

**MINUTES
SPECIAL COUNCIL MEETING
DECEMBER 12, 1995**

A special meeting of the Plymouth City Council was called to order by Mayor Tierney at 6:08 p.m. in the Public Safety Training Room, 3400 Plymouth Blvd., on December 12, 1995.

COUNCIL PRESENT: Mayor Tierney; Councilmembers Wold, Anderson, Lymangood, and Edson. Councilmembers-elect Black and Preus. Councilmember Granath arrived at 6:25 p.m.

ABSENT: Councilmember Helliwell.

STAFF PRESENT: City Manager Johnson, Assistant Manager Lueckert, Finance Director Hahn, Park Director Blank, Community Development Director Hurlburt, City Attorney Knutson, and City Clerk Ahrens.

Manager Johnson presented a list of facilities that are currently proposed for inclusion in a recreational complex. The facilities include two indoor ice sheets with seating for 800, eight team rooms, a large leisure pool with play features, a competition pool and diving well, whirlpool, outdoor leisure pool, carpeted locker rooms, two full gyms, four racquetball courts, a large fitness area with several hundred machines, daycare area, aerobics room, small snack bar/eating area, massage room, small meeting room, and walkway connecting the major areas. He stated that there is an option for a third gym at an estimated cost of \$500,000. Parking is proposed for 600 vehicles. He stated that the architectural firm of Johnson-Peterson, Inc. has been working with Lifetime Fitness to prepare conceptual drawings for the facility.

Mayor Tierney asked if a senior citizen center or multi-use center is proposed in the plan. City Manager Johnson said that a possible 13,000 square-foot multi-use center is shown in the conceptual plan. A covered walkway is proposed to connect the multi-use area with the fitness center.

Councilmember Wold asked how many swim lanes are needed by School District 284 for competition meets and whether the eight proposed lanes are sufficient. Park Director Blank said that eight competition lanes are sufficient for district-wide meets.

Mayor Tierney asked if wetlands have been identified on this site. Community Development Director Hurlburt responded yes.

Mayor Tierney asked if shared parking could be considered with uses across the street. Manager Johnson responded that the fitness club needs 400 parking spaces for their use

alone, and 600 spaces does not seem excessive. Park Director Blank estimated that there could be problems with inadequate parking during large events a few days a year.

Manager Johnson summarized the ownership, operation, and use elements of the proposed arrangement with Lifetime Fitness. He said the City would own and operate the ice arena, while Lifetime Fitness would own and operate all other areas including the pools and gyms. Lifetime Fitness would assume all maintenance costs for all areas except the ice arenas. He stated that the proposed future multi-use facility would be at full City cost; however, there is nothing concrete on that proposal at this time. Lifetime Fitness would be responsible for marketing the entire complex. All City residents would have access to all areas of the complex at a daily fee rate that would be no higher than the average rate of comparable community centers. He said that Lifetime Fitness Club members would also have access to the ice arena during public skating hours.

In response to questions, Park Director Blank explained that ice time is sold in hour increments at the ice arena. He estimated that ice time would be sold for \$125 to \$130 per hour. There would also be a charge per person, possibly \$2.50 to \$3.00, for open skating.

Manager Johnson explained that the City would name the complex in consultation with Lifetime Fitness, but the word "Lifetime" must appear in the name. Lifetime Fitness would provide lifeguards for the leisure and the outdoor pools. The City would plow the parking lot and maintain the landscaping. Other parking lot repair and maintenance items would be shared equally by Lifetime Fitness and the City. He said that the Lifetime Fitness Center would be open 24 hours a day, seven days a week. This is something that would be difficult for a City-run recreational facility.

Manager Johnson described the financing and construction proposals for the facility. He stated that the proposal calls for the City to pay for the cost of the two indoor ice arenas at an estimated cost of \$4,800,000, with \$800,000 coming from non-City sources. The City would pay \$1,500,000 toward the construction of the indoor and outdoor leisure pools, in consideration for Lifetime Fitness assuming all operating, maintenance, and marketing costs, as well as acting as a construction manager for the City, and making the entire club area accessible to Plymouth residents on a daily fee basis. Any cost overruns on the club/pool complex would be the responsibility of Lifetime Fitness. Manager Johnson explained that School District 284 will consider a contribution of \$1,500,000 toward the project if the competition pool and diving well are included in the project. Lifetime Fitness expects to contribute about \$5,000,000 to the entire club/pool complex, including about \$4,000,000 in borrowed funds.

Manager Johnson further explained that Lifetime Fitness would provide all site lighting and signage. The City would pay for all grading costs, including the NURP pond area, drain tile, site utilities, and landscaping. The City may pay for a low brick or block fence along Plymouth Boulevard and a traffic circle at 36th Avenue and Plymouth Boulevard.

This could be paid out of tax increment financing funds earmarked for Downtown Plymouth. He stated that Lifetime Fitness has proposed to provide design and construction management services for the City on the ice arena complex for the cost of 6 percent of the total construction cost. Lifetime Fitness would provide specifications and advertise for bidding according to applicable public bidding laws. The City would approve the specifications and award the final bid on the ice arena.

Manager Johnson described the protection of the City's investment in the project. He stated that a ground lease is proposed whereby the City would lease land to Lifetime Fitness for 30 years subject to: 1) residential use covenant allowing Plymouth residents to use all facilities on a daily fee basis no higher than the rates for comparable public community centers; 2) minimum operating standards to be specified; and 3) compliance with first mortgage requirements. If these conditions are not met, after notice and opportunity to resolve, the City will have the opportunity to acquire the entire club/pool facility subject to the first mortgage. He stated that a debt service reserve of four to six months would be established to allow time for the City to consider its options. Lifetime Fitness could not add additional debt on the facility without the permission of the City. The City will have the right of first refusal to buy the property upon its sale during the 30-year lease period.

Councilmember Lymangood asked if Lifetime Fitness could accumulate debt on the facility over the original debt amount during the life of the mortgage. Manager Johnson stated that it is proposed that no more than \$4,000,000 in principal debt could be accumulated. Also, the City retains zoning authority over the premises, as well as the right of condemnation for any public purpose.

Mayor Tierney asked what occurs at the end of the 30-year ground lease agreement. Manager Johnson stated that the parties are free to renegotiate or do whatever they wish. He said that if Lifetime Fitness decides to relinquish the ground lease, they would pay the City about \$100,000. He said that 30 years is the normal life of the building.

Manager Johnson presented a cost summary for the project. He said that the two indoor ice sheets are estimated at \$4,800,000, with a net cost to the City of \$4,000,000. The net cost to the City for the indoor and outdoor leisure pools is \$1,500,000. The site improvements are estimated at \$1,100,000, for a total net City cost of \$6,600,000 for the project as currently proposed.

Manager Johnson said that a multi-use room is an option that the Council could consider. He said that a 5,500 square-foot facility with kitchen catering and furnishings is estimated to cost about \$500,000. He said this multi-use facility could serve several purposes: 1) allow consolidation and expansion of the existing senior program; 2) provide indoor space for many City recreation programs; 3) serve as a support facility for the outdoor amphitheater; and 4) rental to groups for receptions. He said that pending further study, staff believes that no operating deficit would be incurred on this facility. Manager Johnson

said another optional item is adding a third gymnasium in the club area. The guaranteed cost of this addition, quoted by Lifetime Fitness, is \$500,000. This would provide a separate gym for the City and community use. He estimated that net operating revenues would be enhanced with the double ice sheet facilities at the ice arena, based on the experiences of similar facilities.

Manager Johnson compared the cost of the proposed facilities with the cost of public community centers. He said that Maplewood paid about \$12,600,000 including land and furnishings. The City of Shoreview opened a community center in 1990, paying \$6,200,000 not including the land. The community center proposed in Plymouth in 1989 was estimated to cost \$12,000,000 not including the land. This facility was proposed at 120,000 square feet, with one indoor ice sheet, leisure pool/lap pool, two gyms, community meeting center, aerobics room, three racquetball courts, teen room, indoor playground, and weight/fitness room. He said that cities that have recently constructed a community center, have paid about \$100 per square foot for construction of the facilities. Lifetime Fitness recently built their Woodbury facility for about \$60 per square foot.

Manager Johnson discussed several issues raised by the City Council at a previous study session on recreational facilities. He said the first question for the Council to decide is whether the proposal is a good value for the money. He said that for an investment of \$1,500,000 to \$2,000,000, the City gets access to a full-service recreational complex at reasonable daily rate fees, marketing, no operating deficits, no maintenance costs, assistance with construction management, and the possibility of lower costs per square foot of construction. He compared this with the City's previous community center proposal in 1989 which estimated an annual deficit of \$150,000, provided for little or no marketing, and would have cost about \$12,000,000 with only one indoor ice sheet. He said that the facility proposed in 1989 was only about 60 percent as large as this proposed complex.

Manager Johnson stated that the proposal is structured so that each party is doing the things it does well. Lifetime Fitness would have the major responsibility for construction, and they have constructed a number of other clubs with many amenities at a low cost. Lifetime Fitness would also operate, market, and maintain the pool/club area. These are all activities that Lifetime does on a regular basis and that the City does not have as much experience in. On the other hand, the City would fund, own, operate, and maintain the ice facilities. The City would be responsible for the grading of the site, and the City has ready access to soil borings and NURP pond requirements, and has previously planned a building on this site. The City would also landscape the grounds through the Forestry Division.

Manager Johnson addressed the question of whether the City's investment is safe. He said the agreement with Lifetime Fitness provides for a ground lease under which the City could take over the entire pool/club complex if the resident use covenant or the operation standards are not met. He stated that, for example, if the club/pool complex has an

\$8,000,000 value, the estimated construction cost, the City could assume ownership for the maximum \$4,000,000 debt, gaining all of the City's equity back as well as the equity held by Lifetime Fitness. He said that the agreement provides for debt service reserves and limits on future debt. Even if the worst case scenario occurred and the City had to take over the club/pool, the City would have ownership of a 200,000 square-foot complex for a total net City cost of about \$9,100,000. He said this is still \$3,000,000 less than the proposed 1989 community center.

Manager Johnson addressed whether the proposed complex would be family-friendly. Lifetime Fitness offers free daycare for 1½ hours for each paying patron. They also offer some youth programming. Lifetime Fitness will allow youth to swim without a parent being present in the club area, perhaps subject to some time zoning. Lifetime Fitness will also allow District 284 swim teams to practice and hold official meets if District 284 participates as a partner in construction costs. Lifetime Fitness has indicated that it will consider lowering initiation fees for seniors, as well as assisting low-income youth with access to the facilities. Manager Johnson explained that Lifetime Fitness is not required to assist special populations to the same degree that public agencies must, but they often voluntarily do so.

Manager Johnson addressed whether the complex will be public in character. He said that reasonable daily fee access will be required. The City can name the complex, subject to having the name "Lifetime" in the name. Public activities will be held at the center, such as school swim meets, city recreation programs, and school hockey games at the ice arena.

Councilmember-elect Preus asked since this would be a joint project between the City and the Lifetime Fitness, whether all laws that would normally apply to the City, would apply to Lifetime Fitness in the entire project. Manager Johnson explained that the issue is being investigated by the City Attorney. He does not believe that all laws would apply since the City would not actually own or operate the facility, except for the hockey arena, where all laws would apply.

Manager Johnson presented a possible ballot question for consideration: "Shall the City of Plymouth be authorized to spend up to \$5,000,000 from existing funds in the Community Improvement Fund, to be combined with other existing funds, for the purpose of designing, constructing, and equipping indoor ice arena facilities, swimming pool facilities, and related site improvements?" He noted that the ballot question does not make reference to possible partnerships. The earliest date an election could be held would be February 6. He stated that an early election date is critical if the City intends to have the ice arena operational by the fall of 1996. In its letter of intent, Lifetime Fitness has also indicated that the project is contingent on a February election process. He noted that School District 281 is scheduled to conduct a referendum near the end of February.

Councilmember Anderson asked if the ballot language could indicate that this will not result in a tax increase. Manager Johnson stated that the City Attorney has indicated that legally the City could include that language in the ballot question.

Councilmember Edson suggested that the question indicate that this is not a bond referendum and, therefore, will not result in a tax increase to pay for bonds for the project.

Manager Johnson stated that if the Council is interested in pursuing this project, the next step would be to establish the ballot question and election date. The City Council should also consider whether to accept the letter of intent proposed by Lifetime Fitness. He suggested that the City adopt a resolution of intent to proceed with Lifetime Fitness as a partner on the project, if the City is interested in moving ahead.

Councilmember-elect Preus asked if there has been any attempt to determine how profitable this project will be for Lifetime Fitness. He stated that if the project is not successful, the City would know how well it could be marketed to another firm. Manager Johnson responded that Lifetime Fitness has agreed to provide the City with their financial statements.

Councilmember Granath asked the mechanism for establishing the daily fee rates. He noted that if the City decides to move ahead with Lifetime Fitness as a partner, it would be a long-term working relationship. He suggested that very specific provisions be established in order to structure a successful partnership.

Manager Johnson agreed that there are specific issues yet to be resolved. He stated that this is establishing a concept, and the next step is to negotiate specific agreements to ensure a successful partnership.

Councilmember Granath said that his primary concern is that the City needs to ensure it is fulfilling its public purpose. He suggested that a mechanism for working out conflicts in the partnership be considered. Manager Johnson stated that there has been discussion of arbitration/mediation procedures.

Councilmember Granath suggested that the City needs an objective mechanism by which to set the daily fee rate, with City review of the rate on an annual basis. Councilmember Wold stated that a formula could be established for setting the daily fee rate, with approval of a ceiling rate established by the City Council.

Councilmember-elect Preus agreed that a process for resolving conflict needs to be established. He stated that problems could arise on subjective, but important, issues such as whether the facility is as friendly to Plymouth residents as the City wants it to be, whether the facility is kept clean enough, whether employees are polite, etc. He said a process should be identified to guide resolution to these types of issues.

Councilmember Granath stated that he is quite confident that Lifetime Fitness can operate a good, profitable recreation center. He stated that at issue is whether this will meet needs that the City is trying to fulfill, and whether the facility will be operated in a manner in which the City approves. He noted that the City would be in a difficult position to resolve small problems if there is no authority to deal with them, and if no method for problem resolution is established.

Councilmember Edson stated that it is in the City's interest to have a facility that generates enough profit for Lifetime Fitness in order to pay for maintenance items. He said that the profit motive also maintains quality.

Councilmember Wold stated that the City is not giving Lifetime Fitness tax money in order to build their facilities. The City is providing Lifetime Fitness with a lease on City land for \$1.00 per year, but Plymouth residents are getting something for it. He stated that access to a 200,000 square foot facility for a total City cost of \$6,600,000 is a bargain. Manager Johnson said that the Council must balance the loss of City control over the project with providing substantial facilities to all citizens of all incomes in the City.

City Attorney Knutson arrived at 7:30 p.m.

Manager Johnson suggested that the City Council could accept the letter of intent from Lifetime Fitness with the condition that the City wants a conflict dispute mechanism adopted in the final agreement, as well as a formula for establishing the daily fee rate, and a provision to receive the financial statements.

City Attorney Knutson explained that the letter of intent from Lifetime Fitness contains a provision on debt which indicates that they could refinance, but shall not exceed their equity in the project. The City Council indicated that they would prefer an established maximum of \$4,000,000 for debt refinancing. Councilmember Edson suggested a provision that Lifetime Fitness cannot exceed \$4,000,000 without prior approval of the City Council. He stated that should Lifetime Fitness wish to do future improvements to the property, the City Council would have flexibility to consider a higher debt limit.

City Attorney Knutson stated that legally the City can include language in the ballot question that this is not a bond issue and no debt levy will ensue. Councilmember Edson stated that the City can also indicate that this referendum is required by the Charter in order to seek citizen input. Attorney Knutson added that if the City did not have a charter, the Council could not go to the public with this question.

City Attorney Knutson stated that an arbitration provision could be included in the ground lease agreement. Councilmember Granath stated that he is willing to concede that Lifetime Fitness has full authority over the facilities; however, he is concerned about resolving facility conflicts.

Manager Johnson described the membership rate structure of Lifetime Fitness. He said that the intent of Lifetime Fitness is to sell club memberships, and the daily fee rate would only be available for Plymouth residents.

Councilmember Lyngood stated that this proposed project provides the City with an opportunity for access to substantial recreational facilities at a reasonable cost. He stated that he was prepared to vote on whether the project should move forward at the next City Council meeting. Councilmember Granath agreed that the finances of the project are compelling, but expressed concern about the unanswered questions relating to the facility operations. He asked if this will only be a good deal for a Plymouth resident if they buy a Lifetime Fitness membership.

Park Director Blank stated that he believes this project is a good deal for all Plymouth residents. The individual or family who visits the facility often will be able to cap their expenditure by purchasing a membership. Those that go infrequently can pay for only what they actually use via the daily fee rate.

Mayor Tierney stated that the City Council is approaching a project with possible private and public partnerships. To her knowledge, this hasn't been done before, and many issues will need to be addressed. Manager Johnson stated that the City of Maple Grove has signed a letter of intent with the Northwest club which would provide a similar public/private partnership. However, Maple Grove residents would only have daily fee access to the swimming pools.

Mayor Tierney stated that she particularly likes this concept because it gets the City out of the business of operating a health club.

Councilmember-elect Preus asked the City Attorney whether state and federal laws that would apply to a city, would apply to this entire project since it's a joint project between city and private enterprise. He asked whether a potential legal exposure could be created with things occurring on the premises. City Attorney Knutson stated that, generally, the City will not own the project. The City would lease the ground to Lifetime Fitness; Lifetime Fitness would own and operate the business. The City would have no say on how the business is run, and it would truly be private enterprise. Legal exposure is always possible, but he believes the City will have minimal risk with the project as structured.

Councilmember-elect Preus asked if Lifetime Fitness will indemnify and hold harmless the City. City Attorney Knutson stated that an indemnity agreement will be included in the final documents. City Attorney Knutson explained the ground lease concept. He stated that the ground lease would be subordinate to the Lifetime Fitness first mortgage. If there was a default on the first mortgage, the ground lease agreement would be null unless the City buys out the project. Attorney Knutson advised that the ground lease agreement is the best protection for the City under this project concept. Attorney Knutson stated that Lifetime Fitness rejected a proposal for a non-subordinate first mortgage whereby the City

would own the facility, giving Lifetime Fitness a 30-year lease. At the end of the 30 years, the City would own the facility.

Councilmember Anderson reminded the Council that the community center that was proposed in 1989 was predicted to experience a \$150,000 per year operating deficit. He stated that the risk to the City of having to buy out the project in the event of a mortgage default, bankruptcy, or other action, is not that significant compared to a \$150,000+ operating loss per year over 30 years.

Councilmember Edson stated that the City Attorney has identified important points that the Council needs to carefully evaluate. He stated that the City has not yet seen the financial statements on the company, and even a great company can go into bankruptcy. In his opinion, having the City in second place behind the first mortgage is not a problem, because the City has the right to step forward and take the first mortgage if necessary. If Lifetime Fitness does not operate the facility well, the City has an opportunity to purchase the facility for a maximum of \$4,000,000. Councilmember Anderson agreed that this project provides a great opportunity for Plymouth residents who will have access to the facility for a reasonable daily fee or a monthly membership fee basis. The investment of the City is very reasonable.

Councilmember Wold stated that he is willing to accept the letter of intent from Lifetime Fitness. He is pleased with how well the negotiations have gone to date and is prepared to approve a referendum in February.

Councilmember-elect Preus asked if the ice facilities and the club/pool complex would be clearly separated, so that if problems occur they can be legally addressed. Manager Johnson stated that the ice facilities and the club/pool complex would be separate legal parcels with a common wall. There would be no internal connection from the ice facilities to the pool area.

Councilmember-elect Preus asked if the City will get any revenue from the Lifetime Fitness operations. Manager Johnson explained that the project proposes that there would be no revenues or expenditures to the City for the club/pool operations. He stated that Lifetime Fitness normally installs a small lap pool in their facilities. He believes that the \$3,000,000 for additional pool facilities is the actual cost to construct facilities that would not normally be included in Lifetime Fitness center. Councilmember-elect Preus stated that Plymouth residents will gain access to facilities that could not have otherwise been possible with this private/public partnership, and at very little risk to the City. He shared concerns expressed by Councilmember Granath but balancing all factors, he believes the benefits to the community and cost savings far out-weigh the potential problems. He stated that many of the questions raised can be addressed in the final agreements.

Councilmember Granath stated that the price of the facility for the City is reasonable, but he is still not satisfied with what the City is getting. He has not been convinced that this

project will be a good deal for Plymouth residents and is concerned that the ultimate goal of Lifetime Fitness is to obtain memberships. He also would like an updated memo on the projected balance of the Community Improvement Fund if the funds are expended for this project. Manager Johnson stated that the updated information will be provided in the Information Memo. Councilmember Granath stated that he does not believe the City Council needs to accept a letter of intent from Lifetime Fitness, but rather should go ahead and conduct the referendum to hear from citizens.

In response to a question by Mayor Tierney, Attorney Knutson stated that the approved letter of intent would be nonbinding, but could be used for negotiations of a final contract. Councilmember Anderson asked what could occur if the City does not accept a letter of intent at this time. Manager Johnson stated that the West Health Campus is looking for a fitness club to locate at that site. Lifetime Fitness has advertised that they are coming to Plymouth in 1996. He believes that Lifetime Fitness will locate at one site or the other. Mayor Tierney stated that it is exciting to have a fitness club located in Plymouth no matter where it is sited. It is an additional advantage if the health club could be located in Downtown Plymouth. Councilmember Anderson stated that the City needs to respond to Lifetime Fitness on their proposed letter of intent. It would show good faith on the part of the City that the Council is interested in pursuing the partnership.

Councilmember-elect Black stated that she is a bit hesitant about public/private partnerships in general, and has some concerns about the insurance liability potentials. However, she believes the City should move forward and show good faith in accepting the letter of intent from Lifetime Fitness because many issues may be able to be addressed in later detailed contracts.

Councilmember Anderson stated that the City Council must move ahead now if it intends to have ice facilities available by fall, 1996. He stated that the design process on the ice arena facility is about two months, with six to eight months needed for construction. Councilmember Granath stated that he does not believe the City Council should move ahead to accept the letter of intent without addressing the unanswered questions and issues raised at this meeting. City Attorney Knutson stated that the letter of intent would have no legal standing, but would have impacts during negotiations. Manager Johnson stated that he believes the City Council could move ahead to approve the letter of intent with an amendment to change the amount of allowable debt to \$4,000,000 without City Council prior approval. He believes that a dispute resolution process, the financial statement review, no-discrimination clauses, and other issues could be negotiated for inclusion in the final contract documents.

The meeting was adjourned at 8:35 p.m.


Laurie Ahrens
City Clerk