

**GREENWOOD CITY COUNCIL MEETING**  
**Tuesday, August 6, 2009 7:00 p.m.**  
**Council Chambers 20225 Cottagewood Road Deephaven MN 55331**

**1. CALL TO ORDER- ROLL CALL - APPROVAL OF AGENDA**

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

Members present: Mayor Kind, Councilmembers Page, Rose, Fletcher and Quam

Others present: City Administrator Whipple, City Attorney Kelly,  
And Recording Secretary Link

Page moved to approve the agenda as submitted. Quam seconded the motion. Motion carried unanimously.

**2. APPROVE CONSENT AGENDA**

Councilmember Page moved to approve the following Consent items with the exception of Item E, Approve July payables \$164,833.15. Items so approved include the following:

- A. Recommendation: Approve 7/7/09 Budget worksession minutes
- B. Recommendation: Approve 7/7/09 Council minutes
- C. Recommendation: Approve 7/21/09 Special Council meeting
- D. Recommendation: Approve June treasurer's report

Councilmember Rose seconded the motion. Motion approved.

**3. MATTERS FROM THE FLOOR**

None

**4. ANNOUNCEMENTS, PRESENTATIONS & STAFF REPORTS**

**A. Dick Woodruff: LMCC Presentation - Consider Approving Resolution #15-09**

Dick Woodruff, representing the LMCC discussed the LMCC's plans to provide wireless technology to the communities on Lake Minnetonka. He explained how the network is designed. He discussed the application process in detail which is needed to request funding for the project. He stated the LMCC needs to have 100% commitment from all of the member cities. A resolution was provided for the Council's approval. He explained how the fiber optics are installed in the streets. He also noted twelve of the twelve cities have adopted the resolution.

Rick Ambrose, 5130 Curve Street asked if they contract with someone for program provision. Woodruff explained how the LMCC contracts with Mediacom to provide cable service. The LMCC is the franchisor for Mediacom for seventeen cities through a joint powers agreement.

Motion by Quam to adopt Resolution #15.09 to support the LMCC's application for Federal stimulus money for the installation of fiber optics technology. Rose seconded the motion. Ayes 4-0-1. Fletcher abstained from voting. Motion carried unanimously.

**B. Chief Litsey: Police Funding Proposal**

Bryan Litsey, SLMPD discussed the proposed 2010 budget which he noted has been refined several times at the request of the SLMPD Coordinating Committee. The budget reflects a revenue loss of 8.75%. He discussed the need to build up the dwindling building fund. He stated the proposed budget will sustain the department for the short term.

Rose asked why the police department couldn't come up with a zero percent increase like the fire department was able to do for 2010. Litsey noted the fire department is not as personnel-driven as the police department. He stated the budget would have gone down if there hadn't been a loss in revenue. He noted eighty percent of the budget is for personnel. He stated it was fortunate that they had some personnel retire this year, or the budget would have been much higher.

Fletcher was concerned the budget might be too tight. He felt there should have been some kind of increase given the increase in insurance rates. Litsey hoped that things will start to improve after 2010. Fletcher asked if time spent applying for grants should be allocated to time on the street. Litsey stated he prepares the majority of the grant applications.

Quam stated public safety is our top responsibility as a city. We have 1.1 officers per 1000 residents. It was not acceptable to him that at times there is only one officer on duty.

Motion by Fletcher to approve the 2010 SLMPD funding proposal. Page seconded the motion. Motion carried 3-2. Quam and Rose voted against the motion.

**C. Whipple: Lakeshore Market Landscaping Bid**

Whipple stated the bid for landscaping bid for Lakeshore Market was reviewed with the contractor at the site, and there was some confusion on the exact location of landscaping. The low bid was from Minnesota Lawn and Landscape. Whipple recommended the bid be approved contingent on the contractor agreeing about the location of the landscaping. Kind suggested Whipple be given a dollar amount to work with.

Motion by Rose to authorize the City Administrator to spend up to \$1950 on landscaping at Lakeshore Market. Quam seconded the motion. Ayes 5. Fletcher asked how the landscaping be maintained after the work is completed. Whipple stated Deephaven would charge to water the landscaping. Motion carried unanimously.

**D. Whipple: Update on litter clean-up at St. Alban's Bay Channel**

Whipple stated the work was completed on the 27th by the Sentence to Serve program at no cost to the City.

**5. PUBLIC HEARINGS**

None

**6. UNFINISHED BUSINESS**

**A. Social Host Ordinance #171**

Bryan Litsey, SLMPD gave a report on the statistics on drinking habits of high school students and the proposed social host ordinance. The intent is to reduce the number of under-age drinking parties. The ordinance would allow the SLMPD to hold those legally-aged residents to be held accountable for providing liquor to under-aged residents. Minnetonka has recently adopted the ordinance. He stated the proposed ordinance is one more tool which can be used to enforce underage drinking.

Page asked why government agencies wouldn't be included. Litsey stated there are different laws in effect for liquor license holders. The social host ordinance doesn't deal with liquor license holders.

Fletcher asked if there have been situations in Greenwood where this type of activity has taken place. Litsey stated he could review consumption

citations for specific examples.

Page stated "knowing" or "knowledge" need to be defined in the ordinance. Litsey stated it could be recommended to be included. He discussed the ordinance enforcement.

Motion by Quam to remove this item off the table. Page seconded the motion. Ayes 5. Motion carried unanimously.

Motion by Page to reject the proposed ordinance. Rose seconded the motion. Ayes 4-1. Kind opposed the motion. Motion carried.

Fletcher suggested the Council move down to New Business at this point.

Motion by Fletcher, seconded by Rose to table Items 6B through 6G. Ayes 5. Motion carried.

## 7. **NEW BUSINESS**

### A. **Consider: Appointments to Alternate Planning Commission Seats**

Kind noted there are two applicants for alternate positions on the Planning Commission. Bill Cook was present as one of the applicants. Brian Malo was not present.

Bill Cook, 5195 Greenwood Circle was present to answer any questions.

Motion by Page to appoint Bill Cook as Alternate Seat #1 on the Planning Commission. Quam seconded the motion. Ayes 5. Motion carried.

### B. **Consider: Variance Request, William Brand, 21290 Excelsior Blvd.**

Kind stated the applicant is seeking a variance from surface coverage for a building addition. She noted the property is unique in that it is very narrow and steep. The deadline for Council action is August 12. The applicant is not present; however, the architect is present.

Mr. Storlien, architect discussed the proposed project and the purpose for the variance.

Page asked Storlien if he was aware that areas with wood chips and gravel

are included in the hardcover calculation. Storlien stated the surveyor provided all the calculations. Page explained why he believed they are at fifty percent hardcover. He indicated the owner has given Storlien the authority to request a 60-day extension. Kelly discussed the legal requirements for an extension. A signed authorization was presented for the record. Kelly asked that the applicant provide email confirmation before August 12.

**C. Consider: Resolution #14-09 Public Right-of-Way Use Permit, Sean and Kristi Conrad, 21780 Fairview Street**

Motion by Quam to adopt Resolution 14-09. Fletcher seconded the motion. Ayes 3-2. Rose and Page voted against the motion. Motion carried 3-2.

The Council recessed at 9:02 p.m. and reconvened at 9:07 p.m.

**D. Discuss: Lakeshore Market Request to Allow Hot Food Preparation and venting**

Fletcher stated Lakeshore Market has requested a zoning ordinance change in order to allow hot food preparation and venting. The applicant believes food service is vital to the success of his business. Residents across the street oppose the use. Residents are also concerned about allowing venting and odor issues. The Planning Commission has asked for the Council's direction on the request.

Rose asked if there are any updates on the proposed use. Muhamed Kwara, owner stated many of the residents in the area support the proposal. He stated he is trying to work out the venting solution. There are some companies that can offer indoor venting. He is still waiting for additional information. He stated he would like to stock cold sandwiches now until information on ventilation can be provided.

Kind asked if they have grandfathered rights for food service. Kelly stated there has been some limited food service in the past which involves pre-packaged food. We have allowed packaged food but not prepared food. The question is whether a conditional use permit might be required.

Kind opened the item to the floor for public comments. Gene Dahlin, 21350 Excelsior Blvd stated he was opposed to the request. He was also opposed to any kind of change in the zoning ordinance to add food service. He had

concerns about traffic congestion.

Gretta Palmberg, 21320 Excelsior Blvd. opposed any change to the zoning ordinance. She has a hard time getting out of her driveway. She was opposed to any venting or restaurant smells. She stated the Council needs to uphold the current ordinance.

Jeff Sagal, 21420 Excelsior Blvd. opposed any venting on the site. He stated there is a problem with a noisy cooling unit on the site. Many of the neighbors who could not attend this evening also oppose the use. Approving the request would set a very dangerous precedent for the other businesses in the area.

Kwara stated traffic counts have decreased on Highway 7. He stated he needs to make a living. He stated it is the Health Department's decision what he can sell. He stated the previous owner did not keep the area as clean as he does.

Quam stated he did not support having outside venting. He was concerned about the effects on the neighboring properties.

Kind stated we are willing to improve the look of the area, but she did not believe that exterior venting should be allowed. The interior venting is very intriguing. She opposed the exterior venting. She believed there is a precedent to allow food at that location.

Rose opposed exterior venting. He discussed his concerns about traffic in the area. The purpose of a gas station is to grab something and go.

Page stated he was not in favor of amending the ordinance for one business. He saw no grandfathering documentation in any of the files relating to this property. He believed the lot could be cleaner. He was not opposed to the sale of pre-packaged sandwiches. There has, however, been several improvements to the upkeep in the past couple years.

Fletcher asked for Council input on whether cold sandwiches can be prepared on site. He believed this would open up the area to more requests. The Council concurred that the ordinance would not be changed.

**E. First Reading: Outdoor Lighting Ordinance #173**

Kind stated the proposed ordinance includes reduction in foot candle measurement, a change in ornamental lighting, and that all outdoor lighting be downcast.

Fletcher reviewed changes to the ordinance and how it differs from the existing ordinance. He noted it would be complaint-driven.

Motion by Quam to table this item to the November meeting. Rose seconded the motion. Page asked if those who have lighting that is in violation of the new ordinance would have to change them. It was noted they would be grandfathered in. Councilmembers discussed the current and proposed lighting ordinances. Page stressed the need for community feedback. Ayes 5. Motion carried 5-0.

**F. Discuss Revision to the Greenwood Code Limiting Restaurant Liquor Sales to a Percent of Total Sales**

Kind stated the current Greenwood code does not have a percentage of total sales in restaurants selling liquor. Most cities do have percentages. A public hearing is required to make a change to the liquor ordinance.

Motion by Page to hold a public hearing in September to consider revision of the city code limiting restaurant liquor sales to a percent of total sales, and direct the City Attorney to prepare the ordinance language with a 60/40 ratio. Rose seconded the motion. Ayes 5. Motion carried 5-0.

**G. Consider Directing the Planning Commission to Review Parking Requirements and Hardcover Limits for Commercial Property**

Fletcher stated there is a need to have parking requirements and hardcover limits for commercial property be reviewed. Quam and Kind agreed it was a good idea. Page stated he opposed the change, because he felt it was focused on one property.

Motion by Fletcher to direct the Planning Commission to review parking requirements. Quam seconded the motion. Ayes 3-2. Page and Rose opposed the motion. Motion carried 3-2.

Motion by Fletcher to direct the Planning Commission to review hardcover

limits for commercial property. Quam seconded the motion. Ayes 3-2. Page and Rose opposed the motion. Motion carried 3-2.

**6. UNFINISHED BUSINESS (CONTINUED)**

**B. Second Reading: Construction Management Ordinance #168**

Kind stated a couple changes were made following the first reading.

Motion by Fletcher to approve Ordinance #168. Page seconded the motion. Ayes 5. Motion carried unanimously.

**C. Second Reading: Construction Site Runoff Control Ordinance #172**

Kind reviewed the changes.

Motion by Quam to approve Ordinance #172. Fletcher seconded the motion. Ayes 5. Motion carried unanimously.

**D. Administrative Hearing Process**

Kind noted the first step has been completed to determine who will enforce. It will be handled by SLMPD. Information on city courts is provided this evening.

Kelly stated an ordinance can be drafted, and fines need to be established. Fletcher asked if Minnetonka would be willing to hold the hearings for Greenwood. Whipple indicated they would.

**E. Discuss: Community Survey**

Kind stated the Council discussed the survey at the July meeting. The survey will go out with the October utility bills. Councilmembers reviewed the draft survey.

Motion by Page to continue discussion to the September meeting. Quam seconded the motion. Motion carried 5-0.

**8. OTHER BUSINESS**

**A. Review July payables of \$164,833.15**

Fletcher pulled this item from the Consent Agenda for coding recommendations.

Motion by Fletcher to approve the July payables in the amount of \$164,833.15. Quam seconded the motion. Ayes 5. Motion carried unanimously.

**9. COUNCIL REPORTS**

**A. Quam: Road Report, Recycling Hauler Report**

Quam stated the road projects have been completed, and adjacent landowners are pleased. He reported RFPs have been mailed for recycling hauler services, and we are waiting for them to be returned.

**B. Kind: Police Report**

Kind reported a Coordinating Committee meeting was held the previous week and she discussed what occurred.

**C. Fletcher: Milfoil Report, Planning Commission Report (Georgetown Garages, Tree Ordinance, etc.)**

Fletcher stated the money has been raised for the milfoil study at St. Alban's Bay. Fletcher stated the Georgetown garages meet code. He reported the Planning Commission asked for a response to the proposed tree ordinance in writing from the City Council. He prepared a statement and asked the Council to sign off.

**D. Page: Lake Minnetonka Conservation District**

Page indicated the DNR is taking action on the flowering rush in areas around the lake.

The Council recessed at 10:30 p.m.

**10. CLOSED SESSION**

**A. Consider Strategies for Labor Negotiations with City Administrator**

**11. ADJOURNMENT**

There being no further business, the meeting adjourned at 11:31 PM

Respectfully submitted,

Clare T. Link  
Recording Secretary