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**WAYZATA CITY COUNCIL
MEETING MINUTES
January 5, 2016**

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: Interim City Manager Reeder, Director of Planning & Building Thomson, Public Services 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 5/0.

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

a. Presentation of Chamber Exceptional Service Award

Ms. Sarah Kaelberer, Business and Estate Advisors, presented the Chamber Exceptional Service Award to Mike, Jason, and Mark from the David Lee Funeral Home.

b. Update on The Landing

Mr. Steve Bohl, Bohland Development, 825 Wayzata Boulevard, gave an update on construction at The Landing development project at 901 Lake Street East. He reported the tree removal associated with the project is not complete, but everything is on schedule for the project and in compliance with the plan that was approved by the City Council.

Mr. Jeff Shore, 1030 Circle Drive E, expressed concern that the trees marked for removal over the recent weekend are not consistent with the approved tree removal plan.

Mr. Dan Gustafson, 1040 Circle Drive E, expressed disapproval on the number of trees being removed, the excessive construction, and the way his complaints were handled.

Director of Public Service Dudinsky presented a map of the trees to be removed under the approved plan. There are a total of 18 trees to be removed and they have been marked on the site with a yellow ribbon. City staff visited the site and validated that the trees marked to be removed are consistent with the plan that was approved in October 2015. He stated that staff will be on site with the contractor to identify the trees to be removed.

Mr. Tyacke asked what work will be done now with the frozen ground and what will be done in the spring. Mr. Dudinsky stated work around the swampy areas will be done because they are frozen.

Mrs. Anderson stated the map is a little deceiving because it does not show the trees that were already removed in Phase One. She noted that the footprint of the hotel is larger than the original concept and asked if more trees were required to be planted to make up for the additional loss of trees. She suggested having City Arborist Manuel Jordan look at the area for ideas.

Mr. Bohl stated he is sympathetic to the issues, but it is important to keep moving forward and keep the project on schedule. The trees to the north can be looked at again, but the trees at the corner with the storm water pond need to be removed right now to keep the project on schedule.

Mr. Dudinsky stated Presbyterian Homes has provided money for landscaping to fill in the buffer as needed.

Mr. Mullin asked how much of the right-of-way near the edge of the road is going to be cut down and what the solar panel charging stations are for in the middle of the buffer. Mr. Dudinsky stated the charging stations were there temporarily for Christmas lights in the nearby roundabout circle.

Mr. Mullin stated in addition to the money given by Presbyterian Homes for landscaping in the buffer, the Council approved up to \$300,000 of other City funds to improve the buffer. He suggested the City and contractor commit to more proactive communication with the residents.

1 Mrs. McCarthy stated she went to the site and it looked like every tree was marked to come
2 down. She indicated the Council remains committed to the neighborhood and supported better
3 planning in relation to communication with the neighborhood about the project.

4 Mr. Dudinsky stated staff will meet with the contractor tomorrow to identify the trees to
5 be removed, but he did not find it necessary to have City Arborist Jordan present. Mrs. Anderson
6 suggested waiting on removing the trees to the north so residents have more time to participate in
7 the discussions about that area of the buffer.

8 The Council advised staff to move ahead as planned, see if anything can be done to improve
9 the north area of the buffer, look into the possibility of adding temporary fencing, and work on
10 improving future communications with the neighborhood.

11
12 **c. Mill Street Parking Ramp**

13 Ms. Cathy Iverson, 220 Central Avenue South, stated she does not think the City currently has a
14 parking problem and is concerned about who is going to pay for a new parking ramp.

15 Mr. Willcox requested that the parking summary presented at the previous Council meeting
16 be posted on the City's website.

17
18 **AGENDA ITEM 4. New Agenda Items.**

19 Mr. Tyacke requested the Financial Manager or General Manager of the Muni present the Council
20 with a report on the accounting systems and inventory controls relating to the purchase of liquor
21 for the Muni. Mr. Tyacke's request was seconded by Mrs. Anderson, and approved by Council for
22 a future Council meeting agenda item.

23 Mrs. Anderson requested future discussion on a policy for restaurant owners offering valet
24 parking and requested each Councilmember provide an update on the projects on which they are
25 working. Mrs. Anderson's requests were seconded by Mrs. McCarthy, and approved by Council
26 for future Council meeting agenda items.

27
28 **AGENDA ITEM 5. Consent Agenda.**

29 Mr. Mullin made a motion, seconded by Mr. Tyacke, to approve the following consent agenda:

- 30 a. City Council Workshop Meeting Minutes of December 15, 2015 and City Council Regular
 - 31 Meeting Minutes of December 15, 2015
 - 32 b. Approval of Check Register
 - 33 c. Municipal Licenses Which Received Administrative Approval (Informational Only)
 - 34 d. Approval of Municipal Licenses
 - 35 e. Consider Second reading of Ordinance No. 756 – Telecommunications
 - 36 f. Consider 5:30 p.m. on April 5, 2016 Date for Local Board of Appeal and Equalization
 - 37 Meeting
 - 38 g. Approval of Resolution No. 02-2016 Adopting the 2016 City Council Meeting Schedule
- 39 The motion carried 5/0.

40
41 **AGENDA ITEM 6. New Business.**

42 **a. Consider Resolution No. 01-2016 Designating Appointments and Assignments for 2016**
43 Interim City Manager Reeder reported on the 2016 Appointments and Assignments. They are as
44 follows: Andrew Mullin - Mayor Pro Tem; Daniel Baasen - LMCD Board of Directors; Johanna
45 McCarthy - Suburban Rate Authority Representative; Best & Flanagan (David Schelzel) - City
46 Attorney; Jeffrey W. Lambert, PA - Prosecuting Attorney; Hennepin County (City of Minnetonka)
47 - Health Officer; Sun-Sailor - Official Newspaper; Kurt Klapprich - Assistant Weed Inspector;
48 Becky Malone - Responsible Authority; Dan Distel - Residential Property Assessor; Hennepin
49 County Assessor's Office - Assessor for Commercial, Industrial, Utility and Apartment and the
50 "Promenade of Wayzata" Properties; Anchor Bank, UBS Financial Service, Morgan Stanley Smith
51 Barney, League of MN Cities 4M Fund and 4M Plus, and Wells Fargo Bank – Official Depositories.

1 Mrs. McCarthy made a motion, seconded by Mr. Tyacke, to approve Resolution No. 01-
2 2016 Designating Appointments and Assignments for 2016. The motion carried 5/0.

3
4 **b. Consider Approval of Contract with Minnetonka Community Education for Summer**
5 **2016 Recreation Programs for Various Activities**

6 Director of Public Service Dudinsky reported on the 2016 Wayzata Summer Recreational Program
7 classes offered to residents by Minnetonka Community Education (MCE) under the approved one-
8 year pilot program with a budget of \$20,000. City staff recommends approval of the MCE
9 Programming Agreement.

10 Ms. Jenny Bodurka, MCE, stated they are excited to have this program in the City of
11 Wayzata.

12 Mrs. McCarthy stated she has concerns with the limited classes offered for 12-18 year olds
13 and requested more options be looked at. Ms. Bodurka stated typically people in that age range do
14 not participate as much because they have their own sports teams during the summer months, but
15 they can look at adding more options.

16 Mr. Mullin referred to pages 70 and 71 in the meeting packet and requested the language
17 be changed to make it clear what criteria needs to be met to receive the incentive. He also referred
18 to Item No. 3 on page 71 and asked if \$4,000 was enough to be use for staffing and equipment
19 purchases.

20 Mrs. Anderson acknowledged the Parks and Trails Board for their work. She commended
21 them for thinking outside of the box and stated they are going to pull off a very positive thing for
22 the community in a very short amount of time.

23 Mr. Dan Baasen, Parks and Trails Board Chair, thanked the Council for their support and
24 stated there will be a meeting on January 9 at 6:00 p.m. to review the final programming pieces.

25 Mr. Tyacke asked in reference to the compensation, where the registration fees go. Ms.
26 Bodurka stated the fees will go to Community Education and used to cover expenses of the classes.

27 Mrs. McCarthy requested a report at the end of the season showing how many people
28 signed up and what classes were successful to help tailor future programs.

29 Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to approve MCE Recreation
30 Programming Agreement to provide summer 2016 Recreation Classes and Programs to the City of
31 Wayzata. The motion carried 5/0.

32
33 **c. Consider Resolution No. 03-2016 Approving a Fence Height Variance at 324**
34 **Bushaway Road**

35 Director of Planning and Building Thomson reported the applicant, Jyland Homes, is requesting a
36 variance to construct a five-foot tall fence in the front yard of the property at 324 Bushaway Road.
37 The Planning Commission recommends approval of the application, with certain conditions.

38 Mr. Tyacke and Mrs. Anderson asked about the historical fence on the property. Mr.
39 Thomson stated the fence is in disrepair and would not meet the City's requirements for a
40 swimming pool enclosure. Mrs. Anderson suggested contacting the Historical Society or Heritage
41 Preservation Board (HPB) to see if someone may have a use for it.

42 The majority of the Council expressed support for the variance request and requested the
43 applicant look into preserving the historical fence on the property.

44 Mr. Bob Carlson, Jyland Homes, stated he would be willing to talk with someone about
45 preserving the historical fence.

46 Mr. Willcox noted there was a typo in the Planning Report on page 88 of the meeting
47 packet, under Zoning Ordinance Variance Standards, which references that a "setback", rather than
48 "height" variance is being requested. In the second sentence it should read: "The Variance
49 requested in the Application is a Height Variance."

50 Mrs. Anderson made a motion, seconded by Mr. Mullin, to approve Resolution No. 03-
51 2016 Approving a Fence Height Variance at 324 Bushaway Road, as presented.

1 Mr. Willcox stated the record shows the applicant has practical difficulties due to the
2 orientation of the house to Bushaway Road, and a conflict between the City's fence code and pool
3 fence requirements.

4 Mrs. Anderson amended the original motion to include a condition that the applicant work
5 with the City to figure out a solution for the historical fence on the property. Mr. Mullin seconded
6 the amendment. The amended motion carried 5/0.

7
8 **d. Consider Resolution No. 04-2016 Related to the Issuance of Tax Exempt Bonds for**
9 **Reimbursement of Mill Street Ramp Expenditures**

10 Director of Planning and Building Thomson reported the Resolution is for possible future financing
11 of the Mill Street Parking Ramp. If the City issues tax exempt bonds for financing of the project in
12 the future, the IRS requires the City adopt a resolution prior to the project being constructed that
13 expresses the City's intent to reimburse project expenditures from the bond proceeds. The
14 Resolution does not issue the bonds and does not obligate or authorize the City to issue bonds for
15 the project.

16 City Attorney Schelzel reviewed a few clarifications made to the Resolution in copies that
17 were given to Council prior to the meeting.

18 Mr. Tyacke asked if the Resolution was broad enough to encompass a situation where the
19 Council directed the HRA to issue revenue bonds. Mr. Schelzel stated he discussed that with the
20 City's bond counsel, and understood it could if the City was incurring the expenses.

21 Mrs. McCarthy asked for clarification on what qualified as an eligible expense. Mr.
22 Schelzel stated they are expenses related to the capital expenditures for the project but would
23 include architectural design expenses with HGA and related legal expenses.

24 Mrs. Anderson stated a lot of expenses have already incurred. She asked why this was not
25 looked at sooner and why is it based off \$9.7 million. Mr. Thomson stated the \$9.7 million figure
26 was based on the programming study that SRF did and the Council decision at the November 4,
27 2015, meeting for proceeding with a grade plus two ramp. It does not reflect the exact amount of
28 the bonds, but is an estimated amount based on the project cost estimate.

29 Mr. Schelzel stated the \$9.7 million refers to the maximum amount of bonds and not any
30 other funds the City may have available and choose to spend on the project.

31 Mrs. Anderson referred to page 2 of the revised draft, Item No. 3, Budgetary Matters, and
32 asked if funds have already been allocated specific to parking. Interim City Manager Reeder stated
33 there have been but it does not have any impact on this Resolution.

34 Mr. Schelzel stated the \$9.7 million is a good faith estimate and not 'set in stone' forever.
35 Mr. Reeder stated the City is not required to know the exact amount. Mr. Schelzel stated this is a
36 Resolution to declare the intent of Council to meet IRS regulations. The Resolution can be
37 amended if the final number exceeds the estimate.

38 Mr. Tyacke made a motion, seconded by Mr. Mullin, to approve Resolution No. 04-2016
39 Reimbursement for the Issuance of Tax Exempt Bonds for the Mill Street Ramp, as presented at
40 the meeting. The motion carried 5/0.

41
42 **e. Consider Approval of Agreement with HGA/Walker for Architectural and**
43 **Engineering Services**

44 Director of Planning and Building Thomson reported on the contract with HGA for Pre-Design
45 Services for the Mill Street parking ramp, including the background summary, project schedule,
46 and design process. The three main elements included as part of pre-design work are: the
47 north/south orientation of the ramp or recession into the hill, the design material of the ramp, and
48 the possible roof structure. There is also included a recommended structure for a Steering
49 Committee.

50 Mr. Thomson stated one of the terms on page 119, under Terms and Conditions, will be
51 changed. In the paragraph stating: "HGA shall retain all intellectual property rights to the

1 drawings...,” the City wants to ensure they will have necessary rights to the plans if the City does
2 not proceed with HGA for Phase 2 of the project. The City Attorney will review the revision to this
3 term provided by HGA before the final contract is signed.

4 Mrs. Anderson stated she would like the background summary in the staff memo to show
5 that while a grade plus two ramp was approved by a majority vote of Council, the supermajority
6 vote to get the funding was not approved, and it was suggested by staff to get additional design
7 options.

8 Mr. Tyacke supported the HGA agreement as presented.

9 Mr. Willcox stated there needs to be some flexibility in the HGA contract with the project
10 description and the number of spaces required.

11 Mr. Mullin stated he would support a change to the language in the staff memo stating the
12 most preferred method of finance was not supported, but it was not the only method of finance.

13 Mrs. McCarthy stated the proposed schedule in the contract should have the meetings open
14 to anyone who would like to be part of the design process. She also suggested looking at the City’s
15 road construction schedules and closures as a whole to make sure it is known what that schedule
16 looks like. She clarified that staff representatives on the proposed Steering Committee were there
17 in a supportive role and not part of the voting or design capacity.

18 Mrs. Anderson stated she would like to see more residents involved in the Steering
19 Committee and to have HGA look at the traffic study and see if more needs to be done.

20 Victor Pechaty with HGA stated in order to be judicious, they will review the available site
21 data and respond to staff whether they need more information.

22 Mrs. Chris Morrison, 728 Widsten Circle, stated she would be willing to be considered to
23 serve on the Steering Committee.

24 Mr. Thomson stated that he and Mr. Reeder would be the staff representatives on the
25 Steering Committee.

26 Mr. Willcox recommended Mr. Tyacke and Mrs. McCarthy serve as Council
27 representatives on the Steering Committee.

28 Mr. Tyacke suggested having Mr. Jack Amdal serve on the Steering Committee in addition
29 to a resident of Wayzata.

30 After Council discussion, Mr. Willcox proposed that the Council representatives would be
31 Mr. Tyacke and Mrs. McCarthy, the staff representatives would be Mr. Thomson and Mr. Reeder,
32 and the resident representatives would be Mr. Amdal and someone from the Widsten neighborhood
33 that the neighborhood would designate.

34 Mrs. Anderson a motion, seconded by Mr. Tyacke, to approve the Steering Committee
35 representatives proposed by Mr. Willcox. The motion carried 5/0.

36 Mr. Schelzel summarized the proposed changes to the HGA Agreement presented that had
37 been discussed by Council: 1) modify the language as needed to ensure that the City has the
38 necessary license to use the HGA pre-design deliverables without restrictions going forward for
39 the project, whether or not HGA is engaged for the remainder of the project; and, 2) modify the
40 language on the details of the project elements to allow flexibility in reaching the design
41 compromise goal.

42 Mr. Tyacke made a motion, seconded by Mrs. McCarthy, to approve the Agreement with
43 HGA/Walker for Architectural and Engineering Services, with the changes noted by the City
44 Attorney and subject to final City Attorney approval. The motion carried 5/0.

45 Transcribed verbatim at Mrs. Anderson’s request:

46 Anderson: “Can I ask a couple of other things that were on the table but not related to the
47 contract? One, staff, we will be making available and aware to the public they could sit in on these
48 meetings. Are we going to open them up so other Boards and Commissions can attend and will we
49 somehow let them know when they are going to be? In case we do get multiple Councilmembers
50 or Planning Commission or whatever. So just put that on the radar. The second item was my request
51 for the additional language in the staff report or going forward staff reports in the background in

1 how this came to be. So that people truly understand why we are spending this money. Some may
2 think of it as again, for design work that some may see already took place, related to concept designs
3 and things. So, if we need to kind of go down and say yea or nay, I think it would be beneficial and
4 helpful for the public to have a full understanding of how this came to be.”

5 Reeder: “Mr. Mayor, let me make sure I understand that direction. We would notify the
6 public we are having these meetings, but they would not necessarily be part of that discussion.”

7 Willcox: “They could listen. They could be in the room and monitor it. That’s all.”

8 Tyacke: “Even though there is two Councilmembers there, we are going to have it posted
9 as an open meeting?”

10 Mullin: “If a third person shows up, it’s a public meeting.”

11 Anderson: “If I want to show up and just monitor, you would have to?”

12 Willcox: “If we make the revision, where would the revision appear?”

13 Anderson: “Well, I don’t want know if we can add this for public record that’s in there to
14 make a revision, or going forward on the backgrounds and things we’d have that type of information
15 in here, Jeff, on how this came to be. I’d like to personally just see you edit, add a couple lines of
16 those additional components in this background section that would be posted for public record and
17 then an understanding moving forward that component is also part of how these next phases came
18 to be, if you are writing it. I don’t know what you choose to put in them or not, but it is a component
19 of why we are doing what we are doing in this process.”

20 Willcox: “Do you understand what we are getting at? The reason that we are embarking on
21 this HGA at all is to try to come up with a compromise with the Council. So, Councilmember
22 Anderson is just asking for a little more descriptive in your memo, basically, in that second
23 paragraph, somewhere in there.”

24 Anderson: “Page 113 of the whole packet.”

25 Tyacke: “Isn’t that stated in the minutes from the November 15 meeting though?”

26 Anderson: “Well no, because it is not going to be referenced here and so people are looking
27 at this whole line item, contract with HGA. They may be questioning why are you doing this now,
28 spending \$70,000 versus you already spent \$100,000 with LSA in doing the same type of
29 component. I think it just spells it out a little bit to have that component in here.”

30 Willcox: “You know it will be in the minutes of this meeting.”

31 Anderson: “Well, those aren’t attached to this document. You are asking people to have to
32 look back and forth. I mean it’s a one or two sentence. I don’t think it’s that big of a deal.”

33 Reeder: “Mr. Mayor, I don’t know how to revise a staff thing that has already been
34 published on the web and everything. It’s history. The minutes do reflect exactly what the
35 discussion was and staff clearly understands what you are telling us.”

36 Mullin: “I may have a suggestion. When you hold the first meeting, have a little narrative
37 for the first meeting that documents it for the record and then you have it solved. If you include
38 what Councilmember Anderson is offering for context. So, the first meeting the Design Committee
39 has convened can have a little narrative that says why are we here, what are we going to accomplish.
40 Is that acceptable?”

41 Anderson: “Well are those records public record? I don’t know to what extent you are
42 going to have from a Steering Committee meeting anything. I don’t think it will be on public record
43 and it needs to be a part of public record.”

44 Willcox: “I think the minutes can handle it.”

45 Reeder: “We could put something on the web shortly and tell them why we are doing the
46 Committee.”

47 Willcox: “That would help too.”

48 Schelzel: “If you want to make it part of the record, as the Mayor and City Manager pointed
49 out, it will be part of the minutes. So when you review the minutes at your next meeting, make sure
50 that’s clearly articulated to your satisfaction. The only other thing I can think of in addition to staff
51 is staff can present an updated memo as part of the consent agenda at the next meeting. That will

1 be part of the record but it will be part of the record for the next meeting, not this meeting because
2 that packet is out there and we can't go back and revise it at this point. It is what it is. Practically
3 speaking, the suggestion that makes the most sense, is that it's part of materials available on this
4 topic on the City website."

5 Mrs. Anderson requested staff make these Steering Committee meeting dates known to the
6 public so they could be present, but not participate. She also requested the background summary of
7 the staff memo include more information on how the decision was made to pursue additional design
8 options at this point in the process. Interim City Manager Reeder stated a summary to include those
9 details could be put on the website. City Attorney Schelzel stated it will be part of the record in the
10 minutes for this meeting as well.

11
12 **AGENDA ITEM 7. City Manager's Report and Discussion Items.**

13 **a. Other**

14 Mr. Mullin acknowledged that Commissioner Callison was reappointed as Chair of the Hennepin
15 County Board of Commissioners.

16
17 Mr. Mullin announced the grant application in connection with the Wayzata Sailing Center was
18 approved and Hennepin County is going to fund \$10,000.

19
20 Mr. Willcox referred to the Workshop minutes of December 15, 2015, and stated under the Wayzata
21 Country Club Gun Range discussion, the minutes did not accurately reflect that there were two
22 recommendations made by Council for following up on the issue: 1) Staff should ask the
23 neighborhood to get back in contact with the Country Club and for both to try to reach an
24 accommodation on the issue; and, 2) If that fails, it would come back to the City Council for
25 possible updates to the permitting process for the gun range. Mr. Reeder stated they will change
26 the minutes to reflect these recommendations and bring them back for Council review and approval.

27
28 Mrs. McCarthy requested brief updates from other City Boards and Commissions be added to future
29 agendas.

30
31 **AGENDA ITEM 8. Public Forum Continued (if necessary).**

32 There were no comments.

33
34 **AGENDA ITEM 9. Adjournment.**

35 Mrs. McCarthy made a motion, seconded by Mr. Tyacke to adjourn. There being no further
36 business, Mr. Willcox adjourned the meeting at 9:54 p.m.

37
38 Respectfully submitted,

39
40 

41
42 Becky Malone
43 Deputy City Clerk

44
45 Drafted by Shannon Schmidt
46 *TimeSaver Off Site Secretarial, Inc.*

47