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**WAYZATA CITY COUNCIL
MEETING MINUTES
February 4, 2020**

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: Buchanan, Koch, McCarthy, and Plechash. Also present: City Manager Dahl, Community Development Director Goellner, Assistant Planner Kieser and City Attorney Schelzel.

AGENDA ITEM 4. Approve Agenda.

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

AGENDA ITEM 5. Public Forum.

a. Presentation of Hennepin County Sheriff's Office Annual Update by Sheriff David Hutchinson

Sheriff Hutchinson described some of the responsibilities the Hennepin County Sheriff's Office performed for the cities. He shared the Sheriff's Office spent 211 hours in the City of Wayzata assisting Wayzata's Police Department. He also discussed a few of the programs offered and the water patrol. Sheriff Hutchinson said they had a great partnership with the City.

Mayor Willcox asked about the cost and number of officers on the lake. Sheriff Hutchinson explained there was private funding for one officer. Mayor Willcox asked if there were any plans to handle the area around Big Island more efficiently. Sheriff Hutchinson explained their biggest concern was loss of life and injury, and as to that there were no deaths or major incidents last season. He said as far as health and hazard, they would contain it as well as they could.

Mr. Plechash asked how the Sheriff's Office coordinated with Fire Departments around the lake. Sheriff Hutchinson said Captain Steve Labatt was in charge of the water patrol division and had great teamwork with the Fire Departments.

Mayor Willcox said people do not realize all of the services the Sheriff's Office provided. He added that they were a great partner to the City.

b. Introduction of Police Records Technician Jacalyn Norbury

Police Chief Risvold introduced new City employee, Jacalyn Norbury. He talked about her background and work so far at the City.

Mayor Willcox asked about the role of the records technician. Police Chief Risvold explained the records department was the backbone of the department. The records department dotted all of the I's and crossed the T's with regard to compliance with statutes, regulations, and data practices requests. They must be detail-oriented and get everything right. He said Jacalyn and Heather did that and were a pleasure to work with.

1
2 **c. Swearing in of Police Officer Josh Vogel**

3 Mr. Dahl administered the oath of office for new Wayzata police officer Josh Vogel.

4 Police Chief Risvold shared Officer Vogel's biography and welcomed him. Officer
5 Vogel expressed appreciation for the opportunity to work in the community and thanked
6 his family for the support.

7 Mayor Willcox welcomed Officer Vogel to the Police Department.
8

9 **AGENDA ITEM 6. New Agenda Items.**

10 Mayor Willcox asked if any Council member wished to introduce a new item for a future
11 Council meeting agenda. There were none.
12

13 **AGENDA ITEM 7. Consent Agenda.**

14 Mayor Willcox read the items on the consent agenda and asked if any Council member
15 wished to pull an item for further discussion.

16 Mayor Willcox recognized Mr. Dahl, who referenced Item 7.a., and explained the
17 reference to January 7, 2020 in the agenda listing should be January 21, 2020. He also
18 noted, for Item 7.h., that the services were starting in February instead of January, but that
19 there was no change to the motion.

20 Mayor Willcox, referencing Item 7.e., clarified the Commissioner being appointed
21 to the HRA was Terri Huml. He also asked why there were so many election judges for
22 Item 7.f. Mr. Dahl explained that redundancy was needed due to the extended voting
23 season.

24 There being no further discussion, Mayor Willcox asked for a motion to approve
25 the Consent Agenda as amended. Mr. Buchanan made a motion, seconded by Mr.
26 Plechash, to approve the consent agenda as amended, which read as follows:

- 27 a. Approval of City Council Workshop and Regular Meeting Minutes of January 21,
28 2020
- 29 b. Approval of Check Register
- 30 c. Approval of Municipal Licenses
- 31 d. Adoption of Second Reading of Ordinance 795 Amending Chapter 512 for Tobacco
32 Products
- 33 e. Adoption of Resolution 04-2020 appointing a Housing & Redevelopment Authority
34 Commissioner
- 35 g. Adoption of Resolution 05-2020 Establishing an Absentee Ballot Board
- 36 f. Adoption of Resolution 06-2020 Appointing Election Judges for the 2020 Elections
- 37 h. Approval of Professional Services Agreement with Goff Public, Inc. for Panoway
38 on Wayzata Bay Communication Services

39 The motion carried 5/0.
40

41 **AGENDA ITEM 8. New Business.**

42 **a. Consider Authorization for Submittal of Partners in Energy Application to**
43 **Xcel Energy**

44 Mr. Dahl informed the Council that this program aligned with one of the two main reasons
45 the City's Energy and Environment Committee was formed by City Council. The
46 Committee was very proactive in asking Xcel Energy to the table.

1 Mr. Kieser stated the Committee was asking for approval to submit an application
2 on behalf of the City to Xcel Energy's Partners in Energy program. The program would
3 set a strong framework for the Committee to work on over the next two years. The program
4 would also allow the Committee to utilize resources from Xcel Energy as well as the Center
5 for Energy and Environment.

6 Mr. Buchanan, Council Liaison to the Committee, explained the Committee was
7 introduced to the program in January, and thought it would give them a lot of horsepower
8 to achieve goals. The plan would be unique to Wayzata's needs and very robust, but all at
9 no cost to the City.

10 Tami Gunderzik, Xcel Energy Program Manager, talked about the program's
11 scope, community benefits, Energy Action Plan, resources, Xcel's benefits, examples, and
12 Energy Action Team.

13 Mr. Plechash asked for context on the conservation savings that were shown. Ms.
14 Gunderzik said it was very hard to quantify, but one Gigawatt hour reduction would save
15 around \$1 million.

16 Mr. Buchanan asked how many applications they accepted. Ms. Gunderzik
17 answered that they accepted three applications every six months.

18 Mayor Willcox asked how broad the plans were. Ms. Gunderzik explained the
19 plans were based on focus areas determined by the Energy Action Team from the
20 community. Mayor Willcox asked if the program would ever result in mandates from the
21 City to residential or commercial users. Ms. Gunderzik said it would not from their
22 guidance; however, some cities do look at policy changes.

23 Mr. Koch asked who the point person would be. Mr. Dahl said the staff liaison was
24 Mr. Kieser. Mr. Buchanan added the Committee planned to take the lead and keep staff
25 time to a minimum.

26 Mayor Willcox asked for a motion on the request. Mr. Koch made a motion,
27 seconded by Mr. Buchanan, to authorize staff to submit a Partners in Energy program
28 Application to Xcel Energy on behalf of the City. The motion carried 5/0.

29
30 **b. Consider Adoption of Resolution 07-2020 Approving Variances, Design, and**
31 **Shoreland Impact Plan/Conditional Use Permit for Lothenbach Family**
32 **Offices at 401 Lake Street East**

33 PeggySue Imihy, Consultant Planner, presented the development application from the
34 applicant, Peterssen Keller Architecture, and the property owner, Lothenbach Props VI,
35 LLC, to redevelop the property at 401 Lake Street East. She talked about the surrounding
36 neighborhood; zoning; 2030 Comprehensive Plan and draft 2040 Comprehensive Plan;
37 existing site and conditions; proposed renderings; the development application and
38 corresponding requests; proposed first, second, third, and rooftop floor plans; tree
39 preservation; parking; neighborhood meeting and public comment; Planning Commission
40 meetings and recommendation; and, action steps for the Council as they considered the
41 application.

42 Mr. Koch asked if most properties in the area complied with the 2.0 Floor Area
43 Ratio standard of the Zoning Ordinance. Ms. Imihy said there was a mix of buildings that
44 do and do not. He asked if the Floor Area Ratio would apply if the request was a Planned
45 Unit Development. Ms. Imihy answered no.

1 Mayor Willcox asked if the developer would need to apply for a permit from
2 Minnehaha Creek Watershed District. Ms. Goellner explained the City would review and
3 provide the permit on behalf of the Watershed District. Mayor Willcox asked about the
4 glass guardrail on the roof of the building and height. Ms. Imihy said the building height
5 was measured to the top of the guardrail. The full building including guardrail was under
6 35 feet.

7 Mrs. McCarthy asked if the Conditional Use Permit would run with the property if
8 it was sold. Ms. Imihy said yes. Mrs. McCarthy asked about ensuring maintenance of the
9 green roof. Mr. Schelzel answered that long-term maintenance could be addressed in the
10 development agreement.

11 Mayor Willcox invited the applicant to address the Council on the application.

12 Greg Keup, Lothenbach Properties, noted they would apply for Tax Increment
13 Financing to help with some of the costs related to the project.

14 Gabriel Keller, Peterssen Keller Architecture, said the project had been a long
15 process because it was complicated. The goal was to create a heritage building that was
16 evocative of a bank building in a small town long ago with materials that would last. He
17 encouraged the Council to embrace green roofs. They help with stormwater and heat in
18 the summer. He explained that retail and parking were competing priorities and they chose
19 to prioritize parking.

20 Mrs. McCarthy asked if the awning over the entrance to the building on Lake Street
21 would require an easement. Ms. Goellner said the awning could be removed so it would
22 require an encroachment permit for a temporary structure.

23 Mr. Plechash asked what the roof would be used for. Mr. Keller said there would
24 be an internal courtyard with a stair that goes to the top. People would be able to access
25 the roof to see the green roof or watch the sunset.

26 Mrs. McCarthy asked if the elevator would go to the roof. Mr. Keller said that it
27 would not.

28 Mayor Willcox asked what was planned for the roof patio. Mr. Keller said there
29 was not any structures planned. Mayor Willcox said this project was in the Manitoba Bluff
30 area, and that views were important. Mr. Keller thought the green roof was a tremendous
31 benefit to the view.

32 Mayor Willcox noted that several persons indicated that they wished to provide
33 additional comments on the application, and he invited them to address the Council.

34 Darren Schmitt, 320 Manitoba Avenue, said the project had evolved a lot since the
35 beginning. He requested, as his building located behind this one, that no furniture be
36 allowed above the 35-foot height limit. He also requested that the screening of the parking
37 area be expanded to include the trash and recycling area.

38 Charles Nolan, 315 Manitoba Avenue, noted he had submitted a letter and some
39 issues he had raised had been addressed. His stated that his biggest concern was the rooftop
40 terrace. He asked the Council to add conditions to any approval that would limit abuse of
41 the terrace.

42 Mrs. McCarthy asked for the dimensions of the rooftop terrace. Ms. Imihy said
43 450 square feet. Mrs. McCarthy asked about regulating rooftop furniture. Ms. Imihy stated
44 another project were the City had done so had included mechanicals on the roof which
45 allowed the City to address through existing regulations. Mr. Schelzel added the referenced
46 project was a Planned Unit Development which also gave the City more authority to

1 regulate what went on the roof. He added in this case, there would need to be a rough
2 proportionality to the impact created by the variances for any condition tied to an approval,
3 and any condition on the requested CUP would need to be reasonable and to protect the
4 general welfare, public health, and safety.

5 Mayor Willcox asked for Council comments.

6 Mr. Koch said it was a beautiful building and a great addition to the area. He asked
7 Mr. Schelzel if he was indicating that the Council did not have the authority to regulate the
8 rooftop terrace. Mr. Schelzel said the Council generally had that authority; however, so
9 far nothing had been identified by staff in the proposal that was not compliant with current
10 code regulations for rooftops. Mayor Willcox said because the project requested variances,
11 Council was authorized to add conditions tied to those requests. Mr. Schelzel agreed.

12 Mr. Plechash said he thought the variances requested were reasonable. He said the
13 roof was characterized by the applicant as an observation deck, and he was fine with adding
14 a condition to not allow furniture on the rooftop terrace.

15 Mrs. McCarthy said the applicant had done a great job with tackling the parking
16 issues and building height. She was in support of the project with conditions in regard to
17 the rooftop terrace furniture.

18 Mr. Buchanan said he loved the project and appreciated the need for parking. He
19 liked the green roof and thought the variances requested were reasonable. He understood
20 the objections to the rooftop furniture, but did not know how to best regulate it.

21 Mayor Willcox agreed it was a great project. He was in favor of getting rid of the
22 rooftop terrace, but if it stayed wanted to restrict all furniture. He also wanted to add
23 screening in regard to trash and recycling to Condition No. 5 of the draft approval
24 resolution.

25 Mrs. McCarthy thought restricting all furniture made the patio useless.

26 Mr. Dahl, after hearing the Council's discussion, suggested giving the developer a
27 chance to weigh in.

28 Mr. Schelzel added that if the developer was willing to address the concerns raised
29 by Council with respect to the rooftop terrace furniture, it could be memorialized as part of
30 the development agreement.

31 Mr. Keller said the height of the glass railing around the rooftop terrace at 42 inches
32 blocked the wind and rooftop furniture was always weighted. He explained they had not
33 had a long discussion with their client concerning the use of the terrace; however, he noted
34 that Wayzata's code encouraged green roofs, garden terraces, and similar structures on
35 roofs. If there was furniture, it would be high-quality teak that would be taken inside for
36 winter. Also, access to the roof was for the main office located within the building only.

37 Mayor Willcox said the City did encourage green roofs; however, in this area the
38 views were sacred.

39 Mr. Buchanan asked if the City regulated rooftop space and balconies currently.
40 Ms. Goellner said no.

41 Mr. Keup noted that building could have been 35 feet tall without the glass railing
42 under City code. He said he was willing to keep the height of the rooftop terrace patio
43 furniture at or below glass railing.

44 Mayor Willcox asked for a motion on the draft resolution. Mr. Koch made a
45 motion, seconded by Mr. Buchanan, to Adopt Resolution No. 07-2020, Approving F.A.R.
46 and Retail Variances, Project Design, and SIP/CUP for 401 Lake Street East, with

1 additional conditions on the suggested screening and on the rooftop terrace furniture that
2 the Applicant had stated they would be willing to adhere to.

3 Mr. Schelzel clarified the conditions of the Resolution, namely that additional
4 screening to trash and recycling would be added to Condition No. 5, and that the
5 development agreement would incorporate standards related to the rooftop terrace furniture
6 height and requiring seasonal removal. Mr. Koch and Mr. Buchanan agreed and accepted
7 the clarification to the motion.

8 Upon roll call vote, the motion carried 4/1 (Willcox).
9

10 **c. Consider Adoption of Resolution 08-2020 Approving Planned Unit**
11 **Development General Plan, Rezoning, Design, Preliminary Plat, and**
12 **Shoreland Impact Plan/Conditional Use Permit and Approval of First Reading**
13 **of Ordinance 796 (Rezoning) for North Lake Townhomes at 215 Walker**
14 **Avenue S and 529 Indian Mound East**

15 Ms. Imihy presented the development application from the applicant, Walker Partners
16 Limited Partnership, and the property owner, RE Clark Land Invest, LLC, to redevelop the
17 properties at 215 Walker Avenue South and 529 Indian Mound East. She talked about the
18 surrounding neighborhood; zoning; the 2030 Comprehensive Plan land use and Draft 2040
19 Comprehensive Plan land use; existing site and conditions; the previous site plan and
20 proposed plan; renderings; the approval requests in the Application; tree removal; the
21 Planning Commission's meetings and recommendation; and, action steps for the Council
22 as they considered the application.

23 Mrs. McCarthy asked why the City Engineer recommended not including the
24 exposed aggregate sidewalk. Ms. Imihy explained there would be a sidewalk, but that it
25 would be more residential in design, and not utilize exposed aggregate similar to Lake
26 Street. Mrs. McCarthy asked if the five-foot setback was from the curb. Ms. Imihy
27 answered the right-of-way was not included in the setback. Mrs. McCarthy asked if the
28 units would be aligned with the other properties on the street. Ms. Imihy said there was a
29 15-foot right-of-way and a five-foot setback so 20-feet from the back of the curb.

30 Mayor Willcox asked how to ensure maintenance happened on the large number of
31 permeable pavers proposed as part of the project. Ms. Imihy said the townhomes would
32 have an owners' association, and that the maintenance would be the responsibility of the
33 association. She said inspections could be required as part of the development agreement.
34 Mr. Schelzel added the maintenance requirement could be incorporated as part of the
35 development agreement. He said he could work with Director of Public Works/City
36 Engineer Kelly to come up with the best approach and inspection schedule.

37 Mr. Koch asked for clarification on the location of the air conditioner units. Ms.
38 Imihy said the units would be behind the homes. Mr. Koch asked if this was the best
39 location to mitigate noise. Ms. Imihy said the units were pretty quiet, and that there were
40 more concerns over trash and traffic.

41 Mayor Willcox invited the applicant to address the Council on the application.

42 Terry Schneider, 15333 Boulder Creek Dr., Minnetonka, project developer, stated
43 he appreciated bringing back a different project that addressed the Council's concerns. He
44 talked about the location of the air conditioner units. He said they had relocated the units
45 to between the homes with the exception of Lot-1, and thought this met the spirit of the
46 Planning Commission's condition.

1 Mayor Willcox asked for the Council's thoughts. Mrs. McCarthy thanked the
 2 developer for the changes in the current plans. Mr. Buchanan stated he loved the project
 3 and the changes that had been made in the current plan. Mr. Plechash agreed. Mr. Koch
 4 noted he liked the first plan, but appreciated the changes as well.

5 Mayor Willcox said he thought it was a nice design and good compromise. He
 6 asked for a motion on the application. Mrs. McCarthy made a motion, seconded by Mr.
 7 Buchanan, to Adopt Resolution No. 08-2020, Approving PUD General Plan, PUD
 8 Rezoning, Preliminary Plat, Project Design, and Shoreland Impact Plan/Conditional Use
 9 Permit (CUP) for 529 Indian Mound East and 215 Walker Avenue South. The motion
 10 carried 5/0.

11 Turning to the proposed rezoning ordinance, Mayor Willcox asked for a motion.
 12 Mr. Koch made a motion, seconded by Mr. Plechash, to Approve and Adopt the First
 13 Reading of Ordinance No. 796, Amending the Official Zoning Map of the City to Rezone
 14 Property at 529 Indian Mound East and 215 Walker Avenue South to PUD Planned Unit
 15 Development District. The motion carried 5/0.

16
 17 **AGENDA ITEM 9. City Manager's Report and Discussion Items.**

18 **a. Upcoming Events/Announcements**

19 Mr. Dahl gave a brief report and noted that:

- 20 • Absentee voting had started at City Hall during normal business hours.
- 21 • Wayzata's Chilly Open was coming up on February 7 & 8.
- 22 • Special City Council Meeting would be held on Thursday, February 27th to review
 23 bids and potentially award a bid to move forward with Panoway Phase One.

24
 25 **b. Staff Announcements**

26 Ms. Goellner announced that Ms. Imihy had accepted a position with the City of Shakopee
 27 as Senior Planner, and that tonight was her last Council meeting with Wayzata.

28 The Council congratulated Ms. Imihy and thanked her for her work.

29 Ms. Imihy thanked the Council and said Wayzata had been one of her favorite
 30 clients.

31
 32 **c. Council Member Updates/Announcements**

33 Mayor Willcox reminded everyone that April 1st was Census Day and encouraged everyone
 34 to get counted. He also noted that the City was moving from Minnetonka Parks and Trails
 35 to Wayzata Community Education for park programming. The summer programming
 36 would be rolled out March 1, 2020.

37
 38 **AGENDA ITEM 10. Public Forum Continued (if necessary).**

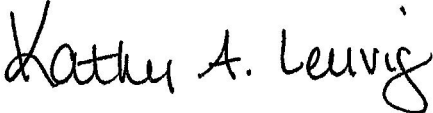
39 There were no comments.

40
 41 **AGENDA ITEM 11. Adjournment.**

42 There being no further business, Mayor Willcox asked for a motion to adjourn. Mrs.
 43 McCarthy made a motion, seconded by Mr. Plechash to adjourn. Mayor Willcox adjourned
 44 the meeting at 9:57 p.m.

45
 46 Respectfully submitted,

1

A handwritten signature in black ink that reads "Kathy A. Leervig". The signature is written in a cursive style with a distinct dot over the letter 'i' in "Leervig".

2

3

4 Kathy Leervig

5 City Clerk

6

7 Drafted by Sarah Peterson

8 *TimeSaver Off Site Secretarial, Inc.*