Minutes
Minnetonka City Council
Monday, February 8, 2016

1. Call to Order
Schneider called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance
All joined in the Pledge of Allegiance.

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

4. Approval of Agenda
Wiersum moved, Bergstedt seconded a motion to accept the agenda, with addenda to items 13C, 14A, and 14B. All voted “yes.” Motion carried.

5. Approval of Minutes: January 25, 2016 regular meeting
Allendorf moved, Acomb seconded a motion to approve the minutes of the January 25, 2016 regular meeting, as presented. Allendorf, Acomb, Wiersum, Ellingson, and Schneider voted “yes.” Bergstedt abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members
City Manager Geralyn Barone reported on upcoming meeting and events.

8. Citizens Wishing to Discuss Matters not on the Agenda

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

   A. Competitive Franchise Agreement with Qwest Broadband Services, Inc., d/b/a Century Link
Allendorf moved, Acomb seconded a motion to adopt ordinance 2016-04 granting a Cable Television Franchise to Qwest Broadband Services, Inc. d/b/a CenturyLink. All voted “yes.” Motion carried.
B. Resolution for the 2016 Street Rehabilitation project for the Libb’s Lake area

Wiersum asked that the item be pulled from the consent agenda. He said he was fully supportive of the project but because it was a major project that would involve quite a bit of reconstruction and disruption, he asked staff to provide more information.

City Engineer Will Manchester provided a staff report.

Wiersum asked if there would be times when people would have to park away from their homes and then walk. Manchester said it was anticipated there would be some times when driveway access and requiring people to park away from their homes would occur. The plan was to make sure that people could get out every morning before 7 a.m. and back to their homes in the evening. The main time when access would be limited would be when the curb and gutter was installed.

Schneider noted there had been follow up issues with the utilities and recent efforts had been made working with them better to address issues in a timely manner. He asked if staff was optimistic that things would improve. Manchester said he was optimistic due to Hennepin County’s effort in getting the utilities, cities and the county working better together. The city has already met with a couple of the utilities about the issues.

Wiersum said this was a challenging part of the city in terms of road layout and the scope of the project. The end result of the project would be much better streets. He encouraged residents to keep the big picture in mind while the city did everything it could to minimize the disruption.

Bergstedt said the city was having more and more of these challenging and difficult reconstruction projects. There were some things the city could control and others that the city has no control over. He said the city had made great strides in being proactive in meeting with neighbors ahead of time to provide information about the process, and most importantly who to contact if issues arise.

Wiersum moved, Allendorf seconded a motion to adopt resolution 2016-010 accepting plans and specifications and authorizing the advertisement for bids for the 2016 Street Rehabilitation Project No. 16401. All voted “yes.” Motion carried.
C. Resolution approving a Joint Powers Agreement with city of Hopkins for 4th Street North

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-009 approving the Joint Powers agreement with the city of Hopkins for 4th Street North, included in the city of Hopkins 2016 Street and Utility Improvement Project. All voted “yes.” Motion carried.

D. Items concerning a licensed day care facility at 10401 Bren Road East:

1) A conditional use permit; and
2) Final site and building plans

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-015 approving a conditional use permit and final site and building plans for a licensed daycare at 10401 Bren Road East. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:

A. Resolutions vacating public right-of-way at 5835 Louis Avenue

Manchester gave the staff report.

Schneider opened the public hearing at 6:53 p.m. No one spoke. He closed the public hearing at 6:53 p.m.

Allendorf asked what the difference was between what the property owners were requesting, and what the staff recommendation was. Manchester said the property owners had asked for the vacation. City Attorney Corrine Heine said the alternative would have been a variance from setback requirements but that also would involve a public hearing process. The vacation would provide the property owner more land that could be put toward their own use. From a valuation standpoint, the land should have greater value.

Schneider said in many cases when there was an area that was platted in sections where there was a temporary cul-de-sac, the cul-de-sacs were taken as temporary right-of-way easements rather than having a formal plat. Once the road was connected it didn't require a formal process to
remove it. He asked if the city had a policy related to doing a formal plat for a temporary easement. Heine said if the city knew a road would be extended in the future and that a cul-de-sac was temporary, the bulb would not be platted but instead a temporary easement would be obtained. Schneider said he was glad that was the case because it was the way most cities operated.

Acomb moved, Wiersum seconded a motion to adopt resolution 2016-011 vacating the right-of-way, reserving a permanent drainage and utility easement over the entire area to be vacated; and reserving a temporary snow storage easement over the westerly 10 feet of the area of vacated right-of-way. The snow storage easement will terminate when the cul-de-sac bulb pavement is removed in the future. All voted “yes.” Motion carried.

B. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Urbank Coffee LLC (Dunn Bros Coffee), 14525 State Highway 7

Barone gave the staff report.

Schneider opened the public hearing at 6:58 p.m.

Richard Gunderson, 12009 Urbank Circle NE, Blaine, said he was a 50 percent owner of Urbank Coffee. The plan was for a small six stool bar along with a private conference room seating 8-10 people. Dunn Brothers would seat around 40 people. Tap beer would be served and wine served by the bottle. He provided information about the training that would be provided to the employees. He and his wife would obtain bar certification licenses as well. The goal was to begin construction work in two to three weeks and the opening would be in May.

Wiersum asked for clarification about selling wine by the bottle. Gunderson said the wine would be served out of a bottle as opposed to wine served out of a tap. The wine would be served by the glass. Wiersum encouraged Gunderson to participate in the city’s best practices program.

Bergstedt moved, Acomb seconded a motion to continue the public hearing to March 14, 2016. All voted “yes.” Motion carried.

C. On-sale liquor licenses for RS Sports Grill, 12501 Ridgedale Drive

Barone gave the staff report. She noted the addenda to the agenda included a letter from an attorney representing the property owners expressing some concerns. She said staff would work with the applicant to address the concerns before the item returns to the council on March 14.
Schneider opened the public hearing at 7:03 p.m. No one spoke.

Wiersum moved, Allendorf seconded a motion to continue the public hearing to March 14, 2016. All voted “yes.” Motion carried.

D. Resolution vacating drainage and utility easements and approving preliminary and final plat for Wilson Ridge 5th Addition, 4329 Wilson Street

City Planner Loren Gordon gave the staff report.

Schneider opened the public hearing at 7:09 p.m.

Jeff Detloff indicated he lived just north of the property. He said he welcomed the development but his main concern was with the drainage. When he purchased his property the city was adamant about having a swale on the property to help with drainage. He said his concern was there would be a pretty significant hard cover area and he questioned if there was enough open area to the north to hold the water. Schneider indicated staff would run the calculations to make sure the drainage requirements were met.

Lori Detloff encouraged the council members to come look at the site if they had not already done so. She said the little pond would not stop the drainage from running into her basement. Schneider said ponds were setup to control the rate of runoff. If the pond becomes full the water would run downhill. He said the engineering aspect would be looked at by city staff to ensure that the rate of runoff from the hard cover surface would be comparable to what it was prior to the development.

Michele Caron, 4335 Wilson Street, said in general she was OK with the preliminary plans. She noted one of the planning commissioners made a comment about pushing the buildings closer to the street. She preferred the buildings not be any further toward the street than her house is. She did not want to see a huge house in front or in back of her house. She asked to be notified when the building plans were submitted to give her comfort about the drainage.

Schneider closed the public hearing at 7:14 p.m.

Schneider said the development might be an ideal candidate to encourage use of impervious pavers in addition to the rain gardens.
Wiersum moved, Bergstedt seconded a motion to adopt resolution 2016-012 approving preliminary and final plats for WILSON RIDGE 5TH ADDITION. All voted “yes.” Motion carried.

Wiersum moved, Bergstedt seconded a motion to adopt resolution 2016-013 vacating existing drainage and utility easements on Lot 1, Block 1 Swallow Hollow. All voted “yes.” Motion carried.

14. Other Business:

A. Concept plan for Highview Villas, a residential development of properties at 4301 Highview Place and an adjacent, unaddressed parcel

Gordon gave the staff report.

Tim Whitten with Whitten Associates said his group listened to the comments made at the planning commission and council meetings about the 10 lot concept plan. One area of that was reworked involved the northern portion of lots where comments were made about the lots being too close together. A lot was removed from that section. The new configuration allowed for quite a bit of space between the homes and also gaining more space between the homes on the cul-de-sac. He said he went to the Hennepin County website to look at the lots surrounding the area. Many of the lots were of similar size to this plan. There were a lot of things restricting what could be done on the site including sewer depth, the topography that falls to the east and to the south, and attempting to protect the trees along the perimeter. He said there was enough land on the site to support R1A zoning but some of the lots would be a little narrow because of the restrictions of the site. One benefit in using a PUD was the size of the homes could be fixed. Another benefit would be storm water management could be done as well as protecting the perimeter trees.

Rob Eldridge with Ridge Creek Custom Homes said the cul-de-sac was driving whether R1A could be met. He said he would love to be able to get the three lots on the east side to fit under R1A. They match all the criteria except for the width. Making the cul-de-sac longer would require all the homes along the cul-de-sac to have a lift station in the basement. He said each development was unique and it was really up to the eye of the beholder to look at the general scope of the neighborhood to try to find a product that fits as best as possible. This plan would fit in with the majority of the surrounding area. He thought putting six homes on the property that would sell in the range $850,000 to $950,000 in today’s economy might kill the project.
Bob Anderson, 4316 Highview Place, asked if the lot with the existing home at 4301 Highview Place would remain zoned R1 or if it would be rolled into a PUD or a R1A. Gordon said it was undetermined at this point. Anderson said a report from the city indicated prior use of PUD had only been used for multiple unit dwellings or attached homes. Staff response included in the addendum to the agenda indicated PUD had been used for single family homes as well. He asked where that information could be found. He was concerned if someone decided to have a party or gathering with cars parked on both sides of the access road, it would be difficult for a fire truck to get through. He indicated over the weekend there was a Super Bowl party with cars parked on both sides of Maple Lane. His wife came home and said she could barely get her car through. The zoning question would be easily resolved by leaving it R1 and building six homes.

Marquise Watts, 4233 Maple Lane, said he did not mind that there was going to be a development but having nine or ten smaller homes on the little lots didn’t fit the character of the neighborhood. His biggest concern was Maple Lane like many streets in the city, was very narrow. In the wintertime it is difficult to try to get up and down the street with cars parked on both sides. He questioned where plowed snow would be placed.

Greg Carson, 4222 Maple Lane, asked the council not to divide the neighborhood with different rules. He was concerned with the unknown that happens with change. If all goes well the development could be great but there was a chance something could go wrong that was not expected. He said he could not know the unknown. He could not articulate how the current open spaces feels. He could not state the difference in impact between six and nine homes. He said he did know the difference with a third of an acre versus a half acre. He knew the difference of a home 25 feet from the street with one 30 feet from the street. He knew the difference between 20 feet between the homes and 30 feet between the homes. He said the city’s zoning rules were developed to help define things and ensure consistency. He was ecstatic with the six home plan because it would fit in with the neighborhood. He was against R1A zoning because of the one-third acre lots. This was not the Minnetonka he moved into. The difficult thing was defining the scope of the neighborhood. The planning commission asked the developer to be creative. Carson said he didn’t think going from a 10 house plan to a nine house plan was creative. He questioned the need for a cul-de-sac. Five to seven homes could be built without the need for a cul-de-sac. Another option that was not looked at was shared driveways. He said he was not concerned with the number of homes but rather his concern was changing the rules.
Gordon said the PUD information Anderson provided was only for attached multi-family product or commercial PUDs. The change memo provided by staff indicated there were 611 single family detached housing where a PUD was used. He said the cul-de-sac would meet the city’s standard and would be adequate for fire and emergency vehicles. Maple Lane was also within the city’s standards for width.

Wiersum asked if the proposed cul-de-sac would be the same width as Maple Lane. Gordon said that was not known yet. A 26 foot width would be the starting point and could be narrowed for good cause.

Schneider said the snow storage issue was dealt with for all the other cul-de-sacs in the city. It was not easy but it was always worked out.

Allendorf said the council had previous discussions about what really constituted a neighborhood and what should be counted to meet the R1A standard or counted as part of the character of the neighborhood. He said looking at the drawings the Kings Drive area on the south side did not appear to be part of the neighborhood being discussed. Looking at the lot sizes on Maple Lane and Lake Street Extension he questioned why there were nine proposed houses in the plan. If one of the houses was removed on the north side of the proposed development, it would make the lots for the three homes at least 20,000 square feet. This would be more consistent with the neighborhood to the west. An eight unit development would look more normal with the rest of the neighborhood going up Maple Lane to the property. He didn’t think there was a significant difference in the nine lot plan from the previous ten lot plan. He said as far as the parking issue it didn’t matter how many homes were built, if someone was having a Super Bowl party there might be issues. That issue could be addressed with signage.

Acomb said it was the lot width that made the plan not compatible with the Queens Way lots. She said she agreed with Allendorf’s statement about an overall development of eight houses being more consistent with the overall neighborhood. She didn’t see a lot of change between the 10 lot plan and the nine lot plan. She would be more comfortable with eight houses.

Wiersum said the council had grappled with the issue of defining what a neighborhood was and he had used the term “small lot creep” in discussions about what was an appropriate area for smaller lots. He said the map being discussed showed two neighborhoods. The question was about the appropriate lot size and configuration of the one neighborhood. The applicant had done a good job discussing the differences between the 10 lot plan and the nine lot plan and clearly the nine lot plan was more
spacious. Wiersum said the location created an opportunity for some more creative thinking. For the product being discussed, this was a nice location. He agreed with other comments about preferring eight lots as opposed to nine. He thought the idea of shared driveways was interesting because it would reduce the amount of hard surface.

Bergstedt said when the plan first came before the council in 2014 he was excited because it was a six lot plan that met all the R1 standards. This was not typical as many times proposals come in way that are way too dense and have to be scaled back. Over time because of a number of factors the plan came back with 10 lots. For many this was way too dense. He said if there were eight lots, it was likely they would all meet R1A standards. He wasn't sure if eight lots was the magic number. He didn't think the city needed to approve a major change to the area just to make the price points work for the developer. He could possibly support an eight lot plan, especially if there was some creativity, but would have difficulty with a nine lot plan.

Ellingson said for the Woods of Fairview project the proposal was for seven lots. The city approved five lots. The homes got built and the sale price was for $700,000 to $900,000. He said it was not a $900,000 neighborhood but more like a $300,000 neighborhood. He thought the developer and builder’s concern was legitimate that six lots with large homes would not work. He noted the sign for the Groveland Pond development said the homes were starting at $750,000 even before the council approved the project. He understood the neighbors' preference to have half acre lots. Unfortunately what has happened in the city was that prices have gotten out of hand. He understood the need to have a few more lots in an effort to have smaller homes and lower prices.

Schneider said every area and every neighborhood in the city was different. The things that made an area unique had to be considered when a plan came before the council. He said in this case there was the proximity to I494 and Highway 7, a major off ramp, and all kinds of noise impacts. The decision for him was about what made the most sense in terms of a housing and diversity of housing type for the particular character of the property not that the neighbors thought the lots had to be the same as their lots. This generally wasn’t the way these types of areas develop. They develop based on the market demand and the need. He noted one of the comments was there were no rules with a PUD but in fact the opposite was true. With a PUD the city had the ability to say what was in the plan was exactly what had to be built. With R1A zoning there were setback and some lot size requirements but there was little control over the exact home that could be built. He was concerned that by continuing to ask the developer to reduce the number of lots, at some point it would
just get platted to move forward. The lots might just sit there because a builder would not take the chance of building million dollar homes. Eventually a home might get built on one lot with nothing happening on the other lots for a number of years. Then another builder could come in who doesn’t think about things like tree cover or drainage.

Schneider said he would prefer determining the right setback between the northerly homes. Having 25 feet between the homes was not that different than any other half acre lot neighborhood but would restrict the size of the homes. The tradeoff was having a single builder doing the entire development and reducing the development by one lot and risk having the development never happen or occur over a number of years with no control over the size of the homes. He said when he saw the plan his initial reaction was not favorable but when he saw the elevations, the distance between the homes, the attractive, good quality homes in a price range that’s needed in the city, he changed his mind. He would be inclined to gamble on allowing nine lots rather than having the area platted and seeing what happens over time.

Wiersum said assuming there were nine $250,000 lots it would total $2,250,000 in property. Dividing that total by eight would equal $281,250 per lot. This would mean the house costs would likely be around $50,000 more. He said the notion that the homes would have to be $200,000 more if a lot was removed didn’t seem quite right. He agreed keeping the homes within the desired price point was important.

Michael Halley, 14801 Minnehaha Place, said he was under contract to purchase the Swanson’s existing home. The plat indicated there was around 30,000 square feet. He was willing to commit to a covenant on the property that would stipulate it would not be subdivided. He said the home was a mostly one level home that sits in the center of the lot and has a swimming pool. He and his wife have been looking for a home they felt comfortable with. He said Ridge Creek Homes’ valued the lots around $150,000 to $175,000 to deliberately hit a price range around $550,000. Halley said he had concerns with the proximity of the freeway but being in the proximity of new homes in that price range gave him comfort. He asked that if he committed to the covenant to not subdivide, that it be credited toward Ridge Creek’s development.

B. Concept plan review for Villa West at 16913 State Highway 7

Gordon gave the staff report.

Allendorf asked if there were three properties, the Nelson’s, the Anderson’s, and the Carlson’s involved in the original plan. Gordon
confirmed that was correct. Allendorf noted the proposed development was on one of the properties. There was a potential development on the second property. He asked how the third property fit in with an expansion of the idea. Gordon said there was not a roadway connection that one might expect with a development. He said all the properties need city utilities. The current sewer and water was at the northwest corner of one of the properties. The likely scenario would be to extend that east to serve all the properties when redevelopment occurs. This was the connecting piece between all the properties.

Allendorf asked if the Nelson property would need its own access to Highway 7. Gordon said under this plan that would be the case. Allendorf noted in the original plan there was a one way street and two access points to Highway 7. MNDOT would not want too many access points from a safety standpoint. He questioned if this plan for the two properties would harm development of the third property. Gordon said one of the things the city would have to look at if plans started coming in for the individual properties was how best to coordinate access.

David Carlson, 2249 Portico Green, indicated he was not related to the owner of the property. He said when he first got involved with the project and knowing the builder, he was concerned with the amount of money that would be spent on the site with beautiful lots on the south side of the property but with lots along Highway 7 that would be difficult to sell. He said he had previous developments in other suburbs for one level empty nester townhomes and thought that product would fit in well in this area. The price point would start at $489,900. Adding a sun room and loft would increase the purchase price to $589,900. He said he presented an offer to buy the Anderson property but Anderson declined. There was a neighborhood meeting that went well. The idea of adding space without increasing the height of the building was well liked.

Wiersum asked Carlson if he was comfortable going forward with the stand alone plan without the Anderson property being involved. Carlson said he would go ahead with the plan without the Anderson property.

Acomb asked if Carlson had discussions with the property owners on the other side. Carlson said those property owners had a similar position to Anderson. The loss of property value from the last recession made it difficult for people to decide to sell. To connect to the property to the east would be challenging due to the wetland.

Allendorf noted the original concept plan connected all three properties. He asked how that plan dealt with the wetland. Carlson said the connection in the original plan would take out two of the houses he was
proposing. He didn't think the numbers would work if those houses were removed. Allendorf said the land use plan showed the whole area as being developed in a consistent manner. Gordon said the comp plan would like nice orderly development and it would be a goal for that to happen. Allendorf said the preference would be not having three streets go out to Highway 7 and instead somehow internally connect.

Schneider said ideally one of the lots off of Clear Spring Drive would be picked up so direct access to Highway 7 would not be needed. This was not likely. He asked what MNDOT feedback was about the access. If the properties were redeveloped into higher density was there an obligation to allow the continued access with five times the amount of traffic. Gordon said it was a difficult question to answer because of the timing issue. With five owners for the six properties that are all single family homes that seemingly will redevelop sooner rather than later, the ideal number of access points would have to be determined. The goal was zero access points but if the properties were redeveloped at different times the opportunity to meet that goal might go away. City Engineer Will Manchester agreed the goal would be zero access points. He believed MNDOT had a requirement for individual lots. Schneider asked if it was feasible if MNDOT determined it needed ponding for the area, one of the homes on Clear Spring Drive would be purchased for that and to provide access. Gordon said it was possible this could occur.

Wiersum said from a product standpoint the proposal was attractive. The negative issue was what was going to happen with the other properties. He said his guess was if this plan was approved and built as is, it would impact what would happen with the other properties. His preference was for the property owners to agree on something.

Dr. John Eiden, 16821 State Highway 7, said he bought his property about 10 years ago as an investment opportunity. He started out thinking the highest and best use was for open land. He thought Carlson's ideas looked good but didn't make sense. Eiden said the properties should be developed as one piece. Four of the property owners wanted to do something as one. He said he was not going to give away his property nor would he be pressured into selling. He was against spot zoning. He and Anderson were going to remain holdouts until something came along that made sense.

Beth Frost, 4914 Clear Spring Road, said she was a real estate agent who knows there was a huge demand for this type of housing. In a perfect world the whole plan would be done with the lots all the way down Highway 7.
Schneider said he would seriously question any senior housing project for any of the properties. Even though many seniors do not drive, there would be traffic from visitors, emergency and delivery vehicles. A town home product or something similar was probably the right thing to do.

Acomb said she liked the product and the fact the houses would not be too tall. The piece meal aspect concerned her.

Bergstedt noted the properties were in his ward. He said no one liked the previous plan with the 30 homes and one way street. A lot of the neighbors on Clear Spring were concerned about stormwater issues. A number of the residents wanted the city to purchase the properties to keep as open space. This likely was not going to ever happen. He said the worst thing would be to develop the properties piece meal but if the property owners could not come together to do something that was coordinated there was nothing the city could do to prevent any of the parcels from being developed. He thought the type of housing was good. Another concern from the residents on Clear Spring was the possibility of MNDOT closing the access on and off of Highway 7 and creating a new access back to Clear Spring. Whatever happens with the parcels, he hoped the bike and pedestrian trail would remain, and depending on the volume of traffic, creative things are done with signage and other things for the safety of the trail users.

Allendorf said he liked the product in isolation. If this property and the Anderson property could be developed together he wondered if there could be a shared entry on to Highway 7. This would give him some comfort about some of the piece meal aspects of the development.

Schneider said he had similar thoughts about the access to Highway 7. He wasn’t sure where the best location for the one access point would be. The concept of having 12 or 13 homes rather than six along with one access point was a better alternative.

Wiersum said there seemed to be agreement that the product was a good product. There also seemed to be agreement that a development involving multiple properties was significantly more desirable than developing the one property. The economics was the issue in getting that to happen. He questioned if there was a way to make the properties more valuable for the property owners. One way was adding density.

Allendorf said it would be nice if the access point for the Carlson property could be placed where the Anderson property could hook up to it when it was developed.
Carlson said he pointed out to Anderson that if the Carlson plan was developed it would limit what Anderson could develop on his own property because of the setbacks.

Allendorf asked if the Carlson property was developed and then later on the Anderson property was purchased by the Carlson property owner, if the lots could then be combined. Gordon said that could occur. The zoning classification would come in to play.

C. **Resolution supporting the DEED Job Creation Fund Application by Freudenberg North America LP**

Wischnack gave the staff report.

Acomb moved, Allendorf seconded a motion to adopt resolution 2016-014 expressing support of the project proposed by the Company and its application for an award from the DEED Job Creation Fund.

15. **Appointments and Reappointments:**

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

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

16. **Adjournment**

Wiersum moved, Bergstedt seconded a motion to adjourn the meeting at 8:56 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk