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

4. Approval of Agenda

Bergstedt moved, Wiersum seconded a motion to accept the agenda with addenda to items 10C, 13C, 14A. All voted "yes." Motion carried.

5. Approval of Minutes: April 11, 2016 regular meeting and LBAE meeting

Wagner moved, Acomb seconded a motion to approve the April 11, 2016 regular council meeting minutes and April 11, 2016 LBAE meeting minutes, as presented. All voted "yes." Motion carried.

6. Special Matters:

A. Proclamation declaring May 3, 2016 as National Teacher Day

Schneider read the proclamation.

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings and events.

Schneider noted he testified before the Minnesota House of Representatives Property Tax and Local Government Finance Division against proposed changes to TIF. The author of the bill chairs the committee.

8. Citizens Wishing to Discuss Matters not on the Agenda
9. Bids and Purchases:

A. Bids for 34th and Opus Lift Station improvements

Barone gave the staff report.

Wiersum moved, Wagner seconded a motion to award contract to Minger Construction Co., Inc. in the amount of $355,233.75 and amend the Capital Improvements Program (CIP). All voted “yes.” Motion carried.

B. Bids for Trunk Forcemain Lining – Phase III

Barone gave the staff report.

Acomb moved, Bergstedt seconded a motion to award contract to Visu-Sewer, Inc. in the amount of $1,290,312. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution designating Ridgehaven Lane as a Municipal State Aid street

Wiersum moved, Acomb seconded a motion to adopt resolution 2016-030 designating Ridgehaven Lane as a Municipal State Aid street. All voted “yes.” Motion carried.

B. Resolution approving polling place change and renaming the eight city precincts for the 2016 elections

Wiersum moved, Acomb seconded a motion to adopt resolution 2016-031 changing the polling place for Ward 1 Precinct D from Faith Presbyterian Church to Grace Apostolic Church and renaming eight precincts in the city. All voted “yes.” Motion carried.

C. Agreements for Metropolitan Council LHIA funds

Wiersum moved, Acomb seconded a motion to approve the agreement with the Metropolitan Council for LHIA funds and the sub-recipient agreement with Homes within Reach. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Amendment to the sign ordinance
City Planner Loren Gordon and City Attorney Corrine Heine gave the staff report.

Schneider noted the proposed changes included a lot of detail and a study session to discuss the goals of the ordinance might be useful. This could be a joint study session with the planning commission.

Wiersum noted the size of the ordinance and that there were a lot of different situations that were governed by the ordinance. He thought the amendment was a move in the right direction and having the planning commission give it a thorough review was a good idea. He agreed a study session to review the ordinance was also a good idea.

Barone noted at a study session visual examples could be provided.

Wagner moved, Wiersum 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 liquor license for Redstone American Grill, Inc., 12401 Wayzata Boulevard

Schneider continued the public hearing from March 14, 2016 at 7:02 p.m. No one spoke. He closed the public hearing at 7:02 p.m.

Wagner moved, Bergstedt seconded a motion to grant a new license for Redstone American Grill, Inc., at Ridgedale Mall (12401 Wayzata Boulevard), and rescind the transfer of the license from 12501 Ridgedale Drive. All voted “yes.” Motion carried.

B. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Field Day Ridgedale, LLC, 12259 Wayzata Boulevard

Barone gave the staff report. She noted the police department requested an extension to complete the background check.

Wiersum moved, Acomb seconded a motion to continue the public hearing to May 9, 2016. All voted “yes.” Motion carried.

C. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for LTF Club Operations Company, Inc. dba Life Café, 3310 Co Red 101
Barone gave the staff report. She noted there were a couple of comments included in the addendum.

Schneider opened the public hearing at 7:05 p.m. No one spoke.

Wiersum moved, Bergstedt seconded a motion to continue the public hearing to May 23, 2016. All voted “yes.” Motion carried.

14. Other Business:

A. Resolution approving a conditional use permit and final site and building plans for a licensed day care facility at 14730 Excelsior Boulevard

Gordon gave the staff report.

Jon Fahning, 6278 Mallory Lane, Eden Prairie, said he was with the real estate company representing the developer and also the general contractor representing the tenant for the project. Part of the reason the proposal was for a new building rather than redeveloping the existing building was the overall use. He said the access off of Williston was moved to align with the road to the west.

Bergstedt asked if everything goes as planned, what the possible opening date might be. Fahning said the plan was to start construction in June and then deliver the building to the tenant by the end of December.

Bergstedt said he was glad to see the day care proposal come back before the council because he thought a day care was an excellent use for the site. It would work as a nice transition between the commercial and residential districts. The concern council and staff previously had with the previous approval was if an aging hardware store truly could be retrofitted to become daycare facility. He was glad the current building was being taken down. Parking was never good in the area but the high traffic times for the daycare would be different from the other businesses and post office in the area.

Bergstedt moved, Acomb seconded a motion to adopt resolution 2016-032, replacing Resolution No. 2015-018 and approving a conditional use permit and final site and building plans, with a front yard setback variance, for a licensed day care facility at 14730 Excelsior Boulevard. All voted “yes.” Motion carried.
B. Consideration of petition for environmental assessment worksheet for 2016 Pavement Rehabilitation Project – Libbs Lake, Project No. 16401

Heine and City Engineer Will Manchester gave the staff report.

Devon Ekland, 3218 Shores Boulevard, said the city did not do a good job with its communication about the project. He urged better communication in the future.

Richard Kopy, 3013 Lake Shore Boulevard, said the residents had a disagreement with the city about the project. It wasn’t they did not want the project but he wanted everyone to understand what the residents were going through. He said the big issue was the trees and no one in the neighborhood had understood the impact as the project was approved. The neighborhood to the north has the same character and if the same thing was being done there, the residents would have similar concerns with the tree removal. The decision for the project type was due to water main breaks. The water main reconstruction was the reason for the majority of the tree destruction. He questioned why the water main reconstruction area was not focused on where the problem was. He said the neighbors want the city to look at just doing a water main replacement and street improvements in the very bad area. The rest of the streets should be done similar to what was being done in the neighborhood to the north. Curb and gutter should be removed from the project. He said the homes in his neighborhood on the south side of Libbs Lake do not have the property value of the homes on the north side of the lake but they have the same environmental values.

Kopy noted the agreement the city had reached with the Schmidts. He said the agreement should be used to save even more trees. Altering the road design and putting a trench box in place would save quite a few trees. Using a different installation method for the service line would save at least 30 percent of the trees. He showed pictures of trees that he thought could be saved by using trench boxes and the different installation method using a pneumatic gopher for the service lines. He said a tree replacement program should also be considered.

Bill Webster, 3209 Larchmore Avenue, said he was told by the University of Minnesota that the tree in front of his house was well over 200 years old and it was very healthy. He said communication was an issue. He went through all the material the city had sent and there was no mention of curb and gutters. It would save the city a lot of money not to put in curbs and gutters. The way his driveway is configured would require that he drive over a curb to the area where he parks his car.
Manchester noted the city’s construction coordinator was watching the meeting remotely and had indicated that all but two of the trees Koppy had shown as being removed would be saved. Trees are marked and then staff meets with property owners to determine if there were things that could be done to save the trees. Schneider asked if the tree Webster had mentioned would be saved. Manchester said it currently was planned to be saved.

Heine noted there was an agreement in concept with the Schmidt’s but had not been signed and finalized. She said the contractor had been very cooperative in working with staff to identify trees where using options like a trench box would restrict the impact to tree roots. Some of the things like relocating service lines could only be done with the permission of the property owner. She said some trees could not be saved. If the tree was a public hazard because too much of the critical root system was removed, it would have to come down. The city believes other trees, like the Schmidt’s, will likely die because of the impact to the root system. Those trees might survive the actual construction but it was unknown how long they would live. The city would only allow the owner to keep trees in that category if the owner signs an agreement similar to the Schmidt’s agreement.

Schneider said the city engineering staff had numerous meetings about the project but a lot of things could not be known until the field work began. This was part of the normal process. He believed the staff had a very consistent message since day one saying they would continue to work with residents on a one to one basis to identify ways trees could potentially be saved. Relocating the service lines was always an option that could be looked at. He noted the item before the council was not taking action on the project. The item before the council was whether to proceed with the EAW or if the project was exempt for the reasons staff indicated.

Wiersum said the council and city cared passionately about trees. The city wanted to do everything it could on a one to one basis to save as many trees in the area as possible. When he voted for the project it was with the knowledge of the infrastructure issues in the city. People wanted repaired infrastructure but they didn’t want to lose any trees. The reality was there were going to be trees lost no matter what construction method was used. He believed staff was doing what always was done in working with residents to look at options to save trees. He said curb and gutter was the standard in the city and the reason was it was cheaper in the long term.
Schneider said staff does a thorough job in balancing the right areas to do reconstruction versus doing an overlay. The bottom line was that eventually all the roads would need to be reconstructed. Cast iron pipe wasn’t meant to last 100 years.

Wagner said it was great the residents were passionate about saving trees. What he heard was that trenches would be used where they could be used as would the pneumatic gopher for service lines.

Bergstedt said it sounded like a tentative agreement had been reached with the Schmidt’s. The council had not seen the agreement. The agreement provided that the Schmidt’s would take on liability to save trees. If there were additional costs involved the Schmidt’s would be responsible. It seemed everything was being done to save some trees. He asked if other property owners had the same option as the Schmidt’s. If they did, how that would be reconciled with the schedule to start removing trees the next day if the EAW was not approved. Barone said staff would continue to work with residents and the tree removal would occur over a period of weeks.

Heine noted there were three categories of trees being discussed. There were trees the contractor, in working with city staff, had identified as ones that it was believed enough impact to the root system could be avoided that the trees likely would survive. The city would do whatever was necessary to save all of those trees. The next category was even if the city did everything it could, it was likely the tree would die because of the impact to the root system. For those trees, the city would remove them unless the property owner agreed to take on responsibility for removing the tree if it died or the potential liability and costs if it falls over. Even then, if the tree became hazardous during construction, it would be removed. The third category were trees that would come down in order to get the water main in using the chosen method of construction and following the Minnesota Department of Health’s rules.

Ellingson asked if a determination had been made on all the trees and what category they fell into. Manchester said all trees had been looked at and property owners could contact staff to find out the category the tree was in. Ellingson asked if the tree was in the category that required the property owner to sign an agreement but the property owner never contacts the city, what would be done. Heine said the operating assumption given all the attention that had been raised, was if the property owner had not contacted the city about a tree it was probably a property owner who did not want to assume the liability of the tree.
Wagner said there had been a good discussion and dialogue with the neighbors but it gave him pause that trees would start to be removed the following day. He asked if that could be delayed without impacting the project. Manchester said there would be potential delays if the beginning of the removal was delayed. He recommended starting the next day.

Schneider asked if it was possible to post information online about which trees were scheduled to come down over the next few days. Wiersum asked if the trees that the city and contractor knew could not be saved would be removed first versus going into a neighborhood and cutting down trees regardless of what category they were in. The former would require more work and going into a neighborhood multiple times but would allow some trees on the cusp to be saved. Barone said an alternative would be for staff to reach out to those who had contacted the city with concerns. Manchester said it was best if the staff and contractor looked at the trees in the field to determine the best approach. Wiersum said if the process started with the trees that it was known would have to be removed, he was confident that the presence of chainsaws would cause people not watching the meeting to call.

Wagner said he believed staff would take the council’s direction and comments into account. Schneider said the contractor was willing to work with the city as much as he could but he also had a deadline to meet. No one wanted a project that dragged out. Wagner noted the project in his ward last year was overly challenging. School buses could not drive into the neighborhood until November. Rain delayed the project and nothing really was started until August. He said the council had heard the residents’ concerns and everybody loves trees. He appreciated all the information the neighborhood had brought forward.

Wiersum said decisions about the project had not been easy for anyone. He thought staff had done an outstanding job at making the project as good as it could be. There were a lot of challenges ahead. The convenience and difficulty associated with the digging and all the things that are going to happen in front of the homes would be significant.

Wiersum moved, Acomb seconded a motion to adopt resolution 2016-033 determining that the project is exempt from environmental review. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment
Bergstedt moved, Wiersum seconded a motion to adjourn the meeting at 8:23 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk