Minutes
Minnetonka City Council
Monday, March 27, 2017

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

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

4. Approval of Agenda

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

5. Approval of Minutes: February 6 and 27, 2017 regular council meetings

Wiersum moved, Bergstedt seconded a motion to approve the February 6, 2017 and February 27, 2017 meeting minutes, as presented. All voted “yes.” Motion carried.

6. Special Matters:

A. Recognition of former charter commission member Al Thomas

Schneider read the recognition.

B. Retirement recognition for Recreation Services Director Dave Johnson

Schneider read the recognition.

Johnson thanked the council, staff, members of the Recreation Services Department, and his family.

City Manager Geralyn Barone noted what a great role model Johnson was to all the children who participated in the recreation services programs over the years.
Schneider said Johnson’s passion, caring, and enthusiasm was contagious.

7. Reports from City Manager & Council Members

Barone reported on upcoming council meetings and city events.

Wiersum noted that he attended the League of Minnesota Cities Legislative Conference along with Barone and Assistant City Manager Perry Vetter. They were provided a legislative update and were able to meet with several of the city’s legislative members. He urged people to pay attention to what was going on this year and said there were many proposals that would limit local decision-making.

Schneider said he testified before the House Transportation Committee on the omnibus transportation bill. He said the bill would have a Draconian impact on transit in the region.

8. Citizens Wishing to Discuss Matters not on the Agenda

Robert Ashmun, 3529 Orchard Lane, thanked the city for the services it provides. He said eight years after moving into his home he received a letter from the city indicating he owed $40,000 for a hookup fee plus interest. Interest was at 7½ percent. He has spent three and a half years fighting this charge with the title company and the people who sold him the title insurance. He also has talked with city staff, met with the previous owner and his title company and closing company. He has just gotten denials. He has no recourse because the statute of limitations has run out. He asked the council to forgive the interest that was charged with no notification at all. Had he known the first year he could have gone to the seller and had recourse or would have paid the hookup fee.

Schneider said similar situations have occurred in the past. It was not within the council’s prerogative to waive the charges. He suggested Ashmun meet with city staff to see what the options might be.

Ashmun said he knew of no city, state, or country in the civilized world that could bill someone for something they had no idea they had or at least not put them on notice. He said the city bared some responsibility.

Barone said she would talk with staff and have the appropriate staff person contact Ashmun.

Schneider said the last time this came up staff identified the few people who were still in a similar situation. Notices were sent to those people. He
noted the charges were not recorded against the property because it was not an assessment to the property. He asked if the charges could be qualified as full liens on the property so they would be recorded and available when someone does the title work. City Attorney Corrine Heine noted this was not an assessment levied on the property. Under state law, when a city does an improvement it can levy the charges against property. If there was un-improved property the charge can be deferred until further improvements to the property are made. She said if and when, and only if the property was subdivided, would the charges need to be paid. There was nothing due and payable on Ashmun’s property until he decided to subdivide it.

Chris Aanestad, 4255 Oak Drive Lane, said the key strategies and major goals listed on the city’s website stated the city “would support a well-planned, responsible community development carefully balancing individual property rights with community-wide interests while respecting the unique character of Minnetonka’s neighborhoods.” It also stated “supporting business retention and expansion and attracting new businesses to help the private sector be economically competitive.” He said city’s plan to build a 54-unit apartment building on the Shady Oak Road property it purchased would differ from all the other one-story buildings along that stretch of Shady Oak Road and would be too massive. There would be a big loss of privacy and safety for residents in Minnetonka and Hopkins.

Geri Massengill, 4272 Oak Drive Lane, said the neighbors have been alarmed at how quickly the proposed multi-story, high-density apartment building was moving forward. She said the neighbors have been loud and clear that the apartment building did not fit into the neighborhood and was too big and tall. There already were excessive traffic problems due to the road reconstruction and the closure of multiple access points. Adding 50 to 100 more cars would not help. Natural resources were hurt by the Shady Oak Road reconstruction as hundreds of mature trees were removed. The site plan only shows a few trees along the parking lot. If it was meant for multi-family living, the place children would end up playing would be on Oak Drive Lane or they would cross four lanes of traffic to get to the park in Hopkins. She encouraged the planning commission to continue its objections to the plan and for staff to listen to the concerns. She asked that meetings not be held during business hours because it made it difficult for people to attend.

Rebecca Aspelund, 4237 Oak Drive Lane, said she moved into the neighborhood for the community, security, safety and beautiful nature that the city offers. Since the trees were removed for the road reconstruction she can now see all the traffic from her kitchen window. She used to hear
birds and now all she hears is traffic. It makes her sad that the whole neighborhood could be wrecked by adding the traffic from the apartment building.

Elizabeth Miller, 4408 Crawford Road, presented a petition and said as she had been going door to door to collect signatures she was hearing similar comments to those brought up by those who had spoken before her. She noted there were traffic issues on her side of the neighborhood as well. At all the meetings neighborhoods indicated they did not want a three story building.

Barone noted there was an upcoming open house to review the revised concept plan. She said the city had not received a formal application from the developer. Once a formal application is received it would go through the formal public hearing process.

Ann Aanestad, 4255 Oak Drive Lane, submitted additional petitions and noted the proposal had really brought the neighborhood together.

Ellen Cousins, 4531 Greenwood Drive, said a couple of things caught her eye reading the meeting notes from February 6. She noted Schneider had commented about liking the “urban feel” of another development. Similar comments were made about the Shady Oak project. She questioned when Minnetonka became a community with an urban feel. She also noted comments Schneider made during the February 6 meeting about petitions and sometimes there wasn’t a lot of meat behind the petition. She asked what kind of meat was needed for a petition to be meaningful. Schneider said when the city gets a petition signed by 100 people stating they were opposed to something because they didn’t like it, it was not that useful. What is meaningful is substantive information and specific facts. The neighbors who spoke earlier had brought up some factual concerns like traffic and view shed. He said his comments about urban feel were not that the city was going to become a city with an urban feel. There were certain sites around the city that would benefit from some urban feel.

Kyle Holm, 4234 Oak Drive Lane, said the emails received from the city’s development page on the website include just the neighborhood meetings and not planning commission and council meetings.

Schneider said there were several comments about the neighbors not knowing about the concept plan or wanting to have known sooner. He noted over a hundred residents have been involved and there wasn’t even a formal application yet. He was surprised by comments from residents saying they hadn’t been notified when so many people have turned out and been engaged already.
Wiersum said before the city started using the concept review process, a neighborhood typically would not know about a proposal until a formal application was submitted. The city has been very purposeful in increasing the engagement and awareness. There was no proposal. If people were opposed to something it was an idea being discussed. The city welcomed the engagement. The community was better when people got involved. A proposal for a 54-unit apartment building would probably be submitted but it wasn’t a certainty. All he knew was he had seen a concept plan and what came forward would be different than what he had seen. He said the city council agenda was posted on the website every week.

9. **Bids and Purchases:**

   A. **Bids for water treatment plant #12 electrical rehabilitation**

      Barone gave the staff report.

      Bergstedt moved, Wiersum seconded a motion to award contract to Premier Electric Corporation in the amount of $255,800. All voted “yes.” Motion carried.

10. **Consent Agenda – Items Requiring a Majority Vote:**

    A. **Resolution for grant for Plymouth Road Trail**

       Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-026 of support for construction of a trail on Plymouth Road, from Hilloway Road to Amy Lane. All voted “yes.” Motion carried.

    B. **Resolution approving the final plat of WILSON RIDGE 6TH ADDITION at 4316 and 4328 Wilson Street**

       Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-027 approving the final plat of WILSON RIDGE 6TH ADDITION. All voted “yes.” Motion carried.

    C. **Resolution approving the final plat of WOODLANDS AT LINNER at 1555 Linner Road**

       Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-028 approving the final plat of WOODLANDS AT LINNER. All voted “yes.” Motion carried.
D. Cooperative Funding Agreement Hennepin County Consortium Fair Housing Activities

Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-029 approving the agreement. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Introduction of ordinance amending park regulations

Streets and Parks Operations Manager Darin Ellingson gave the staff report.

Wiersum said he liked the provision about animals having to be on a six-foot leash but he asked the park board give consideration about dog leashes that extend. Many people have had experiences with dogs on those types of leashes and some like them and some do not. He thought the park board should give some consideration to language that explicitly states variable length leashes should not be extended beyond six feet. He said those types of leashes create a grey area that might create enforcement issues.

Schneider said he was pleased that over time there were gradual changes to be more inclusive and flexible so that people didn’t feel like they were being monitored all the time. There were some areas that allowed dogs to be off leash and there had been very few complaints. He said he would error on the side of being a little more flexible about the extending leashes. Requiring it to be no longer than six feet was micromanaging and he preferred allowing more flexibility.

Wiersum moved, Bergstedt seconded a motion to introduce the ordinance and refer it to the park board. All voted “yes.” Motion carried.

B. Introduction of ordinance amending miscellaneous criminal offenses

Heine gave the staff report.

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

13. Public Hearings:
A. Resolutions approving items concerning LINNER ROAD ESTATES at 1911 and 1935 Linner Road

1) Resolution approving preliminary and final plats; and
2) Resolution vacating easements for drainage and utility public right-of-way purposes.

Planner Susan Thomas gave the staff report.

Schneider opened the public hearing at 7:35 p.m.

Lori Knudsen, 2330 Linner Road, said she was objecting to the project but she objected to the construction traffic. There were two projects on Linner Road. Linner Road was redone and widened about 15 years ago but was still considered a neighborhood road. Even now when people have parties or events, the road is very narrow. She has called the police in the past because there wasn’t enough room for emergency vehicles to get through. Both the projects were on curves. She asked that an action plan be developed to address this issue.

Schneider said as part of the standard application review, a traffic management plan has to completed.

Thomas said the resolution included a provision requiring construction vehicles o be parked onsite.

Schneider closed the public hearing at 7:38 p.m.

Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-030 approving the preliminary and final plats of LINNER ROAD ESTATES at 1911 and 1935 Linner Road and resolution 2017-031 vacating easements for drainage and utility public right-of-way purposes. All voted “yes.” Motion carried.

Wiersum said if there were instances when construction vehicles were causing issues Knudsen’s approach of contacting the city was the right one.

B. 2017 Community Development Block Grant Funds

Economic Development and Housing Manager Alisha Gray gave the staff report.

Schneider opened the public hearing at 7:47 p.m. No one spoke. He closed the public hearing at 7:47 p.m.
Schneider said he would like a bullet point added to the summary of actions. For many years the city has been worried about the potential of losing the CDBG funds. With what is happening at the federal level, there is the likelihood the entire program could be eliminated. The housing programs that have relied on receiving CDBG funds from the city also rely on other state and federal funding, and those other funding sources also might be cut. He said he thinks that there was a potential long-term opportunity for the philanthropic community and others to step up and make up the shortfall. If the worst case happens there would be a huge transition period. This would be a huge disservice to the city’s residents and to the community. The bullet point he suggested adding was for the city to look at what options might be available depending on what happens at the state and federal level to mitigate some of the impacts. Barone said the council could discuss this when it discusses the Economic Improvement Program at its April study session.

Wiersum said he agreed with Schneider’s suggestion. Regardless of what happens at the federal and state level, the needs will continue. How they get funded may change but the needs will not go away. He said it was time for the city to start thinking about being innovative to see what other solutions exist.

Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-032 allocating the CDBG funds, and approve funding HOME Line in the amount of $4,000 from the Development Account. All voted “yes.” Motion carried.

C. On-sale liquor licenses for The Cheesecake Factory Restaurants, Inc. (The Cheesecake Factory) at 12735 Wayzata Blvd. (Ridgedale Mall)

Barone gave the staff report.

Howard Roston, an attorney with Fredrikson and Byron, introduced himself and said he was representing the applicant. He said the Cheesecake Factory takes liquor license issues very seriously and will work with staff and the police department to do anything necessary to assure the city they will be a responsible and a good restaurant owner.

Schneider opened the public hearing at 7:54 p.m. No one spoke.

Wiersum moved, Bergstedt seconded a motion to continue the public hearing to April 24, 2017. All voted “yes.” Motion carried.

14. Other Business: None
15. Appointments and Reappointments: None

16. Adjournment

   Wiersum moved, Bergstedt seconded a motion to adjourn the meeting at 7:55 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk