1. **Call to Order**

Mayor Brad Wiersum 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 Tim Bergstedt, Bob Ellingson, Patty Acomb, Mike Happe, Rebecca Schack, Deb Calvert, and Mayor Wiersum were present.

4. **Approval of Agenda**

Calvert moved, Bergstedt seconded a motion to accept the agenda with an addendum to item 12A. All voted “yes.” Motion carried.

5. **Approval of Minutes: Sept. 17 and Oct. 8, 2018 regular council meetings**

Acomb moved, Schack seconded a motion to approve the minutes of the Sept. 17, 2018 regular council meeting, as presented. Bergstedt, Ellingson, Acomb, Happe, Schack, and Wiersum voted “yes.” Calvert abstained. Motion carried.

Acomb moved, Schack seconded a motion to approve the minutes of the Oct. 8, 2018 regular council meeting, as presented. All voted “yes.” Motion carried.

6. **Special Matters: None**

7. **Reports from City Manager & Council Members**

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

Bergstedt praised City Engineer Will Manchester and the engineering staff for the work on the Woodhill Road reconstruction project. He said he didn’t receive any calls complaining about the project. He also praised the improvements to Ridgedale Drive. Wiersum noted he asked when the Ridgedale Drive work would be completed and was told before the holidays. Although some landscaping work is still to be done, the roadwork is indeed finished.

Wiersum reported he attended a light rail Corridor Management Committee meeting earlier in the day. He said the project will fundamentally change the region.

8. **Citizens Wishing to Discuss Matters not on the Agenda**

9. **Bids and Purchases: None**
10. Consent Agenda – Items Requiring a Majority Vote: None

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Items concerning the Glen Lake Apartments at 14317 Excelsior Blvd.:

1) Comprehensive Guide Plan amendment from commercial to high-density residential;
2) Rezoning from R-1, low-density residential, to PUD, planned unit development;
3) Master development plan;
4) Site and building plan review; and
5) Right-of-way vacation.

Item was moved to agenda item 14C.

13. Public Hearings: None

14. Other Business:

A1. Items concerning The Mariner, a multi-family residential development, at 10400, 10500 and 15500 Bren Road East:

1) Ordinance rezoning the property from B-2, limited business, to PUD, planned unit development; Master development plan; Final site and building plans; and Preliminary and final plats
2) Resolution approving contract for private development with the City of Minnetonka and Mariner Affordable Apartments Limited Partnership

City Planner Loren Gordon and Community Development Director Julie Wischnack gave the staff report.

Becky Landon, president of Newport Midwest, presented the overall plan.

Calvert asked if a condition could be applied that when the development in the area become clearer, have the city revisit the dog run and the parking. Gordon said staff had discussed the idea and there was some ability to have a discussion in the future.

Happe asked if the easement would still exist if the council approved the parking. Gordon said the easement would always exist unless the council vacated it. The council was not being asked to vacate the easement. The request was to allow a private improvement within the public easement. Wischnack said the issue had been discussed for a long time and changes could have been made to the building to accommodate the parking. She said it would be a wasted effort to put in the parking lot only to have to remove it. She estimated the chance of that
having happen was 70 percent. Staff has always been open to discussing parking at some future point.

Happe said it made sense to redevelop a business park into residential. In order to do this, the zoning had to be changed. He asked for information about how decisions to change zoning were made. The zoning was there for a reason.

Gordon said a lot of it came from the comprehensive plan and the guidance and vision in the plan. Ten years ago the city made a decision to re-guide almost all the land within Opus from various industrial and business land use guidance to mixed use knowing light rail was coming to the area. That guidance has led to mixed use projects.

Calvert asked for information about the total number of parking stalls. Gordon said the change with the southern unit was not reflected in the planning commission report. There would be two less stalls. Calvert said she agreed with the applicant. This was an exciting project with affordable housing and she was concerned with the parking. There would be 1.37 stalls per unit. The Carlson Island development, which was under parked, had 1.03 stalls per unit. She was concerned that the parking would not be adequate.

Bergstedt said he shared Calvert’s concerns. This was a great development. It was exactly what the council wanted in the location the council wanted it. He recognized staff’s concerns about precedent and the unknown. He said given the council’s concerns if staff felt confident that the parking was adequate. In the past the council had approved projects where parking became an issue and trying to retrofit it never worked as well as dealing with it upfront. Gordon said staff was comfortable with the parking.

Schack said the city often discussed sustainability and making smart ecological decisions. She said the thought of putting in money and the environmental impact to create two parking spots didn’t seem right. Gordon noted in addition to the two stalls, there were 23 additional surface spaces along the north side. Schack said the city was fortunate to have this proposed project. She said long term the need for parking for this project and others in the area would be reduced but that currently was not the case. She didn’t want the economic viability of the project to be compromised because there wasn’t enough parking.

Acomb asked if there were other transit options in the Opus area. Wischnack said there are buses that run through the Opus area. She said busing alignments would change after light rail arrives. Acomb asked the proximity of the current routes with this development. Wischnack said the routes were on Bren Road.

Barone asked Manchester to provide information about what the process would be if there was a utility project that required removing the parking lot. Manchester said typically when there is a public utility that required relocating something, there were certain requirements the city had to follow. Even if there were utilities close by to a parking lot, there were OSHA requirements that must be followed. He said with the light rail coming to the area, there were a number of private utilities that would need to be relocated and there would need to be certain redundancies to ensure the people in the area have service. Typically city
easements can be used. If there was a parking lot, the process would be to dig holes in it for the utilities. A lot of times if there was a disturbance there was not a quick turnaround time for the work to be completed.

City Attorney Corrine Heine said that gas and electric utility companies have the right to put utilities in the city’s right of way. If the council approved allowing the private use in the city’s easement, the city’s policy would need to be changed. There would need to be a condition in the approval requiring the developer to enter into an agreement that would run with the property and would address the conditions for removing the parking area. She said from a legal standpoint the issues could be addressed to allow the parking lot including who was responsible for the costs. There was the practical concern that once improvements were put in, residents start to rely on them. Expectations are created and people don’t tend to review legal documents.

Acomb said there were numerous great things about this project including the affordable housing. She said Heine made a great point about the parking. Once it was built it would be hard to take away. She suggested including a provision for a check back throughout the process of the development prior to the construction of the light rail to see if there actually was a parking issue. She favored giving the developer an opportunity to come back and ask for the parking if it became an issue rather than approving the parking upfront.

Calvert said she experienced parking issues at apartment complexes that were under parked. She trusted staff’s recommendation, but was concerned about ensuring that there was enough parking for the residents and their guests.

Ellingson said he was concerned because the applicant indicated there was no street parking in the area. If the apartment was under parked, there would be nowhere for people to park. He pointed to the Sanctuary development where there is very little room for parking.

Wiersum said the thing that was making this such a challenging decision was there was a lot that was unknown at this time. The Mariner was a great project and the city was excited to have it. It was known that the Southwest Light Rail was coming. There was a lot of complexity involved with the light rail. It is the largest engineering project in the history of the state. The light rail project would require a lot of flexibility. The Mariner development would take a year and a half or so to build. There wouldn’t be a schedule for the light rail project until early in 2019. The construction of the light rail would stretch out into 2022 with operations beginning in 2023. If the groundbreaking for the Mariner occurred in January 2019, the building would be open sometime in 2020 leaving a three year gap with the light rail project including things like water management and utility management. There would also be some time before the Mariner was fully occupied so there would be enough parking at the start. He supported going with the staff recommendation with the understanding that the parking would be looked at again in a couple of years. He said things in the transportation realm will change dramatically over the next 20 years. The household per capita utilization of automobiles will decrease. The light rail would also likely impact
automobile use. He was comfortable with the staff recommendation as long as there was agreement that the parking would be looked at again in the future.

Calvert said she agreed with Wiersum’s comments. She remained concerned however because if the Mariner filled up quickly, she didn’t know where people would park. She didn’t see what the contingency plan would be. Wischnack said staff often thinks about what would occur if they were wrong about the parking. Her experience has been things may be chaotic once in a while, like for an event or a holiday. She said there were opportunities to gather property owners to figure out solutions. The Minneapolis Mart had been very cooperative in trying to help with parking for different projects over the years. There was not a disagreement that surface parking was needed for a project like this one. The issue was about figuring out the best solution.

Acomb moved, Schack seconded a motion to adopt ordinance 2018-18 rezoning the property from B-2, limited business, to PUD, planned unit development and adopting a master development plan; resolution 2018-146 approving final site and building plans; and resolution 2018-147 approving preliminary and final plats. The city attorney would draft language to address the council’s comments about periodically reviewing the parking.

Bergstedt said when he read the council packet, there seemed to be clarity that the developer would be responsible for removing and paying the costs for removing the parking if the city determined the easement was needed for utilities. He said no matter how ironclad the agreement was, once the improvement was in and people were using it, it would be difficult for the city to explain why the parking was being removed and how the agreement was made a number of years back. Part of him wanted to get the parking but he was comfortable with the staff recommendation.

All voted “yes.” Motion carried.

A2. Resolution approving contract for private development with the City of Minnetonka and Mariner Affordable Apartments Limited Partnership

Calvert moved, Schack seconded a motion to adopt resolution 2018-148 approving the contract for private development with the City of Minnetonka and Mariner Affordable Apartments Limited Partnership and authorize city officials to approve non-substantive changes to the contract for private development. All voted “yes.” Motion carried.

B. Council policy regarding fair housing

Wischnack gave the staff report.

Calvert said federal administrations change and asked if there was a change to a protected class, if the city could continue to protect it even if it was no longer federally protected. Wischnack said the council could continue to protect the
class in the policy however this would create inconsistencies with other cities and across the state. Heine said there already were differences between the federal and state statutes. There likely would be a way to continue to protect the class unless the federal government wrote the statute that specifically made it unlawful to do so.

Wiersum noted this was a policy not an ordinance or law. He asked how much latitude the city had because it was a policy. Wischnack said the important thing was the fair housing policy was not the enforcement mechanism. It tells the city how it will act in certain situations. Heine said the city was adopting the policy to demonstrate to the federal government what steps it was taking to affirmatively further nondiscrimination. This was required by the federal law. Wiersum said he confirmed with staff earlier in the day that nothing new was being done but this was about codifying existing practice into a policy.

Calvert moved, Schack seconded a motion to adopt resolution 2018-149 approving Council Policy 13.1 related to fair housing. All voted “yes.” Motion carried.

C. Item concerning the Glen Lake Apartments at 14317 Excelsior Blvd.:

1) Comprehensive Guide Plan amendment from commercial to high-density residential

Gordon gave the staff report.

Schack said a similar item came before the council at a previous meeting. She asked if the recommendation to refer the amendment to the planning commission was largely procedural. Gordon said there was not a specific process to refer the amendment to the planning commission but staff was asking to council to do so to ensure people were not misinterpreting the action being taken. Schack said any decision made to refer to the planning commission would not impact council’s decision when the proposal came back to the council. Gordon confirmed this was correct.

Calvert said the title in the council packet and the agenda indicated it was an amendment from commercial to high-density residential. It was her understanding the change would be from commercial to mixed use. Gordon said the language the applicant provided in their narrative was commercial to high-density residential. Staff would make the change when the item was heard by the planning commission.

Wiersum said what was being recommended involved a comp plan amendment. The recommendation was to refer it to the planning commission but this would have been done anyway. The other items that were originally on the agenda were postponed to another meeting. Gordon confirmed that was correct. There was nothing binding to the vote on this item.
Acomb asked for confirmation that there were no affordable units in the proposal. Gordon said it was a market rate project with no proposed affordable units. Acomb said this disappointed her. She agreed mixed use was the proper zoning.

Calvert agreed with Acomb’s comments about affordable units. She thought the number of units was appropriate and was interested to see if there would be any storm water reclamation use for irrigation and any other sustainability efforts. She thought mixed use zoning made a lot of sense.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Bergstedt seconded a motion to adjourn the meeting at 8:20 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk