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**WAYZATA CITY COUNCIL  
MEETING MINUTES  
August 16, 2022**

**AGENDA ITEM 1. Call to Order.**

Mayor Mouton called the meeting to order at 7:00 p.m. Mayor Mouton shared the multiple options for joining remotely and submitting comments or questions.

**AGENDA ITEM 2. Pledge of Allegiance.**

**AGENDA ITEM 3. Roll Call.**

Council Members present: Mouton, Buchanan, Iverson, MacDonald, and Plechash. Also present: City Manager Dahl, Community Development Director Goellner, Parks Planner Nick Kieser, Assistant Planner Valerie Quarles, and City Attorney Schelzel.

Mayor Mouton noted that on August 10, 2022 at 3:00 p.m., in accordance with applicable State law, a closed attorney/client privilege meeting was held at the City Hall pursuant to Mn. Statute 13D.05, Subd. 3(b) for discussion of approval of an employee separation agreement, which was discussed and approved by Council. She stated that earlier this evening, the City Council participated in a workshop. The following items were on the agenda:

- Update of Waste Hauling Contract and Discussion of Future Options
- Discussion of 2023 Preliminary Enterprise Fund Operating Budget and Fee Schedule

**Code of Conduct Agreement**

Mayor Mouton noted that the new Code of Conduct policy was in front of each Council member and suggested that before proceeding with the meeting, they all take time to sign them.

The Council signed the Code of Conduct agreement and returned them to City Manager Dahl.

**AGENDA ITEM 4. Approve Agenda.**

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

**AGENDA ITEM 5. Public Forum.**

**a. Update of Parks and Trails Board Activities by Chair Tory Schalkle**

Parks and Trails Board Chair Schalkle gave a brief overview of some of the current park projects such as the playground at the beach; Music in the Park; as well as their upcoming priorities, such as Klapprich Park; Bell Courts/Middle School/Platform; and budgeting for how some of these projects can be spaced out with a sustainable funding model.

Mayor Mouton expressed her appreciation to the Parks and Trails Board for all of their work and the improvements that have made lately.

1 Barry Petit, 420 Peavey Lane, read aloud a statement related to Panoway and noted that he  
2 felt that even after all the money, fees, effort, time, public engagement on hopes and  
3 expectations, there is simply no ‘wow’ associated with it. He noted that it appears to be a  
4 fragmented kit of parts borrowed from a landscape catalogue rather than a special solution  
5 for our town that, in his opinion, the concept was a B+ and the execution is a C- and  
6 reiterated that he felt that there was no ‘wow’ factor and was not convinced that there would  
7 be one in the future either.

8  
9 **AGENDA ITEM 6. New Agenda Items.**

10  
11 **AGENDA ITEM 7. Consent Agenda.**

12 Mayor Mouton read the items on the consent agenda and asked if any Council member  
13 wished to pull an item for further discussion.

14 Mr. Plechash asked to pull item 7h. for discussion. He stated that there is an aspect  
15 of this that is a bit concerning to him that he feels should be pulled out of a consent agenda.  
16 He stated that it is adding a firepit table to a rooftop that is actual fire and he is not sure the  
17 City has done all the due diligence needed for that situation.

18 Mr. Dahl noted that Council member MacDonald was planning to recuse herself  
19 from discussing or voting on this item as well.

20 Mayor Mouton asked about item 7g. and clarified that the City has an annual  
21 contract with the school district that renews every year. She asked if that was for a full-  
22 time officer and asked about the rationale for going from a full-time school resource officer  
23 to part-time. Mr. Dahl stated that in the past that was correct and explained that the general  
24 explanation from the school district was simply related to finances and budget cuts.

25 Mayor Mouton questioned if that was still the thought with the levy that was just  
26 passed, which was substantial. Mr. Dahl confirmed that this was correct.

27 Mayor Mouton stated that this was concerning to her and suggested that it may  
28 make sense to have multi-year contracts because the City makes hiring decisions based on  
29 those contracts. She stated that they also want to make sure school safety is adequately  
30 covered. She asked when the officer would be working. Mr. Dahl stated that there is an  
31 office at the school the officer can use and can do other work that there is not related to the  
32 school, but it will be less than full-time. He stated that for this coming year, having an  
33 annual agreement will be nice because they will be able to see how it actually works and  
34 can address it next year.

35 Hearing no other requests, she asked for a motion to approve the Consent Agenda  
36 as revised. Ms. MacDonald made a motion, seconded by Ms. Iverson, to approve the  
37 consent agenda:

- 38 a. Approval of City Council Workshop and Regular Meeting Minutes of July 19 and  
39 August 3, 2022
- 40 b. Approval of Check Register
- 41 c. Approval of Municipal Licenses
- 42 d. Receipt of Police Activity Report
- 43 e. Receipt of Building Activity Report
- 44 f. Approval of Agreement for Property Assessing Services with Hennepin County
- 45 g. Approval of School Resources Officer Agreement with Wayzata School District

1 ~~h. Adoption of Resolution 39-2022 Approving Amendment to Development~~  
2 ~~Agreement for Rooftop Plan at 401 Lake Street East (Pulled and moved to item 8e.)~~

3 i. Adoption of Resolution 40-2022 Accepting Donation from the Wayzata Lions Club  
4 The motion carried 5/0.

5  
6 **AGENDA ITEM 8. New Business.**

7 **a. Consider Adoption of Resolution 38-2022 Approving Design of Panoway Phase**  
8 **2A (Boardwalk and Docks) and Phase 2B (Section Foreman House) and**  
9 **Directing Staff to Prepare Construction Documents and Permit Applications**

10 Community Development Director Goellner introduced project consultants, Scott Jordan,  
11 Civitas; Rebecca Muchow, Cushing Terrell; and Jessie Houlihan, Onyx Strategic Partners.  
12 She reminded the Council that Panoway is a multi-phase project and tonight's discussion  
13 was surrounding the boardwalk, docks, and the Section Foreman House. She reviewed the  
14 design process that has been followed.

15 Scott Jordan, Civitas, stated that he has been working with the City since 2015 to  
16 develop the Panoway project. He gave a summary of the community feedback they  
17 received on development of the boardwalk and community docks and noted that they had  
18 also asked questions about the Eco Park and the Depot Park as well. He explained that  
19 there was a community event held on May 10, 2022 where 48 people signed in, but noted  
20 that they think more than that attended. He stated that they also had 229 participants in the  
21 on-line survey. He reviewed the questions asked about the Depot Park Gardens, step-  
22 downs of the boardwalk, community docks, and the Eco Park-wetland enhancements. He  
23 explained that the second community event was an ice cream social held on July 27, 2022.  
24 He stated that there were over 250 participants who showed up and they handed out 175  
25 passports as a way to get free ice cream. He noted that during this event they shared  
26 renderings of a variety of ways that the boardwalk step-downs, community docks, Eco  
27 Park, and Depot Park could be configured. He reviewed the ongoing permitting that will  
28 be needed from the Minnehaha Creek Watershed District, USACE, and the DNR. He noted  
29 that there will be some policy decisions that will need direction from the Council related  
30 to things like, fishing on the boardwalk, community dock usage/fees, public safety, and the  
31 use of wheeled devices such as bikes, skateboards, and scooters, along the boardwalk.

32 Jessie Houlihan, Onyx Strategic Partners, stated that the Council has seen her in a  
33 different role in working as the construction manager and explained that her company was  
34 handling different roles for this project. She explained how they have been engaging with  
35 the market to ensure they are informing the firms such as Civitas and Cushing Terrell and  
36 City staff with what is going on in the market to ensure there is a comprehensive plan and  
37 no surprises throughout the process. She noted their risk management approach related to  
38 the Section Foreman house and the Boardwalk/docks. She reviewed their market  
39 engagement process and explained that they focus first on the areas of greatest risk. She  
40 stated that they have been engaged directly with general contractors, subcontractors and  
41 material suppliers in order to monitor cost, labor, and availability. She reviewed the  
42 proposed timeline and next steps she proposes for the project.

43 Rebecca Muchow, Cushing Terrell, explained the guiding principles that they have  
44 used for this project based on the feedback they have gotten from the community and find  
45 a way to stay within the parameters of the historic standards for the Section Foreman  
46 House, updating the building for flexible use, and have ADA accessibility. She reviewed

1 some of the next steps in the process including a hazardous material survey; issue a  
2 furniture vendor RFP; interior and exterior signage design/location; and design of the donor  
3 bench. She gave a brief overview of the updated floor plan designs.

4 Mr. Plechash stated that he has been thrilled with all three of the firms and has  
5 worked with them in various capacities.

6 Ms. MacDonald asked about what is going to be happening on the outside of the  
7 Section Foreman House and asked about the reference to artificial turf. Ms. Muchow stated  
8 that there is a lift station just east of the building that the City needs access to at least once  
9 a week and with the porch extension and the accessibility ramp, that has created a bit of a  
10 pinch point for the City truck to get through. She stated that this reinforced paver is  
11 essentially a grass paver that will look green and grass-like but will have structure  
12 underneath so it will not have ruts or tire tracks.

13 Ms. MacDonald stated that she thinks the interior looks great and noted that her  
14 main concern with the exterior is that it seems a bit 'busy' and kind of takes away from the  
15 historical element of the house. She stated that this park has been kind of a quiet space in  
16 the past and wondered if further considerations couldn't be taken to keep that in mind. She  
17 stated that it just seems like there are a lot of ideas going into a very small space. Ms.  
18 Muchow noted that they are currently in the design development process so not everything  
19 has been fully flushed out and assured her that this was great feedback for them to take to  
20 their team. She stated that they want to be able to have 12-15 people sit outside in a  
21 classroom lecture style set-up. She stated that the final location of the drinking fountain,  
22 the interpretive sign and the historical marker are still being flushed out. She noted that  
23 Community Development Director Goellner had already given that same kind of feedback.

24 Mr. Buchanan clarified that the plans are to begin work on the boardwalk in late  
25 spring and asked if Ms. Houlihan actually thought it would be completed by the fall. Ms.  
26 Houlihan explained that she would not be the construction manager, but noted that it is  
27 about a 6 month project, so it could be completed by fall. She noted that depending on  
28 weather, they would like construction to begin in March, if possible.

29 Ms. MacDonald stated that she has gotten some feedback on the community docks  
30 with concerns about the Minnehaha, and the loading, unloading, and usage for less  
31 experienced boaters with some of the proposed designs. She asked if they had considered  
32 revamping the existing Broadway docks to make 16 proper dock spaces. Mr. Jordan stated  
33 that they have received some information on how the Minnehaha needs to maneuver and  
34 they believe that with Phase 1 it is set up to accommodate the Minnehaha on either side of  
35 the existing dock. He stated that the docks themselves are intended to be done with a dock  
36 builder that truly understands boat movements. He noted that he understands the concerns  
37 about the inexperienced boaters, but noted that there is a lot of water depth in the area, so  
38 there should be manageable distances for them to maneuver, but reiterated that all of these  
39 alignments will be refined with a dock builder.

40 Ms. MacDonald stated that she thinks a conversation with the dock builder will be  
41 crucial and that it will be important to keep in mind possible future dock expansion. She  
42 asked for more information on how they had landed on the number of dock spaces that they  
43 are proposing. Mr. Jordan explained that they had asked a question in the survey about the  
44 number of docks and explained that based on that information they had a conversation at a  
45 Council workshop which was where the decision was made due to the results being fairly  
46 close, to maintain the 48 existing docks, but to add the loading zones that are flex spaces.

1 He stated that they can still add more or take away spaces if that is what the Council would  
2 like.

3 Ms. MacDonald stated that she has been told that if there are two boats of a certain  
4 length at the Boardwalk that it really only becomes enough space for one boat because of  
5 the width. Mr. Jordan stated that he was not made aware of that, but explained that their  
6 intent was to resurface the existing docks so the finished surface would match the new  
7 docks. He stated that if Council wants them to work with the dock builder to look at that  
8 issue and see what the added cost may be to adjust those docks to make them accommodate  
9 those boats, they would be happy to do that. He noted that this was the first he had heard  
10 about that potential issue.

11 Ms. Houlihan asked if the City would like to, when they price the project, add this  
12 in. She explained that they can work with the dock builder, who is currently servicing the  
13 docks, because they have been directly engaged and understand what is happening out there  
14 now. Ms. MacDonald stated that she thinks it would be worth having a conversation with  
15 them before the exact configuration is determined.

16 Ms. Iverson thanked the consultants for their presentations because she knows that  
17 everyone has been working on this for a long time. She asked if the City had secured  
18 financing and if the Council can feel comfortable telling the residents of the City that it  
19 will not be a tax burden. She reiterated that she has a lot of concerns about how these  
20 projects will be paid for. Mr. Dahl stated that there is a one page document that is available  
21 on the website that outlines some of the big ticket items for this project. He stated that for  
22 Phase 2A, which is the boardwalk and docks, they have secured funding for that  
23 construction which is a combination of State bonds and TIF. He noted that 10 years of  
24 operations and maintenance will be funded by The Wayzata Conservancy as a way to  
25 decrease the burden to the City. He stated that Phase 2B, the Section Foreman House, is  
26 pledged to be funded by The Wayzata Conservancy and grant funding from outside of the  
27 community. He noted that Phase 2B is not yet fully funded.

28 Ms. Iverson asked if the City had the funds from The Wayzata Conservancy already  
29 in the bank. Mr. Dahl stated that they do not, but they have agreed to this funding and the  
30 discussions have just begun as far as what is needed for assurance for that. He stated that  
31 his understanding is that they have made good progress in their funding efforts for Phase  
32 2B. He stated that they are looking closely at the costs for all aspects of the project to  
33 ensure that there are no big surprises further down the road.

34 Ms. Iverson asked what would happen in a scenario where the project ends up  
35 coming in at \$16 - \$20 million. She asked if there was any feel at this point for what the  
36 total cost of this project will be. Mr. Dahl stated that was why Ms. Houlihan was hired in  
37 order to look at both how it can be constructed in a way that meets the City's needs, but  
38 also be the best value. He stated that they also wanted to take a look at what alternates may  
39 be available to help decrease the costs. He explained that this was one of the reasons that  
40 the City was spending time understanding this issue up front so there aren't surprises down  
41 the road, especially given the market volatility that is happening right now.

42 Ms. Houlihan stated that Mr. Dahl had explained that perfectly and noted that this  
43 is why they track things like steel and pre-cast costs because of the volatility and looking  
44 at this allows them to plan smartly and take projects to the market at the right time. She  
45 stated that they have updated cost estimates and have two detailed estimates for both  
46 projects.

1 Ms. Iverson asked if Ms. Houlihan could share that information. Ms. Houlihan  
2 stated that they will continue to normalize across the projects and will be able to have future  
3 conversations with the Council on those details. She gave an explanation of her  
4 'normalization' process.

5 Ms. Iverson explained that before she can vote to approve this, she needed to have  
6 a good feel of whether the project will be close to \$8 million or if it would be double that  
7 price. She explained that she would support this project if the residents want it and the  
8 City has the money to fund it.

9 Mayor Mouton noted that it appears as though this was not at the phase where the  
10 City would have that funding information. She noted that the City currently has access to  
11 \$8 million along with a pledge from The Wayzata Conservancy for 10 years of operations  
12 and maintenance.

13 Ms. Houlihan noted the budget pricing that they currently have back for Phase 2A  
14 and 2B, right now, is in alignment with the City's budget goals.

15 Ms. Iverson asked if the City had secured funding for the Section Foreman House.  
16 Ms. Goellner stated that her understanding was that The Wayzata Conservancy has raised  
17 about \$250,000 so far for the Section Foreman House and the intent is also for them to pay  
18 for the construction documents.

19 Mr. Dahl noted that the next phase will really help the City and The Wayzata  
20 Conservancy solidify the target.

21 Ms. Goellner noted that staff's intent is that the construction documents would  
22 begin in September and come back to the Council in December to get approval to go out  
23 for bidding.

24 Harry Johnson, 2616 Crosby Road, explained that he is a 4<sup>th</sup> generation Wayzata  
25 resident. He is a big fan of the plans for the boardwalk and community docks and does not  
26 really agree with the comments shared by Mr. Petit earlier in the meeting. He asked how  
27 the configuration of the existing community docks and the balance of smaller and larger  
28 slips was determined. Mr. Jordan stated that the configuration was a study based on how  
29 the existing temporary docks exist and what may be added to them. He stated that in terms  
30 of the numbers of different sized slips, they had tried to do what was proportional to the  
31 response that they got from the community. He reiterated that this can be changed once  
32 they get into detailed construction documents.

33 Mr. Johnson asked who he meant when he said that they used the responses from  
34 'the community' and whether that meant the boating community or the residents of the  
35 community. He also asked if they knew if anyone in the community that had responded  
36 was actually boat owners. Mr. Jordan stated that it was the 228 respondents of the initial  
37 survey and the 200+ people that were at the in person event. He noted that many of them  
38 did say that they were boat owners and had actively used docks, but others were just  
39 community members. He explained that they did not specifically ask for that information  
40 or limit who could comment based on boat ownership.

41 Mr. Johnson asked if there had been a study done that actually looks at the usage  
42 of the docks, the size of the boats being used, the time they are more frequently used, and  
43 what happens when it is congested. Mr. Dahl stated that they have been discussing this  
44 over the last month with The Wayzata Conservancy. He stated that they do have some  
45 preliminary data when they have had dock workers, but he isn't sure it really gets at the

1 data that would really be helpful in moving forward because it is basically how full they  
2 are.

3 Mr. Johnson stated that he has used those docks literally hundreds of times and was  
4 glad to hear that the design was not finalized, because he thinks there are still some  
5 significant design questions to be answered. He noted that as they are drawn he feels that  
6 they create some potential safety issues and feels it would be beneficial to have an in depth  
7 conversation about these details. He stated that he thinks it is clear that more slips are  
8 needed and thinks it would also be a useful discussion to talk about the management of the  
9 drop off points. He encouraged the Council to go there and see what is happening on a  
10 Thursday or Friday night so they can get a true idea of how the docks are actually being  
11 used. He stated that all in all, he feels it will end up being a great project, but is glad that  
12 there is still some flexibility in the design details.

13 Mayor Mouton stated that she believes whatever is put in will rise to the ultimate  
14 level of public safety. She stated that perhaps there needs to be a broader ad hoc  
15 dock/marina committee put together to look more closely at the boating community in  
16 terms of safety and amenities. She noted that, typically, she is not in favor of just creating  
17 another committee, but there are nuances to boating and docking that she personally would  
18 not be well-versed in.

19 Mr. Johnson asked what the intended use is of the community docks. Mayor  
20 Mouton noted that for the community docks there is to be no ‘parking’ and is meant for the  
21 purposes of people being able to come to town, go to a restaurant, do some shopping, and  
22 then get back on their boat and go home. She stated that they are meant to be transient and  
23 not meant for people to get a slip and park their boat there.

24 Mr. Dahl reiterated that the design plans are not yet solidified and noted that the  
25 City would be exploring the policy discussions over the next few months. He explained  
26 that there are a lot of variables here and he does not think that they will be able to please  
27 everyone but felt confident about the engagement process that has happened.

28 Mayor Mouton asked about the donor bench at the Section Foreman House and if  
29 it was a new element. Ms. Muchow stated that it was not a new element, but they may not  
30 have always referred to it as a ‘donor bench’.

31 Ms. MacDonald stated that she feels confident in the City’s team on this project.  
32 She stated that she supports this step in the process and feels confident about the funding.  
33 She noted that she is a non-voting member of The Wayzata Conservancy and they are on  
34 schedule for their payment to the City.

35 Mr. Plechash stated that he supports this step as well, but noted that he has a concern  
36 about not having all of the funding for all of the features for all of the phases all the way to  
37 the end but noted that his concern was not large enough that he would not vote in support  
38 of this step. He stated that his secondary concern was that if this is approved, this may  
39 discourage people from contributing to fund what is needed to maintain 10 years of  
40 maintenance. He stated that the City already figuratively has around \$8 million in the bank,  
41 which takes the City a long way on this project. He noted that it ends up being sort of a  
42 chicken and egg scenario because the City won’t know the exact numbers for the project  
43 until they approve this. He stated that a comment was made in the public forum that there  
44 was not a ‘wow’ factor which he completely disagrees with. He stated that most of the  
45 feedback he has gotten from people is that they love what has been done so far and shared  
46 an example where someone said that came into the City and literally said, “Wow!”.

1 Mr. Buchanan stated that he is in favor of ‘seeing what is behind the curtain’ and  
2 in order to do that, they need to complete this phase.

3 Ms. Iverson stated that there have been meetings on this for quite a while and she  
4 looks back at one of the things that the community stated when they were looking at redoing  
5 the parking lot was that they wanted the City to be lively, but not rowdy. She stated that  
6 her other concern with this project is how the City can keep the boardwalk from taking this  
7 over that tipping point because she feels the City was lively for a brief period of time, but  
8 is now rowdy.

9 Mayor Mouton stated that she has a lot of admiration and respect for the work staff,  
10 former Councils, and the partnerships formed with Civitas, Cushing Terrell, and Onyx have  
11 put into this project over the years.

12  
13 Mayor Mouton asked for a motion on the draft resolution. Mr. Plechash made a motion,  
14 seconded by Mr. Buchanan, to Adopt Resolution No. 38-2022 Approving Design of  
15 Panoway Phase 2A (Boardwalk and Docks) and Phase 2B (Section Foreman House) and  
16 Directing Staff to Prepare Construction Documents and Permit Applications.

17  
18 Mr. Buchanan noted that there was a meeting with The Wayzata Conservancy last  
19 week and they are very confident about their fundraising and to the point raised by  
20 Councilmember Plechash, he thinks this will only make them more confident about those  
21 efforts and discourage them.

22 Mayor Mouton noted that she had also heard a lot of ‘wows’ about Phase 1 as well.  
23  
24 The motion carried 4/1 (Iverson opposed).

25  
26 **b. Consider Approval of Rooftop Municipal Solar Proposal and Solar Power**  
27 **Purchase Agreement and Authorize Mayor and City Manager to Execute**  
28 **Agreement**

29 Parks Planner Nick Kieser gave an overview of municipal rooftop solar proposal from Blue  
30 Horizon Energy. He reviewed the 2040 Vision Statement, the City’s Energy Vision and  
31 Action Plan, and the work of the Energy and Environment Committee looking into renewal  
32 energy options for City facilities. He explained the benefits of this type of project and why  
33 the Energy and Environment Committee was recommending approval of this project. He  
34 expressed his appreciation to the Energy and Environment Committee and Blue Horizon  
35 Energy for their work on this proposal over the last couple of years.

36 Mr. Buchanan agreed that this has been worked on for a long time and noted that  
37 sustainability was even one of the things he campaigned on.

38 KC Chermak, Energy and Environment Committee member, noted that Parks  
39 Planner Kieser has been steadfast in his communication and focus on this project. He stated  
40 that he felt that this was a project that will give back to the City for years to come. He  
41 stated that they have learned a lot being involved on the Energy and Environment  
42 Committee and feels that this is the ultimate green decision right here in the backyard of  
43 the City and is just a stepping stone to making the world a better place to live.

44 Griffin Dooling, Blue Horizon Energy, gave some background information about  
45 their company and their focus. He noted that when they looked for solutions for the City,  
46 they considered three things: advancing the environmental and sustainability; engage



1 residents and businesses to support the growth of clean energy; and realize positive  
2 financial and environmental impacts for the City. He shared details of their two primary  
3 approaches to deploy solar systems on the City facilities and to provide  
4 incentives/education.

5 Mr. Kieser stated that staff and the Energy and Environmental Committee  
6 recommends approval of the municipal rooftop Solar Power proposal along with the  
7 Purchase Agreement.

8 Mayor Mouton noted that there are substantive redlines in the agreement and asked  
9 if the intent was that there would still be ongoing discussions regarding the Purchase  
10 Agreement. She confirmed that this was intended to authorize City Attorney Schelzel and  
11 City Manager Dahl to work through the agreement to the point where both parties agree.

12 Mr. Dahl stated that the Agreement that was referred to in the staff report and the  
13 Council packet, was updated today, and was based on the Power Purchase proposal. He  
14 stated that they have made some quick changes to it, but would ask that the Council  
15 authorize them to continue that process, but they could also allow them time to come to an  
16 agreement and bring it back to the next meeting as well.

17 Mr. Schelzel stated that an important piece to know going into this program, if the  
18 City chose to do it, would be if they wanted to pay for it themselves or use the PPA. He  
19 explained that the redlines indicated the initial review that he has done on the agreement.  
20 He stated that if the Council felt comfortable with that option and wanted to pursue it, they  
21 can authorize staff to finalize the language of the agreement and just add to the resolution  
22 that the final language would be subject to review and approval of City Attorney.

23 Mr. Plechash asked how the resident referral program would work and details such  
24 as what will trigger a referral credit and how someone could apply. Mr. Dooling stated  
25 that it would be a process that they would determine together with staff, but generally, it is  
26 up to the City to determine what entity the charitable contributions would go towards, such  
27 as The Wayzata Conservancy. He stated that in other scenarios where they have  
28 implemented the referral program, it has been driven primarily off of the educational events  
29 where they would give their information and if they ultimately chose to add solar to their  
30 home it would trigger the credit.

31 Mr. Plechash stated that he has heard about concerns with disposal when the panels  
32 reach the end of their life and asked for details on how this is handled. Mr. Dooling stated  
33 that under the Power Purchase Agreement scenario it is Blue Horizon Energy's expense to  
34 decommission the system and ensure everything is appropriately disposed of so there  
35 would be no incremental costs to the City. He noted that in a direct purchase scenario, it  
36 would be the City's capital equipment so there would be decommissioning costs that would  
37 be the City's. He explained that generally the decommissioning costs are 6-12 months'  
38 worth of the energy expense, which has declined over time.

39 Mr. Plechash asked what the City would save in terms of percentage of the overall  
40 bill. Mr. Dooling stated that the systems, as proposed for the five sites, would offset about  
41 33% of the energy usage in those facilities.

42 Ms. MacDonald asked how the new legislation just passed by the Federal  
43 government may affect this project. Mr. Dooling explained that the primary changes in  
44 that legislation in the Inflation Reduction Act passed last week is that the Federal  
45 investment tax credit has been changed from 26% to 30% and is set at that for the next  
46 decade. He noted that the more relevant component for the City's project is that they

1 cannot take that 30% tax credit as a direct payment with a direct purchase, which would  
2 effectively replace the option discussed at the Council workshop to work with a non-profit  
3 partner to facilitate monetization of the tax credits.

4 Mr. Buchanan stated that he thinks this is a huge change and could change the City's  
5 decision because it would essentially be a 30% discount for a direct purchase. He stated  
6 that to him, to leave 30% on the table is a big decision that was brand new information as  
7 of a few hours ago.

8 Mayor Mouton asked if the City could get both the Federal credit as well as the one  
9 being offered from Xcel. Mr. Dooling explained that the solar award incentive from Excel  
10 is depicted in the net savings figure, so the purchase incentive would represent that 30%.

11 Ms. Iverson asked for information on what 'NPV' referred to in the table presented.  
12 Mr. Dooling explained that stood for Net Present Value which is a financial metric that  
13 takes the stream of future cash flows from the project and applies a discount rate of 4% to  
14 calculate what the value is of the cash flow stream in today's dollars.

15 Mayor Mouton asked the Council which option they were leaning towards and their  
16 thoughts on the new legislation.

17 Mr. Plechash noted that he can be blamed for the table graphic in the financing  
18 memo that staff put together because had asked for a way to understand the math without  
19 the added incentives. He stated that if the City can afford it, he thinks he would prefer to  
20 buy it outright and capture all the savings. He explained that he has solar panels on his  
21 home and noted that it generates about 1/3 of the electricity that his home needs. He noted  
22 that the thinks the net present value is probably conservative and understated. He stated  
23 that it appears as though energy costs are going to continue to go up, at least in the near  
24 future. He stated that he is in favor of doing this, and if the City cannot afford to buy in,  
25 would support the PPA approach.

26 Ms. Iverson stated that she agreed with Mr. Plechash and noted that she thinks there  
27 are still some questions that need to be addressed before moving forward. She stated that  
28 she would like to continue discussions and not make a decision this evening.

29 Ms. MacDonald stated that she supports the idea of adding solar panels to the public  
30 buildings. She stated that she would like staff to take a look at the direct purchase option  
31 because the 30% discount is just too significant to leave there if the City doesn't need to.  
32 She explained that she did not want to kick the can further down the road because they  
33 have been talking about this for four years.

34 Mr. Buchanan stated that he thinks the first question is whether the Council wants  
35 to put solar panels on the buildings and the second question would be how it is paid for.  
36 He stated that he also doesn't want to wait and thinks this is the smart thing to do. He  
37 stated that he likes the idea of the direct purchase option that comes with the discount.

38 Mayor Mouton thanked all the entities involved in bringing this forward, especially  
39 Mr. Buchanan, who is the Council liaison for this committee. She stated that this will give  
40 the City a return on their investment and save them money. She stated that like the other  
41 members of Council she had originally been thinking of moving forward with the PPA  
42 option, but after the new legislation, she is now thinking along the lines of direct purchase  
43 with the discount. She stated that, in general, she does not like spending money, but she  
44 does believe in spending on capital projects that have a return. She stated that the break  
45 even for this is 10 years and there should be another 15 years of useful life beyond the  
46 breakeven point, which makes this into sort of a 'no brainer'. She stated that she thinks

1 the City just needs to sharpen their pencils and figure out where those funds will come  
2 from. She stated that she thinks the City really needs to investigate the direct purchase  
3 option. She stated that she gets the sense that the majority of the Council wants to move  
4 forward but wants more information on where the funds would come from for the direct  
5 purchase option. She asked if there was a way to work in a parallel work stream while this  
6 is being determined.

7 Mr. Dahl stated that he thinks that can be done, but it may take a while. He stated  
8 that it may coincide with the CIP process in October.

9 Mr. Dooling noted that the new legislation having to do with the 30% discount for  
10 direct purchase is effective beginning January 1, 2023 which means the City has a bit of  
11 time. He stated that the project was approved for Xcel Energy's incentive funding in May  
12 which has a 6 month time period. He noted that this could be extended, but they need to  
13 be on a path of something that is moving forward by spring of next year.

14 Mr. Schelzel stated that the City will need a contract for either option.

15  
16 Mayor Mouton asked for a motion on the application. Mr. Buchanan made a motion,  
17 seconded by Ms. MacDonald, to direct staff to work with Blue Horizon Energy on an  
18 alternative purchase agreement proposal and also direct staff to complete a financial  
19 analysis of the direct purchase option with funding sources to bring back to a future Council  
20 meeting.

21  
22 Mr. Plechash asked that it be noted that if this approved, he would like staff to consider  
23 giving the Council quarterly reports on the savings. He stated that he feels that would give  
24 the Council some satisfaction to see the figurative bank account of savings continue to  
25 climb.

26  
27 The motion carried 5/0.

28  
29 Mayor Mouton recessed the meeting at 9:35 p.m. and reconvened at 9:44 p.m.

### 30 31 **Code of Conduct Agreement - continued**

32 Mayor Mouton noted that earlier tonight the Code of Conduct documents were distributed  
33 and signed by the Council, but it appears as though staff has only received 4 out of the 5  
34 returned with signatures.

35 Ms. Iverson stated that she had not signed the document nor did she intend to sign  
36 it.

37 Mayor Mouton asked why Ms. Iverson was not in agreement with something that  
38 she had voted in favor of.

39 Ms. Iverson stated that she had voted in favor of it, knowing that she would not sign  
40 the document. She stated that it is a personal decision that she prefers not to discuss on a  
41 public broadcast but explained that she would be open to discussing her reason off-line.

42 Mayor Mouton stated that she would not be having a discussion off-line because  
43 she thinks that a Code of Conduct is pretty straight forward in terms of expectations.

44 Mr. Dahl stated that for the next meeting staff will have the Code of Conduct for  
45 public meetings displayed so everyone can see it and noted that the Boards and

1 Commissions will also be asked to sign the Code of Conduct and it will become part of the  
2 orientation process for the Boards and Commissions moving forward.

3 Mr. Plechash stated that he would like the public to be able to see what the Code of  
4 Conduct says about what the Council agrees to do and not to do.

5 Mayor Mouton suggested that staff go ahead and put the Code of Conduct out at  
6 the front desk and on the back table, so people can see what was voted on and signed.

7 Mr. Plechash reiterated that he would like the public to see the Code of Conduct  
8 and noted that he has grave concerns if he has a colleague that does not want to abide by a  
9 Code of Conduct that was passed, and would like the public who has elected that Council  
10 member to see what she has decided not to agree to.

11 Ms. Iverson explained that by not signing it, it doesn't say that she has not acted in  
12 all those ways at every meeting, to date.

13 Mr. Plechash stated that he would disagree.

14 Ms. Iverson stated that she feels as though she is being bullied right now which is  
15 part of the reason why she is not signing it. She stated that she is not legally obligated to  
16 sign this document.

17 Mayor Mouton agreed that Ms. Iverson was not legally obligated to sign this  
18 document and noted that it was something that the Council had discussed, as a body. She  
19 noted that the accountability will still be there whether it is signed or not.

20 Ms. Iverson asked if the Council wanted to have a discussion about censorship and  
21 the repercussions of the Council censoring her. She stated that the question was asked  
22 about what would happen if someone didn't follow the Code of Conduct and the answer  
23 was that they would be censored.

24 Mayor Mouton stated that she believes Mr. Iverson means censure, not censor, and  
25 noted that is an option for an elected body at any time towards a colleague who falls outside  
26 the norms of behaviors.

27 Ms. Iverson stated she feels that is a violation of her first amendment rights.

28 Mayor Mouton noted that she completely disagreed with that notion.

29  
30 **c. Consider Adoption of Resolution 37-2022 Approving Lot Combination,**  
31 **Comprehensive Plan Amendment, and Zoning Map Amendment at 1022**  
32 **Wayzata Boulevard East and Approval of First Reading of Ordinance 816 to**  
33 **Amend the Official Zoning Map of the City to Rezone a Portion of the Property**  
34 **at 1022 Wayzata Boulevard East**

35 Assistant Planner Valerie Quarles gave an overview of the requests for the property located  
36 at 1022 Wayzata Boulevard East. She reviewed the zoning and land use of the surrounding  
37 neighborhood and explained that the proposal is to combine two lots and renovate the  
38 existing gas station for retail use. She noted that any further changes to the site or building  
39 will go through staff review and future variances or deviations from design standards would  
40 come back for a new public hearing. She stated that there was a proposal for this  
41 development before the Council in April of 2022 which was very different than what is  
42 currently proposed. She stated that it included the lot combination but also a proposal for  
43 a new building and drive-thru. She explained that the feedback at the time was favorable  
44 to the lot combination, but negative from all sides towards the drive-thru and site design  
45 elements. She stated that what is currently proposed is essentially the bare minimum of  
46 what can be achieved on this site. She reviewed the existing conditions and the extremely

1 small southern, non-conforming lot. She stated that a CUP would be required to build a  
2 home on this lot. She noted that this lot currently has a steep slope with a retaining wall  
3 that is currently failing. She reviewed the proposed site plan to renovate the existing  
4 building, remove the canopy, and rebuild the fence and retaining wall and gave an overview  
5 of the requests for lot combination; Comprehensive Plan amendment; and Zoning Map  
6 amendment. She reviewed the parking and access and circulation of vehicles with the  
7 proposal. She noted that there was not enough room for two way circulation around the  
8 building, so it will need to be just one-way circulation. She reviewed the plans for the  
9 fencing and retaining wall. She stated that there were three or four people in attendance at  
10 the neighborhood meeting and reviewed their primary concerns from that meeting as well  
11 as the public hearing at the Planning Commission. She reviewed the permitted and  
12 conditional uses in C-3 and noted that the Planning Commission had unanimously  
13 recommended approval.

14 Ms. Iverson asked if what was presented was the only thing the City had received  
15 from the applicant, to date. Ms. Quarles stated that the site plan presented was what had  
16 been submitted.

17 Ms. Iverson asked if the site plans indicate the location of the garbage. Ms. Quarles  
18 stated that it does not but believes that those plans will come along with the renovation of  
19 the existing building.

20 Ms. Iverson asked if the City had gotten additional feedback from Edina Realty  
21 who shares the drive aisle. Ms. Quarles explained that the City had not received fresh  
22 feedback this time, but assumed that was because the applicant was not proposing  
23 significant changes to the site.

24 Mayor Mouton asked if the applicant would like to address the Council.

25 The property owner stated that he did not have a presentation to make to the Council  
26 and was simply awaiting their decision one way or the other, so they can move forward.  
27 He stated that if the Council does not approve a lot combination, he noted that he would be  
28 coming back with a proposal for a home on the southern parcel. He stated that he honestly  
29 has no preference which way the Council will vote on his proposal, but noted that he has  
30 spent a lot of money and needed to be able to do something with the parcels. He stated that  
31 he would like to know what the Council would have voted in favor of on this parcel and  
32 gave the example of residential with retail below.

33 Mayor Mouton stated that the Council consists of five different people and they can  
34 only evaluate what has been presented to them and cannot speculate or design projects.

35 The property owner stated that he understands that but would like to know what  
36 kind of thought went into the Comprehensive Plan discussions about what they envisioned  
37 going in on this corner. He stated that he did not think that is clear from reading through  
38 the information.

39 Mayor Mouton stated that she cannot go through the entire history of how the City  
40 got to the current Comprehensive Plan and noted that it was a multi-year process and goes  
41 well beyond what the Council 'wants'. She stated that while she appreciated his question,  
42 she would reiterate that those kinds of questions are not what the Council is here to address  
43 at tonight's meeting. She noted that there is a resident who has asked to speak and invited  
44 him to come forward.

45 Gordy Straka, 130 Huntington Avenue S, stated that the Planning Commission  
46 voted in favor of this basically because they said there was a lot of regulations in effect to

1 protect the neighborhood from any large changes. He stated that in looking at the variances  
2 that the Council gives out, all the time, he feels that nullifies those rules and regulations.  
3 He stated that he does not think it was the City's job to recommend to a land owner what  
4 they should do with their property, but the property owner has said that combining the  
5 properties was recommended to him by Eric Zweber who works for the City. He stated  
6 that it would appear that Mr. Zweber cares little about the residents of the City and more  
7 about commercial properties and the tax base. He stated that there have been no plans  
8 submitted with the combination of lots unless what was presented tonight was actually  
9 being considered a 'plan'. He stated that the City has no idea what the owner or the  
10 developer has in mind for this property and is moving forward based on hearsay. He stated  
11 that the City could be putting this neighborhood in jeopardy and lowering the property  
12 value and quality of living. He gave the example of what is happening on the property at  
13 150 Broadway and explained that 715 Rice Street has been listed for 193 days with the  
14 average listing in the City being on the market for 86 days. He stated that he believes it  
15 has been on the market for so long because it is next door to 150 Broadway. He asked the  
16 Council to be careful with what they are doing. He stated that at the last Council meeting  
17 he attended, there was discussion about where they would put the call-in pedestal for the  
18 drive-thru. He stated that after the residents were done and presented their concerns and  
19 were no longer standing at the podium, he felt Mr. Plechash took a 'cheap shot' at him  
20 telling him that if he wanted to keep the 35 feet as residential then he should buy it. He  
21 stated that he feels that was a totally inappropriate comment for a Council member to  
22 make.

23 Diane Silikowski, 173 Huntington Avenue S, stated that she has spoken in support  
24 a few times about keeping this area residentially zoned. She stated that the applicant should  
25 have incorporated the costs associated with this property in the purchase price and noted  
26 that she did not have sympathy for his laments regarding the costs he has incurred. She  
27 stated that the retaining wall has been in disrepair for several years and should not be  
28 contingent on whether the City rezones the area or not and should have already been  
29 repaired which has been brought to the City's attention several times already. She stated  
30 that consideration of rezoning this property should be done after Mr. Straka decides to  
31 move from his property because for years he and his late wife took care of that property  
32 with beautiful gardening and she feels they deserve some compensation for their work.

33 Bruno Silikowski, 173 Huntington Avenue S, stated that they have lived in this  
34 location for about 5 years and feels it is a great little neighborhood. He stated that he  
35 understands that development happens, but the unfortunate thing is when the applicant  
36 shared what his plans were prior to this request, they talked about some things that were  
37 very detrimental to the neighborhood. He stated that many people spoke out about those  
38 plans and noted that he may be in support of doing this current project, but would like to  
39 see the actual plan for the property. He stated that the discussion should happen at that  
40 point in time and noted that the City has referred to the 'guardrails' that are in place, but  
41 right now he doesn't think they are clear. He stated that they did talk about some of those  
42 things with the Planning Commission but does not see it here in front of the Council, which  
43 makes him nervous.

44 Mr. Plechash stated that he trusts the work that the Planning Commission does on  
45 behalf of the City and sees no reason to deny this request. He stated that the lot to the south  
46 is unusable and could be used for something better in the future. He stated that regarding

1 the argument of approving the plan after the plan is seen, the Council will have a chance  
2 to say no to what may be proposed.

3 Ms. MacDonald stated that she agreed with Mr. Plechash that the southern lot is  
4 small and non-conforming and would support putting it into a conforming use. She stated  
5 that she also thinks the Planning Commission did a great job of examining and evaluating  
6 the guardrails that are in place via things like the Design Standards and City Code.

7 Ms. Iverson stated that she disagreed and noted that she was 100% in favor of the  
8 applicant putting something on the parcel because something does need to go there and  
9 feels the City would welcome creative use of the parcel. She stated that she would like to  
10 see the proposal come along with the lot combination to ensure that there are some safety  
11 nets put in place so there is not an impact to the residential neighborhood that they will  
12 regret. She stated that she feels this is a simple ask if the applicant has a tenant or was in  
13 discussions with someone. She stated that the buffer is literally on Mr. Straka's driveway  
14 which means he could have something that is just 10 feet from his property. She reiterated  
15 that she is 100% in support of the applicant doing something with the property, but she  
16 needs to see the two pieces of information together in order to make a good decision that  
17 will protect the residents.

18 Mr. Buchanan stated that he also supports the Planning Commission's report and  
19 recommendation and believes eliminating a non-conforming lot makes total sense.

20 Mayor Mouton asked if the City went through with the lot combination and it is  
21 rezoned to C-3, if the rear yard setback for the building would be 50 feet. Ms. Quarles  
22 stated that would be correct.

23 Mayor Mouton asked where the building current sat relative to the south property  
24 line. Ms. Quarles stated that currently the building is set about 103 feet from the property  
25 line.

26 Mayor Mouton noted that it appeared that parking in the rear would be 10 feet. She  
27 asked if there had been any discussions with regard to actual potential use. Ms. Quarles  
28 explained that the proposal from the applicant is to renovate the existing building and use  
29 it as retail, which is one of the permitted uses within C-3. She stated that when there is a  
30 lot combination and rezoning, the City is basically saying that this is the box that they can  
31 operate in. She stated that if the City were to evaluate a plan at the same time, the thing  
32 that the Council would evaluate would be any deviations from Code. She stated that a  
33 rezoning application is essentially the 'box' within which the applicant can operate, which  
34 is part of why the proposal in front of the Council is just to discuss the lot combination.

35 Mayor Mouton asked if her understanding was correct that the applicant could add  
36 onto the building with one of these permitted uses in C-3 as long as they did not exceed the  
37 setbacks. Ms. Quarles stated that the Design Standards are triggered if they modify more  
38 than 50% of the existing building. She explained that the plan is to take down the canopy,  
39 which would bring them pretty close to the 50% mark and would assume that any further  
40 changes, such as an addition, would bring in the Design Standards.

41 Ms. Goellner stated that what they often see with applicants around the City is that  
42 parking ends up limiting their ability to use the building for these types of uses. She gave  
43 the example of a food and beverage establishment and noted that does not appear to be a  
44 possible use for this, without a parking variance.

45 Ms. Iverson asked if a food and beverage establishment could be a restaurant that  
46 could potentially serve liquor. Ms. Goellner confirmed that this was correct.

1 Mayor Mouton explained that she was a bit torn because she does feel it makes  
2 sense to do a lot combination on this lot. She stated that what she voted against was the  
3 CUP for a driveway. She stated that as difficult as this is to hear for the neighbors, it is a  
4 quirky zoning anomaly that there is a small residential lot abutting this commercial  
5 property. She stated that with the size of the lot and the size of the building, her initial  
6 instinct was similar to Ms. Iverson's that she would like to see a plan before moving  
7 forward. She stated that with the canopy coming down and that triggering the Design  
8 Standards, she is more in favor of approval. She stated that there is currently an abandoned  
9 gas station there today which is not the highest and best use of this property. She stated  
10 that something will go there and she feels it is the Council's duty and responsibility to the  
11 adjoining neighborhood to ensure that whatever goes there is conducive and not  
12 detrimental to the neighbors. She stated that she is in complete support of the retaining  
13 wall being built and asked if there had been a stipulation regarding the fencing. Ms.  
14 Goellner stated that the fencing has a simple requirement within the Code to receive a  
15 building permit and noted that there is a stipulation of it being 6 feet.

16 Mayor Mouton asked about stipulations regarding vegetation. Ms. Quarles noted  
17 that per the tree preservation ordinance, if they remove a certain percentage of the trees on  
18 site that will trigger tree replacement. She stated that she did not think there were very  
19 many trees on this site and believes that if trees were removed as part of replacing the  
20 retaining wall would most likely trigger tree replacement.

21 Mr. Dahl clarified that removal of the canopy by itself does not trigger the Design  
22 Standards, but would get it close.

23 Mayor Mouton stated that she understood that but staff had indicated that any  
24 additional work following removal of the canopy would likely trigger them. She stated  
25 that she is reluctant to approve this, but feels the Planning Commission put in place some  
26 appropriate conditions for approval.

27 Mr. Schelzel explained that when a residential property is rezoned to commercial,  
28 it will require a 4/5 vote.

29  
30 Mayor Mouton asked for a motion on the application. Ms. MacDonald made a motion,  
31 seconded by Mr. Plechash, to Adopt Resolution 37-2022 Approving Lot Combination,  
32 Comprehensive Plan Amendment, and Zoning Map Amendment at 1022 Wayzata  
33 Boulevard East; and to Approve First Reading of Ordinance 816 to Amend the Official  
34 Zoning Map of the City to Rezone a Portion of the Property at 1022 Wayzata Boulevard  
35 East. A roll call vote was taken by City Manager Dahl. The motion carried 4/1 (Iverson  
36 opposed).

37  
38 **d. Consider Adoption of Resolution 36-2022 Approving Outdoor Patio**  
39 **Conditional Use Permit and Parking Variance at 830 Lake Street East (Baja**  
40 **Haus)**

41 Ms. Quarles stated that this proposal was previously seen by the Council in 2018, as a CUP  
42 for outdoor sales and service as well as a parking variance to support a patio at Baja Haus.  
43 She reviewed the project location and the zoning and land use of the surrounding  
44 neighborhood. She reviewed the details from the 2018 application that set aside 2 spaces  
45 for a seasonal outdoor patio and explained that the current proposal increases the request  
46 to 4 spaces. She explained that the original outcome of the 2018 request was a denial



1 because they felt it may compound existing parking deficiencies and cause safety issues.  
2 She noted that since that time, there was the COVID-19 pandemic and one of the things  
3 that happened during that time was that the City relaxed many of its outdoor dining  
4 standards as a way to allow restaurant owners to continue their operations. She stated that  
5 a number of businesses had Temporary Outdoor Patio and Sidewalk Café Permits issued  
6 and explained that Baja Haus was looking to create a seasonal outdoor patio in the same  
7 location as their temporary patio that they had in 2020 and 2021. She shared details from  
8 the site plans and renderings of what they envision this space looking like with a pergola.  
9 She reviewed the neighborhood notification process and noted that the City has received  
10 three public comments, of which two were in favor and one had questions about how  
11 approval may affect future proposals at the Village Center. She noted that the applicant  
12 has provided a letter outlining positive endorsements from two neighboring businesses.  
13 She reviewed the comments and concerns from the engineering department including their  
14 recommendation for concrete barriers. She explained that the Planning Commission had  
15 unanimously recommended approval of the application with conditions.

16 Mr. Buchanan stated that the temporary patio space served as a test case and asked  
17 if there had been any issues with pedestrians, traffic, complaints, or accidents. Ms. Quarles  
18 stated that she did not believe that there had been any issues.

19 Mr. Plechash asked about the CUP versus the parking variance. Ms. Quarles  
20 explained that part of the issue is that the entire shopping center is below the parking  
21 requirement and none of the uses actually have enough parking. She stated that the way  
22 that they looked at it when they were setting this up is that this is a seasonal patio and when  
23 the City looks at those for other restaurants, they do not count them against their parking  
24 requirements.

25 Mr. Plechash stated that Ms. Quarles just stated that, in aggregate, there is not  
26 enough parking for the businesses that are already there, and this plan takes additional  
27 spaces away. He asked if there was any other places in the City where the outdoor seating  
28 actually took away parking spaces. Ms. Quarles stated that there may have been other  
29 examples during the pandemic, but she wasn't sure.

30 Mayor Mouton noted that the Gianni's sidewalk extension that took away parking  
31 spots.

32 Mr. Dahl stated that he believes that took away 2 or 3 parking spots.

33 Mayor Mouton asked how long the patio space had been there. Ms. Quarles  
34 explained that during the pandemic, the patio was there for two seasons, but noted that  
35 there is not a patio there currently.

36 Ms. Goellner stated that related to parking, when the City does shopping center  
37 zoning it can get complicated to calculate parking for every use because people tend to go  
38 into one or two businesses at a time. She explained that the way the code is set up is that  
39 they look at a basic square footage requirement for the entire shopping center. She stated  
40 that is a pretty outdated way to do it and is perhaps a bit overly simple. She stated that,  
41 technically, they have about half of what they really need to have for parking. She stated  
42 that they heard during the public hearing that there are people who are not customers of the  
43 Village Shoppes that are parking there and using businesses across the street. She stated  
44 that they have had conversations with the owner about ways to enforce the parking and  
45 ways the City may be able to help in that process.

1 Ms. Quarles stated that the other C-2 parcel at Colonial Square is also way under  
2 on parking and explained that none of the C-2 parcels were compliant with parking  
3 requirements.

4 Mr. Plechash stated that their formula may show that there is not enough parking,  
5 but noted that he goes there frequently and no matter what time of day he has gone, he  
6 doesn't think there has been a time where he could not find a parking spot.

7 Ms. Goellner stated that was also what was heard at the public hearing. She noted  
8 that employees have been good about parking in the back of the building, so there is usually  
9 sufficient parking out front.

10 Josh Friedt, owner of Baja Haus, stated that they would like to make the patio area  
11 aesthetically pleasing and do more than just have concrete barriers. He noted that the only  
12 time the parking lot is full is when guests of Benedict's park there. He stated that he offered  
13 at the Planning Commission meeting to take on the responsibility of signage to make it  
14 clear that the lot is only for Village Shoppes guests.

15 Ms. Iverson stated that the last time Baja Haus had a patio, they also had tables on  
16 the sidewalk and asked if he planned to do that again.

17 Mr. Friedt stated that due to having the 4 parking stalls available for the patio  
18 seating and not having to keep the tables 6 feet apart like he did during the pandemic, he  
19 feels they will have adequate space and can eliminate the tables on the sidewalk in order  
20 to keep it clear.

21 Mr. Buchanan asked Mr. Friedt if he recalled any issues or complaints that may  
22 have occurred during use of the temporary patio space.

23 Mr. Friedt stated that they had no issues. He stated that one concern that had been  
24 raised was about people taking alcoholic beverages and walking down the street, but he  
25 stated that they never found a glass outside of their 'circle of peace' patio area. He stated  
26 that there were also no issues with dogs or pets. He stated that being able to have that patio  
27 area got them through the pandemic.

28 Mayor Mouton asked about the possibility of a more decorative option for the  
29 concrete barrier that she believes City Engineer/Public Works Director Kelly had  
30 mentioned for times when the City needs to close the roads for public events. She asked if  
31 that was something that could be considered in this situation if they would offer the same  
32 kind of protection as standard concrete barrier.

33 Ms. Goellner stated that the visual impact is relevant in this situation because it is  
34 the front yard of the property in a highly visible location. She stated that the Council could  
35 communicate that with the applicant and he can work with City Engineer/Public Works  
36 Director Kelly to find something that would work.

37 Mayor Mouton asked if the liquor license was needed because there is a sidewalk  
38 that is effectively separating the establishment that is licensed and the patio. Mr. Dahl  
39 stated that it needs to be contiguous, and noted that the benefit of this site plan is that it is  
40 all on private property, so there is not a public corridor going through there. He explained  
41 that there are other ways to prevent people walking away with those beverages. He stated  
42 that the applicant will have to go through the process both internally and with the State to  
43 ensure that they meet all the requirements.

44 Ms. Iverson stated that the people she has spoken with that used the patio area  
45 during the pandemic really loved it and were very happy that it was there.

1 Ms. MacDonald stated that she supports this resolution and feels Baja Haus is an  
2 awesome place in their City and would like to support entrepreneurs like Mr. Friedt. She  
3 stated that she does not see there being a problem with the parking because they open at  
4 4:00 p.m. and other businesses close around that same time.

5 Mr. Plechash stated that he also supports this request, but does have some concerns.  
6 He stated that he believes the parking problem can probably be mitigated with the various  
7 hours of operation. He noted that the biggest concern he has is that there are two other  
8 restaurants in the strip mall and if they ask for the same thing, it would be hard to say no.  
9 He stated that if they end up with a series of outdoor patios, there really would be a parking  
10 problem in this location. He stated that while that is a concern, it is not enough for him to  
11 vote against the request.

12 Mr. Friedt stated that during the pandemic time period, the other restaurants were  
13 offered the ability to have an outdoor patio and they declined.

14 Mr. Buchanan stated that he also supports this application.

15 Ms. Iverson stated that she supported this request.

16 Mayor Mouton stated that she agreed and thinks it has been a great addition. She  
17 stated that pandemic or not, people like to just sit outside and enjoy the sunshine when they  
18 can. She stated that this space will be front and center.

19 Mr. Schelzel noted the concern she raised earlier about the aesthetics and noted that  
20 the language in the Planning Commission resolution is pretty specific about concrete safety  
21 barriers. He suggested that the Council may want to amend that particular condition to  
22 ‘incorporate concrete or similar safety barriers that are aesthetically pleasing’.

23 Ms. Goellner stated that the design aesthetic is important in this situation. She  
24 stated that staff will work with the applicant but direction from the Council is helpful. She  
25 stated that a pergola incorporated with the concrete barriers may give in a more welcoming  
26 feel.

27 Mayor Mouton noted that she didn’t want to put a condition in place that requires  
28 tens of thousands of dollars in engineering fees, and asked if there may be some other  
29 mechanism, such as a planter.

30 Mr. Friedt stated that originally the landlord didn’t want them to have cement  
31 barriers, but he agreed with the Planning Commission that those barriers are essential for  
32 the safety of their guests. He stated that his plan was to basically build planters that sit  
33 over the cement barriers so the goal would be to have them all around, so the cement  
34 barriers would not really even be seen.

35  
36 Mayor Mouton asked for a motion on the application. Ms. MacDonald made a motion,  
37 seconded by Ms. Iverson, to Approve Resolution 36-2022 Approving Outdoor Patio  
38 Conditional Use Permit and Parking Variance at 830 Lake Street East (Baja Haus). The  
39 motion carried 5/0.

40  
41 **e. Adoption of Resolution 39-2022 Approving Amendment to Development**  
42 **Agreement for Rooftop Plan at 401 Lake Street East – (Removed from Consent**  
43 **Agenda)**

44 Mr. Plechash explained that the reason he had asked this to be removed from the Consent  
45 Agenda was because he didn’t want it to come through without any discussion or comment.  
46 He stated that this request is for a fire table that actually produces flame on top of a roof.

1 He stated he asked the Fire Chief today if this request had come before him as the fire  
2 marshal and it had not and he felt it was something the Council should talk about. He noted  
3 that this is intended to be temporary/seasonal, but he is having a hard time envisioning it  
4 being able to be disassembled since it is hard piped with natural gas.

5 Ms. Goellner stated that she and the Fire Chief had a verbal conversation about this  
6 request and he thought as long as there is a valve for the gas to be shut off when the fire  
7 table is removed that would be sufficient. She explained that she had also double checked  
8 with the Building Official and he agreed with that assessment. She stated that there are  
9 some other examples in the City of balconies that have gas lines piped in, such as Ventana.  
10 She noted that the proposed fire pit can be disassembled, because it comes in 4 pieces, but  
11 noted that the heaviest piece is 235 pounds. She explained that the applicant has insisted  
12 that they will be able to disassemble it and will store it during the winter months.

13 Mayor Mouton stated that she is glad that Mr. Plechash had asked to pull this item  
14 for more detailed discussion because this is new territory for the City. She stated that there  
15 were significant discussions about this rooftop area with regard to what would be on the  
16 tables, the type of materials that could be on the table, the furniture, and the potential safety  
17 issues if a large gust of wind blew.

18 Mr. Buchanan stated that he did not think they would really remove it seasonally,  
19 but he has no issue with the request.

20 Mayor Mouton asked what the plan would be for compliance of the rooftop. Ms.  
21 Goellner stated that the City does not have a ton of capacity for proactive management on  
22 something like this because of staffing, so it would be done on a complaint basis.

23 Mr. Schelzel stated that this is an amendment to their development agreement, so  
24 they are agreeing to install, manage, operate, remove the fire table in accordance with this  
25 plan. He stated that if they don't do that, the City will have a lot of options for enforcement  
26 under the development agreement.

27 Ms. Iverson stated that she is curious how this rooftop was approved when the City  
28 denied the same thing for the Zitzloff building.

29 Mr. Buchanan stated that his recollection was there was to be a lighthouse up there.

30 Mr. Dahl agreed that there were different circumstances, but there was an outdoor  
31 component, but it was a different type of application.

32 Ms. Goellner stated that what is unique about the Lothenbach property is that the  
33 height limit allowed rooftop access because the height limit at the railing is 35 feet.

34 Mayor Mouton stated that she had every expectation that when December 21st  
35 comes around, that the fire table will be dismantled and removed from the roof. She stated  
36 that the fire table is not a 'need' but something that would be nice to have. She stated that  
37 she is hesitantly in favor of this request.

38  
39 Mayor Mouton asked for a motion on the application. Mr. Plechash made a motion,  
40 seconded by Mr. Buchanan, to Adopt Resolution 39-2022 Approving Amendment to  
41 Development Agreement for Rooftop Plan at 401 Lake Street East. The motion carried  
42 3/1/1 (Iverson – voted nay; MacDonald abstained).

43  
44 **AGENDA ITEM 9. City Manager's Report and Discussion Items.**

45 **a. Upcoming Events/Announcements**

- 1       • Jane Shanard, aka, the Dog Lady, had contacted him to see if the City could do  
2 anything to honor Richard Burshite for the work he has been doing for several years  
3 picking up trash around the City. He stated that he lives in Minnetonka but has  
4 done a lot of work to help City staff and he plans to invite him to the volunteer  
5 dinner. He noted that Mr. Burshite did not want to come to the Council meeting or  
6 receive any type of recognition, but he wanted to pass along the City's appreciation.  
7       • Expressed his appreciation to staff for their work on the primary election and noted  
8 that they had about 30% participation from the City's voters.  
9       • Reminded the Council that there will be an Open House at Klapprich Park on  
10 August 29, 2022 from 5:00 p.m.to 6:30 p.m. in order to get feedback from the  
11 community about what they would like to see at the park.  
12

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

14 Mayor Mouton stated that James. J. Hill Days will be September 9–11, 2022. She noted  
15 that there will be two City Council seats up for election this fall, and expressed her  
16 appreciation to Mr. Buchanan for his service to the City and explained that he would not  
17 be running for re-election.  
18

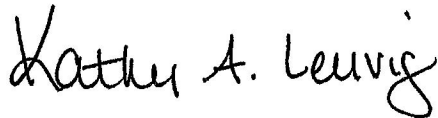
19 **AGENDA ITEM 10. Public Forum Continued (if necessary).**

20 There were no comments.  
21

22 **AGENDA ITEM 12. Adjournment.**

23 There being no further business, Mayor Mouton asked for a motion to adjourn. Mr.  
24 Buchanan made a motion, seconded by Mr. Plechash to adjourn. Mayor Mouton adjourned  
25 the meeting at 11:14 p.m.  
26

27 Respectfully submitted,  
28



29  
30 Kathy Leervig  
31 City Clerk  
32

33 Drafted by Kayla Rokosz  
34 *TimeSaver Off Site Secretarial, Inc.*