

WAYZATA CITY COUNCIL
MEETING MINUTES
May 17, 2016

AGENDA ITEM 1. Call to Order and Roll Call.

Mayor Pro Tem Mullin called the meeting to order at 7 p.m. Council Members present: Anderson, McCarthy, and Tyacke. Also present: City Manager Dahl, City Attorney Schelzel, and Director of Planning and Building Thomson.

Mayor Willcox was absent and excused.

AGENDA ITEM 2. Approve Agenda.

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

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

a. Swearing in New City Manager Jeffrey Dahl

Mayor Pro Tem Mullin introduced and swore in Jeffrey Dahl, Wayzata's new City Manager.

Mr. Dahl stated it is an honor to serve the City and he looks forward to working in Wayzata.

c. Recognition of Retiring City Assessor Dan Distel

Mayor Pro Tem Mullin stated Mr. Dan Distel served the City of Wayzata for 27 years. He thanked Mr. Distel for his service and presented him with a plaque.

Mr. Distel stated it has been an honor to serve the City and thanked the Council for trusting him.

b. Heritage Preservation Board Presentation of Mayor's Best Historic Restoration Award 2016

Kim Anderson, Chair of the Heritage Preservation Board, presented the 2016 Mayor's Best Historic Restoration Award to Tom and Celia Threlkeld, 353 Park Street East. She reported on the history of the home and the renovation that has taken place.

Mayor Pro Tem Mullin presented Mr. and Mrs. Threlkeld with a plaque to commemorate the award. He thanked the HPB for their work and the Threlkelds for moving to Wayzata.

e. Speed Humps - Kathy Iverson

Kathy Iverson, 220 Central Avenue South, stated the need for speed humps in her neighborhood does not need to be discussed in a workshop, and requested Council to direct staff to put in speed humps immediately.

City Manager Dahl advised this will be discussed in a Council workshop on June 14.

Mayor Pro Tem Mullin recalled from the last meeting they were going to wait to consider installation of speed humps until all the petitions circulating in the neighboring areas had been submitted, and Bushaway Road was reopened.

Mrs. Anderson recalled the matter was not going to be discussed in a workshop, but that they were waiting to get the remaining petitions and then bring the matter back to Council for consideration. The opening of Bushaway Road was related to the roundabout, not speed humps.

Mayor Pro Tem Mullin clarified the motion from the previous meeting was to table it for consideration at a future Council workshop. He suggested addressing it as a new agenda item later in the meeting.

Mrs. Anderson thanked staff for verifying the motion and will look for it in a future Council workshop.

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2 **d. Mediacom Quarterly Oral Report on Local Service**

3 Theresa Sunde, Government Relations Manager for Mediacom, presented Mediacom's quarterly
4 service report covering January through April.

5 Zach Raskovich, Director of Mediacom Operations Minnesota and Wisconsin, reported
6 there were 119 total calls in 4 months in Wayzata.

7 Mrs. McCarty requested Mediacom provide a trend analysis at their next Council update
8 to show how things are improving.

9 Mr. Tyacke stated the type of issues he hears about from residents relate to complete
10 service going out, and it is unrelated to weather. Mr. Raskovich stated that happens when things
11 are being replaced in the network or when there is an outage.

12 Mr. Tyacke stated he read about a billion-dollar investment to Mediacom to upgrade their
13 system and asked if that will go towards fixing some of these problems. Mr. Raskovich stated that
14 investment is split into two areas: electronic and equipment, and the network. They will be
15 changing their network to make it wider which will provide a faster internet. The network
16 elements continually have to be upgraded and replaced.

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

19 None.

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21 **AGENDA ITEM 5. Consent Agenda.**

22 Mr. Tyacke referred to the resolution on page 54, second paragraph from the bottom, and asked if
23 the City had a Finance Manager. City Manager Dahl stated that refers to the contracted position
24 by AEM.

25 Mrs. Anderson referred to the resolution on page 54 and stated that Dan Distel, who
26 recently retired is still listed as the Assessor. City Manager Dahl stated Mr. Distel is still
27 employed by the City through May, and they will have to address it again when they select a new
28 Assessor.

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

- 30 a. Approval of City Council Workshop Minutes May 3, 2016 and City Council Regular
31 Meeting Minutes of April 19 and May 3, 2016
32 b. Approval of Check Register
33 c. Municipal licenses which received administrative approval (informational only)
34 d. Police Activity Report
35 e. Building Activity Report
36 f. Consider Resolution #14-2016 Amending the Appointments and Assignments for 2016 to
37 include Jeffrey Dahl

38 The motion carried 4/0.

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

41 **a. Consider UUCM Development Application at 2030 Wayzata Boulevard East**

42 Director of Planning and Building Thomson reported the applicant, Locus Architects, and
43 property owner, Unitarian Universalist Church of Minnetonka (UUCM), submitted a
44 development application that includes construction of a new 11,000 square foot church building
45 and associated parking. It also includes a request to combine the property with the parcel to the
46 east, and subdivide a portion of the east parcel into single-family residential property.

47 Mr. Thomson reported the Planning Commission recommends approval of the design and
48 a requested deviation from roof color, PUD amendment, preliminary plat for PUD lot and
49 residential lot, variances for lot depth and size, rezoning to PUD and R-1, and a Comprehensive
50 Plan Amendment to Institutional/Public and One-Acre Single Family. The Planning Commission

1 recommends denial of a requested Design Standards deviation for the primary exterior building
2 material, which would not be a permitted material under the Design Standards.

3 Mr. Tyacke asked why the easterly part of Parcel B was zoned to R-1/Low Density and
4 not R-2. Mr. Thomson stated this had been discussed, and there would be a concern about spot
5 zoning, as every residential parcel on the east and south side is zoned R-1.

6 Mr. Tyacke asked what is stated in the sales agreement for the east parcel on how the
7 parcel would be zoned. City Attorney Schelzel stated there was not any language about how the
8 lot would be used or zoned in the sales agreement. However, in the City's settlement agreement
9 for litigation brought by the church, the City and church agreed the parcel would be conveyed and
10 combined with the existing parcel, and the uses on the combined parcel would be limited to uses
11 associated with a church. The City and applicant are free to change that limitation, however staff
12 would recommend that as a condition of approval, an amendment to the settlement agreement be
13 agreed to by the church, reflecting the change in use.

14 Mrs. Anderson asked if the DNR had reviewed the wetland plan. Mr. Thomson stated
15 with the revised plan, the applicant completed a wetland delineation. During the Planning
16 Commission review, the City confirmed the revised parking lot is outside of the wetland and the
17 setback requirement. The wetland has receded on the property and this has been confirmed by the
18 City engineer and a wetland consultant.

19 Mrs. McCarthy inquired if any measurements of light output had been measured for the
20 exterior sign. Mr. Thomson stated there is not a specific measurement on the intensity, and the
21 City's sign ordinance allows for internally lit signs. In the recommended conditions it states that
22 all exterior signage and lighting on the property, including the parking lot, needs to be turned off
23 by 10 p.m. or at the close of operations, whichever occurs later. This does not apply to security
24 lights on the building.

25 Mrs. Anderson commented 10 p.m. on a Monday night seems strange to still have lights
26 on at a church if no one is around. It is not beneficial to the surrounding neighborhood to have
27 things lit until then because the code says so. Mr. Thomson stated the wording could be changed
28 regarding nighttime illumination on the property.

29 Mr. Paul Neseth, Locus Architecture, 4453 Nicollet Avenue, for the Applicant, stated
30 there have been some changes since the Planning Commission met. These include changes to the
31 parking lot design, the building material on the low administration building, and signage at the
32 north door.

33 Mr. Doug Johnson, 4775 Dodd Road, Applicant and owner's representative for design,
34 stated due to contour of the lot, the church does not have a need for a 30,000 square foot portion
35 of the site and would like to return it to the adjacent neighborhood for someone to build on it.

36 Mr. Neseth provided more detail on the proposed changes made since the Planning
37 Commission met. The parking lot was moved from the outlot on the east, to the south of the main
38 lot. The lower portion of the building is now proposed to have a synthetic stucco, instead of metal
39 siding, that meets the energy code, is sustainable, requires low maintenance, will not degrade over
40 time, and is aesthetically similar to an approved building material.

41 Mr. Tyacke asked about the metal siding that helps in mitigating sound and why they
42 want to use this material instead of complying with the design standards. Mr. Neseth clarified the
43 mitigating of sound comes from a pre-formed concrete panel that is under the metal siding. They
44 want to use the metal siding to have a more modern look.

45 Mrs. Anderson asked if the siding will be installed in a random pattern or straight line.
46 Mr. Neseth replied it is only made to be installed in a line, but they are proposing to use three
47 different colors to achieve a more random look.

48 Mrs. Anderson asked what additional measures were being done to provide screening for
49 the neighborhood. Mr. Neseth replied along the eastern side changes were made to embellish the
50 screening with some retaining on the southern side and additional plantings.

1 Mrs. McCarthy inquired about the parking requirement. Mr. Thomson stated there are
2 198 seats in the church, 66 parking stalls in the lot, and this meets the parking requirements.

3 Mrs. McCarthy spoke of the outlot and where it is split. She asked if the line could be
4 moved to meet the square footage requirement for R-1 zoning on the proposed residential lot. Mr.
5 Neseth stated due to the topography of the lot, the proposed line is at a natural break on the lot.
6 Mr. Johnson stated this lot gives the church options for future parking if needed and represents a
7 consistent use of land compared with the other properties in the neighborhood.

8 Mrs. McCarthy asked for clarification on the number of heritage trees to be removed.
9 Mr. Thomson stated there are four heritage trees slated for removal.

10 The Council discussed the policy issues regarding the preliminary plat and PUD.

11 City Attorney Schelzel stated any changes from the contemplated and previously agreed
12 upon church use should be reflected in an amendment to the settlement agreement with the
13 church, which will be one of the recommended conditions of approval with the proposed
14 resolution and ordinance.

15 The Council discussed the subdivision of the outlot and regarding it to R-1. The Council
16 agreed it is consistent with the surrounding neighborhood uses and is the best option. Mrs.
17 Anderson stated the Planning Commission did a great job working it out and the lot is a great
18 buffer. She assumes the access to the house would come in off the cul-de-sac and not the
19 frontage road. Mr. Thomson stated under ordinance requirements, they could have access to one
20 or the other.

21 The Council discussed the design standards and requested deviations. The Council
22 indicated it is fine with the roof color, but there was discussion regarding the metal siding. Mr.
23 Tyacke stated they are trying to enforce a uniform look, but understands the cost sensitivity. He
24 suggested the money from the sale of the outlot might be used to purchase conforming exterior
25 materials. Mrs. Anderson stated she struggles with the brightness in color of the metal siding.

26 Mr. Neseth commented the building is viewable by the neighboring properties mostly
27 during the wintertime because of the foliage on the property, and the white siding would actually
28 blend in better than a darker siding. He noted that there are limited color selections for the siding
29 material, and that it is a long distance from the residential properties.

30 Mr. Johnson stated the money from the lot is already included in the overall budget.

31 The Council discussed the language relating to the lighting on the property. City Attorney
32 Schelzel stated it seems clear the Council agrees that the lights should be on when needed, and off
33 when no one is around, and staff can draft language of a proposed condition to reflect that. Mr.
34 Thomson suggested removing the 10 p.m. language, and simply stating when the site is not in
35 use, the lights should be off.

36 Mrs. Anderson made a motion, seconded by Mrs. McCarthy, to direct staff to prepare an
37 draft Ordinance and Resolution, with appropriate findings, for review and adoption at the next
38 City Council meeting, inclusive of the preliminary plat and PUD, the subdivision of Parcel B
39 (outlot), the design and the deviations from the design standards, adjusting the number of heritage
40 trees from five trees to four in the record, and for the applicant to work with staff on acceptable
41 language regarding lighting.

42 City Attorney Schelzel stated they will use the findings of the Planning Commission,
43 except as amended by the motion.

44 Upon roll call vote, the motion carried 4/0.

45 The Council recessed the meeting at 8:45 p.m. and reconvened at 8:51 p.m.

46
47 **b. 2015 Audit Report Presented by Bill Lauer, MMKR**

48 Bill Lauer, MMKR, described their role in preparing the 2015 Audit Report. He stated that
49 MMKR has issued an unmodified opinion on the City's basic financial position of the City. This
50 year, there is a change in the Government Accounting Standards Board (GASB 68) which is
51 employer reporting for pensions. Employers have to now share any underfunding of that plan.

1 Mr. Lauer reported that similar to past years, MMKR has identified “Segregation of
2 Duties” as a weakness in internal control over financial reporting. This is primarily caused by the
3 limited size of the City’s office staff. There were also some issues related to Minnesota Legal
4 Compliance findings regarding the withholding certificate and prompt payment of claims. This
5 has not happened in the past and is not seen as a problem.

6 Mr. Tyacke inquired about the GASB 68 long-term pension liability and if there is a
7 reserve level minimum the City is required to keep. Mr. Lauer stated it is basically a promise to
8 pay retirees benefits. It is recognition that the liability is not fully funded and this can be
9 generated through increased rates of contributions or reducing benefits to future employees. It
10 does not affect the City’s financial rating. Mr. Mullin clarified it reflects our proportional share of
11 the State’s liability and is not a unique circumstance to Wayzata.

12 Mrs. McCarthy asked staff if the findings are discussed to make sure they are not
13 repeated. She requested staff let the Council know if additional support is needed. City Manager
14 Dahl stated there will always be a few invoices that slip through the cracks, but it has not been a
15 common theme.

16 Mr. Lauer completed the presentation of the Audit Report and answered questions of the
17 Council relating for the Report.

18 Mr. Tyacke asked referred to page 404 and asked if the funds with HRA are restricted or
19 treated as cash. Mr. Lauer replied it is all restricted for economic development.

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21 **c. Consideration of Tree Preservation Ordinance**

22 Director of Planning and Building Thompson provided a brief report on the Tree Preservation
23 ordinance. The draft ordinance includes two important components: tree removal thresholds and
24 replacement requirements. He requested Council discussion and direction on three things:

- 25 1) Does the City Council support changing the acceptable tree replacement species in the
26 draft ordinance to a list of recommended tree species?
- 27 2) Does the City Council want to amend the draft ordinance to apply the tree removal
28 thresholds and mitigation requirement to regional infrastructure?
- 29 3) Does the City Council want to modify the tree removal thresholds of the tree replacement
30 ratios in the draft tree ordinance?

31 Mr. Thomson reported in the draft ordinance, there is a list of 17 tree species that are
32 acceptable species and listed as a strict requirement, but at the last meeting during which the
33 ordinance was considered, the Council had expressed this provision to be too restrictive. A
34 potential change to the ordinance could keep the 17 tree species listed as recommendations and
35 not have them be a strict requirement. There would also be an addition of prohibiting the planting
36 of invasive species.

37 Mrs. McCarthy expressed concern that people do not generally consult the City ordinance
38 when they decide to plant a tree to see what is recommended. She suggested language that
39 communicates a person can plant one of the recommended 17 trees or trees of another variety
40 upon approval by the City Arborist. Attorney Schelzel clarified this proposed ordinance would
41 apply to developers replacing trees, not a homeowner who just wants to plant trees.

42 Mrs. Anderson stated there are challenges with enforcing the restrictions on the specific
43 types of trees that people are allowed to plant. People do not want to be told what they can plant
44 on their private property. She is comfortable telling people they have to replace their trees, but not
45 what they need to replace it with. She supports restrictions on planting invasive species as they
46 are harmful to the community.

47 Mr. Tyacke commented he is okay with the 17 recommended species and restricting
48 invasive species. He referred to page 413, the first paragraph. It states the replacement of heritage
49 trees must be of the same species and replacement of significant trees must consist of 25 percent
50 coniferous trees and 25 percent deciduous trees. He asked if the 25 percent requirements would
51 come from the list of 17 acceptable trees. Mr. Thomson stated the revised language could remove

1 all the percentages and replace it with a recommended list of trees. There may be value in adding
 2 back standards to get to the goal which is to provide diversity in tree species. There can be
 3 general statements that require a diversity of species.

4 Mayor Pro Tem Mullin commented he has concern about being too limited. He is
 5 comfortable with a recommended list of species and restrictions on planting invasive species. The
 6 intention is to get trees replaced of good stature and quality in developments where they have
 7 been cut down.

8 Mr. Thomson asked the Council if the draft ordinance should apply to other
 9 governmental agencies as they come in to do regional projects in the community, and what are
 10 the potential impacts to the City if these requirements are included.

11 Mrs. Anderson commented when trees were removed for Bushaway Road, the trees were
 12 replaced with the minimum standard because the City did not have a policy in place with specific
 13 requirements. Because of this, she does not accept the language in the draft ordinance.

14 Mr. Schelzel stated according to the draft ordinance, a project like Bushaway would be
 15 exempt from the requirements of the ordinance. The Council should decide if they want to make
 16 it apply with some exceptions, or include flexibility that the City can waive if it is a project that
 17 involves the City.

18 After Council discussion, Mr. Schelzel summarized the Council would want the
 19 ordinance to apply to any user of land within the City, but give the City the ability to waive it if it
 20 is another governmental agency project that the City is partnering with. Mayor Pro Tem Mullin
 21 added it also needs to be decided if it is a staff decision or a Council decision.

22 Mr. Thomson asked for Council's feedback on changing the threshold requirements or
 23 tree replacement ratios in the draft tree ordinance.

24 The Council agreed they are comfortable with the standards as written. Mr. Tyacke
 25 suggested creating a procedure where people can ask for a lesser requirement if needed.

26 Mr. Thomson stated if a developer cannot do the tree replacement on site, they are
 27 required to pay the City to replace the trees somewhere else. Additional language will also be
 28 added regarding the definition of pruning, tree removal permit, administration and standards,
 29 removal of trees on existing properties, and definition of diseased, dead, dying or hazard trees.
 30 He also commented the restriction of 32 inches per acre per year is inconsistent with the 10
 31 percent threshold for existing properties and also needs to be addressed.

32 Mrs. Anderson stated it is too restrictive to require a homeowner to apply for a tree
 33 removal permit if they wanted to remove a tree on their property. She suggested staff change that
 34 requirement as it is too hard to enforce.

35 Mr. Thomson advised these suggestions will be incorporated into the draft ordinance and
 36 brought back to the Council for review.

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

39 **a. Draft Minutes Clarification**

40 In response to a question from Mrs. Anderson, City Attorney Schelzel stated the reason the
 41 minutes in the Council packet have a draft stamp on them is because they are unapproved draft
 42 minutes when they go into the packet. When they are approved by the Council, they become the
 43 official minutes of the meeting.
 44

45 **b. Upcoming meetings**

46 Mr. Dahl noted upcoming meetings on:

- 47 • Bushaway Road - Thursday, May 19 at City Hall at 10:00 a.m.
- 48 • Workshop – Tuesday, May 24 at 5:30 p.m.
- 49 • Regular City Council Meetings – June 7 and June 14 (instead of June 21) at 6:00 p.m.
- 50 • Dig-it – Saturday, May 21 at Public Works at 8:00 a.m.

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c. Miscellaneous

Mr. Dahl noted street pavement crack sealing will be done by Public Works early on Thursday to get Wayzata Boulevard done. After that, they will proceed with non-residential areas first. This will be communicated with the public.

Mr. Dahl noted that Cargill Headquarters will be moving their employees back in June. The Chamber is planning a welcoming event later in the summer.

d. Annual Second Call Meeting

Mayor Pro Tem Mullin commented the Annual Second Call meeting took place last night. If people are interested in supporting the fire department, they should contact Mr. Dahl or Chief Klapprich.

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

There were no comments.

AGENDA ITEM 9. Adjournment.

Mr. Tyacke made a motion, seconded by Mrs. Anderson to adjourn. There being no further business, Mayor Pro Tem Mullin adjourned the meeting at 10:03 p.m.

Respectfully submitted,

Becky Malone 06-07-2016

Becky Malone
Deputy City Clerk

Drafted by Shannon Schmidt
TimeSaver Off Site Secretarial, Inc.