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**WAYZATA CITY COUNCIL
MEETING MINUTES
May 15, 2018**

AGENDA ITEM 1. Call to Order.

Mayor Willcox called the meeting to order at 7:00 p.m.

AGENDA ITEM 2. Pledge of Allegiance.

AGENDA ITEM 3. Roll Call.

Council Members present: Koch, Plechash and Tyacke. Council Member absent and excused: McCarthy. Also present: City Manager Dahl, Director of Planning and Building Thomson, City Engineer Kelly, and City Attorney Schelzel.

AGENDA ITEM 4. Approve Agenda.

Mr. Tyacke made a motion, seconded by Mr. Plechash, to approve the agenda, as presented. The motion carried 4/0.

AGENDA ITEM 5. Public Forum.

a. Moment of Silence in Memory of Wayzata Police Officer Bill Matthews and Sergeant J.W. Anderson

Mr. Willcox requested a moment of silence in memory of Officer Matthews and Sergeant J.W. Anderson.

b. Hennepin County Commissioner Jan Callison to Provide Annual Hennepin County Update

Mr. Willcox welcomed Hennepin County Commissioner Jan Callison.

Commissioner Callison updated the Council on Hennepin County's priorities including bonding for the new medical examiner's facility, opioid prevention, and the Pathways Program. She presented organics recycling information. She indicated with respect to road construction in the City, there were only a couple of items including bridge widening at Highways 12 at 101, and an overlay between Central Avenue and Bushaway Road.

Mr. Tyacke asked if the Pathways Program reflected the demographics and the diversity in the County now. Commissioner Callison responded it was more diverse in terms of the numbers.

Mr. Plechash asked if the jobs the citizens got at the end of the process, were they jobs that existed ahead of time, or were they jobs created to fulfill the Pathways Program. Commissioner Callison replied they were jobs the County already had.

Mr. Koch thanked Commissioner Callison for the job she was doing for the west side of the County and handling the urban versus rural challenge.

Mr. Willcox asked what the County's role was in affordable housing. Commissioner Callison responded the County did housing in a variety of ways including the shelter system; by various funds they used to create affordable housing; and, they worked with various programs to ensure people stayed in their homes, as well as dealing with homelessness.

Mr. Willcox requested further information on the County having better communication and feedback from the cities. Commissioner Callison indicated that as part of a visioning initiative, the County Board modeled a program after what the City of Minnetonka had done. She stated they hoped to reach 10 to 20 percent of the County population, which was characterized by innovative means of communicating with people such as going to people's homes, going to where people were, and using electronic townhall meetings.

Mr. Willcox asked what kind of challenges she had looking at the County level. Commissioner Callison responded she worried that 40 percent of the County's budget was Health

1 and Human Services, which were provided on behalf of the State. She indicated the need for those
2 services was not going to decline. She noted there was a growing population as well as a growing
3 senior population and she did not believe they had made strong inroads on poverty. She stated her
4 concern was that they would continue to see a growing demand for services and at the same time,
5 she saw a state and federal partnership that was more and more difficult in that it didn't want to pay
6 for those services but would rather create mandates the services had to be provided without
7 recognizing the cost of those services. She believed it would be increasingly difficult to pay for
8 the services.

9
10 **c. Introduction of New Firefighters: Rob Houts and Dan Rehberger**

11 Fire Chief Klapprich introduced new firefighters Rob Houts and Dan Rehberger.

12 Mr. Willcox asked how the new firefighters heard about the firefighting in the City and
13 what attracted them.

14 Mr. Ron Houts and Mr. Dan Rehberger summarized their backgrounds and noted they both
15 lived in the community.

16 Mr. Willcox and Mr. Tyacke both welcomed them to the Fire Department.

17 Chief Klapprich reminded everyone that next Monday night, May 21, they will have the
18 Annual Second Call meeting at the Fire Station. He stated they would have a live fire
19 demonstration, a short meeting, and dinner. He indicated this is a large fundraiser for the Fire
20 Department.

21
22 **d. Other**

23 Cathy Iverson expressed concern about the development that was happening on Circle E Drive.
24 She indicated the majority of the trees had been taken down and there was now a 20-foot hole dug
25 for the home. She was concerned about the exposed roots on the remaining trees. She also stated
26 one of the trees was taken down which was not approved to be taken down. She believed the
27 contractors and builders did whatever they wanted and there was no consequence severe enough to
28 make the developer think twice. She asked the City to take more control of what was happening
29 on the job sites.

30 Mr. Willcox requested staff give an update. City Manager Dahl acknowledged today staff
31 became aware of a tree being taken down which was supposed to have remained per the approved
32 plans. He indicated staff was investigating what the City's options were.

33 Mr. Willcox asked what they could do in the interim to send a message to the other
34 developers that this is not acceptable. He did not believe they were making themselves clear
35 enough when giving approvals. Mr. Dahl stated he believed there were things the City could do,
36 but he was not sure what it was, and he wanted to discuss this internally with staff and bring
37 recommendations back to Council. He stated they needed to figure out how to balance flexibility
38 with circumstances on the job site, but also send a message to ensure that any trees that should be
39 saved are saved.

40 Mr. Willcox agreed they needed to find a balance and a homeowner who wanted to take
41 down a tree should be able to do that, but developers didn't have the same care and those are the
42 ones who should pay the price. He noted the City had fined developers in the past who did not
43 follow the plan.

44 Mr. Koch agreed they needed to use a fine as that was the only way to get the message
45 across. He noted it would not bring the tree back, but the builder would think harder the next time.
46 He stated the fine should be substantial. Mr. Dahl stated there were thresholds in the current Code
47 with the fines being for heritage trees. He indicated because this was not a heritage tree, there were
48 other options rather than a fine, such as replacing the caliper inches.

49 Mr. Plechash asked what option they had following the current Code for this particular
50 case. He believed the developer took the tree down on purpose. Mr. Dahl responded he needed to
51 investigate this further, but per the terms of the Code the City would have the developer come up

1 with a landscaping plan to show how the trees would be replaced which could be approved by either
2 staff or Council. He indicated if they couldn't plan them on the property, they could pay the City
3 for plantings throughout the City.

4 Mr. Plechash believed if the developer took down a tree they knew they were not supposed
5 to, that they needed to replace the tree of the same size without consideration for the cost. Mr.
6 Willcox indicated there was a risk factor to this also in the large trees did not transplant well. Mr.
7 Plechash stated if it did not work the first time, then the developer should have to come back a
8 second time.

9 Mr. Tyacke requested staff also look to see if the developer was in violation of the grading
10 plan. Mr. Dahl responded that would be checked.

11
12 There were no other Public Forum comments.

13
14 **AGENDA ITEM 6. New Agenda Items.**

15 Mr. Willcox requested future discussion on adding a sidewalk to Hollybrook east of Central
16 Avenue. He stated a resident was concerned this was a safety issue with the increased foot traffic,
17 dog walkers, and schoolchildren. He asked if this had been looked at before. Mr. Dahl responded
18 they had a request before, but they have not had an official request. He indicated this along with
19 other sidewalk connection issues, that they were exploring on the Comprehensive Plan update
20 process and the Parks and Trails Master Plan process.

21
22 **AGENDA ITEM 7. Consent Agenda.**

23 Mr. Plechash made a motion, seconded by Mr. Tyacke, that Item 7j. Approval of Resolution 26-
24 2018 Approving a Conditional Use Permit for a Fence at 433 Bushaway Road be pulled from the
25 Consent Agenda and considered as Item 9d. The motion carried 4/0.

26
27 Mr. Tyacke stated he had a question on item 7f. relating to the Comprehensive Plan and the
28 extension of time. He asked if staff had the appropriate time built into the City's timeline to review
29 the plans from adjacent communities. Mr. Dahl responded they did and some of it could be done
30 when they submitted the City's Plan to the other cities. He said he hoped they could review the
31 other cities plans while they were finalizing the City's Plan.

32 Mr. Tyacke asked if this was something the Advisory Committee would do. Director of
33 Planning and Building Thomson responded the outside jurisdictional review was the requirement
34 of the Met Council's update process. He noted they only had the ability to review and comment
35 on the elements included in the Comprehensive Plan.

36 Mr. Willcox stated he did not like the City to be in a position to have to appeal for more
37 time on things. He stated he wanted staff to plan effectively to get everything done on time. He
38 asked staff to avoid addendums in the future.

39
40 Mr. Tyacke made a motion, seconded by Mr. Plechash, to approve the consent agenda:

- 41 a. Approval of City Council Workshop Meeting Minutes of May 1, 2018 and City Council
- 42 Regular Meeting Minutes of May 1, 2018
- 43 b. Approval of Check Register
- 44 c. Approval of Municipal Licenses
- 45 d. Police Activity Report
- 46 e. Building Activity Report
- 47 f. Approval of Resolution No. 25-2018 Requesting Additional Time to Complete 2040
- 48 Comprehensive Plan
- 49 g. Accept Gerald Osband's Resignation from the Heritage Preservation Board (HPB)
- 50 h. Authorize Ad for Bid for 2018 Mill & Overlay Project
- 51 i. Approval of Amended Contract with Stantec for 2040 Comprehensive Plan Services

1 ~~j. Approval of Resolution No. 26-2018 Approving a Conditional Use Permit for a Fence at~~
 2 ~~433 Bushaway Road~~

3 k. Approval of Remodeling / Expansion Study for the Motor Vehicle Department
 4 The motion carried 4/0.

5
 6 **AGENDA ITEM 8. Public Hearing.**

7 **a. Public Hearing for Vacation of Right-of-Way for North Beach Rd.**

8 Mr. Thomson explained the property owner at 649 Ferndale Road W. has requested the City vacate
 9 platted right-of-way for North Beach Road, which is located along Ferndale Road W. Since street
 10 vacations can only be approved by a unanimous vote of all five Council members, staff
 11 recommends the public hearing be continued until June 5, 2018.

12 Mayor Willcox opened the public hearing at 8:07 p.m. There were no public comments
 13 made.

14 Mr. Plechash made a motion, seconded by Mr. Tyacke, to continue the public hearing until
 15 June 5, 2018. The motion carried 4/0.

16
 17 **AGENDA ITEM 9. New Business.**

18 **a. Presentation of the 2017 Finance Report by Bill Lauer, MMKR**

19 Mr. Dahl stated Mr. Lauer was at the meeting to present the findings of audit report for 2017.

20 Bill Lauer, MMKR, described their role in preparing the 2017 Audit Report and noted
 21 MMKR has issued an unmodified clean opinion on the City's basic financial position of the City.
 22 Similar to past years, they have identified "Segregation of Duties" as a weakness in internal control
 23 over financial reporting. This is primarily caused by the limited size of the City's office staff, but
 24 MMKR does not recommend any changes.

25 Mr. Plechash asked for the other cities of similar size and staff, did they also suffer from
 26 the same issue. Mr. Lauer responded that was a common finding for a City of this size and they
 27 did not have any recommendations for changing any of the procedures the City had in place, except
 28 to hire additional staff to eliminate the risk, but he did not see that as a definite need right now.

29 Mr. Koch inquired about the post employee benefits and pension fund, particularly using
 30 future healthcare cost assumptions and employee retirement age. He asked if the City pension fund
 31 was in a strong position, well balanced and funded. Mr. Lauer noted the pension liability was not a
 32 City fund and the two statewide plans were managed by professional managers. He believed the
 33 pension fund was in good shape.

34 Mr. Koch asked about the concentration of investments and if the City should put a limit
 35 of concentration in the Investment Policy. Mr. Lauer indicated he had a number of clients that did
 36 and a number of clients that did not. However, the City had a limited window of what they could
 37 legally invest in based on State Statute. He stated they could set limits for diversification, but he
 38 did think they would get into trouble with sticking with what the Statutes already limited them to,
 39 but it was something they could do if it made the City feel more comfortable.

40 Mr. Willcox recommended they take this up with AEM and see if they have any
 41 recommendations. Mr. Dahl responded he would do that.

42
 43 **b. Consider Approval of the Special Event Permit Application for the Bash for the**
 44 **Boardwalk**

45 Mr. Dahl presented the Special Event Permit Application submitted for Bash for the Boardwalk,
 46 June 21-24, 2018, noting staff recommends approval contingent upon the applicant working with
 47 the City, Chamber, and BNSF to finalize the permit and mitigate any impacts to surrounding
 48 properties.

49 Mr. Willcox asked if beach access would be affected. Mr. Dahl responded it would not be
 50 affected.

1 Mr. Rick Born stated the goal was to try and raise awareness. He summarized the hours
2 and noted there would not be any fireworks.

3 Mr. Willcox inquired about the liquor license being requested. Mr. Born responded it was
4 similar to what they did for the Beach Bash. He indicated they would like a wine and spirits option
5 as well as beer.

6 Mr. Willcox asked if staff was comfortable with parking. City Engineer Kelly responded
7 staff had looked at parking and determined sufficient parking would be available throughout the
8 community.

9 Mr. Willcox asked if the BNSF had been informed of the festival. Mr. Kelly responded
10 they have been informed.

11 Mr. Willcox asked if there would be security for the tracks for people trespassing. Mr.
12 Dahl responded that had not been finalized yet, but it was the City's role to inform BNSF and allow
13 them to provide feedback on the event. He noted staff has been discussing the fencing and
14 entrances.

15 Mr. Willcox asked if they patrolled the tracks. Mr. Kelly responded the police did their
16 typical patrols, but they did not patrol the tracks themselves. He believed the fencing would prevent
17 people from being on the tracks.

18 Mr. Willcox asked if the City would not be enforcing the BNSF quiet zone. Mr. Kelly
19 responded the BNSF always had the right to blow its horn if there was a concern by the engineer.

20 Mr. Koch made a motion, seconded by Mr. Tyacke, to approve the Special Events Permit
21 Application for the Bash for the Boardwalk.

22 Mr. Willcox asked what was going on Sunday afternoon from 2:00 to 6:00 p.m. Mr. Kelly
23 responded that was a free concert.

24 Mr. Willcox asked if Park and Trails were scheduled for Music in the Park at that same
25 time and if they knew about this parallel concert. Mr. Dahl responded they were not aware of the
26 concert, but they could figure out ways to complement them and make it a win/win.

27 Mr. Tyacke noted they were not approving the liquor permit application. Mr. Dahl
28 responded that would be a separate application in a future Council packet.

29 The motion carried 4/0.

30
31 **c. Consider Approval of Resolution No. 24-2018 Approving Excess Revenue Transfers**

32 Mr. Dahl presented staff's recommendation to approve transfer of \$846,128 in excess funds to its
33 Capital Improvement Plan (CIP), allowing the City to take advantage of a very solid financial year
34 by building up its funds and funding future projects internally, rather than having to increase its
35 debt obligation. Staff also recommends transferring \$150,000 allocated for the Mill Street Parking
36 Ramp roof back to the General Fund as there is no immediate plan to build a roof. It was noted if
37 the Council prioritizes building a roof in the future, it could likely be paid partially or in full by the
38 use of alternative energy.

39 Mr. Tyacke made a motion, seconded by Mr. Plechash, to Adopt Resolution 24-2018
40 Approving Excess Revenue Transfers. The motion carried 4/0.

41
42 **d. Approval of Resolution No. 26-2018 Approving a Conditional Use Permit for a Fence**
43 **at 433 Bushaway Road**

44 Mr. Thomson summarized the history of this property. He indicated the application would like to
45 continue to add a gate across the driveway, which was subject to the fence requirement for a fence
46 within a front yard. He noted application was proposing a gate that was six feet at the lowest and
47 eight feet at the highest. He stated the Planning Commission had reviewed the request and
48 unanimously recommended approval with the clarification that it was just for the gate across the
49 driveway.

50 Mr. Tyacke asked if the public hearing was held at the first Planning Commission meeting
51 and were there any additional neighbors that came forward at the second Planning Commission

1 meeting. Mr. Thomson responded the public hearing was at the first Planning Commission meeting
2 and there were not any members of the public at the second meeting.

3 Mr. Tyacke asked if the changes that were made addressed by the residents at the first
4 meeting at the public hearing. Mr. Thomson noted there were concerns about the size of the wall
5 that was being built on the property and the height of it blocking views to the lake. He stated the
6 residents thought it was a freestanding wall, but the second meeting clarified that it was a retaining
7 wall and the Code did not have any requirements, so it was allowed by Ordinance. He stated the
8 second issue brought up by the neighbors was the hedge they were proposing which would provide
9 screening, but it was clarified at the second Planning Commission meeting that the City Code
10 specifically said hedges along a property line were not considered fencing and were not subject to
11 the fence requirements. He stated he has had a conversation with a neighbor outside of the Planning
12 Commission to relay that information.

13 Mr. Tyacke asked if there were any Ordinances dealing with blocking the view of the lake.
14 Mr. Thomson responded there was no provision in the Code that required the property owner to
15 maintain views of the lake from a public roadway and those items were not violating any provisions
16 of the Code.

17 Mr. Plechash stated if the artist's rendition was accurate, the look was very pleasing, and
18 it was a nice-looking fence. He indicated all of the objections he read pertained to an 8-foot fence
19 and the wall to him was the fence and it met the Code, so the only thing they were talking about
20 was a gate that they could see through, so they were not blocking a view. He stated that kind of a
21 fence made more sense than restricting it to a 42-inch high fence which would not look good to
22 him.

23 Mr. Koch asked how many other gates in the area were over 42 inches. Mr. Thomson
24 indicated he did not know the specific number, but in having reviewed other projects on Bushaway,
25 there were a number of other properties who had fences greater than 42 inches and also more than
26 50 percent solid. Mr. Willcox noted a lot of those gates were grandfathered in before the Ordinance
27 He asked the applicant to talk about why they were pushing the envelope on this.

28 David Steingas, Steiner Koppleman, Greenwood, Minnesota, stated he did not agree they
29 were pushing the envelope and they were trying to design to comply. He indicated he had discussed
30 this with the City staff many times, many changes had been proposed in the landscape plan, and he
31 was here today to talk about the gate only.

32 Mr. Willcox stated the gate was being driven by what they did on the rest of the property.
33 He asked why they needed 2 feet of fill which got them the walls and hedge they got. He noted
34 this was an unfortunate development for the neighborhood and for all the people who went down
35 Bushaway Road. Mr. Steingus responded when they obtained the property they had an 8-foot high
36 fence that started halfway through the lagoon along the highway all the way up and then proceeding
37 up towards the house. He indicated the large white house was also blocking the views of the lake
38 and they also had an entire row of bushes. He stated when they purchased the property, they felt
39 that they should be able to have what was there, which was what they had done. He stated they
40 were not trying to obstruct the view of the lake from everybody else. He indicated they were trying
41 to maintain their property and not have to watch the traffic either.

42 Mr. Willcox asked what they needed the 2 feet of fill for. Mr. Steingus replied they wanted
43 to bring the driveway up to the front door. He stated they needed to use a wheelchair in and out of
44 the front door. He noted on the first proposal, they were 2 feet short of the height of the front
45 sidewalk. They were allowed to bring it up 2 feet, so they could have a continuous driveway to the
46 front door without steps.

47 Mr. Tyacke stated he was confused on the 2-foot calculation. He asked if that was for the
48 entire area of the front yard, or just the area by the house. Mr. Steingus responded they were
49 allowed the entire area of the lot was increased 2 feet. He noted if they don't change grade in the
50 backyard, they could add more in the front. He stated they had a certain amount of fill they could

1 bring in and they have had this surveyed three or four times to make sure they were bringing in the
2 correct amount.

3 Mr. Willcox stated this appeared to meet all the Ordinance requirements, so it did not give
4 them much to deal with unless there was some way the gate could be made less imposing. He
5 indicated the problem was that Wayzata does not have gated communities, and this came off as a
6 fortress, which was unfortunate.

7 Councilmember Tyacke made a motion, second by Councilmember Plechash, to approve
8 Resolution No. 26-2018 Approving a Conditional Use Permit for a Fence at 433 Bushaway Road.
9 Upon roll call vote, the motion carried 3 ayes (Koch, Tyacke, Plechash)/1 nay (Willcox).

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

12 **a. Upcoming Events/Announcements**

13 Mr. Dahl provided an update on the following:

- 14 • Lake Effect Open House is on Thursday 6:00 - 7:30 p.m.
- 15 • Dig It Day is on Saturday at 8:15 a.m. at Public Works and at 10:00 a.m. was the Spring
16 Splash
- 17 • Centerpoint Energy would be starting work on Wayzata Boulevard on Monday
- 18 • On Monday the Joint Planning Commission/City Council Session was at 5:30 p.m. to
19 discuss trees
- 20 • There is an Open House on Tuesday at the Wayzata Boulevard/Superior Boulevard
21 intersection project from 6 to 8:00 p.m.

22
23 **b. Council Member Updates/Announcements**

24 Mr. Willcox stated last Saturday 40 or 50 volunteers from Cargill pulled garlic and mustard from
25 the Big Woods as well as to plant wildflowers. He indicated the Wayzata Football Team also made
26 an appearance to remove buckthorn.

27
28 **AGENDA ITEM 11. Public Forum Continued (if necessary).**

29 There were no comments.

30
31 **AGENDA ITEM 12. Adjournment.**

32 Mr. Tyacke made a motion, seconded by Mr. Plechash to adjourn. There being no further business,
33 Mr. Willcox adjourned the meeting at 9:00 p.m.

34
35 Respectfully submitted,

36
37 *Becky Malone 06-05-2018*

38
39 Becky Malone
40 City Clerk

41
42 Drafted by Kathy Altman
43 *TimeSaver Off Site Secretarial, Inc.*