1. **Call to Order**

Mayor Terry 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**

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

4. **Approval of Agenda**

Acomb moved, Wiersum seconded a motion to accept the agenda, with an addenda to items 5, 14A and 14B. All voted “yes.” Motion carried.

5. **Approval of Minutes: September 25, October 9, October 23, and November 13, 2017 regular council meetings**

Bergstedt moved, Allendorf seconded a motion to approve the minutes of the September 25, 2017 regular council meeting, as corrected. All voted “yes.” Allendorf abstained. Motion carried.

Bergstedt moved, Allendorf seconded a motion to approve the minutes of the October 9, 2017 regular council meeting, as presented. Wiersum, Bergstedt, Wagner, Ellingson, Acomb and Schneider voted “yes.” Allendorf abstained. Motion carried.

Bergstedt moved, Allendorf seconded a motion to approve the minutes of the October 23, 2017 regular council meeting, as corrected. Wiersum, Bergstedt, Ellingson, Allendorf, Acomb, and Schneider voted “yes.” Wagner abstained. Motion carried.

Bergstedt moved, Allendorf seconded a motion to approve the minutes of the November 13, 2017 regular council meeting, as presented. Bergstedt, Wagner, Ellingson, Allendorf, Acomb and Schneider voted “yes.” Wiersum abstained. Motion carried.

6. **Special Matters:**
A. Recognition of 9-1-1 dispatchers

Schneider read the recognition and presented plaques to the dispatchers.

7. Reports from City Manager & Councilmembers

City Manager Geralyn Barone reported on upcoming city meetings and events. She noted Finance Director Merrill King was honored with a “Top Women in Finance” award at Finance & Commerce’s annual awards. King said local government finance was one of the most diverse, interesting and rewarding careers. Barone said last week the Sensible Land Use Coalition recognized Minnetonka as one of 2017’s Great Places. The award was for Minnetonka Mills Park.

Schneider said he attended the Music Association of Minnetonka’s Coffee and Carols fundraising event. It was standing room only and a great event.

8. Citizens Wishing to Discuss Matters not on the Agenda

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution amending Council Policy 2.1 on investments

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-130 amending Council Policy 2.1 and authorizing limited investment in equity funds through the Minnesota State Board of Investments. All voted “yes.” Motion carried.

B. 2018 general liability insurance and workers’ compensation renewals

Allendorf moved, Acomb seconded a motion to renew the city’s insurance policies through LMCIT for package policies with the following options:

- $25,000/$150,000 deductible for the package policies
- 100% Open Meeting law coverage
- No waiver of statutory limits

and also authorizes renewal of the LMCIT workers’ compensation policy with a $10,000 deductible. All voted “yes.” Motion carried.

C. Resolution reaffirming the 2016 preliminary plat approval of TONKAWOOD FARMS FIRST ADDITION, with lot width at setback variances, at 15014 Highwood Drive
Allendorf moved, Acomb seconded a motion to adopt resolution 2017-131 reaffirming the preliminary plat approval. All voted “yes.” Motion carried.

D. Resolution to adjust 2018 non-union employee salaries and benefits

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-132 authorizing the 2018 non-union employee salary and benefit adjustments. All voted “yes.” Motion carried.

E. Twelve-month time extension of site and building plan and conditional use permit approval for Bauer’s Custom Hitches at 13118 Excelsior Boulevard

Allendorf moved, Acomb seconded a motion to approve the twelve-month time extension. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Applications for renewed liquor licenses for 2018

Allendorf moved, Bergstedt seconded a motion to approve the renewals listed in the staff report for 2018 calendar year. All voted “yes.” Motion carried.

12. Introduction of Ordinances:

A. Ordinance authorizing sale of land for boundary line adjustment

City Attorney Corrine Heine gave the staff report.

Wagner moved, Allendorf seconded a motion to introduce the ordinance. All voted “yes.” Motion carried.

13. Public Hearings: None

14. Other Business:

A. Resolution approving a conditional use permit for a 7 to 12 resident licensed residential care facility at 5022 Baker Road

City Planner Loren Gordon gave the staff report.

Bergstedt asked Gordon to provide information about how a conditional use permit (CUP) follows the property and not necessarily the business or
organization that currently owns the property. Gordon said this particular CUP would run with the property. As long as the property use described in the CUP remains valid, the permit remains valid as well. If the use no longer complies with the CUP, the permit would no longer be valid.

Acomb asked if the city had the authority to include a provision in the CUP limiting the permit to this specific business. City Attorney Corrine Heine said what the statute says is that a CUP remains in place as long as the conditions agreed upon and approved are complied with. She believed there was a court decision that said a city could not approve a CUP provision that states the permit expires at a specific time or that when this specific business moves the next property owner had to come in for a new CUP. It might be possible to include conditions that are specific to the nature of the activity that will be conducted on the property, but not to the people conducting the activity.

Allendorf asked what would happen if the council approved a CUP and after a period of time the permit holder decided not to comply with a condition in the CUP. Gordon said the first remedy would be for staff to work with the permit holder to come into compliance. If that is not successful the CUP would come back to the council for action. The council could modify the CUP or revoke it. Heine noted other enforcement options would be for the city to bring a lawsuit against the permit holder or issue criminal citations for the violations.

Wagner noted there were some nuisance issues in his ward, and in those instances the burden of proof is on the city. He asked where the burden of proof lies in situation where a CUP holder isn’t in compliance with the CUP. Heine said once a property owner has an approved CUP they are entitled to notice and a hearing if the city believes they are out of compliance prior to revocation. The burden would be on the city to show the conditions imposed by the city were not being complied with.

Wagner said in listening to the planning commission hearing one of the issues that came up was about visitations. There was conflicting information presented about what was required. One of the key issues involved parking. He asked how he as a councilmember could understand what side was correct about the statutory visitation requirements. Heine said because the planning commission hearing had taken place just a few days before, she did not have the time to thoroughly inform herself about state licensing requirements to offer an opinion. She said there were a couple of approaches the council could take. One would be to require verification from the licensing authority that what the applicant was proposing was allowed and had been approved. Another approach would be for the council to require as a condition of the CUP that if there was any
change in operations relative to traffic, the permit holder would need to come back to the council.

Wagner said it seemed to him that prior to 2013, the council had the ability to approve a CUP for a group home for up to a certain number of people. The question became as the council thought about the carve out for parking if there was an ability for the council to establish a reduced number of residents in the facility or some condition to address parking. Heine said state law allows the council to impose conditions on facilities that have more than six residents. State law and court decisions around the law require the conditions to be related to the health and safety of the residents. The city can impose health and safety standards that are appropriate to the characteristics of the site. She said the council could impose restrictions on occupancy to the extent it was dictated by site characteristics and the operation of the business. Wagner noted the number of parking spots was dictated by the R1 ordinance.

Wiersum said based on his personal experience, he thought parking was going to be an issue and a challenge for this site. The R1 limitation was a maximum of four cars parked in the driveway. This residence has a three car garage. He noted he owns a “mini-group home” that his daughters with disabilities live in. The home has a two car garage. When he and his wife visit they park in the garage. He has never seen the staff park in the garage because it was inconvenient. If staff parked in the garage and there was a visitor who parked in the driveway, they would have to ask the person to move their vehicle when the staff person’s shift was over. He could see in a situation with more residents and staff, where parking challenges would arise. There would be times, like holidays, when more parking will be needed. He asked if the city could put a restriction on how frequent more than four cars would be allowed to be parked in the driveway. Heine said the ordinance allowed that type of condition.

Wagner said during the planning commission hearing and information in the staff report included a lot of dialogue questioning the size of the home. Gordon said the actual size of the home was questioned during the planning commission hearing. He said the plans the applicant submitted showed the dimensions of rooms. The combined total of the rooms showed approximately 3,900 square feet. There were a couple of ways to measure interior space. The common method used by the city assessors was to measure the amount of space within the interior side of all the exterior walls. That number was larger than what was shown in the applicant’s plans. The plan includes all the interior space minus the walls. Wagner asked if the applicant’s plan met all the criteria for 3,600 square feet. Gordon confirmed it did. Wischnack noted the application also had to meet all the building code standards. Schneider said when he reviewed
the plan he came to the same conclusion as to why there was a question about the square footage and it involved including or excluding the walls in determining the size.

Fartun Ahmed, 14528 Moonlight Road, said she recently completed her coursework to become a licensed alcohol and drug counselor. Once she received the license she will become the first Somali American fully licensed alcohol and drug counselor in the country. She said the proposal was to operate a 7-12 person residential care facility for Counter Point Recovery. She currently operates a six person facility on Moonlight Hill Road. That facility has been in operation since October 2016. The proposal was to move the clients at the Moonlight Hill Road facility to this new location. The Moonlight Hill location would close. Counter Point Recovery was a Rule 31 licensed care facility. The facility was licensed by the Minnesota Department of Health and the Minnesota Department of Human Services. It served adult men specializing in East African clients battling addiction. She said she currently works at a detoxification facility in south Minneapolis where she has been training to do clinical assessments for clients. Once fully licensed she will be able to work one on one with her clients.

Ahmed said all the clients at the Moonlight Hill Road facility take advantage of city amenities including memberships to the Williston Fitness Center and volunteering at the ICA Food Shelf. The facility partners with ResourceWest on helping the clients with developing resumes, searching for housing, and applying for jobs. The facility provides a high intensity treatment requiring 30 hours or more of clinical counseling per week. She said in order to qualify to increase capacity, there was a rigorous process with Hennepin County and the state of Minnesota. Counter Point had to prove there was a need for more beds. She noted she provided letters of support from Hennepin County and the Minnesota Department of Human Services. She said the city’s building official had signed off on the application. The state fire marshal also had signed off on the application but was requiring the building be equipped with sprinklers. This had to be completed by May 2018. The city’s environmental health supervisor was requiring minor changes to the bathrooms before he signed off. Ahmed said she worked with multiple staff from the city to find an appropriate location and Baker Road was the one that met the requirements. After hearing the comments at the planning commission hearing, she submitted a landscaping plan.

Stephen Ling, an attorney with the Dougherty, Molenda, Solfest, Hills & Bauer law firm in Apple Valley, said the CUP process didn’t mean all the Minnesota Department of Human Services standards had been met. He said the CUP process was the first process allowing Ahmed to finalize her
application with the state. If the CUP was approved, it didn’t necessarily mean there would be 12 clients residing at the site. The state needed to approve that number. He said the conditional use was the permitted use of a property as long as the conditions of the city code were met. He said the focus of the conversation should be on the four general conditions as well as the 11 specific conditions outlined in the staff report. He said Ahmed had worked diligently with city staff to show the proposal satisfied all the conditions. She was open to additional conditions like submitting a landscaping plan and agreeing to put in additional buffering after hearing the comments at the planning commission hearing. He reminded the council that the conditions had to be related to the health and safety standards for the particular site. Concerns about the operations and clientele of the facility did not necessarily fit with the particular site. He said what the council should be looking at was if the site satisfied the conditions in the ordinance.

Schneider said the council had watched the planning commission hearing and had reviewed emails and letters that were submitted. He suggested the council use a different process than it normally does given there were specific issues that had to be dealt with including some technical CUP issues, and also because of the emotion surrounding the proposal. He said he had thought about what would be the best outcome for the city, the applicant, and the neighbors. He thought it would be best to focus on a particular direction instead of hearing a lot of feedback resulting in an unfocused and labored discussion. It was clear as a right, a six person facility could be moved from the Moonlight Hill Road location to the Baker Road location. He said the issues raised at the planning commission hearing could not be addressed if that happened. He complimented the planning commission and the people who spoke at the meeting for having a civil discussion. He felt the debate was a little short on discussing the mitigation for the conditions. This typically was the focus of reviewing a CUP. He suggested coming up with a resolution for approval for a number probably less than 12, and specific site related conditions that could be agreed upon by a majority of the council. He also thought when the CUP was drafted it made it clear the permit was for an adult chemical dependent treatment facility not for any other type of group home.

Wiersum said Schneider’s suggestion had merit. He noted the application was for 7-12 people but the plan didn’t show the number of bedrooms. If 12 was the actual number, there must be a plan to double up residents. He asked for more information about that as the council considered the item. He said when he looked at group homes, whatever their nature, as the number of residents increased, the impact on the neighborhood was greater and the less single family-like the residence becomes. He had quite a bit of discomfort approving a 12 person residence because there
were not a lot of families with 12 people living in one home anymore. The average family household in the city was well below 12 and even below 6. Working out a compromise made sense given the current ordinance standard.

Acomb said she liked the idea of a compromise. In general terms she was uncomfortable allowing group homes with more than six residents in R1 neighborhoods. While this proposal was on a busy road, it still was in an R1 neighborhood. The other 12 person group home the council approved was in a commercial district so the situations were very different. She was concerned with the impacts on the neighborhood with increasing numbers and the impact on traffic. The council denied a request from Gianna Homes to add one more person because of the impact on the single family neighborhood. Her concerns had nothing to do with the use or the people living there, but instead had to do with the number of people residing in the home. She was open to taking the approach of trying to find a compromise.

Allendorf said he also was concerned with the number of residents living in the group home. He agreed with Wiersum’s comments. He said he didn’t think it could be denied that if a family moved in next door with six people that is was different from a family with ten or twelve people. The whole nature of the property changes. The services needed like garbage collection are different. He was very concerned about allowing a number greater than six. His condition for approval, for whatever number was decided upon, had to do with security on the property and in the home. This was a safety and health concern. The number of parking spaces and overnight parking was also a concern. He didn’t know how he could distinguish something that was a concern with 12 people not being a concern with eight people. He said the Gianna property went from seven to 10 residents and there were issues when the number increased. These issues were addressed when the council denied the request for 11 residents. He was not concerned about what was going on in the facility because the issue was a land use issue. He said he was concerned that the issue had been demonized on both sides to get away from the land use issue.

Wagner said since the policy change there was one 7-12 person facility and it was located on Minnetonka Boulevard. There were 15 parking spots and the building used to be an office building. He thought the mayor’s suggested approach was fine but it would be helpful to think about how the discussion about the conditions would be structured. He agreed the issue was a land use issue. He thought the landscaping was improved but he was still struggling with the parking issue as well as safety concerns.
Acomb said there was such a quick turnaround from the planning commission hearing to this meeting. She noted the city attorney indicated she didn’t have all of the background on some of the licensing requirements. She suggested it might make sense to hold off on making a decision until the information was available to make an informed, educated decision. She said things felt rush. Schneider agreed it was a short turnaround time but he didn’t think anything significant would change between now and the next council meeting. He thought focusing on the number of residents and what conditions would be imposed would be helpful. He suggested the council take public input, have a discussion and then direct staff to draft a resolution for approval that would be voted on at the next meeting. This would allow the applicant time to digest the information and decide what she wanted to do next.

Bergstedt said the city attorney had informed the council they had some discretion on approving or not approving a CUP, and placing conditions related to land use, but there were some limits on how far those conditions could go. He said Schneider suggested approach was a good one because the council members had watched the planning commission hearing. Having two hours of the same comments wouldn’t be useful. Focusing the discussion on what type of stipulations were important, appropriate, and what the comfort level was for the number of residents would be beneficial.

Schneider said he created a list of possible conditions he felt were important. The first condition was additional landscaping and screening. Ideally the applicant would submit a formal plan before the next council meeting. Another condition related to understanding how the facility would operate, specifically when residents leave the site without the staff necessarily knowing. At the same time he thought it was critical for the residents to be able to go outside. His suggestion was installing fencing between the home and the back sound wall. This would create a fenced in backyard providing for both semi-security and the health and well-being of the residents. He said the third condition would be to install the electronic security devices that were talked about. The fourth condition would be to tie the parking spaces to an annual review of what the actual activity was. This has been done with other CUPs. This would require the property owner to demonstrate each year that there was adequate parking for the site.

Wagner said the parking condition gets into the number of residents. He didn’t see the council approving a variance for more parking spaces in an R1 neighborhood if parking became a problem on the site. The message should be there shouldn’t be more than four cars parked in the driveway
on a regular basis. Schneider said there were options available without actually adding parking spaces like making the driveway wider.

Schneider said the final condition he came up with would be to limit the number of residents to a number the council agreed with. Once the applicant demonstrated that with the other conditions in place, and with adequate staffing and supervision to support an increase to the number of residents, she could reapply for an amendment to the CUP.

Allendorf said he thought the correct number of residents was seven. Going beyond that, there had to be some proof it would actually work both in terms of safety and security of the residents as well as the neighbors.

Wiersum said there were a lot of issues being raised that had little sway with his consideration. He personally was very supportive of group homes. He thought they provided services that were absolutely needed in the community. Because he supports group homes, he believed the state law limiting them to six residents was exceedingly wise. Any decision to allow more than six residents was very difficult for him because he felt group homes need the support of the neighborhood. The likelihood of maintaining that support diminishes as issues arise. He said the number of residents will have an impact on the number of issues in the neighborhood. He really liked sticking with six residents because it took the discretion out of the council’s hands and because it also was more family-like.

Schneider asked Ahmed her thoughts about his proposed process. Ahmed said she was not opposed to it, but noted any condition would add to the cost of running the home. Ling said Ahmed did not have any interest in limiting the number of residents to six because that already was permitted by law. He said he didn’t believe there could be a limit on the total number of residents in connection with the conditions. It was not in any of the city’s ordinances. The council would be going well past the scope of the city’s ordinance if it wanted to limit the number of residents.

Schneider said historically seven to 12 residents was the established range.

Randy Anderson, a resident of Golden Valley, said he considered himself to be an expert in the field of addiction recovery. He was a long time recovery, drug and alcohol counselor at a large residential facility in Minneapolis. He also served on the board of directors for the Minnesota Second Chance Coalition. He noted recently the United States Surgeon General released a report on alcohol, drugs and health. It provided information about combatting this healthcare issue that has reached
epidemic proportions. The report indicated there was a substantial economic cost due to substance abuse. He said the city would save significant money by having a facility like the proposed one.

Matt Wilkus, 4837 Hamilton Lane, said he was a licensed architect. He interpreted the building code and city ordinances on a daily basis. He strongly believed residential care facilities are critical and necessary to the community. He supported the six person facilities in residential areas. He also supported 7-12 resident facilities if they met the specific general standards in the city ordinance. He said the detailed standards indicate the known potential detriment larger facilities can have on neighborhood character. He advised the council to affirm the planning commission’s denial of the CUP request because it did not meet the general standards in many ways. One way was it didn’t meet the comprehensive plan’s goals to preserve the unique character of the city’s existing neighborhoods and to retain existing families and attract new families. He said despite being on Baker Road, the neighborhood has the feel of a typical R1 neighborhood. A 12 person facility would be incompatible with the adjacent development. Another general standard the proposal does not meet was that it will have an undue adverse impact on government facilities, utilities, and services. The 12 person home would increase public services at a minimum of 611 percent. Another general standard not being met was the requirement for a turnaround area. He said the three CUP’s referenced in the staff report were very different than this application.

Patrice Wehner, 5030 Baker Road, said she was happy the applicant was considering additional landscape and buffering. She would like to see a fence going all the way from the 494 fence to Baker Road. If a resident was on medication or having a hallucination, they may never find their way back to the home without this additional fencing. She would like to see bushes taller than 10 feet. She would like to see alarms installed. She said she had a daughter with a disability who wasn’t always able to judge how safe or unsafe an encounter might be. The driveway was another concern. If someone was leaving and another car was trying to enter, there wasn’t enough room for the two cars to pass.

Jen Westmoreland-Bouchard, 4640 Caribou Drive, said a lot of the council discussion was about having discomfort for a number over six residents because it wasn’t normative. She said it felt a little like the goal posts were being changed. The applicant had gone above and beyond to meet what was in the ordinance. All the financials had been based on the requirements in the ordinance.

Jim Swigart, 5211 Baker Road, noted the city’s guide plan indicates that “city practices have been and will continue to be oriented toward
protection and support of established residential neighborhoods.” The neighborhood had a petition supporting the denial of the CUP. The purpose of the CUP was not to ensure a business was profitable.

Hilal Ibrahim said she was a Muslim woman of African descent who wrote for the Huffington Post, and was a local business owner. She was also a student and a former Minnetonka Police Explorer. After hearing the concerns and reading emails about the application, she said there was a much bigger issue involved. If it was just about the approval of the CUP, the applicant would not have been questioned in the manner she was at the planning commission hearing. Ibrahim said she couldn’t help but wonder if Ahmed’s integrity was being questioned because of her multicultural background. Schneider said he had asked both sides not to discuss the application in terms of race issues. It was a land use issue in front of the council. Ibrahim said she hoped the council would justly, and in a fair manner, factor in the reality of the situation.

Derrick Banks, 5135 Baker Road, said the city ordinance stated that no external building improvements undertaken in R1 and R2 districts alter the original character of the home unless approved by the city council. In R1 and R2 districts there must not be any exterior evidence of any use or activity that was not customary for a typical residential use including no external storage, signs, garbage and recycling containers. He said the average household size in Minnetonka was 2.25 people. The average home had one garbage can and one recycling container. Having a residential home with 12 residents and five staff would exceed the average household size by over seven times. The number of garbage and recycling cans needed to accommodate the increased number of people would also need to increase. This would violate the typical residential use language of the ordinance. He noted another section of the city code stated that vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on the property. He questioned the definition of “resides” and if the staff met that definition.

Jacob Davis, 13020 Maywood Road, noted a discrepancy around the square footage. This was important because it was needed for determining if an application met the CUP guidelines. He said this portion of Baker Road was a collector street and should be thought of that way. It was used as a bypass to I494. Consideration should be given to how much traffic would be generated by the group home.

Jeff Wehner, 5030 Baker Road, noted in the plan, the driveway is 14 feet long. Because it is narrow, there could be situations where a car cannot
enter at the same time another car is trying to exit. This could cause a backup onto Baker Road.

Maurine Burke, 5014 Baker Road, said she had lived at her address for nearly 50 years. She’s enjoyed having Neighborhood Night Out for the past eight years. She said it’s a very proud neighborhood. She’s never had to worry about security but now she was. The seven foot high fence from I494 to Baker Road was essential. Her property was important to her.

Aaron Mielke, 5326 Rogers Drive, said safety was a concern for many of the neighbors. In terms of land use, this was a Rule 31 adult facility for chemical dependent and mental health issues. He said facts show that compared with other residential uses, residents of these facilities become violent, manic, combative, aggressive, out of control, agitated and volatile. These words came from 911 calls and police reports. His background was in environmental review and permitting, and when he’s reviewing something for possible negative impact, he looked for sensitive receptors. In this case there were several. Notre Dame Academy was less than 1,000 feet away. Glen Lake Elementary School was approximately 2,500 feet from the home. There are several school bus stops in the area. The police reports indicated several instances of clients running away from a facility. He said the proposed use would have adverse effect on human health and safety and this should be taken into consideration.

Charlie Greenman, 11421 Live Oak Drive, said he was a recovered alcoholic. He lived near an adolescent chemical dependency/mental health facility. He worked in the profession of addiction and mental health counseling. He supported the proposal and the opportunity for the men to experience recovery in the environment that existed in the city. To see people recovering from their addictions and mental health issues was a beautiful thing.

Hassanen Mohamed, 6589 Douglas Drive, Brooklyn Park, said he supported the project. He had worked the past 11 years for nonprofits, the past 10 for Lutheran Social Service. He had lived in an area with three different treatment homes and never noticed any issues. He urged the council not to play politics but to make the difficult decision to approve the application. Staff had reviewed the application and determined it met all the city’s regulations. He said the applicant was putting in extra money to add things that were not required just to address concerns.

Wiersum asked staff for information comparing Minnetonka’s CUP’s involving group homes with neighboring community’s CUP’s. Gordon said staff surveyed 11 cities and it was mixed on how group homes with 7-12 residents were regulated. He said Minnetonka had more stipulations on
allowing 7-12 residents before approving a CUP. Some communities do not allow them at all.

Wagner said he thought a reasonable condition related to the buffer and screening. Schneider said he was sensitive to Ahmed’s comments about the costs associated with any conditions added to the CUP. Wagner said that buckthorn was not acceptable screening.

Wagner said another condition he thought would be valuable related to documenting the operations of the property. The city attorney had included some potential language in a memo to the council. Schneider said the conditions he listed included requiring adequate staffing to properly manage the number of clients. Monitoring the residents both inside and outside was critical. Wagner said his concern was about managing the flow of the property in terms of parking and traffic.

Allendorf said the applicant indicated there would be four staff people. He thought this was appropriate to add as a condition. He said he also thought requiring the fence go all the way back to I494 was reasonable. He liked Schneider’s suggestion to have a fenced in backyard area with a picnic table for outdoor activities. If this was put in place the fence would not have to go all the way back to I494. He said in terms of security requiring that the security system notify the police department if a resident runs away from the property was a reasonable condition.

Wiersum said he liked the idea of a security camera at each entrance but it would likely mean having video of activities rather than someone monitoring things in real time. Schneider said he was not thinking about cameras at all. Instead he was suggesting that each entrance have an alarm. Wiersum said that made sense.

Wiersum said given the conditions discussed, and given the way the ordinance was written, he would be comfortable approving eight residents. He thought that if the applicant wanted 12 residents, the chances were high the council would not approve the application.

Bergstedt said the site was an excellent location for a group home. He noted the applicant would not need city approval for six residents so the tradeoff were the conditions that had been discussed to allow more than six. He said he was comfortable approving eight residents. If things went well with eight residents he could see the applicant coming back in a year requesting additional residents.
Wagner said the council discussed buffering, security, and the parking spaces. He wasn’t that concerned about the backyard fencing. He thought the conditions addressed the concerns.

Acomb said she was supportive of group homes. There was one in her neighborhood and it had been a very good neighbor. She noted the previous night she was at the hospice group home where her mother passed away. She attended a celebration at the home. Group homes inherently have celebrations and gatherings. She was comfortable with the conditions that had been discussed. She said substance abuse issues were a big concern within the culture and community. She was comfortable approving eight residents although she still liked six better. She thought this was a good compromise. She really hoped relationships between the residents, staff, the owners, and neighbors could be developed.

Allendorf said the entire council recognized the benefit of group homes. He remembered when he was a brand new council member in 1992 there was a group home on Caribou Drive. The neighbors were up in arms because of the fear of the unknown and worries about the character of the neighborhood. Today, the group home was integral to the neighborhood. He said he could compromise with eight residents.

Ellingson said he appreciated the effort to come to a compromise but was concerned because the applicant’s attorney indicated he didn’t believe the council had the authority to limit the number of residents if the conditions had been met. He questioned if the applicant needed to submit a new application for eight residents. Schneider said the council had limited the number in the past. The approval had to be based on sound concepts that related to the impact to the site.

Allendorf moved, Wagner seconded a motion directing the city attorney to draft findings of fact and a resolution with revised conditions approving the conditional use permit for an eight person facility. Wiersum, Bergstedt, Wagner, Allendorf, Acomb and Schneider voted “yes.” Ellingson voted “no.” Motion carried.

Schneider called a recess at 8:57 p.m. He called the meeting back to order at 9:11 p.m.

B. Concept plan review for Ridgedale Executive Apartments at 12501 Ridgedale Drive

Gordon and Wischnack gave the staff report.
Wagner noted the close proximity to Ridgedale Drive. He said he understood this was a concept plan, but questioned the setbacks as shown in the plan. Gordon said staff had not done any detailed review with how the building sits on the property. Wischnack said she thought the setbacks were similar to the Ridge.

Allendorf said he always thought there was a lot going on even with past use of the property. This concept plan would be even more in terms of footprint. He wondered if the building would even fit on the site. Gordon said staff had not run any numbers on the property. He said the plan was denser than other things on Ridgedale Drive.

Richard Rotenberg, 13924 Emerald Ridge, said he owned the property since 1996. The reason he purchased it was because of the beauty of the property including the pond. It was a serene setting. He owned Redstone and built the office building. He looked at a number of ideas for the site and determined the best thing was for a luxury apartment building. He attempted to fit in with the city’s vision for 2035 and thought this plan was ideal.

Charlie Carpenter, an attorney with the Fabyanske Westra Hart & Thomson law firm, provided information about the concept plan. He said there was high demand for upscale rental housing. The upscale apartment building would serve as a catalyst for investment in the Ridgedale center concept. The goal was for the building to become an iconic presence that everyone in the city would be proud of.

Rotenberg said the average one bedroom apartment would be around 969 square feet. This contrasts to other units in the area where the average is around 750-850 square feet. Two bedroom units would average around 1,500 square feet. There would be high ceilings and the appliances would be luxurious.

The project architect, Jesse Hamer from Momentum Design Group, presented further details about the plan. Pushing the building north maximized the parking between it and the office building. It also increased the distance between the building and the neighbors to the south. The majority of parking would be enclosed both underground and at grade at the first level. The six story building would be approximately 55 feet in height. The natural screening of the site was very important to maintain and was a big amenity. This was set as a priority at the beginning of the process.

Dan Rosen, an attorney with the Kluger, Kaplan, Silverman, Katzen & Levine law firm, said Rotenberg only did things at the highest level. Rosen
noted the council received a letter from the Larkin Hoffman law firm representing some of the neighbors. He said the legal argument in the letter was a considerable reach and was inconsistent with the city's comprehensive guide plan and zoning code. At the end of the day the fundamental opposition was not wanting a six story building. The common response to a development was "But I can see it and I couldn't see it before." In the summer, the neighbors would not be able to see the building. In the winter, there was no question something would be seen but the question was what the developer was doing to elevate the neighborhood. The choice was the luxurious vertical surface or a horizontal surface that might be asphalt roadways, driveways or rooftops. These were the only alternatives available. He said the city was looking for density in housing for the area. Without this plan, it would be difficult to achieve that goal. The idea then was to do it in the nicest way possible. He pledged the developer would be 100 percent respectful to the neighbors. The plan would be a tremendous upgrade from Redstone.

Jacob Steen, an attorney with the Larkin Hoffman, said the law firm was representing several of the most affected neighbors who live in the low density residential neighborhood to the south. There was no doubt this would be a nice facility and that it was appropriate for some level of development to occur on the site. It was apparent there was just too much being shoehorned onto the site with this plan. He said looking at the massing in context was important because the city spent a considerable effort with the community to develop policies that specifically address the south end of the Ridgedale area. The comp plan in several places referenced this single family, low density neighborhood by name specifically in the context of the buffers, the transition, massing and height. The buffers and transition were supposed to be buffering from the mall over this property to the single family residential neighbors. This plan would create a high density residential development directly abutting the lowest density residential development in the area. He urged the council to look through this lens as it was evaluating the plan. The comp plan specifically referenced minimizing the impacts of development on this property with managing impacts on nearby low density to the south. He said he hoped the idea of a proposed trail would be dropped because it was one of the neighbors' biggest concerns. He encouraged the council to direct the applicant to right size the project.

Dr. Mark Stesin, 2000 Norway Pine Circle, said he was speaking not only as a neighbor whose property abuts the development property but also on the behalf of many neighborhoods. Residents on many streets in the area were concerned about the plan. They do not begrudge the property owner from building on his property, but the question was what was appropriate to be built on the property. He said he was very concerned about the mass
impacts. This high density building would directly abut the single family residential homes without any transition. Currently he can see the two story office building so he does not buy into the claim the six story apartment building would not be visible. In addition to the building, there would be an issue with lights. This would impact many people in the neighborhood. Noise would also be a factor with the pool and recreation area as well as many of the balconies that will face the neighborhood. Traffic would also be an issue. At question was what the hub of the Ridgedale area project actually was. He said the apartment building was way out of proportion. Another issue was if the path was built as in the plan, his backyard would be about 10 feet away. This would cause safety issues related to crime creating an escape route from Ridgedale.

Heather Stesin, 2000 Norway Pine Circle, said Allendorf was right about being concerned with the footprint. The massive building would impose on the neighboring properties. She showed pictures from her property looking at the development property. She questioned if anyone would want a path so close to their property with the amount of crime in the world. She noted she and her husband along with some neighbors own the property in the center of the cul-de-sac so nothing will be built there. She showed a picture of the current three story building lit up at night and said she couldn’t imagine all the light coming from a six story building. She said people move in and out of apartments all the time and there would be many deliveries. Traffic would be an issue as will noise and lights for the entire neighborhood.

Wagner said one of the things that came up at the planning commission hearing was concern about the trail. He said during the discussion about the reconstruction of Ridgedale Drive, there were comments about making the area more walkable, and opening up Crane Lake as a park, although it was unknown how that would be funded. This would be a much better place for park dedication funds to be used than for a path around this building. He asked Gordon the distance between the west edge of Highland Bank and the neighborhood. Gordon indicated it was around 850 feet. Wagner said the council had indicated support for density around Ridgedale as part of the vision for the area as well as a mixed use of housing. He strongly supported that strategy. The council had also discussed stepping down density as it gets closer to residential neighborhoods. He didn’t begrudge the idea of apartments on this site but he did have concern about a six story building. He said there was a desire to do a lot of the density on the Ridgedale property itself but that would require a approval from the mall owner as well as the anchors of the mall.

Bergstedt said he agreed with much of Wagner’s comments. He thought the trail was a terrible idea for a lot of reasons. The building had a massive
footprint and was six stories high. He thought the proposed use of luxury apartments was fine for the site but more creativity was needed because the concept plan was too massive.

Wiersum said it was an attractive concept from a building perspective but he agreed the mass and scale were too much. He said it clearly needed to be a smaller building to get his support.

Acomb said housing was appropriate for the site. She was concerned about the setback from the road. She said the apartment building would dwarf the office building so it felt out of scale. The mass not only was too big as a transition to the single family residential neighborhood but also with the office building. She questioned if there was a council policy around an affordability component if a property was rezoned. Wischnack said the council adopted a resolution that an affordable component may be required by the council as part of rezoning. Acomb said while she appreciated that there was a market for executive and luxury apartments, she wondered if affordable housing could be included as well. She agreed park dedication fees would be better spent elsewhere in the Ridgedale area.

Allendorf said everybody loved trails but not in their yard. He didn’t think a trail belonged in this plan either. He said he wasn’t just concerned about the height of the building but also what was going on within the property. The footprint was too big. Something had be shrunk in order for him to support it. The issue of lights was unfortunate but did not concern him because there would be lights even with a four story building. He thought the site was the perfect place for luxury apartments but didn’t think a mix with affordable apartments made sense.

Ellingson agreed the trail was not appropriate. When Cherrywood Pointe was approved there was discussion about a trail for that development. This would have required cutting into the hillside and removing trees and would have ruined the natural area. He was concerned about the setback from Ridgedale Drive although he appreciated the effort to add distance from the single family home neighborhood. He agreed it would be better if the building wasn’t so big.

Schneider said when the council discussed the vision for the area there was a lot of discussion about the YMCA moving to a different location. When the YMCA decided to stay and upgrade the site the council discussed four or five story apartment buildings in the area that would have been even higher than this building given the topography. He said the desire to implement the vision incrementally for higher density housing in the Ridgedale area was still, for him, a top priority. The question was
whether this concept was right or wrong and he thought it wasn’t right. He wasn’t sure what it would take to make it fit right. The visual impacts on the immediate adjacent homes would be similar with a four, five, or six story building. He encouraged Rotenberg to move forward with a high density project, and to work with the neighbors with landscaping their view shed so when the leaves were gone there still would be screening. His biggest concern was the building was 300 feet long, six stories high, and close to the road. He thought the Highland Bank was different because it had a lot of character to it with a lot of ins and outs, balconies and softer colors. This plan looked like a long wall. He would like to see more articulation.

C. Items relating to Dominium at 11001 Bren Road East

1) Concept plan review for Dominium at 11001 Bren Road East

Gordon gave the staff report.

Wagner said there was a wonderful opportunity to tackle affordable housing and workforce housing. There were 1,050 units being proposed. On top of that there were a number of institutional uses that now were schools in the Opus area. What the area did not have was anything other than trails. There were a lot of units and no park land. He suggested staff put together some information for a study session. He said historically the city had a mixture of affordability and market rate units. Although he understood the reason related to how things were currently being financed, he thought this plan with three buildings in close proximity, was a major shift, one he was OK with. He thought there was a missed opportunity in creating a sense of place, a theme with what the council wanted the area to be. He didn’t think the plan felt like what the Shady Oak station area could be. He said the EDAC did a fabulous job analyzing the plan financially. He thought there were bigger picture issues for the Opus area.

Wiersum said he supported the plan. The opportunity to get this level of affordable housing in one proposal was not something the council was used to talking about. At the same time the council did not want to get into a situation where the city was only putting in affordable housing in certain areas and not others. He liked the idea of getting some park opportunities even if they were just pocket parks. He questioned if there was an opportunity to also get greater connectivity to Lone Lake Park.

Acomb was thrilled to see the affordability coming from a company that knows that market very well. She had reservations about the size of the buildings in one area. That said, the community needs affordable housing.
She really liked the senior affordable units. The map in the council packet showed there really wasn’t anything connecting this area and the light rail station over to Shady Oak Road. As the area develops it was important to keep in mind the need for getting people from the light rail station to where services are. She wondered if there were opportunities to get mixed use developments that would add retail to the area.

Bergstedt said the plan looked great and the mix of affordable senior and affordable workforce housing was something the city really needed. He thought it would help if there was a way to connect to Lone Lake Park or add pocket parks.

Allendorf said it was a wonderful project.

Ellingson said one of the wonderful things about the Opus area was the trail system. He said this was the kind of development the city wanted near the light rail station.

Schneider said conceptually the city couldn’t ask for a better neighbor to the light rail station. He agreed with Wagner that the Opus area with all its housing would benefit from a master planned corridor approach toward open space with connecting ponds and amenities similar to the Centennial Lakes area in Edina. The challenge was distance-wise this was much greater than the Southdale area. The question was how to link it all together. He suggested staff look at where there were some natural areas that should be preserved and also look at the area all the way down to Crosstown and ways to link the entire area together through the developments. This was worth hiring a consultant to look at. It would add tremendous value to the developments.

Barone noted that a park planner position was being created for 2018.

Allendorf noted that many years ago Gerry Rauenhorst developed the Opus area with the one way road system. The paths were included to get connectivity from one area to another. Rauenhorst’s vision was to use golf carts. The idea was to separate pedestrian traffic from automobile traffic. Wischnack said staff had discussed options with the developer to allow pedestrians to get around off of the roadway.

Acomb said the information about the financing indicated a possibility of deferring the park dedication fees from the project. She asked for more information. Wischnack said a deferment was not a waiver of the fees. If the project was built in phases, portions of the fee might be deferred over a period of time. Other options were being discussed with the developer.
Wagner said as far as the design the concept looked a little too boxy and might not stand the test of time.

Wiersum said the TIF seemed reasonable but noted there still would be an $880,000 million gap. He asked if the developer could speak on his plan to cover the gap and if the project would proceed if the gap remains when the financing is determined.

Ryan Lunderby from Dominium said the project would still be a go. This was an $115 million project so the amount of the gap would not stop it. He said city funds would be used last and the company would search to find other resources potentially from the county or the Metropolitan Council. He added the project would also go forward whether or not light rail happened. The need for this type of housing was that great.

Schneider said the concept plan showed a play lot in one of the corners of the property. One design improvement would be to figure out a way to reconfigure the building to provide for a more prominent and centrally located open space for the residents to enjoy. This would help make the building look less boxy and institutional.

D. Resolution approving the second amendment to the regulatory agreement for Minnetonka Heights

Wagner moved, Acomb seconded a motion to adopt resolution 2017-134 approving the Second Amendment to the Regulatory Agreement between the City of Minnetonka and Heartland Heights, LLC. All voted “yes.” Motion carried.

F. Process for filing the council vacancy to occur in Ward 3

Wagner noted there was a single person left in the audience who was at the meeting for item 13F. He suggested moving the item before item 13E on the agenda.

Barone and Heine gave the staff report.

Schneider said he had indicated at the study session discussion that he felt the community would better be served by an appointment process but only using an enhanced version that allowed for more public input. He suggested adding a few steps to the appointment process outlined in the staff report. One would be for staff to mail out a self-return postcard to each household in Ward 3 with a list of the applicants and a link to the live broadcast interview session. Residents would rank their preferences on the postcard and mail it back to the city. Staff would provide the council
with a summary. The council would use this information to conduct the interviews and rank their choices. This was similar to a process used to hire past city managers. Using this process would likely mean more public engagement than a special election held in April.

Bergstedt said at the study session the council discussed the options and Allendorf, Schneider and himself preferred an appointment process. The reasons he preferred appointing someone to fill the vacancy was because of the April election date, that it was for a ward seat, and there would be no primary no matter how many people ran. Because of this, the winner could win with a small number of votes. His other concern was if the appointment process was used, someone could fill the seat February 12. If a special election was called the winner would be seated April 23. This would meant there would be two and a half additional months that the residents in ward 3 would not have a representative.

Acomb said she appreciated Schneider’s innovative approach but she still supported a special election. Councilmembers are considered elected officials and not appointed officials. Having been through a special election, she saw the value in having to work to get elected. There was value in a person having to get out and meet and talk to people, knock on doors, call people on the phone, try and get people to allow a yard sign. She saw benefit that it only involved one ward since it was less costly and there was a smaller area involved.

Ellingson said it was a difficult choice because both methods had worked well for the city. He noted Wiersum, Bergstedt, and Schneider all had been appointed at one time. The best and most qualified people were appointed. He said Acomb made a good point about the council being elected officials. If the council made an appointment Wiersum would be the only one making the decision who lived in the ward. He thought the people living in the ward should make the decision.

Wiersum said he had been appointed and also got elected. He said had he not been appointed he probably wouldn’t be on the council. He supported appointment in the past but given the amount of time left on his term, nearly two years, he thought having an election was the right thing to do. He said he received a number of emails, letters and calls and no one had said the council should appoint someone. Appointing was simpler, cheaper and faster but he thought the council needed to be willing to take a risk with the messiness of democracy.

Wagner said he supported a special election given the amount of time left on the term. He said it was likely there were people who had been thinking of running for Wiersum’s seat since the day he filed to run for mayor.
Every time there was around two years left on a term, the council chose to have a special election.

Barone said staff would be working on a plan to communicate to residents it was likely the vacancy would be filled at a April 10 special election.

E. Items relating to the 2018 operating budget and tax levies

1) Public consideration of proposed budget and levies;
2) Resolution adopting a budget for the year 2018, a revised budget for 2017, and setting a tax levy for the year 2017, collectible in 2018, amending the 2018-2022 Capital Improvement Plan, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority; and
3) Resolution setting a tax levy for the Bassett Creek Watershed Management Tax District for the year 2017, collectible in 2018

Barone gave an abbreviated staff report.

Wagner suggested Barone go through the entire Powerpoint presentation at the next council meeting so a video record was available for residents.

Allendorf moved, Wagner seconded a motion to adopt resolution 2017-135 setting a tax levy in the Bassett Creek Watershed Management Tax District for the year 2017, collectible in 2018 and resolution 2017-136 adopting a budget for year 2018, a revised budget for 2017, amending the current CIP to be consistent with these budgets, setting a tax levy for 2017, collectible in 2018, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority, collectible in 2018. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Wagner moved, Wiersum seconded a motion to adjourn the meeting at 11:35 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk