Minutes
Minnetonka City Council
Monday, January 23, 2017

1. Call to Order

Mayor Terry Schneider called the meeting to order at 6:33 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Tony Wagner, Bob Ellingson, Dick Allendorf, Patty Acomb, Brad Wiersum, Tim Bergstedt, and Terry Schneider were present.

4. Approval of Agenda

Bergstedt moved, Wiersum seconded a motion to accept the agenda, as presented. All voted “yes.” Motion carried.

5. Approval of Minutes: None

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings and city events.

Wagner noted this was the first day southbound Highway 169 was closed. This would impact many city residents. He asked what staff was doing to monitor the situation particularly at Hopkins Crossroad. City Engineer Will Manchester said the police department was out monitoring traffic to observe driver patterns. They would be doing this the entire week. Engineering staff would look at adjustments that needed to be made and had been working with the county and MnDOT ahead of time. Signal timing adjustments would be made accordingly.

Barone thanked the eight police personnel who worked security at the presidential inauguration in Washington DC.

8. Citizens Wishing to Discuss Matters not on the Agenda

Deanna Bruce, 3310 Hazelwood West, said she was speaking on behalf of her neighbors who are concerned about the trails and boardwalk project scheduled to begin this winter near Minnehaha Creek. The project was reviewed and
approved in 2003 and it was unfair that there has been no talk or public comment opportunity about the project for 14 years. She said she moved into the area in 2010 and first found out about the project last summer when a work crew cleared a path along the shoreline. The biggest concern was the eight foot wide asphalt trail that will come within 90 some feet of the shoreline. The negative effects of asphalt on waterways has been proven again and again. Oils, heavy metals, and other chemicals have adverse effects. Asphalt also heats up the planet. Natural vegetation was always best for the environment. She said another concern was the impact on the wildlife. She truly believes the harm will outweigh any benefit the trail might provide. The neighbors were asking the project be put on hold until there could be more review.

Barone noted the trail was part of the civic center campus master plan. Much of the plan was completed but there were some trails that were not completed partly due to the recession. The plan has been part of the CIP for the past five years. She said there were some approvals still needed before the trail would be built. The Minnehaha Creek Watershed District has to provide their approvals. The planning commission also would hold a public hearing due to the wetland crossings.

Rick Bruce, 3310 Hazelwood West, said it was his understanding that there wasn’t any more public comment period because it was decided in 2003. Schneider said the master plan was approved in 2003. The funding for the project was approved through the capital improvements program but it still needed approvals by the watershed district and to be reviewed by the planning commission. Bruce said he thought it was unconscionable that the approval occurred 14 years ago before many of the current residents lived in the area. Wiersum said that although the project was approved in 2003, there still would be a public process before the trail was constructed. Barone said the details related to the construction of the trail was what will be reviewed and discussed. The trail has already been approved.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution approving preliminary and final plat of TONY’S ADDITION at 9597 Sandra Lane

Wagner noted there were residents present who wished to speak on the item so he asked that it be pulled from the consent agenda.

City Planner Loren Gordon reviewed the planning commission discussion and the recommendation for an easement.
Karin Flynn, 9607 Ann Lane, said she was concerned about the easement because of the Sandra Lane and Ann Lane loop. She said the thought was this was going to be a walking trail but the truth was, as a planning commissioner stated, this was an easement to nowhere. She has never seen people walking back the other way with bags from Cub or Target. There was a recommendation that this might become a bus stop but it was much easier to go to the existing bus stop on Minnetonka Boulevard. She said there have been thefts from the two houses that sit along the walk where the easement is supposed to go. Cars have also been broken into. She asked the easement not be put in.

Amy Franklin, 9602 Sandra Lane, said she sees kids on bikes and walkers but you don’t see families and people taking strolls on the trail. She noted the planning commission discussed walkability, which she has no qualms about, but the question is who are the people using the trail and where they are going to. She noted cash and gaming were taken from the house that was broken into and not the diamond necklace and wallet sitting out in the open. This indicated kids might be involved. She didn’t consider cutting through two homes into a townhouse lot to be about walkability. The people are not coming back with shopping bags but rather it was about how one could get through and get through fast.

Bergstedt was excused for the rest of the meeting at 6:52 p.m.

Wagner said the planning commission discussed the easement which was asked for by Metro Transit so the assumption was the neighbors had asked for it. This was counter to what Flynn and Franklin said. He had heard no advocacy for the easement and the question was if an easement was done this far why not do the easement all the way or not do it at all. Even if an easement was done, there was little chance anything would be done given it being on the border with St. Louis Park and the private property involved.

Schneider said the fact the city could get the easement at no cost as part of a planning process was the reason it was being suggested.

Wiersum asked staff’s comments on phase two of the easement if Metro Transit decided to build a path for connectivity. What was the vision for the trail in the future if it ever got built? Gordon said staff discussed what the optimum alignment would be if the trail was desired. Ideally work would be done with the townhome property owner to do a better trail.

Wagner said the neighbors didn’t see the need for connectivity to the neighborhood. The city typically liked to see connectivity to transit stops
but the reality was he gave this one a less than one percent chance of being built and even there was an easement, the city had the right to determine if it wanted a trail there. The city usually does not turn down the opportunity for an easement. Given participation would be needed from St. Louis Park and the landowners for a trail to be built, he wasn’t as concerned about the easement.

Wiersum said even if an easement was not put in now, it would not mean a trail could not be built sometime in the future. It would mean taxpayer money would probably be needed to purchase the access as opposed to getting the easement now for free.

Schneider said there was a long standing philosophy that when there was an opportunity to provide a legitimate connection and/or easement for trails or in some cases right-of-way, without any significant negative impact, that the city just did it. The planning process was about projecting what might happen 50 years from now. While it might be unsettling for the neighbors to think the trail would be built, it was unlikely to happen in the near term. Even if Metro Transit decided to move ahead it would need city approval.

Wagner said the action the council was taking was more of a paperwork process than active planning to build a trail.

Allendorf moved, Wiersum seconded a motion to adopt resolution 2017-010 approving the preliminary and final plat for TONY’S ADDITION at 9597 Sandra Lane. All voted “yes.” Motion carried.

B. Amended and restated subscription agreements with WGL Energy Systems, Inc.

Allendorf moved, Acomb seconded a motion to approve the amended and restated subscription agreement with WGL Energy Systems, Inc. for the Lind solar garden, subject to final review and approval of the city attorney and to authorize the mayor and city manager to approve and execute a similar agreement with WGL Energy Systems, Inc. for the next solar garden that becomes operational. All voted “yes.” Motion carried.

C. Ordinance amending permit fees, land use application fee and mechanical contractor licenses

Allendorf moved, Acomb seconded a motion to adopt ordinance 2017-03. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None
12. Introduction of Ordinances: None

13. Public Hearings: None

14. Other Business:

A. Resolution reaffirming previous site and building plan approval for the Music Barn Apartments at 5740 and 5750 Shady Oak Road

Gordon gave the staff report.

Allendorf asked what was included in the notice sent to neighbors because he heard there was a petition being circulated containing concerns that Gordon had effectively addressed in his staff report. Gordon said the notices that are sent out include a brief description about the project and point residents to the city’s website for more detailed information. Allendorf said Gordon had addressed the three areas of concern that were on the petition. He asked if the staff report could be sent to the 400 residents. Gordon said the staff report was on the website. He noted there was an unfortunate mistake where the link to the report erroneously redirected people to the Legacy Oaks website. This has been corrected.

Matt Rubel, 5630 Sanibel Drive, said he was speaking against the proposal. Two years ago he appeared before the council to discuss concerns about property values and traffic in the neighborhood as well as historical and aesthetic issues. According to city code, the council can reaffirm a previous proposal if there have been no changes to the previously approved plan. He believed there were several changes that have occurred. First there was the elimination of low income housing language from the proposal. Originally the plan had been sold to the city as affordable housing. The current proposal indicates the rent of the units will be between $1,100 and $1,300 a month. This was more than the Beachside residents pay monthly for their mortgages. Previously the developer had indicated he would find funding for the project and now it appeared the project would be paid for through property taxes and other city levies with bonds issued by the city. Rubel said the layout, the number of units, and the parking had also changed. The Beachside community does not support this project. The Beachside residents would like to partner with the city to develop a proposal that both the community and city support.

Jim Armstrong, 5634 Sanibel Drive, said he lived in Minnetonka for 28 years and questioned if the council would want the apartments across the
street from their homes. He said nobody in the neighborhood supports the proposal.

Brian Schack, from Shelter Corporation, 412 Clover Lane, Golden Valley, said from his perspective nothing had changed from the original submission. The project had been delayed due to the housing tax credit market had changed following the presidential election. The typical buyers of the tax credits are corporations and they have put their buying on hold. He believed within the next 100 days as policies are sorted out, the demand will return. He anticipated this would happen and the closing is planned for sometime this summer. He said Shelter Corporation manage a handful of properties across the city and is very proud of its work.

Wiersum asked what would happen if the market didn’t come back in the way Schack believed it would. Did he envision the project would not happen or if significant changes would need to be made to the project. Schack said he believed the market would come back. There still would be a tax rate for federal income for these companies. The reason the corporations buy these tax credits was to offset their income.

Allendorf asked what the income levels were to qualify for housing in this project. Wischnack clarified this housing was not for low income, but rather was for affordable housing. The rent can range from $800 to $1,300 depending on the number of bedrooms. For a typical house in the neighborhood, the value is $175,000 and that equates to an $856 monthly mortgage payment not including taxes and insurance. She said the typical income would be around $40,000. Allendorf said the potential renters of the units might be teachers, firefighters and police officers. Wischnack said she would add those who work in the retail industry as well.

Ellingson noted some of the neighbors had raised concerns about the design of the project. He asked if these people should contact city staff or the developer with concerns. Schack said at this point the company was locked in on the design. Gordon said the approved concept had to come in substantially in compliance with previous approvals.

Schneider said the council understood that affordable housing was challenging particularly with multiple funding resources. The applicant and city had to be diligent in making sure it all came together right.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-011 reaffirming the previous approval of final site and building plans, subject to previous conditions of approval. All voted “yes.” Motion carried.

B. Southwest Corridor Investment Framework Cooperative Agreement
Wischnack gave the staff report.

Wiersum moved, Wagner seconded a motion to approve the Cooperative Agreement with Hennepin County for future projects related to the goals of the Corridor Investment Framework and authorize the mayor and city manager to execute the agreement, including subsequent non-material changes as approved by the city manager and community development director in a form acceptable to the city attorney. All voted “yes.” Motion carried.

C. Items concerning THE ENCLAVE AT REGAL OAK, at 3639 Shady Oak Road and 3627 Regal Oak Lane:

1) Ordinance rezoning the properties from R-1 to PUD;
2) Master development plan; and
3) Preliminary and final plats

Gordon gave the staff report.

Roger Anderson, civil engineer and agent for the owner, 13605 1st Avenue North, Plymouth, said he and the owner looked at the property to determine what type of housing to bring forth. The smaller homes, single level living, rambler style with some walkouts was the market they wanted to focus in on. When they first started laying out the plan it looked like there could be five or six new lots. After discussing the concept plan with the council, it was determined to move forward with four lots. The plan being shown to the council was refined to reduce the impact areas. The layouts soften the impacts. The tree preservation ordinance could be met. Stormwater management could be managed. He said it really comes down to the public benefit requirement of the planned unit development (PUD). The use of a PUD was landed upon almost accidentally because the thinking would be to use R1-A zoning. However the requirements of R1-A necessitated using PUD instead. The feeling is there really is a strong market in the city for this type of housing. There are a lot of ramblers in the city but generally they are older housing stock. Renovating those likely would require tearing them down and rebuilding.

Vanessa Greene, 3632 Arbor Lane, said the planning commission and city council both had denied the request for rezoning and now the developer was returning with essentially the same proposal to rezone. The changes were not that significant. Only seven trees have been added. There would be significant grading that could kill more trees. The density was still too high and was out of character of the neighborhood. City staff had indicated there was no significant public benefit. She was still concerned with
stormwater issues. She was also concerned that the city ran a campaign last year called Imagine Minnetonka, to get input from residents about what they wanted for the city. She and a lot of others commented what they loved about the city were the large lots and wooded areas with mature trees. She questioned why the input was asked for if it wasn’t going to be listened to.

Cheryl Smith, 3624 Arbor Lane, said her main concern was the requirement for public benefit. The neighbors all talk about the wildlife that live in the woods. Every house that is added reduces the number of trees and animals that live in the woods. She didn’t see how retaining walls could be built without destroying the trees. She asked the council to consider the public benefit for the entire neighborhood and not just these four proposed houses.

Ron Hanson, 12215 Mari Lane, said he was 68 years old and his family moved into the area when he was 10 years old. As far as he knew the woods had been there for a long time. The area had been untouched for at least 58 years. A lot of the aesthetic would be lost with this development.

Schneider asked Anderson if he would prefer the item be tabled to allow him to reevaluate the plan if the council indicated a preference for three lots. Anderson said that would be his preference, and it was likely three conforming lots could be created.

Wagner noted it was a long process and the council felt the concept plan was too intense. It was also thought at one point R-1A zoning was a possibility until the cul-de-sac was looked at. The idea behind the R1-A ordinance was the city wanted and understood the need to have a variety of housing stock but it needed to fit in with the neighborhood. He was more in favor of traditional R1 zoning in this area. He didn’t see a public benefit to the $600,000 price point.

Wiersum agreed with Wagner. He didn’t think this rose to the level of public benefit that would make a PUD make sense. The council in the past had talked a lot about the concern of small lot creep. He believed the city would be looking at greater density. He believed the developer when he said the market he is looking at exists. These would be great houses in the right spot. Requiring a PUD in this location makes it not the right spot. He supported R1 for this location.

Acomb said she really appreciated a lot of what the developer wanted to include in the development. She believed single level living was a need in the community. She appreciated the geothermal and some of the other
nontraditional aspects as well. However, she didn’t think they rose to the public benefit level. She would love to see them used in a three lot development.

Ellingson said he agreed with the other council members’ comments and thought the applicant should be allowed to come back with a revised plan rather than have the council reject the plan altogether. Schneider agreed.

Wagner moved, Acomb seconded a motion to table the item to a date to be determined. All voted “yes.” Motion carried.

15. Appointments and Reappointments:

A. Appointment of representatives to various advisory boards, commissions and committees

Schneider moved, Acomb seconded a motion to approve the appointments to the various advisory boards, commissions and committees. All voted “yes.” Motion carried.

16. Adjournment

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:50 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk