

**Adopted Minutes
Regular Council Meeting
January 10, 2006**

Mayor Johnson called a Regular Meeting of the Plymouth City Council to order at 7:07 p.m. in the Black Box Theater, Plymouth Creek Center, 14800 34th Avenue North, on January 10, 2006.

COUNCIL PRESENT: Mayor Johnson, Councilmembers Stein, Slavik, Hewitt, Bildsoe, Willis, and Black.

ABSENT: None.

STAFF PRESENT: City Manager Ahrens, Deputy Fire Chief Hurr, Finance Director Hahn, Police Chief Goldstein, City Attorney Knutson, Park and Recreation Director Blank, Planning Manager Senness, Public Services Manager Qvale, Public Works Director Cote, Finance Manager Jacobson, Financial Analyst Kohn, Accounting Technicians Foss and Weitgenant, Accountant Ecker, and City Clerk Paulson.

Plymouth Forum

There was no one present to address the Council.

Presentations and Public Information Announcements

(4.01) Presentation of 2004 Certificate of Achievement for Excellence in Financial Reporting

Mayor Johnson and the Council presented the 2004 Certificate of Achievement for Excellence in Financial Reporting to Finance Director Hahn and members of his staff who were in attendance.

(4.02) Contribution from the Wayzata Hockey Association

Greg Gibson, along with members of the Wayzata Youth Hockey Association, presented a check to the City in the amount of \$60,000 for the third sheet of ice at the Plymouth Ice Center.

Approval of Agenda

Mayor Johnson removed item No. 9.1 from the agenda.

Motion was made by Councilmember Black, and seconded by Councilmember Bildsoe, to approve the amended agenda. With all members voting in favor, the motion carried.

Consent Agenda

Councilmember Black removed item No. 6.27, and Councilmember Slavik removed item No. 6.08, which became item No's. 8.3 and 8.4 respectively.

Motion was made by Councilmember Bildsoe, and seconded by Councilmember Slavik, to adopt the amended Consent Agenda that included the following items:

(6.01) Minutes of the Joint City Council/Planning Commission Meetings of December 6, 2005 and December 12, 2005, Special Council Meeting of December 13, 2005, and Regular Council Meeting of December 13, 2005.

(6.02) Resolution Approving Disbursements for the Period Ending December 30, 2005 (Res2006-001).

(6.03) Resolution Setting Plymouth Metrolink Dial-a-Ride Fares (Res2006-002).

(6.04) Resolution Amending and Restating Resolution No. B94-17 Adopted by the Board of Zoning Adjustments and Appeals on November 15, 1994 (Res2006-003).

(6.05) Ordinance Amending Section 1206.04 of the Plymouth City Code Regarding Retail Liquor License Fees (Ord2006-01).

(6.06) Ordinance Amending Chapter 8 of the Plymouth City Code Concerning Right-of-Way Management (Ord2006-02).

(6.07) Ordinance Amending Chapters 10 and 11 of the Plymouth City Code Concerning License Fees and Massage Therapy (Ord2006-03).

(6.08) (This item was removed from the Consent Agenda and placed under General Business as item No. 8.4).

(6.09) Resolution Designating Funding for Public Improvement Projects (Res2006-004).

(6.10) Resolution Approving a Final Plat and Development Contract for Charles Cudd Company for "Bassett Creek Crossing," a Subdivision for 28 Multiple Family Dwellings and One Single Family Dwelling located at 10 Zachary Lane (2005093 – Res2006-005) and a Resolution Adopting Assessments for Water Area Assessments for Bassett Creek Crossing (440 – Res2006-006).

(6.11) Resolution Approving Site Plan Amendment, Conditional Use Permit Amendment and Variances to allow an Addition at Plymouth Covenant Church located at 4300 Vicksburg Lane North (2005111 – Res2006-007).

(6.12) Resolution Approving a Site Plan Amendment and Conditional Use Permit Amendment to allow Building Expansion at St. Philip the Deacon Lutheran Church, 17205 County Road 6

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(2005133 – Res2006-008).

(6.13) Resolution Approving 2006 Tobacco Licenses (Res2006-009).

(6.14) Resolution Approving 2006 Amusement Licenses (Res2006-010).

(6.15) Resolution Approving Gasoline Service Station Licenses for 2006 (Res2006-011).

(6.16) Appointment of 2006 City Council Secretary.

(6.17) Resolution Designating the Plymouth Sun Sailor as the City of Plymouth's Official Newspaper for 2006 (Res2006-012).

(6.18) Appointment of 2006 Health Officer.

(6.19) Resolution Appointing Official Depositories for City Funds for 2006 (Res2006-013).

(6.20) Resolution Ratifying Surety and Blanket Bonds for City Employees for 2006 (Res2006-014).

(6.21) Resolution Approving the 2006 Pay Equity Implementation Report (Res2006-015).

(6.22) Resolution Approving Amended Agreement for Legal Services provided by Campbell Knutson, Professional Association (Res2006-016).

(6.23) Resolution Approving 2006 Membership Dues for Association of Metropolitan Municipalities and Municipal Legislative Commission (Res2006-017).

(6.24) Resolution Appointing Council Coordinating Representatives and Representatives to Other Agencies (Res2006-018) and Resolution Appointing Deputy Mayor for 2006 (Res2006-040).

(6.25) Resolution Authorizing the Mayor and City Manager to Sign a Termination of Declaration of Covenants and Restrictions for Lots 1 and 2, Block 1, Woodview Heights (2002150 – Res2006-019).

(6.26) Resolution Approving Change Order No. 1 for Vicksburg Lane Reservoir (3108 – Res2006-020) and a Resolution Approving Change Order No. 1 for Vicksburg Lane Pumping Station (3108 – Res2006-021).

(6.27) (This item was removed from the Consent Agenda and placed under General Business as item No. 8.3).

(6.28) Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment for City Center Area Street Lighting Improvements (Res2006-022) and a Resolution Setting Hearing on Proposed Assessment for City Center Street Lighting Improvements (4143 –

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Res2006-023).

(6.29) Resolution Approving Agreement with Minnesota Department of Transportation for Existing Traffic Signal at Highway 55 and Revere Lane (5126 – Res2006-024).

(6.30) Resolution Receiving Preliminary Engineering Report and Calling for a Public Hearing on 2006 Street Reconstruction Project, hemlock Lane, South Bass Lake, and Lost Lake (6101 – Res2006-025).

(6.31) Resolution Ordering Preliminary Engineering Report for 2006 Mill and Overlay Project (6106 – Res2006-026).

(6.32) Resolution Approving Cooperative Agreement for Aquatics Programs between Wayzata School District 284 and the City of Plymouth (Res2006-027).

(6.33) Resolution Accepting Donation of Funds for Emergency Lighting and Sirens from the Plymouth Crime and Fire Prevention Fund (Res2006-028).

(6.34) Resolution Adopting the National Incident Command System as the Basis for all Incident Management in the City of Plymouth (Res2006-029).

(6.35) Resolution Promoting the Use of Intrastate Mutual-Aid Agreements (Res2006-030).

(6.36) Resolution Approving Tobacco License for Smokies II Land, Inc., d/b/a Smokies II, 17405 County Road 6, Suite 100 (Res2006-031).

(6.37) Resolution Approving Change Order on the Plymouth Creek Center Lower Level (Res2006-032).

(6.38) Resolution Approving Plans and Specifications and Ordering Advertisement for Bids for Well No's. 7 and 12 Maintenance Project (5133 – Res2006-033).

(6.39) Resolution Authorizing the Purchase of Eight New Current Model Replacement Police Squad Cars (Res2006-034).

(6.40) Resolution Approving Municipal Recycling Waste Abatement Incentive Grant Agreement (Res2006-035).

With all members voting in favor, the motion carried.

Public Hearings

(7.1) Vacation of Glen Grove Avenue (currently known as Harbor Lane within Glen Grove Acres)

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Public Works Director Cote reported on the petitioned Vacation request of Landform, on behalf of Calhoun Development, to vacate Glen Grove Avenue as platted in Glen Grove Acres, currently known as Harbor Lane.

Mayor Johnson opened the public hearing for testimony.

There being no one present wishing to appear before the Council, Mayor Johnson declared the public hearing closed.

Motion was made by Councilmember Black, and seconded by Councilmember Bildsoe, to adopt a Resolution Authorizing the Vacation of that part of Platted Glen Grove Avenue Right-of-Way Contiguous to Lot 1, Block 1, Glen Grove Acres (Res2006-036) and a Resolution Setting Conditions to be met prior to filing of Resolution No. 2006-036 (Res2006-037). With all members voting in favor, the motion carried.

(7.2) Second Compliance Check Violation of Asian Mill, Inc. d/b/a Tea House Chinese Restaurant

Police Chief Goldstein stated this is the second alcohol compliance check violation for the Tea House Chinese Restaurant. He stated at the time of violation, the licensee wasn't part of the Best Practices Program. Therefore, according to the penalty grid, staff is recommending the \$1,000 fine and a 10-day license suspension.

Mayor Johnson opened the public hearing for testimony.

Police Chief Goldstein stated the violation occurred on September 30, 2005. An underage buyer wasn't asked to provide identification and was served alcohol. The defendant indicated that they normally ask for identification. The clerk who sold the liquor appeared in district court and pled guilty to a misdemeanor and paid a \$300 fine. The licensee was notified by letter on September 30 of the violation. He noted that this instance was very similar to the October 3, 2004 compliance check violation.

Joe Oliver, 8201 28th Avenue North, an employee of the Tea House, stated that no one paid for the liquor. He stated there is an ongoing language barrier issue. He stated customers who dine there speak their native tongue. He indicated that this is a complicated issue when it comes to the Best Practices training. He stated this couldn't be a new problem as there are other establishments in the City that have the language barrier issue.

Mayor Johnson asked if they have had issues with other licenses from the State or County for their restaurant with the language barrier. Mr. Oliver replied there was some training that either the State or County provided where they had someone who spoke Chinese, Mandarin, and Cantonese.

Mayor Johnson stated the City wants to encourage compliance with the underage law, but there needs to be some responsibility on the part of the licensees to ask for assistance if there are barriers.

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Councilmember Willis stated liquor is a regulated beverage, and the language barrier issue is not a City problem. The licensee needs to be familiar in doing that type of business. He stated he's puzzled that there is a problem with the serving of alcohol and the language barrier when there are meals that are being ordered.

Mayor Johnson stated the employee acknowledged that he should've asked for identification, but he didn't.

Councilmember Bildsoe asked about the procedural issue involving the exchange of money. Police Chief Goldstein stated that the threshold is that the underage buyer was served. The officer intercepted the scene and spoke to the manager on the situation, and the alcohol was seized as evidence. He stated Captain Franz advised him on the licensee's concern on the language barrier issue, which was just communicated to staff today. The Best Practices training materials are in English, but perhaps staff could look at other training, such as Internet methods and a testing method in lieu of hiring translators, which could be very costly. Staff hasn't faced this situation before.

Councilmember Bildsoe commented perhaps the licensee should hire the translator.

Mayor Johnson stated a licensee's wait staff must be able to understand English when people are ordering off the menu. She asked if there are any "hurdles" in staff's training. Police Chief Goldstein replied there is nothing complicated or sophisticated with the basic Best Practices training materials that are presented.

Councilmember Hewitt suggested that perhaps staff should make accommodations for those licensees who don't speak English and work with other licensing entities.

Mayor Johnson stated that staff wasn't made aware of this issue until today.

Police Chief Goldstein stated there is a cost factor in providing interpreters, which staff would need to review.

Councilmember Black stated when she visited China, she was informed that there are 200 dialects of their language. There are issues within that language itself, and it becomes quite complicated. She stated the City should work on this, as the culture is becoming more diverse. However, she is having a problem in that the wait staff of this particular establishment doesn't understand English. She stated for the most part, a lot of this isn't difficult, as just the color of the drivers license indicates if the person is of drinking age or not.

Mayor Johnson stated there are responsibilities in having licenses and businesses. There needs to be some understanding of the English language as well as the color of the driver's licenses for underage individuals.

Mr. Oliver stated he and the licensee agrees with the Council's comments. He stated the Mandarin language is most common. If their establishment could join with other restaurants in

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training that are also experiencing this issue that would be great as they could share in the cost of doing it.

There being no one else wishing to appear before the Council, Mayor Johnson declared the public hearing closed.

Motion was made by Councilmember Willis, and seconded by Councilmember Bildsoe, to adopt a Resolution Imposing a \$1,000 Fine and 10-Day License Suspension (Res2006-038). With all members voting in favor, the motion carried.

(7.3) Application of Asian Mill, Inc. d/b/a Tea House Chinese Restaurant, for On-Sale and Sunday Liquor Licenses

City Clerk Paulson reported on the request of the Asian Mill, Inc. d/b/a Tea House Chinese Restaurant, for On-Sale and Sunday Liquor Licenses. She stated with the action of the previous item on this agenda, staff is recommending that action be resolved prior to the consideration of the new liquor licenses. Therefore, staff is recommending that the Council open the public hearing and continue it to January 24.

Mayor Johnson opened the public hearing for testimony.

Mr. Oliver reiterated the need for training for the licensee since they desire to serve hard liquor, as it relates to access to youth.

Mayor Johnson stated that youth are at risk with liquor consumption, no matter what type of liquor application.

There being no one else present wishing to appear before the Council, Mayor Johnson closed the public hearing.

A discussion was held on the two recommended conditions on the licenses if they were approved which were that the licensee enrolls in the City's Best Practices Program immediately, and the licensee provides to the City a copy of their in-house training program for their wait staff on checking identification of patrons.

Councilmember Slavik asked if the City were to deny these applications, how soon could the licensee reapply. City Attorney Knutson replied that there is no provision in the Statute that addresses that. He stated if the Council decided to reject the applications, a provision could be included in the findings of fact.

Motion was made by Councilmember Slavik, and seconded by Councilmember Bildsoe, to direct the City Attorney to prepare findings of fact consistent with denial for the January 24 Council meeting based on tonight's discussion (noting two violations in the past two years), and to set a probationary period.

Councilmember Slavik stated that she is concerned that there have been two violations in two years. Therefore, she supports a probationary period.

Councilmember Stein stated that he wouldn't support that as he feels the Council would be penalizing them unfairly, compared to revocations of liquor licenses for four violations.

Councilmember Black voiced her support for the motion and stated she would support a 12-month probationary period.

Councilmember Hewitt stated that she would prefer a six-month probationary period, and she feels that staff should work with them on the language barrier issue for training.

Police Chief Goldstein stated that within the next six months, there be would another round of compliance checks, and then in another six months, there would be another round of compliance checks, for a total of two checks within 12 months. In addition, there would be a compliance check for their license suspension.

Motion was made by Councilmember Black, and seconded by Councilmember Slavik, to amend the main motion to impose a 12-month probationary period with no violations, and the licensee must become a member of the Best Practices Program. With all members voting in favor, the motion carried.

The Council voted on the amended main motion, and with all members voting in favor, the motion carried.

General Business

(8.1) Membership Dues for I-494 Corridor Commission, Highway 55 Corridor Commission, and Minnesota Transportation Alliance

City Manager Ahrens reported on the payment of annual dues to the I-494 Corridor Commission, Highway 55 Corridor Coalition, and Minnesota Transportation Alliance.

Motion was made by Councilmember Hewitt, and seconded by Councilmember Bildsoe, to approve the payments. With all members voting in favor, the motion carried.

(8.2) Change Order No. 1 for Plymouth Metrolink Station 73 Transit Facility (3125)

Public Services Manager Qvale reported on proposed Change Order No. 1 in the amount of \$64,500 for the new transit facility. She stated this change order is for furnishing, installing, and removing temporary H-pile and timber lagging earth retention system. The change is due to conflicts with the existing electrical and a Qwest multi-conduit telephone utilities vault including a significant fiber optic line that runs from Minneapolis to St. Cloud. She stated the contract amount of \$4,360,000 would be increased to \$4,424,500 with this addition. Contingencies for this project were estimated at \$87,000 or 2% of the total construction cost.

She noted there would be future change orders involving the relocation of sanitary sewer and water main under County Road 73, and correcting the soils on site. She stated because of the future change orders, staff requested additional funding from the Metropolitan Council, which would be the City's 2007 allocation of National Transit Database (NTD) funds in the amount of \$250,000. She stated these funds could only be used for transit capital with a 20-year life. She stated if the \$250,000 were not required in its entirety for the project, the remaining balance would be used to reduce the City's transit fund contribution for this project currently budgeted at \$580,000.

Councilmembers voiced their frustration with the locations of the soil testing that were taken on site.

Dave Selinsky, with LSA Design (City's project consultant), illustrated where the six soil borings were taken, and he stated the number taken is very typical for this size of a project. He stated once they poured the footings and discovered bad patches of soils, they noticed that it involved just a small pocket area. He stated that the whole site is being raised so there should be enough good soil to bridge the site. He indicated that there was no reason to believe that there was bad soil. He stated it would cost approximately \$50,000 to repair the soils.

Public Services Manager Qvale stressed that it's uncommon for the Metropolitan Council to advance future NTD funds for a current project. She stated in the past, the City has used these funds to construct neighborhood shelters and the shelter in the Reserve development.

Motion was made by Councilmember Stein, and seconded by Councilmember Hewitt, to adopt a Resolution Approving Change Order No. 1 for Plymouth Metrolink Station 73 Transit Facility (3125 – Res2006-039). With all members voting in favor the motion carried.

(8.3) Payment No. 9 and Final for Medicine Lake Water Quality Ponds (2037)

Councilmember Black stated that she is concerned on the quality of the landscaping with this project and if there are any guarantees, especially this coming spring. Public Works Director Cote replied there is a one-year warranty period from the fall 2004.

Councilmember Black stated she doesn't support these payments until she knows if the appearance of the landscaping is going to be better in the spring.

Councilmember Willis stated he doesn't feel that it's appropriate to withhold payment to the general contractor if they have completed the physical construction, and there is a one-year warranty on the landscaping. He noted that there is also a maintenance bond on this entire project.

Councilmember Black stated the new bushes were planted, but there are weeds and dirt in between them. She stated she is concerned that there would be erosion that would occur that would empty into the ponds, and then they'll have to be cleaned.

Motion was made by Councilmember Willis, and seconded by Councilmember Black, to table this item to January 24 in order that project could be revisited by the City's consultant. With all members voting in favor, the motion carried.

(8.4) Agreement for Use of Parking Lot at St. Philip the Deacon Lutheran Church as an Alternative Park and Ride Facility

Councilmember Slavik requested that this item be tabled in order that the adjacent neighborhood could be notified.

Motion was made by Councilmember Slavik, and seconded by Councilmember Black to postpone this item until February 7 in order that staff could provide proper notification to the adjacent neighborhood. With all members voting in favor, the motion carried.

Reports and Staff Recommendations

(9.1) (This item was removed from the agenda).

Adjournment

Mayor Johnson adjourned the meeting at approximately 9:20 p.m.



Sandra R. Paulson, City Clerk