Minutes
Minnetonka City Council
Monday, March 14, 2016

1. Call to Order

Mayor Terry Schneider called the meeting to order at 6:30.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

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

5. Approval of Minutes: February 29, 2016 regular meeting

Wiersum moved, Bergstedt seconded a motion to approve the February 29, 2016 regular council meeting minutes, as presented. Wiersum, Bergstedt, Ellingson, Allendorf, Acomb and Schneider voted “yes.” Wagner abstained. Motion carried.

6. Special Matters:

A. Proclamation for 2016 Empty Bowls Event

Schneider read the proclamation.

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings and events.

Acomb reported on the National League of Cities conference that she attended along with other council members and the city manager.

Bergstedt noted he attended the conference as well. He said with all the dysfunction going on at the federal and state government level, there are a number of amazing things being done by cities.
Wiersum congratulated the Minnetonka High School girls basketball team for making it to the state tournament; the Wayzata High School boys hockey team for winning the state tournament; and the Hopkins High School boys basketball team for winning the state tournament.

8. Citizens Wishing to Discuss Matters not on the Agenda

Bill Jones, 5120 Lee Way, said he and his partner started the Rock ‘n’ Read project. The bus that was parked in the Kraemers parking lot was part of the project. John Kraemer gave permission for the bus to be parked there. Over the summer, city staff contacted Jones to let him know there was a complaint about the bus sitting in the parking lot and it would have to be moved. He was told it was one of the council members who had made the complaint. He asked about the two postal trucks also parked in the parking lot and was informed there were no complaints about those trucks. He found a new location to park the bus but during the spring there would be a cleaning and volunteer day and he wanted assurance that he would not be cited if the bus was parked in the Kraemers lot. He asked if it was common that the city enforced ordinances only when there were complaints.

Schneider said there was a longstanding informal policy that the city did not go out and look for ordinance violations. If a complaint was received the ordinance was enforced. There is an attempt to balance being flexible in allowing the community to do what it thinks is right versus not allowing things to get out of hand. Staff usually is able to work with the person involved to find a solution to address the issue. Barone said staff follows up on a complaint no matter who has made the complaint. Staff tries to work with the person to make sure the community standards are followed. She said just because the property owner grants permission, it doesn’t mean the ordinance does not have to be followed.

9. Bids and Purchases:

A. Bids for 2016 Street Rehabilitation project, Libb’s Lake area

Barone gave the staff report.

Wagner asked if the city had past issues with a company that made a bid, how the past experiences are taken into account when deciding which bid to take. City Engineer Will Manchester said this year in evaluating the bids the whole package including the subcontractors were looked at. All the subcontractors involved with this project met the qualifications.
Wiersum noted the budget amount was quite a bit higher than the contract amount. He asked if part of this was because of the low oil prices. Manchester said in talking with other cities, lower prices were being seen throughout the industry. This hasn’t been specifically correlated to the low oil prices.

Wiersum moved, Wagner seconded a motion to award contract to GMH Asphalt Corporation in the amount of $7,267,853.82 for the 2016 Street Rehabilitation project, Libb’s Lake area. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote: None

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

   A. Items concerning 14840 and 14900 State Highway 7:

   1) Ordinance rezoning a portion of 14840 State Highway 7 from B-1, Office, to PUD, Planned Unit Development;
   2) Ordinance amending the existing master development plan;
   3) Site and building plan review;
   4) Conditional use permit; and
   5) Preliminary and final plats.

City Planner Loren Gordon gave the staff report.

J. Lindsay, 17202 Grays Bay Boulevard, said he was excited about the project and with the tenant who would occupy the building.

Wiersum said the access on to Highwood was discussed at the neighborhood meeting. He asked the planning commission to look at if the access was a must have or a nice to have. Keeping the commercial area separate from the residential neighborhood appealed to him.

Schneider said he shared Wiersum’s concern. He complimented the architect for the work on the building. The building has been lacking for a number of years. He said the architect did a phenomenal job making the building look like a professional building.

Gordon noted the expanded notification area.

Allendorf asked if there was access on the west side to the parking area. Gordon said the existing access would remain.
Wiersum moved, Wagner seconded a motion to introduce the ordinance and refer it to the planning commission. All voted “yes.” Motion carried.

13. Public Hearings:

A. 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 7:05 p.m. No one spoke. He closed the public hearing at 7:05 p.m.

Bergstedt moved, Allendorf seconded a motion to continue the public hearing and grant the on-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Urbank Coffee LLC (Dunn Bros. Coffee), 14525 State Highway 7. All voted “yes.” Motion carried.

B. On-sale liquor license for RS Sports Grill, 12501 Ridgedale Drive

Community Development Director Julie Wischnack gave the staff report for items 13B and 13C.

Schneider asked if the issue that was brought up initially had been resolved. Wischnack said she did not think the issue was resolved.

Schneider closed the public hearing at 7:08 p.m.

Allendorf moved, Wagner seconded a motion to close the public hearing. All voted “yes.” Motion carried.

C. On-sale liquor license for Redstone American Grill, Inc., 12401 Wayzata Boulevard

Schneider opened the public hearing at 7:09 p.m. No one spoke.

Allendorf moved, Wagner seconded a motion to continue the public hearing until April 11, 2016. All voted “yes.” Motion carried.

D. 2016 Community Development Block Grant funds

Wischnack gave the staff report.
Wagner noted in the Small Projects Program there were only three projects in progress. Historically that number has been much larger. Wischnack said in the past there was a backlog of projects. Projects were not being completed quickly enough. She was pleased with the turnaround. Wagner said it was a great improvement because these were not the types of projects involving furnaces and windows that should sit around for a long time.

Allendorf asked how the city advertised the programs. Wischnack said staff tries to get the information out in a number of ways. One effective way was to include information in the city’s newsletter. More impactful are the communications with nonprofits in the community.

Schneider asked what happened with the funds once they are paid back. Wischnack said the money goes back into the CDBG fund and can be used to fund other projects.

Schneider opened the public hearing at 7:20 p.m.

Jon Burkhow, director of the HOME Program for Senior Community Services, provided an update on the organization’s activities including starting up a new volunteer ambassador program, and a home health and safety assessment. He said 123 Minnetonka residents were helped over the past year.

Schneider closed the public hearing at 7:25 p.m.

Wagner moved, Bergstedt seconded a motion to adopt Resolution 2016-019 allocating the CDBG funds and to approve funding HOME Line in the amount of $2,000 from the Development Account. All voted “yes.” Motion carried.

14. Other Business:

A. Items concerning Williston Woods West, a five-lot subdivision at 5431 and 5429 Williston Road:

   1) Ordinance rezoning the properties from R-1 to PUD and adopting a master development plan;
   2) Preliminary plat; and
   3) Final site and building plan.

Gordon gave the staff report.
Curt Fretham, 14525 Highway 7, said he would work with the grades to do a better job transitioning for the retaining wall between the lots. He said earlier in the day he learned that three existing services can probably be re-used meaning there no longer needed to be five cuts out into the street. He asked that the mill and overlay condition in the resolution be looked at again.

Acomb noted that when Fretham was previously before the council he said he was having difficulty finding a builder. She asked if any progress had been made. Fretham said there was a builder who was interested but he didn’t like the floor area ratio restriction. Another builder has not been found yet.

Wiersum asked Fretham how confident he was on a scale of one to 10 that he would get the project built. Fretham said the FAR was a big deal so his answer was seven or eight. Wiersum asked Fretham to provide information about what changes he would make related to the three existing services. Fretham said it would depend on the condition of the services. They made need to be sleeved. He thought two cuts into the street should be possible. This would mean far less patch work.

Allendorf said what he took from Fretham’s answer to Acomb and Wiersum was that the FAR was the problem. He said there have been instances in the past where developers have come back to the council after they had gotten an approval and asked for approval of something larger. He asked if that was what Fretham intended to do. Fretham said that was not his intention.

Bergstedt said the two parcels had been in disrepair for quite a few years. They were challenging parcels with steep slopes and lots of mature trees that the city was trying to save. The original proposal was for six houses. The council, planning commission, and staff thought that was too many. He wasn’t sure he was going to be happy with five houses. If the zoning remained R1 there could be three houses built with three accesses on to Williston Road. This proposal would also have three accesses even though there were five houses. If three houses went in under an R1 the grading would be similar to what was being proposed. He thought the proposed five houses were an appropriate transition from the commercial area to the existing single family homes. He thought the prices were appropriate. He said it bothered everybody that there wasn’t a builder and he appreciated Allendorf’s FAR question.
Allendorf moved, Acomb seconded a motion to:

- Adopt ordinance 2016-07 rezoning the property from R-1, low-density residential, to PUD, planned unit development, and adopting the master development plan for WILLISTON WOODS WEST;
- Adopt resolution 2016-020 approving a preliminary plat for WILLISTON WOODS WEST.
- Adopt resolution 2016-021 approving the final site and building plans for WILLISTON WOODS WEST.

All voted “yes.” Motion carried.

B. Increase the unit count for Cherrywood Pointe of Minnetonka at 2004 Plymouth Road

Gordon gave the staff report.

Acomb noted that when the developer previously was before the council there had been some recommendations and requests for developing more outside space including walking paths, benches and sitting areas. She asked if more details had been developed.

David Young, United Properties, said work has been done with the civil engineer in developing a continuous walking path around the northwest side of the building to a small patio area with bench seating. This would be included in the final submittals.

Wiersum moved, Wagner seconded a motion to approve the increase in units. All voted “yes.” Motion carried.

C. Concept Plan for redevelopment of the TCF Bank site at 1801 Plymouth Road

Gordon and Wischnack gave the staff report.

Wiersum asked if there was a meaningful difference between the taxes this proposal would generate versus the previous proposal with two separate buildings that the council did not like. If the city participated with TIF it may pay for itself given the higher tax value. Wischnack said she would do some calculations.

Steve Johnson with Solomon Real Estate, said when the deal with TCF was formalized one of the stipulations was the bank had to remain open throughout the process because they are a retail bank. This was why the underground parking was being limited. He said he thought the plan was
meeting the vision of the city for more density and the plan was as dense as it could be for the small site.

Wagner asked for more information about how the space would be used. Johnson said there would be office space on the second and third floors. The exact number of offices was not known at this point. He said the building was designed to be a showpiece project.

Schneider asked if the glass accent piece was going to be an electronic billboard. Johnson said it was not. He noted the sidewalk that would wrap around the perimeter of the property was still part of the plan.

Wischnack said the current property value was $1.8 million. She estimated the property value for the previous plan with two buildings was around $3 million. The estimated property value for the proposed project would be around $5 million.

Wagner said the plan included retail on the first floor and office space on the top two floors. He asked if the use was converted in the future how boxed in options would be given the parking. Gordon said the office and retail would be the same ratio so the options would not really be boxed in. Wischnack noted there was quite a bit of parking across the way but retailers do not like to under park because this causes difficulty renting. Wagner asked if Johnson had engaged Wells Fargo in the dialogue given the shared entrances. Johnson said TCF, Wells Fargo and US Bank had been in communication with each other. There was a tri-party agreement that exists that had certain height restrictions. The agreement was being renegotiated. A lot hinges on what happens with this proposal.

Acomb asked what the height restriction was. Johnson said there currently was a two story height restriction.

Wagner noted the document he had seen had expired. Wischnack confirmed that was correct. Johnson said there was an existing private agreement in place between the three parties that had nothing to do with Ridgedale Mall.

Schneider asked as the process proceeds and there are discussions about the merits of TIF and subsidies, if it would make sense to establish a district for all three parcels. Wischnack said in her discussions with the financial consultant the best thing to do might be to establish a larger project area with each individual TIF district being set up separately. This was done in Glen Lake and other areas of the city.
Annette Bertelsen, 13513 Larkin Drive, said she was speaking on behalf of a small group of Essex Hills neighborhood residents to the west. She said her understanding on why the city had setback rules was partly due to the way buildings looked but also partly because of the rights-of-way around buildings. Adding underground parking changes the building footprint for the rights-of-way. She asked what the bigger footprint did for future rights-of-way particularly because of the county road, the gateway into the mall and the surrounding area. How would it impact future development particularly on the neighboring parcels? She said the group also would like some assurance that if this development occurs, the developer will match some of the streetscape upgrades being done across the street particularly if community funds were used. She questioned if there was enough public benefit to the development should public funds be used. She said the vison for the area was evolving but the development did not have some of the things the vision pointed to as desirable for the area. There was no residential element. Vacant office space was torn down in the area and now more office space was being proposed. She questioned if the estimated cost of the parking garage was realistic.

Schneider said the underground footprint of the two story parking ramp was all to the south. Any future road widening or realignment of Cartway Lane or Plymouth Road would not be impacted by the underground structure. Wischnack said Bertelsen raised a good point about looking at the setbacks to the right-of-way as one of the review criteria. Schneider said if in the future Wells Fargo decided to build an eight story hotel, the fact that there was an underground parking structure to the north could be worked around. As far as the streetscape upgrades, he hoped TCF would be open to trying to match what was being done across the street whether public financing was used or not. Wischnack said TCF had agreed to that. Schneider said if the council decided to go with some type of renovation renewal TIF, it had to meet the “but for” test. The amount that could be used would be fixed regardless of how much the parking garage costs.

Wischnack said there were many requirements in statute that govern how TIF can be used. It can be used for site acquisition, environmental remediation, site preparation, public improvements, and public parking facilities. She said it was yet to be determined if this project qualifies.

Wagner said Bertelsen’s comments about the footprint and right-of-way were important. The landscaping was important as well. He said there was no way the project could happen without some sort of variance being needed. This was another example of where the city’s concept plan review process was working. The first plan drew tough comments from the
council as did the second plan. The current plan was a step in the right direction. He said he hadn’t envisioned office use for this space but he wasn’t opposed to it. The building gets the city closer to the vision for the look and feel of the Ridgedale area. Looking at other mall retail areas, it was a combination of people living, working, eating and shopping in the area. Looking at the ongoing redevelopment not only for this parcel but the two to the right this evolution would occur. He said the proposal moved the city farther along even though it wasn’t what he had envisioned. He envisioned a high rent hotel that could still happen on the other two parcels. Even though this was a private party easement he would have grave concern over any limitations that would put restrictions on the other two properties. If the tests were met he would not be opposed to looking at public financing.

Wiersum said he appreciated the work TCF did on improving the plan and it was a big move in the right direction. It wasn’t the city’s vision but directionally and in the expectation for the area it was much more consistent with the vision than the previous plans. He said he was open to considering if public financing made sense for the site.

Acomb said when TIF was first brought up it made her uncomfortable because it was setting a precedence for all the other parcels and the area was ripe for redevelopment. She said the discussion made her reconsider the use of TIF. She felt very strongly about the underground parking and its importance. She appreciated TCF’s willingness to look at that. She said didn’t necessarily think the office use was a negative because it was another use in a mixed use environment.

Allendorf said in other developments office use was considered a higher use than retail or other uses so he was not bothered by the office use. It was up to Solomon Real Estate to find the tenants for the offices. In regards to TIF the council asked for more density after looking at the first plan. TCF came back with the same project with different colors. To him that meant TCF was pretty set on the project. He said he now saw that TCF and the developer were willing to compromise. They were willing to give the city something closer to what it was looking for without getting anything in return. He didn’t think this was pushing the envelope and made sense. The city would not get a project that came close to meeting the vision for the area without giving something in return. There were very few economic tools available. He was willing to explore if TIF made sense.

Ellingson said the building was very attractive and TCF responded to the council’s concerns. Because of the underground parking there was a need for financial assistance. He thought it was appropriate to use TIF.
Bergstedt commended TCF and Solomon Real Estate for coming back with the current plan. He thought the underground parking was a necessity to make the project work. He said this was one of the prime locations in the Ridgedale regional center. In order to make it work some financing might need to be done. His only concern was if city assistance was provided for this site, assistance might be asked for all the other sites in the area as they are redeveloped.

Schneider said when the envelope was pushed and more was asked for on the small site, the only way to do that was the underground parking that was very expensive. This made it incumbent on the council to use whatever tools are available as long as all the tests and criteria are met. He said during the very first discussions about the Ridgedale area, particularly the mall area, reducing the massive surface parking and adding apartments and other things, the only way to make that happen was to do what Southdale and others have done, build structured parking. This was difficult to do because of the cost. The answer was to look favorably at providing TIF for a public purpose. This proposal happens to be below grade but the same thing applies. If the city got similar requests for the other two parcels, the same measures would be in place: what could be done without using TIF and what the benefits are if TIF is used. He said the developer did a great job improving the look and fit. With the aesthetics and change of elevations and the feel of the buildings the red highlights no longer stick out but just accent the look. Looking forward some of the things he would like to look closely at are the mechanical equipment on the roof and that the streetscaping pattern in the area being maintained.

D. Resolution approving Opus Area Bridge improvement layout and authorizing easement acquisition

Manchester gave the staff report.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-022 approving the layout and authorizing easement acquisition for the Opus Area Improvements Project No. 14470. All voted “yes.” Motion carried.

E. 2016 Assessment Report

City Assessor Colin Schmidt presented the report.
Wagner noted usually housing quality data was available. Schneider noted that in 2008 the property values were only partially real and now he thought they almost all were real.

15. **Appointments and Reappointments: None**

16. **Adjournment**

   Wiersum moved, Wagner seconded a motion to adjourn the meeting at 8:52 p.m.  
   All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk