Minutes  
Minnetonka City Council  
Monday, March 6, 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 Patty Acomb, Brad Wiersum, Tim Bergstedt, Tony Wagner, Bob Ellingson, Dick Allendorf, and Terry Schneider were present.

4. Approval of Agenda

Wiersum moved, Bergstedt seconded a motion to accept the agenda with addenda to items 6C, 13E, 14A, and 14C. All voted “yes.” Motion carried.

5. Approval of Minutes: None

6. Special Matters:

A. Retirement recognition for Recreation Services Administrative Services Manager Lorry Mendez-Burns

Schneider read the recognition.

Mendez-Burns said she was looking forward to her retirement and was grateful for her time with the city.

B. Presentation of 2017 Reflections Award

Schneider presented the award to Ron Kamps.

Kamps thanked the city for the award. He said his philosophy in life was comprised of three things: first you learn; then you earn; and then you serve the community. He was thankful for the blessings in the community including the ICMA, the farmers market, the Williston Center, Tour de Tonka, Empty Bowls, Tonka Cares, Minnetonka Diamond Club, and Minnetonka High School’s VANTAGE program. He said to be the best, one has to serve others.
C. Strategic Planning - Imagine Minnetonka summary and recommendations report

Assistant City Manager Perry Vetter provided a staff report. Consultant Rebecca Ryan presented the recommendations report.

Grace Sheely, 14325 Grenier Road, said Imagine Minnetonka was phenomenal work and asked that a printer friendly copy of the report be made available.

Wagner thanked the steering committee and asked staff to provide information about moving forward with the recommendations. Vetter said a more condensed version of the report was being worked on that could be handed out to new residents and at open houses and other events. A Powerpoint presentation to provide information about the process, and a small summary card that can be handed out to people are being worked on as well. He said the next step is for the council and staff to develop action steps.

Bergstedt said every year the council develops a strategic plan and so often it just gets filed away. He thought the Imagine Minnetonka process was totally different and the steering committee work was great. Looking at the trends and what the community wants, there is the potential to learn so many things that have not been previously discussed. He said a number of years out when the city looks back at this process, it will be amazed at the positive results that came out of Imagine Minnetonka.

Wiersum said it was a fantastic project and the thing that stood out was people are passionate about the community. At the same time the report identified some very challenging issues that will have to be confronted. Moving forward the city will have to look at things differently, creatively, to come up with unique solutions. He said change was inevitable but what kind of change was up to the people involved.

Schneider said when he sits on boards and committees outside the city he is often asked how Minnetonka does what it does, remaining low profile but doing everything right. He typically answers the city has an engaged and caring community. The community is willing to let the city take risks. He said this exercise was part of that process and how the city informs itself and its residents so when things are done, they are done in a thoughtful manner with some goal in mind. He said Imagine Minnetonka was one component of many that the city does in making decisions and that it would provide a meaningful foundation for a lot of future work. He noted he has heard from more people that want to get involved than he has in a long time.
7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming meetings and city events.

8. Citizens Wishing to Discuss Matters not on the Agenda

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

   A. Resolution approving preliminary and final plats for a two-lot subdivision at 3900 Cottage Lane

      Allendorf moved, Acomb seconded a motion to adopt resolution 2017-020 approving preliminary and final plats for a two-lot subdivision at 3900 Cottage Lane. All voted “yes.” Motion carried.

   B. Resolution approving a conditional use permit for the expansion of a medical clinic at 10653 Wayzata Boulevard

      Allendorf moved, Acomb seconded a motion to adopt resolution 2017-021 approving a conditional use permit for a medical clinic at 10653 Wayzata Boulevard. All voted “yes.” Motion carried.

   C. Resolution amending the city’s Water Resource Management Plan for a wetland generally located at 1555 Linner Road

      Allendorf moved, Acomb seconded a motion to adopt resolution 2017-022 amending the city’s Water Resources Management Plan to reclassify the southerly wetland generally located at 1555 Linner Road as Manage 1 wetland. All voted “yes.” Motion carried.

   D. Labor agreement between the city of Minnetonka and Law Enforcement Labor Services, Inc. – Dispatchers

      Allendorf moved, Acomb seconded a motion to approve the 2017 labor agreement between the city of Minnetonka and the Law Enforcement Labor Services, Inc. – Dispatchers. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:
A. Resolution approving a conditional use permit for accessory structures exceeding 1,000 square feet and 12 feet in height, and a variance to add a second curb cut, at 4142 Avondale Street

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-023 approving a conditional use permit for accessory structures exceeding 1,000 square feet and 12 feet in height, and a variance to add a second curb cut, at 4142 Avondale Street. All voted “yes.” Motion carried.

B. Temporary on-sale liquor license for Bet Shalom Congregation, 13613 Orchard Road

Barone gave the staff report.

Anissa Gurstel, chair of Bet Shalom’s spring fundraiser, gave information about the event.

Schneider opened the public hearing at 7:25 p.m. No one spoke. He closed the public hearing at 7:25 p.m.

Wiersum moved, Wagner seconded a motion to grant the license. All voted “yes.” Motion carried.
C. Temporary on-sale liquor license for The Mills Church, 13215 Minnetonka Drive

Barone gave the staff report.

Schneider opened the public hearing at 7:26 p.m. No one spoke. He closed the public hearing at 7:26 p.m.

Bergstedt moved, Allendorf seconded a motion to grant the license. All voted “yes.” Motion carried.

D. On-sale wine and on-sale 3.2% malt beverage liquor licenses for Greenfield Natural Kitchen, LLC, at 1700 Plymouth Road

Community Development Director Julie Wischnack gave the staff report.

Doug Sams, 3309 Red Fox Drive, Medina, said the goal and purpose of the business was to make it easy for people to eat better. It was a fast casual restaurant. He showed the ID tag that would be used to activate the tap. The beer and wine taps would be locked by default and cannot be unlocked unless the tag was held within six inches within the tap’s tablet. In order to become a registered user, the patron has to swipe a valid ID into the system.

Wiersum asked what would happen if the magnetic stripe on the back of his driver’s license could not be read by the system. Sam said the ambassador would have to call the manager over. The manager would age verify the patron using the ID.

Wagner asked if the ambassador would also be taking food orders. Sams said the ambassador’s area of operation was limited to her work station.

Wiersum said a resident who watched Sams speak at the previous council meeting noted that Sams said the staff that is busing the tables would also be responsible for monitoring those drinking wine and beer. Wiersum asked Sams if indeed the hourly staff would assist in monitoring or if it was the responsibility of the manager. Sams said that in addition to the ambassador who will be facing the patrons, there also would be a hostess taking the food orders, the manager and all the cooks will be customer facing. All the staff would have the shared responsibility to ensure that the only people consuming alcohol have a bracelet on.

Bergstedt said during the discussion on Imagine Minnetonka, Wiersum had commented on how change was inevitable. Bergstedt said this technology will be new to the area and to the state. At the previous
discussion council identified some concerns. He said staff did a great job addressing the concerns.

Acomb said she was one of those who had some concerns about monitoring who was consuming beer and wine. She appreciated the team approach to monitoring compliance. She said she thought it was an innovative idea.

Schneider closed the public hearing at 7:34 p.m.

Wagner moved, Acomb seconded a motion to grant the licenses with the following conditions of approval: (1) Minnetonka Police staff will participate in pre-education of Greenfield Natural Kitchen employees to ensure understanding of liquor compliance, (2) the police department will conduct two unannounced compliance checks during the first year, (3) mandatory participation in the City of Minnetonka’s Best Practices Program the first year, and (4) staff will report any findings as part of the license renewal later this year as recommendations for changes if necessary. All voted “yes.” Motion carried.

E. Off-sale liquor licenses for Minnesota Fine Wine & Spirits, LLC, (DBA Total Wine) 14200 Wayzata Blvd.

Wischnack gave the staff report.

Ed Cooper, vice president of public affairs and community affairs for Total Wine, said the company was excited about coming to Minnetonka and had worked very hard to show its commitment to the community. The first application was to purchase the Big Top location. This was done for two reasons: to be sensitive to the city’s desire to limit the total number of liquor stores; and to compensate Big Top for its hard work and years spent building its business. The first application included paying for the traffic study and all improvements recommended by the traffic consultant to improve the traffic flow in the area. He said the current application was a response to concerns raised by some of the council members about the traffic flow, by finding a new site with marked improvement in terms of traffic flow. Again, Total Wine will pay for the traffic study to ensure there are no traffic issues. He noted this application addressed the desire by some of the council members to limit the number of stores in the city to twelve by reducing the number to ten.

Wagner noted in the first application there was a delayed opening because there was an existing occupant of the space. He asked if approved, when the target opening date for this proposal would be. Cooper said typically it takes a several months to build the store.
Schneider opened the public hearing at 7:44 p.m.

John Wallace, 1001 Horn Drive, said the new application was to replace U.S. Liquor and equated this with replacing a 7-11 with a Costco. He said the first application was turned down because of traffic concerns. The new proposed location was less accessible. He didn’t see how the intersection could handle the additional traffic Total Wine will generate.

Wischnack noted there was a pending lawsuit before the Court of Appeals related to the previous denial. She said staff would provide an update at the May 1 meeting.

Bergstedt clarified that although Cooper indicated Total Wine was paying for the traffic study, it was the city who selects the engineering firm that will do the study. Wischnack added the applicant is not allowed to talk with the traffic consultant.

Wiersum moved, Wagner seconded a motion to continue the public hearing to May 1, 2017. All voted “yes.” Motion carried.

14. Other Business:

A. Preliminary and final plats for a five-lot subdivision at 5325 County Road 101, 5311 Tracy Lynn Terrace, and 5320 Spring Lane

Barone clarified as noted earlier in the meeting, the change memo item related to this agenda item.

City Planner Loren Gordon gave the staff report.

Wiersum said during the planning commission hearing one of the commissioners stated it was reprehensible that the houses had been vacant and in disrepair for five years. Wiersum said this was not the first time the city has had nuisance issues with the developer. He suggested for future projects the city put in stipulations that would require the developer to address any nuisance conditions on existing properties before the current application was considered.

Bergstedt said he was thinking similarly to Wiersum. He said for a previous proposal in his ward on Williston Road as part of the development approvals, it was going to take months if not years before the final project was finished. In both proposals there were vacant, abandoned houses that were falling into disrepair. Any new development is a big change for a neighborhood but to be living for months next to houses in
disrepair was even a bigger challenge. The city relies on the neighbors to make a complaint and then the city goes to the developer to address the issues. He said it was tough on the neighborhood when the onus was on them to make the complaint. There was a pattern of abuse occurring. When the city grants approvals for the development there should be an obligation and expectation that properties that are eventually going to be torn down are kept in a state similar to neighboring properties. Somehow, the burden should be taken off the neighbors to be the ones who have to complain to the city.

Curt Fretham, 14525 Highway 7, said he would do a better job maintaining properties going forward. He said for the approval process for the first phase, he was asked not to be conversing with the neighborhood and the planning commission reprimanded him for doing so. The thought was he was trying to sell the neighborhood on a use the city did not support. Cutting off the communication line with the neighborhood led to his not being up to date about the nuisance conditions. He said neighbors have inquired what the plan was for the remaining four to five lots on the corner and were questioning why he wasn’t coming out to talk about it. He felt the approved plan for seven new single family homes was a good one.

Fretham said as things progressed the plan started to feel forced. The watershed provided feedback that the plans had to be modified. In the end there was a stormwater management plan that was close to $300,000. He had difficulty having to spend $47,000 per lot on just stormwater management. So he stepped back and looked at what was the right thing to do. Other ideas were looked at and one that surfaced was the Minnetonka Aquatics Club expressing an interest in putting in a regional swimming facility on the corner. He was asked to keep this a secret that led to more issues with the neighbors. He said all this opened his eyes to thinking maybe there was a better plan for the corner leading him to take a time out on the larger parcel.

Bergstedt asked for clarification on what the council was being asked to approve. Gordon said the application was for a replat that would include the five lots and the creation of three new rebuildable lots on Spring Lane. None of the previous approvals for the other lots are removed.

Bergstedt said if both the homes on Williston Road and the one house for this item remain vacant, no matter what proposal Fretham pursues, that the neighbors’ concerns are answered. Also, that they are kept up to date with what was happening with the properties, and the properties are kept in an acceptable condition. He asked for an update on the properties on Williston Road. Fretham said the two homes were removed and the original intention had been to start construction last fall. During the grading
permit process a question arose about the depth of the sewer. A revised grading plan had been submitted to staff. He said for the Saville home he has hired a contractor to do some work including painting and carpeting.

Wischnack clarified staff had not told Fretham he should not visit with the neighbors. Staff also were not the ones asking that he keep the swimming facility idea a secret but rather that came from being in negotiations about a property.

Roger Omlid, 5321 Tracy Lynn Terrace, asked why the house at 5311 Tracy Lynn Terrace had not been torn down. He said the house at 5330 Tracy Lynn Terrace was sold in March 2015 and was sold at 85 percent of the list price. Last summer he was going to refinance his second mortgage. He was told the house at 5311 Tracy Lynn Terrace would cost him 20 percent of the value of his house. He said the developer has not had any communication with the neighbors.

Allendorf noted the three lots met the city’s ordinance and therefore the council had to approve the request.

Wiersum asked if the city could add a stipulation that the approval was contingent that the house be removed within 60-90 days. The developer was going to have to remove the house at some point anyway so why not do it sooner rather than later so the neighborhood was not being penalized. City Attorney Corrine Heine said there was a provision in the city code stating that a city approval may only be granted to an applicant who has complied with all relevant statutory, ordinance, and charter requirements. She said if there were code violations that amount to nuisance requirements the council could withhold approval of this plat until the corrections were made and it was in conformance with city code. If the house was in conformance with city code and if the plat met all conditions required of the ordinance the council could not put on a condition to remove the house as long as it met all the code requirements.

Wagner said he has received complaints about a couple of properties in his ward related to incomplete paint jobs. He asked if the nuisance ordinance could be updated to include more stringent requirements to be in compliance. Heine said staff could look at other cities that have ordinances that address paint and other conditions. Wischnack said the current code includes provisions about paint. Schneider suggested a study session might be needed to have a broader discussion about maintenance and upkeep. Wiersum said a developer clearly would not want to put in more money into what will become a vacant lot than what is needed. He said laying out the expectation that if someone wants to develop in Minnetonka and it involves property with a house that will likely be torn
down, that it has to be maintained in a certain way. Bergstedt said the neighbor who spoke was frustrated with the outward appearance of the house. The house has been patched up to bring it into compliance but in a lot of ways it ends up looking worse. He hoped the developer would do a better job communicating with the neighbors and being a better neighbor.

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-025 approving the preliminary and final plats for a five lot subdivision at 5325 County Road 101, 5311 Tracy Lynn Terrace, and 5320 Spring Lane. All voted “yes.” Motion carried.

B. Concept plan review for Newport Midwest at 10400, 10500 and 10550 Bren Road East

Gordon gave the staff report. Wischnack indicated there might be an affordable housing aspect to the proposal. This would be reviewed by the EDAC.

Allendorf said months back the council had approved the largest apartment building that had ever been approved in the city. He asked where that project was related to this development and a comparison of the height of both projects. Gordon said the RIZE at Opus was just east of this site. It was a five story building with two levels of covered parking. He said the height of the two would be fairly similar.

Becky Landon, with Newport Midwest, the plan was for around 240 units of multi-family housing with 55 units being affordable at 50 and 60 percent median income.

Pete Keeley, of Collage Architects, presented the site plans.

Wagner said parking was one of things that Keeley mentioned was challenging. He asked what the thinking was in terms of the number of stalls per unit given the proximity to the light rail. Keeley said that right now the plan was right around 1.35 per unit. The count was based on one stall per bedroom.

Wagner said the council likely would be open to the number being less given the proximity of the light rail. He said there was a great dialogue at the planning commission hearing about the affordable housing and the light rail that might make the units marketable. He noted this would be the first development at the Shady Oak Station. One of the things discussed at the community works meetings was each station having a theme or a feel and having it feel like a place. Historically Minnetonka has not been a
design standard community but he thought it might be beneficial to think about what the theme or the look of the area might be.

Acomb said during her time on the council there had been a lot of developments that have had both market rate and affordable units. She never recalled any of them separating the different units but rather they have always been integrated together. She asked if there were examples of developments where the two types were separated. She also asked if there had been consideration given with this plan integrating them together. Wischnack said a good example of a similar development was Westridge Market which has separate components. Landon said the reason the market rate and affordable units would be in separate buildings was primarily due to limitations in the types of financing that are available. The market has changed dramatically in the last six months with fewer buyers of the tax credits. She said this is something that is continually being looked at with the tax credit investors. As the developer her company would be involved in the ownership of both sides. There would be one management company and common ownership running between the two. The idea was to make it as integrated as possible.

Wiersum asked what the target market was for the two parts of the proposal. Keeley said a market study for the market rate units had just been received within the past few days. This would be a constant evaluation to try to understand what the market is. At the start of the planning the thought was it would be more family oriented. From the feedback received, it was more likely the market was people catching the train, more workers, more millennials. Wiersum said in general he thought the plan was interesting and attractive. Although there was a great trail system in the area, green space would be in short supply. Anything that could be done to enhance that would be important.

Allendorf said the units were labeled market rate and affordable because of the financing. He hoped it would be an integrated complex in terms of people not saying “that’s the affordable side…” Landon said there may be some differences in some of the interior finishes but from an exterior perspective they would be the same. Keeley said the challenge was not wanting it to look like one large project with a wall of buildings. Allendorf said he was intrigued with the townhouse part. He thought it was an innovative first level look. He said if the access issues could be figured out he thought this was a good location for this product.

Acomb said as far as the site plan and access issues she was concerned with not having any surface parking near the affordable units. She appreciated the look of the buildings and all the different outdoor spaces. She agreed with Wiersum’s comments about green space.
Schneider said the density was very warranted for this area. The city had focused on getting some high-density housing and this was truly high density housing. There had been other potential sites for high-density housing that went to institutional schools and other nonprofits. He acknowledged the challenge of not knowing what would happen to the property to the north but it would be nice to be able to tie into development of that property. A trail to the LRT station would be nice but it would be better to have a walkway with some landscaping, seating areas and gathering spaces somewhat coordinated between the properties. This would leverage the limited amount of green space to a more urban greenway. This type of thing is enjoyed by millennials more than a big park. He suggested keeping this possibility in mind. He said he was fine with the parking ratio given the light rail. There would be a challenge with the size of vehicles that could be accommodated by the underground parking. A garbage truck or a furniture truck would not be able to be accommodated. A pull off area off of one of the streets might be important.

C. 2017 Assessment Report

City Assessor Colin Schmidt presented the report.

15. Appointments and Reappointments: None

16. Closed Session

A. Closed session regarding sale of properties at 4292 Oak Drive Lane and 4312 – 4342 Shady Oak Road, pursuant to Minn. Stat. § 13D.05, subd. 3(c)

Wiersum moved, Wagner seconded a motion to go into closed session regarding sale of properties at 4292 Oak Drive Lane and 4312 – 4342 Shady Oak Road, pursuant to Minn. Stat. § 13D.05, subd. 3(c) All voted “yes.” Motion carried. The council went into closed session at 9:12 p.m.

The council met in closed session at 9:20 p.m. and discussed the possible sale of properties at 4292 Oak Drive Lane and 4312 – 4342 Shady Oak Road Acomb, Wiersum, Bergstedt, Wagner, Ellingson, Allendorf, and Schneider were present.

Staff present: Barone, Vetter, Heine, Wischnack, Gordon, Finance Director Merrill King, and Economic Development and Housing Manager, Alisha Gray, City Engineer Will Manchester, and City Clerk David Maeda

The council adjourned the closed session at 10:15 p.m.
17. Adjournment

Acomb moved, Wiersum seconded a motion to adjourn the meeting at 10:18 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk