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**WAYZATA CITY COUNCIL
MEETING MINUTES
June 5, 2018**

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, and City Attorney Schelzel.

AGENDA ITEM 4. Approve Agenda.

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

AGENDA ITEM 5. Public Forum.

a. Presentation of the Wayzata Chamber of Commerce Exceptional Service Award to Sarah Klang with Proforma

Ms. Becky Pierson, Wayzata Chamber of Commerce, presented Ms. Sarah Klang of Proforma with the Wayzata Chamber of Commerce Exceptional Service Award.

b. Lake Effect Design Update

Mr. Scott Jordan updated the Council on the Lake Effect Design.

Mr. Willcox noted the biggest question that still needed to be resolved was Lake Street, what they wanted that to look like, and what function they needed. Mr. Jordan stated he would provide consultation on the pros and cons of each function for Council's decision.

Mr. Willcox noted at the Workshop meeting, they also discussed water and sewer rates. He indicated it appeared they would need to consider some increases due to the decrease in water usage.

AGENDA ITEM 6. New Agenda Items.

None.

AGENDA ITEM 7. Consent Agenda.

With regard to item 7a, Mr. Willcox noted on Page 14, last sentence first paragraph (property on Bushaway), he had said Wayzata did not have gated communities.

With regard to item 7c, Mr. Tyacke asked whether the permit for the Brew Works serving intoxicating liquor was consistent with State law in terms with microbrewery permits. City Manager Dahl responded it was.

With regard to item 7f, Mr. Plechash noted the losing bid had a slightly higher bid for blacktop and virtually nothing for the granite. He asked how someone could bid nothing for granite, and whether the city was getting what it paid for with the bid they were awarding. Interim Public Works Director/City Engineer Kelly responded the City was getting what they were paying for. He noted

1 he did not know how contractors bid on specific projects, so he could not answer the question about
2 the granite.

3
4 With regard to item 7g, Mr. Tyacke asked if the Planning Commission gave approval for the 11
5 tables. Mr. Thomson responded they had.

6 Mr. Plechash inquired if the liability clause was enforceable. Mr. Dahl responded it was
7 enforceable.

8 Mr. Willcox noted the Planning Commission had some hesitation regarding the unknowns
9 of a patio on a public sidewalk. Mr. Thomson indicated the challenge was with the Code and how
10 a CUP was handled. He noted the City was looking at amending the Right-of-Way Ordinance
11 which would address these types of CUPs.

12 Mr. Willcox believed there was a parking problem with Benedicts and adding the patio
13 would increase that problem. Mr. Thomson stated if Council wanted to add this as a formal
14 condition of approval, they could. He noted this was an ongoing issue. He believed once people
15 learned there was parking in the back of Benedicts, they would start using it.

16 Mike Rakun owner of Benedict's, 5300 County Road 101, stated parking has been an issue.
17 He noted they had 140 stalls behind the restaurant and when customers came in, they were informed
18 about the parking in the back. He believed larger signage would be helpful if the City would allow
19 it.

20
21 With regard to item 7j, Mr. Plechash asked if they could get Hennepin County to do something
22 about the potholes on the circular drive on the exit off Highway 12 on 101 South. Mr. Dahl
23 responded they needed to work with MnDOT on that and they were in communication with them
24 regarding this.

25 Mrs. McCarthy noted in the past two to three years, they had redone Wayzata Boulevard
26 and addressed the same issue. Mr. Kelly responded he did remember the conversations and there
27 were occasions when exceptions needed to be made in the interest of safety. He stated when work
28 was previously done along this corridor, they started the work at 9:00 p.m. and completed by 5:00
29 a.m. He noted the project would work under traffic and the road would not be closed, but it might
30 be one lane at a time in each direction. He did not believe the construction noise would be
31 bothersome.

32
33 With regard to item 7k, Mr. Tyacke inquired about the effective date and the billing date. Mr. Dahl
34 responded the City would get paid on January 1 and June 30, so there was a six-month lag between
35 when the service was being provided and when payment was received. He noted this could be
36 reconsidered if the Council wanted.

37 Mr. Tyacke believed it would be a hardship to the City for a Police Officer to work six
38 months without the City getting paid and requested the City getting paid in the interval. Mr. Dahl
39 responded he believed this was how it worked now. He stated he would go back and ask.

40 Mr. Plechash referenced the report, noting there would not be a significant increase in
41 workload as the result of an increased presence at Wayzata Middle School, but they were asking
42 for an increase from 3 to 5 days. Mr. Dahl stated after talking to the Police Chief about this, a lot
43 of the request was just to have their presence. He indicated there would be more duties and
44 interactions required, but the Chief believes a lot of the work that was done when they were not
45 present for the 2 days could be done remotely at the school.

46 Mrs. McCarthy asked what would happen if an Officer had to appear in Court. Mr. Dahl
47 responded if they were going to Court it was probably school related.

48 Mrs. McCarthy noted this Officer also filled in for the Lieutenant, so there would be other
49 responsibilities outside of the school responsibilities and asked what would happen if the Officer
50 was out sick or injured for an extended period. She recommended having language of some kind
51 that a neighboring Police Department might be asked to fill in, or some other solution be given.

1 Mr. Dahl noted the City had a good partnership with the school and the Police Chief felt what was
 2 in the contract would be enough to pay for the labor costs and the school would be willing to work
 3 on other issues as they came up.

4 Mrs. McCarthy asked the City Attorney to look at the items she was concerned about. City
 5 Attorney Schelzel stated when he talked with the Chief and City Manager, this was based on the
 6 relationship the City has had with the School District, and he believed if something came up where
 7 they City's police officers or the resources in the department were taxed due to the contract, the
 8 School District would be open to renegotiating that. He noted this was a contract that was
 9 terminable on 60-days' notice, so the contract could be terminated if there was a dispute. Mrs.
 10 McCarthy stated the relationship was important, but the City had limited resources and asked that
 11 the City ensures that the School District abides by the contract terms if something should occur.
 12

13 Mr. Tyacke made a motion, seconded by Mr. Plechash, to approve the consent agenda:

- 14 a. Approval of Local Board of Appeal & Equalization Meeting Minutes of May 1, 2018, City
 15 Council Workshop Meeting Minutes of May 15, 2018, City Council Workshop Meeting
 16 Minutes of May 21, 2018, and City Council Regular Meeting Minutes of May 15, 2018
- 17 b. Approval of Check Register
- 18 c. Approval of Municipal Licenses
- 19 d. Approval of the Agreement with CivicPlus to Purchase Paperless Agenda Packet Software
- 20 e. Approval of 2018-2019 Assessing Contract with Southwest Assessing
- 21 f. Approval to Award Bid to Allied Blacktop Corporation for 2018 Bituminous Seal Coat
 22 Project
- 23 g. Approval of Resolution No. 27-2018 Approving a Conditional Use Permit and Variance
 24 for Benedict's at 845 Lake Street E
- 25 h. Approval of Resolution No. 28-2018 Approving the Final Plat of Gardner Place at 350
 26 Gardner St E
- 27 i. Approval of Development Agreement for Gardner Place at 350 Gardner St. E
- 28 j. Approval of Request from Hennepin County to Pave Wayzata Boulevard during nighttime
 29 hours
- 30 k. Approval of a School Resource Officer Agreement with the Wayzata Public Schools

31 The motion carried 5/0.

32
 33 **AGENDA ITEM 8. New Business.**

34 **a. Public Hearing and Consider Approval of First Reading of Ordinance No. 780**
 35 **Vacating Right-of-Way for North Beach Road**

36 Mr. Thomson stated they had a request from the property owner that the City vacate platted right-
 37 of-way for North Beach Road. He noted the right-of-way was platted as part of the original
 38 subdivision for the Ferndale Road neighborhood and was originally intended to provide a road
 39 connection from Ferndale Road to Shoreline Drive. He indicated the right-of-way south of
 40 Shoreline Drive had already been vacated, but the portion from the south half of the Hillside Drive
 41 neighborhood to Ferndale Road West was still in place. He noted the right-of-way was never
 42 developed with a public street and was not currently used for any public street or public utility
 43 purposes.

44 Mrs. McCarthy asked what the Council had done previously regarding the property. Mr.
 45 Thomson responded there was an annexation and the detachment, and annexation along with a lot
 46 combination to combine four lots into one lot as well as a CUP to exceed the height in the
 47 shoreland district for the new home.

48 Mr. Schelzel recommended when this is moved, that it is based on the Findings that staff
 49 had presented as to why this made sense for the City and that a roll call vote be taken.

50 Mr. Koch asked if this impacted access to any abutting properties. Mr. Thomson responded
 51 the vacation would not impact access from a public street for anyone as there was no public street

1 that would be vacated. He stated any of the lots that abut it (besides the 629 property) had a
2 driveway onto a public street.

3 Mr. Willcox asked would this allow a future house to be built larger than the current house.
4 Mr. Thomson responded it would, as it would add 33 feet of buildable area onto the lot.

5 Mrs. McCarthy asked if they would be able to come back in the future for a lot combination.
6 Mr. Thomson responded it would not allow for a further subdivision of the land, but it would allow
7 a lot combination over the vacated area.

8 Mr. Willcox invited the applicant to make comment.
9 The applicant chose not to make any comments.

10 Mr. Willcox invited the public to make comment.

11 Tom Hanlin stated he owned the property at 670 Hillside. He indicated one of the criteria
12 they used when they purchased their home in March was access to the right-of-way. He noted
13 Hillside was blocked by County Road 15 and there was no safe way to get out of Hillside. He
14 wanted the ability to access the North Beach Road public right-of-way and to have a walking/biking
15 access out to Ferndale. He stated if the public right-of-way went away, so did the value they placed
16 on it and this was a concern. He stated he did not learn about the petition to vacate until a couple
17 of days before they closed on the lot. He indicated if they would have known this before it was too
18 late, they would have probably made a different decision.

19 Mr. Tyacke asked what he intended to use the right-of-way for. Mr. Hanlin responded he
20 was using it for a walking/biking trail to get out to Ferndale.

21 Mr. Tyacke asked if it was part of his title to have this access, or was it an assumption he
22 made. Mr. Hanlin responded when they were evaluating the lot and saw public right-of-way, he
23 assumed he would be able to walk off their lot through the public right-of-way.

24 Mr. Tyacke asked if it was vacated, would it go totally to the property on Ferndale. Mr.
25 Thomson responded typically the right-of-way was split down the center and it would be divided
26 half to each of the abutting property owners on either side of the right-of-way.

27 Mr. Plechash asked was there any consideration the right-of-way would be turned into a
28 pathway, or was it reserved to make a road. Mr. Thomson responded right-of-way was land that
29 was given to the City for public rights-of-way purposes and those were specific. He stated in terms
30 of this right-of-way, the City had the right to build public facilities on that land, but if a private
31 property owner was going to put structures or improvements in the City's right-of-way, that was
32 subject to the City's review and approval. He did not believe there were any plans for a public trail
33 connection from Ferndale Road to Hillside Drive because they could not get all the way there and
34 it had not been identified as a trail connection.

35 Mr. Koch asked about the condition of the land from 670 Hillside to Ferndale. Mr. Kelly
36 replied it was hard surface that was functionally the driveway to 649. Mr. Thomson noted there
37 was a private driveway that served the 649 property that was in the right-of-way.

38 Mr. Koch asked if this were turned down and Mr. Hanlin wanted to build a path, would
39 there be improvements on the public right-of-way that would be required for the Hanlin's to walk
40 any farther. Mr. Thomson responded there would need to be something. He noted that was not a
41 public street, but a private driveway that served a residence that was in the right-of-way.

42 Mr. Willcox asked because the driveway had been there a long time, did it legally do
43 anything to its right to continue to be there without having to vacate the right-of-way. Mr. Schelzel
44 responded it was the City's right-of-way and it could not be adversely possessed by a private
45 property owner by putting something in it. He noted it had been there a long time and it predated
46 a lot of the existing ordinances. He indicated the City did not have the need to focus on it, but as
47 the City's right-of-way, the City had the right to manage it in accordance with the street plans.

48 Mr. Willcox asked if there were any options to put the driveway elsewhere. Mr. Thomson
49 responded the driveway would need to be in the right-of-way to provide access to the house. He
50 noted that otherwise it would impact the wetland or the floodplain.

51 Mr. Willcox closed the public hearing at 8:10 p.m.

1 Mr. Tyacke asked if it was possible the two landowners could come to an arrangement for
2 a walking easement across the property if it were vacated. Mr. Thomson responded that was a
3 possibility.

4 Mr. Tyacke asked if the City was reserving the right to put in utilities at some time in the
5 future, were they reserving the surface rights to excavate the land to put utilities in. Mr. Kelly
6 responded this would need to be determined as they did not know when or if they would need the
7 area for future utilities, but they wanted to reserve the right to put in utilities. He believed there
8 would be minimal impact to the surface of the land.

9 Mrs. McCarthy noted the existing right-of-way was 66 feet wide. She asked how large a
10 typical driveway was. Mr. Kelly responded driveways were between 20 to 24 feet wide.

11 Mrs. McCarthy asked if anyone has considered splitting it in half and vacating half of it
12 while leaving the other half to allow people to have access. Mr. Kelly noted that was not the request
13 before the Council. Mrs. McCarthy stated the City was giving a lot and this was impactful to the
14 neighbors so she did not know if this was ultimately the best solution.

15 Mr. Willcox stated if they vacated just the driveway, that would mean half the property
16 would belong to someone and the other half of the driveway would belong to the right-of-way. Mr.
17 Schelzel noted because they did not have a map or surveyor's drawing of how that driveway would
18 along the right-of-way, they would need to look at this. He indicated it was theoretically possible
19 to split the right-of-way, but generally, the City did not do this.

20 Mrs. McCarthy noted they were talking about a utility easement anyway and she believed
21 they should be looking at an alternative instead of vacating the entire 66 feet. Mr. Thomson
22 responded they could look at other options by vacating a portion of the right-of-way.

23 Mr. Willcox asked if the rest of Hillside would have access to the same area, or would it
24 be just for the Hanlin's use. Mr. Hanlin's responded he did not know if anyone else would be
25 willing to build a boardwalk to access it as they would need to cross more wetland than his property
26 did. He stated he has had a discussion with one neighbor about an easement down the side of his
27 lot to allow other Hillside residents to use it, but it was a quick and short discussion, and nothing
28 was pursued.

29 Mr. Plechash stated he did not think it made sense to carve out half. He believed they
30 should approve it or not approve it and he believed it needed to be approved. He noted most people
31 did not know there was a right-of-way there and this made sense for the property.

32
33 Mr. Plechash made a motion, seconded by Mr. Koch, to adopt the First Reading of Ordinance No.
34 780 Vacating Right-of-Way for North Beach Rd based on the findings of staff. Upon roll call vote,
35 the motion failed 4 ayes (Koch, Tyacke, Plechash, Willcox)/1 nay (McCarthy).

36 **AGENDA ITEM 9. New Business**

37 None.

38 **AGENDA ITEM 10. City Manager's Report and Discussion Items.**

39 **a. Upcoming Events/Announcements**

- 40 • Thursday is the annual Chamber Appreciation Picnic followed by the Annual Police vs.
41 Fire Softball game. All proceeds raised will go to the Crime Prevention Coalition.
- 42 • The City was awarded \$400,000 in the bonding bill recently signed by Governor Dayton.
43 The \$400,000 would pay for railroad safety improvements at Barry Avenue as a part of the
44 Lake Effect and the Broadway Dock area as well.
- 45 • The colorful flags flying above the docks were called Dori flags, which were intended to
46 keep geese off the docks.

47 **b. Council Member Updates/Announcements**

48 Mr. Willcox noted the Art Experience was coming up later in June.
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AGENDA ITEM 10. Public Forum Continued (if necessary).

There were no comments.

AGENDA ITEM 11. Adjournment.

Mrs. McCarthy made a motion, seconded by Mr. Tyacke to adjourn. There being no further business, Mr. Willcox adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Becky Malone 06-19-2018

Becky Malone
City Clerk

Drafted by Kathy Altman
TimeSaver Off Site Secretarial, Inc.