Minutes
Minnetonka City Council
Monday, Dec. 3, 2018

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

4. Approval of Agenda

Acomb moved, Calvert seconded a motion to accept the agenda with addenda to items 12A and 14C. All voted “yes.” Motion carried.

5. Approval of Minutes: Oct. 22 and Nov. 5, 2018 regular council meetings

Calvert moved, Schack seconded a motion to approve the minutes of the Oct. 22, 2018 regular council meeting and Nov. 5, 2018 regular council meeting, as presented. All voted “yes.” Motion carried.

6. Special Matters:

7. Reports from City Manager & Council Members

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

Calvert said she attended the League of Minnesota Cities and Metro Cities policy adoption meeting. She also attended the ground breaking for the Southwest Light Rail.

Wiersum said at the League of Minnesota Cities and Metro Cities meeting, Assistant City Manager Perry Vetter presented on the Imagine Minnetonka process. Wiersum also attended the Southwest Light Rail ground breaking. He acknowledged Hennepin County Commissioners Peter McLaughlin and Jan Callison, Met Council Chair Alene Tchourumoff and former Mayor Terry Schneider, for their work on the project.

Wiersum also paid tribute to former President George H.W. Bush.

8. Citizens Wishing to Discuss Matters not on the Agenda

Stephanie Luk-Brust, a Minnetonka resident, said she supported the Minnetonka Climate Initiative. The members of the initiative are concerned about climate change. She said
by partnering with the city, immediate action could be taken to slow down global warming. She asked the council to support the passage of a climate inheritance resolution.

9. **Bids and Purchases: None**

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

   A. **Resolution to adjust 2019 non-union employee salaries and benefits**

      Ellingson moved, Calvert seconded a motion to adopt resolution 2018-150 authorizing non-union employee salary and benefit adjustments. All voted “yes.” Motion carried.

   B. **City manager performance pay**

      Ellingson moved, Calvert seconded a motion to approve a lump sum merit pay amount of $1,586.54. All voted “yes.” Motion carried.

   C. **Cooperative agreement regarding public safety related to 2019 Mens National Collegiate Athletic Association Basketball Tournament**

      Ellingson moved, Calvert seconded a motion to approve the agreement. All voted “yes.” Motion carried.

11. **Consent Agenda – Items requiring Five Votes: None**

12. **Introduction of Ordinances:**

   A. **Ordinance amending the city charter regarding council terms of office and vacancies in office**

      City Attorney Corrine Heine gave the staff report.

      Wiersum noted there was a provision that stated the council had the option of scheduling the special election at the next regular municipal election only if the vacancy occurs in the same year as the regular municipal election. He said in the current situation where Acomb won her election to the Minnesota House of Representatives in November, had she chosen to resign her council seat in November or December 2018, the council would not have the option of scheduling the special election to coincide with the 2019 Municipal Election. He indicated it would be nice for the council to have a little wiggle room for similar situations. Heine said this had not been discussed at the charter commission meeting. She said the issue was one the charter commission could discuss if the council chose to send it back. Wiersum said he would be fine having the charter commission review the issue at its 2019 meeting. Happe agreed.

      Grace Sheely, 14325 Grenier Road, said changing the charter was a big deal and suggested giving residents more time to review the proposed changes.
Heine said the proposed changes were prompted by the 2017 state election law changes. Staff had internally started reviewing changes to the charter early in 2018 before the April Ward 3 special election and Ward 2 appointment. Barone noted there was a deadline from the time the charter commission approved proposed changes to when the council had to take action. Heine said if the council did not take action within 30 days of the public hearing that will be held in January, the process would have to start over.

Wiersum said if the public hearing was conducted on Jan. 7, the council would have until Feb. 6 to take action. He thought this would address Sheely’s concern.

Calvert moved, Happe seconded a motion to introduce the ordinance and schedule the public hearing for Jan. 7, 2019. All voted “yes.” Motion carried.

13. Public Hearings: None

14. Other Business:

A. Applications for renewed liquor licenses for 2019

Community Development Director Julie Wischnack gave the staff report.

Calvert moved, Schack seconded a motion to approve all of the liquor renewals listed in the report for 2019 calendar year. All voted “yes.” Motion carried.

B. Items relating to the 2019 operating budget and levies

1) Public consideration of proposed budget and levies

2) Resolution adopting a budget for the year 2019 and a revised budget for 2018; setting a tax levy for the year 2018, collectible in 2019; amending the 2019-2023 Capital Improvement Plan; and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority

3) Resolution setting a tax levy for the Bassett Creek Watershed Management Tax District for the year 2018, collectible in 2019

Barone gave the presentation.

Paul Taylor, 2117 Indian Road West, noted the city’s increase was smaller than the other taxing jurisdictions. He thanked the city for this.

Bob Antonovich, 17420 Bay Lane, said he moved into his home in 1975. He asked the council to consider all types of residences when increasing property taxes. Not everyone lives by the lake and was born into wealth. He and his wife wish to live in the city as long as possible and don’t want to be taxed out of their home.
Finance Director Merrill King presented information about state reimbursement and refund programs.

Calvert thanked staff for providing a chart on park dedication fees.

Schack said as the newest member of the council, it would have been a surprise to her that there were few council comments about the proposed budget, except that staff had been very generous in spending time answering all her questions.

Acomb said she spent a lot of time door knocking over the summer as she ran for the seat in the legislature. One of the things she heard universally from residents was that they believed they got good value for their tax dollars. She agreed with Calvert’s comments about the park dedication fee chart.

Wiersum said he didn’t want to price residents like Antonovich out their homes. He was mindful of the responsibility in approving the budget and property tax increases. He said the city was well run and provided excellent services at a reasonable price. For this budget some of the homes that were below the median value had some of the largest percentage increases. He knew this because he compared his own tax bill with his daughters’ property tax bill. He was also mindful that many senior citizens in the city live in homes valued below the median value. The city wanted to be mindful in helping those residents out whenever possible.

Bergstedt moved, Calvert seconded a motion to adopt resolution 2018-151 adopting a budget for the year 2019, a revised budget for 2018, amending the current Capital Improvement Program to be consistent with these budgets, setting a tax levy for the year 2018, collectible in 2019, and consenting to a special benefit tax levy of the Minnetonka Economic Development Authority; and to adopt resolution 2018-152 setting a tax levy in the Bassett Creek Watershed Management Tax District for the year 2018, collectible in 2019. All voted “yes.” Motion carried.

C. Process for filing the council vacancy to occur in At Large Seat B

Barone gave the staff report.

Acomb said it was her understanding that for a special election there would be no primary but the staff report indicated otherwise. She asked for clarification. Heine said the rule about not having a primary applies to special elections that occur on a different day than the regular municipal election. If the special election occurred on the same day as the regular municipal election, the charter provides there could be a primary depending on the number candidates who file.

Calvert asked what the cost for a special election would be. City Clerk David Maeda said the approximate cost for a citywide special election would be around $7,500. Barone noted if the special election occurred with the regular municipal
election, there would be no additional costs. The city did budget for a potential primary in all four wards because all four ward seats are up for election in 2019.

Bergstedt said there were strong pros and cons with either appointing someone and then conducting the special election in November or calling for a special election to occur in April. He preferred the interim appointment option. He would be fine with making an immediate appointment like what was done when he was appointed to the council, or having an application process like what was done when Schack was appointed to the council. His concern with having a special election in April was it was not a normal time that people are thinking about voting. He was equally concerned that because this was an at-large citywide position there could be a lot of people who file to be on the ballot and a primary was not allowed by the city charter. Making an interim appointment seemed to make the most sense to him.

Acomb said it’s long been her belief that because the councilmembers are elected officials, vacancies should be filled by special election. The city had successfully used both the appointment process and special elections, but she thought the community should decide who serves on the council. Her one concern with an April special election was there would be no primary.

Calvert said it was a difficult decision. She understood the need for residents to have representation on the council as well as having someone with appropriate experience. She was uncomfortable with the notion of appointing someone who then would become duly elected. She noted the city recently had an 82 percent turnout for a non-presidential election. This showed people were hungry to have their voices heard. She wanted someone who was going to show up and be there consistently, do the work and be responsive to the constituents. One of the best ways to get someone to show these traits was having them show their work ethic through campaigning. If there was an April special election, there would be stability because that person would serve out the term. She was leaning toward a special election without an interim appointment. She noted that appointing Schack occurred during a busy time in Ward 2 with a lot of decisions on projects in that ward. It was important to have somebody represent residents in that ward as soon as possible. Acomb’s seat was an at-large seat so all the wards already were represented.

Happe said during his relatively short time on the council he came to see the importance of having a full council as quickly as possible and minimizing the gap. He agreed with Bergstedt’s comments. The turnout for a special election was always small. Having an interim appointment and then having the special election in November with a higher turnout seemed to be the most appropriate option.

Schack said it was difficult for her to weigh in without sounding hypocritical. She appreciated the need to have a full council. She was leaning toward an interim appointment for that reason. She said she would like there to be an identified appointment process. It was important to have a transparent process. She didn’t like the perception the council was cherry picking the person that it ultimately wanted to prevail in the election.
Ellingson said he leans in favor of having an election because the councilmembers were elected officials. The council had appointed really good people. Special elections have also led to good councilmembers. There was value in letting the voters decide because he didn’t always feel qualified to pick a person because he often didn’t know a lot of the candidates in different wards. The position would not be vacant for all that long and the winner wouldn’t have to run again until 2021. He said when he was first elected no one ran against him four years later. The same thing was true after Wiersum and Bergstedt were appointed. When he first was elected all the other councilmembers had run unopposed on at least one occasion. He was concerned that if the council appointed someone the council was deciding the election.

Calvert noted there were almost three years left in Acomb’s term so it was almost a full term. This made her concerned about appointing someone. If the rest of the council supported appointing someone she would be pretty insistent on appointing someone who was not going to run again. She felt strongly about having a special election even though she understood the concerns about being short a councilmember. She also felt strongly about leaving it to the will of the people rather than having the council pick someone who was highly likely to be re-elected or unopposed. The city had made efforts to ensure all people in the city feel included and the best way to be inclusive was to give people that were interested a chance to run for the office.

Wiersum said the pros to having an April special election were there would be a final selection sooner and it was a more open process. The cons were there would be a long period with a vacancy and there would be no primary no matter how candidates there were. For the Ward 3 special election there was a 13 percent turnout with five candidates on the ballot. The winning candidate did not have a majority of the vote but had a plurality of the vote. There also were additional costs to the city. The pros to the interim appointment option were the appointment could potentially be made very quick, there was the belief there were qualified people available including several who had been elected by Minnetonka voters in the past, and there would be a primary if more than two candidates filed for the November special election. He thought this was important because there likely would be a better turnout in November and there were benefits to having a primary if necessary. The con was it was arguably a less open process.

Barone asked for comments on doing an immediate appointment versus doing an interview process.

Calvert said if the council were to appoint, she would want an extremely robust process. She wanted it to be very democratic because it felt like appointing someone who was previously on the council was very “good old boy.” She understood wanting someone with experience but she also wanted to make sure the will of the people was heard.
Grace Sheely said she sometimes felt like the council’s discussion on appointing someone insulting. To think residents do not want to get involved was wrong. She suggested appointing people from different wards to serve for three months. This was the only way she would support an appointment. She didn’t think the Ward 2 appointment process was fair and didn’t want the same process to be used again. Winning an election was hard work and required a person to go out and talk to people. Even if it was a low turnout, those turning out were those who cared the most and everybody had a chance to participate. Appointing someone gives that person a huge advantage.

Barone noted the interim appointment was allowed in the city charter. Heine said the suggestion of appointing four people to serve three months each was not permitted by the charter. Wiersum asked if the special election were conducted in November if the winning candidate would take office in November or if they would take office in January. Barone said the winner would take office after the election results were certified in November.

Bergstedt said that he would be uncomfortable appointing an interim councilmember without using some sort of public process. He said his own appointment to the council was unique because it was unknown how long Councilmember James Hiller might be out. This was a very different situation. He still favored a temporary appointment with a public process.

Wiersum said his takeaway from the council discussion was that the council was leaning toward, but had not made a decision, to go with an interim appointment process. If an interim appointment process was used there would be a robust and open interview process. He said during his first year as mayor there were significant gaps in terms of full representation on the council. This was a disservice to the city. There also was the embarrassing circumstance when the council did not have a quorum and a meeting had to be rescheduled. This should never happen again.

15. Appointments and Reappointments: None

16. Adjournment

Bergstedt moved, Acomb seconded a motion to adjourn the meeting at 8:35 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk