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**WAYZATA CITY COUNCIL
MEETING MINUTES
August 9, 2018**

AGENDA ITEM 1. Call to Order.

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

AGENDA ITEM 2. Pledge of Allegiance.

AGENDA ITEM 3. Roll Call.

Council Members present: Koch, McCarthy, Plechash and Tyacke. Also present: City Manager Dahl, Director of Planning and Building Thomson, and City Attorney Kaminski.

AGENDA ITEM 4. Approve Agenda.

City Manager Dahl requested item 7(1) be pulled from the Agenda.

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

AGENDA ITEM 5. Public Forum.

a. Lake Effect Update

Mr. Andrew Mullin, 215 Chicago Avenue North, and Mr. Mick Johnson, 214 Broadway Avenue North, updated the Council on the Lake Effect including the big picture progress and the Lake Minnetonka Science Collaborative.

Mr. Tyacke thanked them for the progress they have made. He inquired about the Science Museum connection at the Eco Park and if there would be parallel fundraising. Mr. Mullin responded they had not fully decided that yet and right now the museum was a consultant on the curriculum. Mr. Johnson noted these were partnerships and collaboratives that were a part of the community. He indicated the Science Museum would like a site in the area and he was trying to generate interest and passion about it.

Mr. Willcox inquired about the timetable. Mr. Mullin responded they were in the quiet phase of fundraising right now, but when they get to the 60 to 70 percent of fundraising, they would proceed to a public campaign.

AGENDA ITEM 6. New Agenda Items.

None.

AGENDA ITEM 7. Consent Agenda.

Mr. Dahl noted the Consent Agenda needed a Roll Call vote as two of the items needed a 5/0 vote to pass. He requested if there were any concerns about the other items, they be pulled from the Consent Agenda.

With regard to Item 7(f), Mr. Tyacke asked what the practical difficulty was. Director of Planning and Building Thomson responded the difficulties were the location of the existing house on the lot was non-conforming and the new house would be farther away from the lake than the existing house. Also, if the house was shifted back to meet the shoreline setback, it would require additional tree removal.

With regard to Item 7(g), Mr. Willcox inquired about the practical difficulty. Director of Planning and Building Thomson noted the Planning Commission talked about the lot size being less than 80,000 square feet which was the minimum in that district and therefore this was a practical difficulty and unique to this lot.

1 Mr. Tyacke made a motion, seconded by Mr. Koch, to approve the consent agenda as
2 amended:

- 3 a. Approval of Workshop Minutes of July 31, 2018
- 4 b. Approval of Check Register
- 5 c. Approval of Municipal Licenses
- 6 d. Building Activity Report
- 7 e. Police Activity Report
- 8 f. Approval of Resolution No. 42-2018 Approving a Shoreland Setback Variance at 405
9 Bushaway Road
- 10 g. Approval of Resolution 42-2018 Approving a Lot Coverage Variance at 623 Bushaway
11 Road
- 12 h. Approval of Second Reading of Ordinance No. 783 Vacating Right-of-Way Adjacent to
13 326 and 332 Broadway Ave S and 701 Lake St E
- 14 i. Approval of Second Reading of Ordinance No. 780 Vacating Right-of-way for North
15 Beach Road
- 16 j. Approval of Resolution No. 44-2018 Amending the Development Agreement for Waycliffe
17 Second Addition
- 18 k. Accept Steve Young's Resignation from the Planning Commission
- 19 ~~l. Approval of Resolution 45-2018 Approving Termination for use of Boardwalk Property at
20 150 Central Avenue South~~

21 Upon roll call vote, the motion carried 5/0.

22
23 **AGENDA ITEM 8. New Business.**

24 **a. Consider Lake Street Striping Test Request form George Carisch**

25 Mr. Dahl summarized Mr. Carisch's request to conduct a three-week test that would block off turn
26 lanes, the center lane, and the City parking lot at Broadway and Lake Streets. He indicated staff
27 was concerned about how fair the test would be, how the City would identify and quantify the
28 results, and the unneeded disruption of Lake Street during the peak of the summer. He
29 recommended Council deny Mr. Carisch's request.

30 Mr. Tyacke asked if staff had reviewed the handout at this meeting where the applicant had
31 addressed each of these concerns. Mr. Dahl responded he had not.

32 Mr. Willcox invited the applicants to make comment.

33 Mr. George Carisch stated he represents his family which owns the retail/office building
34 on Lake Street from Broadway to Walker. He indicated they would have a hard time surviving if
35 they only had the population from the City and they need destination people who drove to the City.
36 He noted their traffic engineers had set up a test along with a narrative as to how it was to be done
37 and had responded to all the City traffic engineers' concerns. He indicated their goal was the same
38 and they wanted a fair test also. He believed this was the opportunity to test the proposal without
39 taking any risk or spending millions of dollars to find out it wouldn't work. He requested Council's
40 support to proceed with the test to be done before Labor Day. Mr. Tyacke asked if their group
41 would totally fund the test. Mr. Carisch responded he would personally fund the test.

42 Mr. Neill Weber, architect, representing the Gove Building, stated he has been involved in
43 City projects since 1971 with most of the projects being on Lake Street. He stated every project he
44 did involve traffic and height. He summarized the background on the Carisch's projects and
45 indicated what sold the projects was the parking in front, which was critical for retail. He indicated
46 there was serious concern by the Carisch's about how this would work as they did not want to lose
47 their retail tenants. He believed they have narrowed down the City traffic engineer's concerns for
48 the most part and could sit down and work out the details to come to a joint agreement as to how
49 this test would work. He noted they were not saying that the conclusions from the test would
50 change the direction, but it should be part of the discussion. He believed the center lane was vital

1 to the way the City street worked and he did not understand why they could not come up with some
2 agreement to try a test. He also did not understand what the downside would be for a test.

3 Mr. George Daniels, 1285 Zircon Lane North, stated they have addressed every concern
4 the City had and the reason they could or could not do something. He believed their engineers had
5 come up with a fair test and requested the Council's support to conduct the test.

6 Mr. Tyacke asked if this would be an informational test, which would be submitted to
7 Council for review. Mr. Daniels acknowledged the test could not change the Council's prior vote,
8 but if they had the test and based on the results of the test, the Council might want to take another
9 look to see if the project as approved made sense. He stated the test would show traffic and parking
10 impacts, which the City did not know. He indicated the test would be informational.

11 Mrs. McCarthy asked if staff had any information regarding a normalization period and
12 what type of data would be collected if this test proceeded. Mr. Dahl responded they did not have
13 hard data but one of the concerns was this needed a longer period for traffic to normalize to the
14 new conditions so they recommended longer than three weeks. He noted it was his understanding
15 from the original proposal that the information would include videos of traffic for traffic count, but
16 other than that he was not aware of how the information would be calculated. Mr. Weber
17 acknowledged it took awhile for people to get used to things, but they were not talking about this
18 for the testing. He stated they were interested in basic traffic movements and what happened when
19 the center lane and parking was removed.

20 Mrs. McCarthy noted there were logistical issues and she was having difficulty in
21 understanding if everything was barricaded off that they were truly replicating what was proposed
22 in the project. Mr. Weber believed they were close and if the two engineers could sit down and
23 talk, he believed they could come up with something agreeable. He believed this test could cost up
24 to \$30,000, which would be privately funded.

25 Mr. Willcox was not sure the test should be privately funded. Mr. Weber replied the
26 applicant was very serious about this test and willing to fund it. The applicant wanted to make sure
27 there was not going to be a major mistake made like what happened with the condominiums and
28 the 500 block.

29 Mrs. McCarthy asked in this type of a situation, if something were to occur because of the
30 test who would have the liability. City Attorney Kaminski responded if an accident happened,
31 everyone could get sued and he could not say the City would not be liable in that situation. He
32 indicated the City could reach an agreement with the applicant requesting indemnity, which would
33 help but because the City Council approved the plan it might subject the City to some liability.

34 Mr. Plechash stated it appeared the test would be occurring at the worst time of year to
35 make a judgment. Mr. Dahl agreed and believed this might be a distraction and impede traffic.
36 However, this could also be the right time to do it as traffic was at its worse. He noted the test
37 might accomplish the technical engineering concerns, but it would not get all the other benefits the
38 City was trying to accomplish with the Lake Effect and therefore he believed this would be an
39 unfair test.

40 Mr. Plechash asked would the test have any material effect on the plan. Mr. Dahl
41 responded the design of Lake Street was being refined and prepared and there would be a cost
42 impact in having to go back.

43 Mr. Koch asked why Mr. Willcox believed this should be publicly funded. Mr. Willcox
44 stated when the City was funding something it was a neutral event, but when a group was on a
45 mission and they were funding it, there was no assurance it would be done in an unbiased way. Mr.
46 Kaminski agreed the City would be able to control the parameters of what was being studied. Mr.
47 Koch believed there were some mutually agreeable parameters that could be set in terms of the
48 results. Mr. Dahl noted his concern was that the City would have a baseline to compare it to.

49 Mr. Willcox asked if a test was done how much disruption would occur. Mr. Dahl noted
50 it would take people time to modify their routines, he guessed there would be a lot of congestion,
51 and he was concerned about the bikers.

1 Mr. Willcox believed this test would be a narrow look at traffic patterns and not pedestrian
2 or bike patterns, or anything else the City was trying to accomplish, and it would be expensive.
3 Mr. Dahl noted it would also take staff time and resources.

4 Mr. Tyacke indicated he was in favor of the test as the businesses in that area had a
5 significant investment as well as contributing to the tax base so he took what they said very
6 seriously. He noted the businesses did exactly what the Council asked of them and hired a qualified
7 engineer. He believed this was a well-designed test and they had responded to the staff's concerns.
8 He indicated he would prefer if the businesses paid for the test.

9 Mrs. McCarthy indicated she had many concerns with the proposal as it was before her
10 including the amount of time for the test, liability concerns, private funding done by citizens who
11 could afford the test, timing and coordination of the test, accuracy of the test, the data being
12 quantifiable, and that Council had already made a decision on how they were going to proceed.
13 She stated for those reasons she was not in favor of the test.

14 Mr. Plechash stated everyone was in favor of what was best for the City, even if there were
15 different opinions. He noted the Council had already voted on this, a lot of thought and resources
16 had gone into that decision, and he trusted the experts. He was concerned they could be setting a
17 precedent also, which he did not want to do. He stated he was concerned that with the barriers,
18 people would be confused and there would be a lot of public negative reaction to the test. He did
19 not believe this would be a fair test regardless of what the outcome would be, and it would muddy
20 the waters. He indicated for those reasons, he was opposed to the test.

21 Mr. Koch stated he was conflicted on this as he was not sure this would be a fair test and a
22 decision by Council had already been made. He agreed in concept to the theory, but believed it
23 would be impossible to get an accurate test, to capture all the decisions that had been made, and for
24 those reasons he was not in favor of the test.

25 Mr. Willcox stated he had great respect and gratitude for the City's commercial base and
26 whatever he did, he did with the benefit and welfare of the commercial core front and center. He
27 believed the proposed test would be more disruptive than it would be illuminating, and he has not
28 heard the applicant's traffic engineer say that the proposed design was a bad design or that it would
29 not work. Rather, he has heard from people who were concerned about it, but the experts were
30 saying it would work. He stated the City was also doing things with the street that would make it
31 a much better experience for people in general and not just for traffic flow. In addition, unless they
32 took this as a whole, the test would not be fair. He was concerned about the amount of confusion
33 a test would cause and stated he was not in favor of the test, but if they did a test he wanted the City
34 to pay for it.

35
36 Mrs. McCarthy made a motion, seconded by Mr. Plechash, to deny the request for a stripping test
37 for Lake Street. The motion carried 4/1 nay (Tyacke).

38
39 **b. Consider Approval of First Reading of Ordinance No. 783 Adopting New City Code**
40 **of Ordinances**

41 Mr. Dahl presented Ordinance No. 783 Adopting New City Code of Ordinances and indicated this
42 would now be a searchable document. He noted staff recommended approval of the First Reading.

43 Mr. Plechash asked if there was a material difference between the old format in terms of
44 content and the new format. Mr. Dahl responded staff had reviewed it several times to ensure none
45 of the content changed. He noted all that was done was the renumbering.

46 Mr. Thomson stated the one thing that was repealed was the old Flood Plain Ordinance, so
47 this was removed and the new Flood Plain Ordinance was now in the document.

48
49 Mr. Tyacke made a motion, seconded by Mr. Plechash, to approve First Reading of Ordinance No.
50 783 Adopting New City Code of Ordinances. The motion carried 5/0.

1 **c. Consider Approval of Resolution 47-2018 Amending 2018 Municipal Fees for Right-**
2 **of-way Permits, Telecommunication Facility Permits, and Administrative Citations**

3 Mr. Thomson presented the proposed fee schedule for right-of-way permits, telecommunication
4 facility permits, and administrative citations. He recommended approval of the fee schedule
5 amendment.

6 Mrs. McCarthy inquired about the violations for an administrative citation. Mr. Thomson
7 outlined what the administrative citations could include.

8 Mr. Plechash asked under the zoning violations and the escalation of fines, would it
9 compound if an individual had a zoning violation, was tagged, and then had another zoning
10 violation of a different type. Mr. Thomson pointed out in the Code where repeat violations and
11 enforcements were addressed.

12 Mr. Koch asked how the fees compared to neighboring cities. Mr. Thomson responded
13 fees were based on what staff believed the City's costs were. However, he had reviewed what other
14 cities were charging and found the fees were in line with those cities.

15
16 Mr. Koch made a motion, seconded by Mrs. McCarthy, to approve Resolution 47-2018 Amending
17 2018 Municipal Fees for Right-of-Way Permits, Telecommunication Facility Permits, and
18 Administrative Citations. The motion carried 5/0.

19
20 **AGENDA ITEM 9. City Manager's Report and Discussion Items.**

21 **a. Verbal Update on Noise Ordinance Amendment Petition**

22 Mr. Dahl presented an update on the petition request for restricting hours of allowed construction
23 activity and Sunday as an off-day and how the City enforced the violations. He indicated staff had
24 talked to the contractor and reached a good resolution to the issues. He asked Council how they
25 wanted to deal with the issues that were previously brought up.

26 Mrs. McCarthy asked if there was confusion on the developer's part as to what the Code
27 said. Mr. Dahl responded he believed there was general confusion and misinterpretation by the
28 developer. He noted it was not just this developer, but others also as to what the Ordinance said in
29 terms of what must stop at 6 p.m.

30 Mrs. McCarthy asked if the City handed out a brochure to the developers setting out the
31 Ordinance rules. Mr. Dahl responded staff did not but had discussed this as a possibility.

32 Mr. Willcox stated he would be in favor of looking at the Ordinance as he did not realize
33 the City allowed construction on Sunday.

34 Mr. Plechash believed it was a good idea to have a cheat sheet to highlight the Ordinances
35 for the developers.

36 Mr. Tyacke stated he thought Council would be looking at amendments to the Noise
37 Ordinance. Mr. Dahl asked how much of a priority the Council wanted to look at this issue. He
38 noted if this was a high priority, then something else would need to be set aside. But if that was
39 Council's direction, staff could do that. He noted strategic planning was coming up in early October
40 if they wanted to wait to discuss it then.

41 Mr. Plechash stated he also was surprised construction could occur on Sunday. He asked
42 if Council could institute a ban on Sunday construction as a future agenda item to look at just this
43 one piece. Mr. Dahl responded they could do that, but staff wanted to ensure there would not be
44 too much of an impact on builders and wanted to give builders an opportunity to respond. He
45 indicated this could be done easily.

46 Mr. Willcox believed Council needed to look at this in context with everything else staff
47 was doing, and did they want to spend the time asking staff to do this now. He indicated he was in
48 favor of waiting for the strategic planning meeting and deal with everything at that time. Mr. Dahl
49 responded that would be staff's preference also.

50 Mr. Tyacke stated while staff had agreed to certain conditions with this one developer,
51 other developers would not know and therefore he wanted this to be moved to the top of the list

1 and addressed immediately rather than waiting. Mr. Dahl stated the issue was that the Ordinance
2 was reactively enforced so when they did get complaints, staff could bring in the contractors for a
3 conversation. Mr. Thomson noted with the agreement, it was consistent with what the Ordinance
4 said today and there was nothing that required a change to the Ordinance.

5 Mrs. McCarthy asked residents to call 911 if there was a violation so it could be
6 documented.

7 Council agreed to address any changes to the Ordinance at the strategic planning meeting
8 in October.

9
10 **b. Upcoming Events/Announcements**

- 11 • The next Council meeting will be Tuesday, September 4
- 12 • Open House for refine designs for The Lake Effect from 5:30 to 8:00 p.m.
- 13 • Filing date for City Council ends next Tuesday at 4:30 p.m.

14
15 **b. Council Member Updates/Announcements**

16 None.

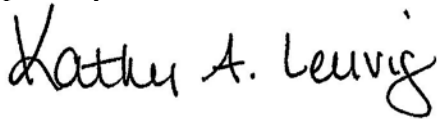
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18 **AGENDA ITEM 10. Public Forum Continued (if necessary).**

19 There were no comments.

20
21 **AGENDA ITEM 11. Adjournment.**

22 Mrs. McCarthy made a motion, seconded by Mr. Tyacke to adjourn. There being no further
23 business, Mr. Willcox adjourned the meeting at 9:01 p.m.

24
25 Respectfully submitted,



26 Kathy Leervig
27 City Clerk
28 September 20, 2018

30
31 Drafted by Kathy Altman
32 *TimeSaver Off Site Secretarial, Inc.*
33