction of single-family home; and a one-year lookback for expansions to single-family
 12 homes, land disturbance permits, and design review; and, 3) Adds a tree removal permit
 13 requirement.

14 Mr. Thomson reported the Planning Commission expressed support for the "clean-up"
 15 items, but had split discussion on the look-back clause and tree removal permit requirement. They
 16 voted 4-2 to recommend adoption of the ordinance amendment for only the "clean-up" items. The
 17 discussion included three things: 1) The issue originally identified by the Planning Commission
 18 was not a big enough concern to warrant an ordinance amendment; 2) The tree removal permit
 19 would be a significant burden to property owners. The administrative means to enforce the look-
 20 back clause would be more of a burden than the intended benefit of adding it; and, 3) In the end,
 21 the details in fixing the ordinance did not make sense.

22 Mr. Tyacke inquired why the penalty items have been removed from the draft ordinance.
 23 City Attorney Schelzel pointed out there were two sections of the City code that had duplicative
 24 penalty sections, so they were removed.

25 Mr. Plechash inquired why the tree removal permit requirement was originally removed.
 26 Mr. Plechash pointed out that Wayzata cares about what it has and a tree permit requirement and
 27 look-back clause makes sense. He inquired if the tree removal permit requirement could be put
 28 back into the ordinance. Mr. Thomson stated it was removed as part of the 2016 amendment at
 29 the direction of the Council.

30 Mr. Thomson stated if the Council would like to include the look-back clause or tree
 31 removal permit in the ordinance, City staff would draft a new ordinance amendment to bring
 32 before the Council at a future meeting.

33 Mr. Schelzel commented they would also want to notice it to get public feedback on it.

34 Mayor Willcox stated the discussion gets down to how to balance property rights and
 35 further regulation by the City. A potential loophole was identified and if it is a serious risk, they
 36 need to address it.

37 Mr. Tyacke expressed concern that the Planning Commission originally wanted a look-
 38 back clause, but then removed it. Mr. Thomson stated there was not a substantial change with the
 39 members of the Planning Commission between the reviews. The discussion never included a tree
 40 removal permit, and when they saw the full draft ordinance amendment, they felt that the fix was
 41 worse than the original problem that was identified.

42 Mr. Koch stated he supports the look-back clause, but would prefer the timeframe be
 43 consistent. He expressed concerns with telling homeowners what they can do on their property
 44 and they would have to educate homeowners on what is required.

45 Mr. Plechash clarified the homeowners do not need to ask for permission to remove trees,
 46 they just need to notify the City through a permit requirement.

47 Mayor Willcox inquired if this is a solution in search of a problem that has not become
 48 one. Mr. Thomson commented Minnetonka has a similar look-back clause in their ordinance, but
 49 he is not aware that it had been a significant problem in Minnetonka.

50 Mrs. McCarthy recalled the discussion around this was a legislative attempt to put
 51 parameters around a potential commercial entity wiping out a lot for development.

Mayor Willcox made a motion, seconded by Mrs. McCarthy to adopt Ordinance No. 722 Amending Section 36 of the Wayzata Zoning Ordinance (Tree Preservation) and amending Wayzata City Code Chapter 710 (Planting, Maintenance, and Removal of Trees).

Mr. Plechash stated he supports this motion which includes only the clean-up of the ordinance, but would also like to have further discussion regarding the look-back clause and a tree removal permit requirement. He also suggested it be referred to as a tree removal notification, not tree removal permit.

Mr. Schelzel stated if the Council would like to consider the look-back clause and tree removal permit requirement, staff would need to draft a new ordinance for the Council's consideration. It will be tricky to define whether it applies to private property owners versus a developer because developers are often property owners.

After further discussion, a majority of the Council stated they would be in favor of a look-back clause.

Mayor Willcox rescinded his motion.

Mr. Plechash made a motion, seconded by Mr. Tyacke, to direct staff to draft an ordinance amendment that includes the look-back provision. The motion carried 3/2. (Willcox and McCarthy)

AGENDA ITEM 9. City Manager's Report and Discussion Items.

a. Hennepin County Fallen Police Officers Memorial

City Manager Dahl reported Chief Risvold attended a memorial to all the fallen officers in Hennepin County. This event celebrated their service to the community and flags were flown at half-staff in remembrance of them.

b. Upcoming Dates

- Fire Department's Annual Second Call event will take place Monday, May 22 at 6:30 p.m.
- Dig-It Day will take place Saturday, May 20 at 8:15 a.m. at Public Works.
- Farmer's Market will begin Thursday, May 18 from 1:30 p.m. to 5:30 p.m. at the Promenade. It will move to the Municipal Lot in a few weeks.

c. Miscellaneous

City Manager Dahl reported last week a tree fell on Punch Pizza that resulted in some injuries. Public Works, property management, and the business owner have been working to clean up the patio and to make sure there are no other threats. They had go through an additional approval process to remove trees because it is part of a Conservation District. It has been approved, and they will be removing seven additional trees along the property line.

Mayor Willcox commented the Wayzata football team removed buckthorn in the Big Woods last week.

At the request of Mrs. McCarthy, City Manager Dahl reported they are interviewing people for the Building Official job and they hope to have a plan in place by the end of the week.

City Manager Dahl confirmed the Police Department is hiring to fill Bob Vanderheiden's role and the Public Works department is also hiring.

AGENDA ITEM 10. Public Forum Continued (as necessary).

There were no comments.

AGENDA ITEM 11. Adjournment.

Mr. Tyacke made a motion, seconded by Mr. Koch to adjourn. There being no further business, Mr. Willcox adjourned the meeting at 9:18 p.m.

1 Respectfully submitted,

2 *Becky Malone* 06-06-2017
3

4 Becky Malone

5 Deputy City Clerk

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7 Drafted by Shannon Schmidt, *TimeSaver Off Site Secretarial, Inc.*