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, Deb Calvert, Tim Bergstedt, Tony Wagner, and Mayor Wiersum were present.

4. **Approval of Agenda**

   Wagner moved, Calvert seconded a motion to accept the agenda with an addendum to item 14A. All voted “yes.” Motion carried.

5. **Approval of Minutes: None**

6. **Special Matters:**

   A. **Review of the 2017 financial report with the city’s audit firm of CliftonLarsonAllen LLP**

   Doug Host, partner with CliftonLarsonAllen, presented the report. He reported property tax revenue was under budget by $195,000. He said this was not a red flag at all. Wagner asked if part of this was due to the increase in the number of tax court appeals. Host said the appeals would not have an impact on the 2017 levy but would show up in later years.

   Wiersum noted all the enterprise funds covered the depreciation except for the ice arena. Host confirmed this was correct. Wiersum asked if this was typical for other cities. Host said generally it’s more of a mixed bag. Minnetonka took more of a proactive approach. He said he audited a city who absolutely refused to increase water and sewer rates even though the infrastructure was wearing out. When the sewer system eventually required repairs, the council then had to greatly raise the rates. In hindsight if they had raised the rates one and a half percent a year over a 12 year period, no one would have noticed.

   B. **Proclamation declaring July 2018 as Monarch and Pollinator Awareness Month**

   Calvert read the proclamation.

7. **Reports from City Manager & Council Members**
City Manager Geralyn Barone reported on upcoming city events and council meetings.

8. Citizens Wishing to Discuss Matters not on the Agenda

Tim Litfin, provided information about the upcoming Tour de Tonka.

Wiersum said the city often discusses building community and it was events like the Tour de Tonka that built community.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution delegating authority for electronic fund transfers

Ellingson moved, Acomb seconded a motion to adopt resolution 2018-070 delegating authority for electronic funds transfers to the city’s finance director or her designee. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Items concerning Villas of Glen Lake at 5517 and 5525 Eden Prairie Road:

1) Rezoning from B-1 and R-1 to R-2
2) Preliminary and Final Plats

City Planner Loren Gordon gave the staff report.

Wagner said he expressed his concern during the concept plan review and he continues to have a concern about patios and decks overlooking a county road.

Acomb agreed with Wagner. She also encouraged the development of a sidewalk along County Road 4.

Ellingson said he appreciated Wagner’s concern. He said the townhomes just east of the Gold Nugget all have their backs to Excelsior Boulevard. The solution used in that example was putting in a bunch of big evergreen trees. This landscaping helped block the view of the townhomes from the street. He said Eden Prairie Road had a lot of character. He was concerned about the tree loss. The council approved five houses on Williston Road near the daycare, and all the trees were removed. He was worried the same thing might happen with this development.

Calvert said she agreed with all the comments that had been made. She shared the concern about tree loss. The business to the north was concerned about buffer and the proximity of the actual construction as well as runoff from the property. She thought having the driveway go between the two homes to the
west was a good use of space because it spaced the homes further apart. She shared Wagner’s concerns about the way the homes were oriented. All the other homes along that part of Eden Prairie were set further back and faced the road. Having the proposed homes much closer to the road with the back of the homes facing the road, would completely change the character of the neighborhood.

Wiersum said he was pleased that the five foot setback was now at least 10 feet. This was a significant improvement. Making the homes more rectangular made sense and he liked the driveway access. He said the applicant made some meaningful improvements. He did not disagree with the concerns about the back of the homes facing the road. He said if he were buying one of the homes it would give him pause to have his deck or patio facing a collector street. He encouraged the planning commission to look at the issue.

Blaine Waters, Quest Development, noted the pad sizes were reduced. The width and depth both were reduced. This was done to increase the setbacks specifically to the commercial properties to the north. Creating greater setback would also allow for more landscaping and potentially could save some trees. The setback to the west was originally 35 feet and now was 40 feet. He said he envisioned this site, as did the master plan, as a transitional site from commercial to residential. This was some of the reason for the configuration of the units.

Wiersum said there were always challenges to sites like this one and it was even more challenging as a transitional site.

Bergstedt moved, Calvert seconded a motion to introduce the ordinance and refer it to the planning commission. All voted “yes.” Motion carried.

B. Ordinance amending the Minnetonka Corporate Center Master Development Plan to increase a parking ramp from five levels to seven levels at 12700 Whitewater Drive

Gordon gave the staff report.

Wagner noted the current ramp was approved years back, and asked how the city’s current stormwater rules apply. Gordon said the stormwater management would be looked at as part of the approval for the project. Deficiencies in some of the design would be the number one thing staff would look for as far as how the stormwater left the ramp and where it went from there.

Calvert said she was sad that a cottonwood tree was being removed. She said cottonwood trees were a good stormwater management tool as they absorb a lot of water and prevent runoff. She noted the staff report indicated a deficiency in the number of handicap parking spaces. She asked for more information. Gordon said the number of handicap spaces was a building code issue. Anytime there was a deficiency in handicap spaces, it would be addressed as part of the permit process. Calvert asked if there was a reason for not addressing the issue as part of the approval process. Gordon said the code had changed since the ramp was built. The deficiency wasn’t something a variance would be given to.
Acomb said she also had questions about the deficiency in handicap spaces. She was keenly aware of handicap parking given her husband’s disability. She said often times there are not enough spaces for handicap parking. She didn’t want to see it under parked for this proposal.

Ed Farr with Edward Farr Architects said there would not be fewer accessible parking stalls than was required by the building code. The issue related to the two percent requirement for van accessible stalls. The structure of the parking deck, which was built to the requirements in 1997, wasn’t tall enough to allow van access. The van accessible stalls would be outside on grade. The requirement was to go from two to four van accessible stalls. He said the history of the ramp showed those stalls didn’t get used all that often. The minimum requirements would be met.

Wiersum said he appreciated the sensitivity related to handicap stalls. He was at an event about some work being done in one of the national parks to increase accessibility. With aging baby boomers the reality was everyone would deal with a disability at some point. It was important to look ahead and plan for accessible parking in facilities because there would be a major portion of the population that would not have access. He said the council needed to be ever mindful of the need because the need was only going to grow.

Wagner moved, Happe seconded a motion to introduce the ordinance and refer it to the planning commission. All voted “yes.” Motion carried.

13. Public Hearings:

A. Public hearing and Items relating to diseased and hazard trees

City Attorney Corrine Heine gave the staff report.

Wiersum opened the public hearing at 7:37 p.m. No one spoke. He closed the public hearing at 7:37 p.m.

Acomb moved, Happe seconded a motion to adopt ordinance 2018-07 relating to diseased and hazard trees. All voted “yes.” Motion carried.

Acomb moved, Calvert seconded a motion to conduct a public hearing and adopt resolution 2018-071 adopting Council Policy 8.3, regarding a plant pest program. All voted “yes.” Motion carried.

B. Dominium Apartments, 11001 Bren Road East

Barone gave the staff report.

Wiersum opened the public hearing at 7:41 p.m. No one spoke.

Bergstedt moved, Wagner seconded a motion to continue the public hearing to July 23, 2018. All voted “yes.” Motion carried.
14. Other Business:

A. Ward 2 City Council Vacancy

City Clerk David Maeda and Assistant City Manager Perry Vetter gave the staff report.

Wagner said since he announced his intention to resign, he received quite a few inquiries related to the role of a councilmember. Whether the decision was to call for a special election or for an appointment, he thought it would be valuable for the council to describe the role so that candidates knew what they were getting into. Being a councilmember was a great job but there was a pretty significant time commitment. He said he drafted things he’d be willing to share with staff and the rest of the council.

Wiersum said he thought Wagner’s idea was an excellent one and should be part of the application process. He said when his Ward 3 seat became vacant he received a call from a woman who indicated her mother was a mayor in the town she grew up in so she was interested in running for the seat. She asked about the time commitment and he told her what he thought was needed to do a good job. He never heard from her again. Laying out the expectations was important. Everyone wanted whoever was going to become the next Ward 2 councilmember to do a good job. It was important that the person knew what she/he was getting into and was prepared to fulfill the expectations.

Wagner said the job had a learning curve. He said if the council chose to appoint the first meeting for the councilmember would be the budget study session. There were a lot of developments in the ward. It was important to set expectations of what residents typically expect.

Calvert said for the boards and commissions appointment process the mayor was the one who made the appointment. She asked if the council chose the appointment process to fill the council vacancy, if the full council would take a vote. Barone said the full council would vote on who to appoint, not just the mayor. Calvert said that for the boards and commissions the council interviews the candidates one at a time. She said this makes it difficult to do a side by side comparison. She asked if it was possible to format the interview process to be similar to what the League of Women Voters do for candidates running for office. The League has a forum where all the candidates appear together and answer the same questions. Heine said the council could structure the process however it felt was best. Barone noted the staff report included information about the process that was used the last time the council made a councilmember appointment. The candidates were interviewed individually on camera by the entire council. Calvert said it was important to treat all the candidates equally. This included asking all the candidates the same questions and to have a variety of questions dealing specifically with Ward 2. She also suggested applying some of the things the council learned about at a recent implicit bias presentation. She wanted to make sure the process was transparent enough where councilmembers own biases didn’t end up helping to select a person because he/she “fit in.”
Wiersum asked if there was anyone from the public that wished to make comments about whether the vacancy should be filled by special election or by appointment. No one spoke.

Calvert said there were pros and cons with either approach. She thought elections were extremely important and had heard the people who were asking for a special election. She said she was a “will of the people” person so she had strong feelings for the special election approach. Running for election helped demonstrate work ethic, which was really important trait for a councilmember because of the time commitment and discipline needed. She also understood the magnitude of the decisions that were before the council and there was a strong argument for appointment because there were so many upcoming decisions involving Ward 2. She didn’t want the residents in that ward to be without representation for such a long period of time. She was also concerned about partisanship affecting the election. She thought it would be really easy for political parties to provide certain kinds of help for candidates. Keeping the city council sacredly nonpartisan was one of the most useful things the council has done over the years. It had ensured decisions were made based on facts and not party based decisions. She thought it would be difficult for the council candidates to break through the noise of a State General Election only to have to run again the next year. She said her bottom line was a transparent process.

Happe said the timing of a special election, and having to wait until November was a concern as was making the person run in another election next year. The worst case scenario was having to wait until February to hold the Ward 2 special election based on the timing of the vacancy. He agreed with the concern about the potential for partisanship in the councilmember election. As long as there was an open and transparent appointment process, getting somebody as soon as possible to represent Ward 2 residents was important.

Bergstedt said the council discussed the item at the last study session, and as a couple of councilmembers mentioned one of the important things has been that city elections have been nonpartisan. The city has always had odd year city elections. Looking at what was on the November ballot, he was concerned the councilmember race would be lost in all the noise or it would be easy for someone to run under a party banner. He said all four wards had important issues going on but Ward 2 with Ridgedale and other things had a lot of important decisions that would be made in the near future. The sooner the council had a Ward 2 representative was better for everyone in Ward 2 and everyone in the city.

Ellingson said he favored having a special election primarily because it was an elected position. He said it was true the council appointed some excellent people in the past, including Wiersum and Bergstedt. The council also has excellent people who are on the council after winning a special election. He said the expectations of the people who live in the ward are they should decide who represents them. It reminded him of countries that did not have elections and then did have an election where people walk miles and wait for hours to be able to vote. Voting participation has been declining in the United States for several
years. He noted there was a pretty good turnout, around 13 percent for the Ward 3 special election. When he last ran for election in 2015, the turnout was 15 percent. He said it was true there was a considerable drop off for cities with elections in the even years where voters vote for state and federal offices but choose not to vote for local offices. He wasn’t worried about the partisanship issues because like Minnetonka, Minneapolis and St. Paul have their city elections in the odd numbered years and those cites’ elections are very partisan. Having elections in an even or odd numbered year wasn’t the deciding factor on how partisan the elections were. Since the city had not seen partisanship up to now, he questioned why it would suddenly flare up for a special election.

Acomb said she had always been a strong proponent of special elections because that was how she originally became a councilmember and councilmembers are elected officials. She said this was a different set of circumstances. Some of the neighboring communities that have even year city elections have a more partisan city council. She thought the political parties were always pushing to be more involved. She supported the appointment process in this case. She agreed the city had good candidates when it used both the special election and appointment processes to fill vacancies. She said the possibility of partisan politics concerned her enough to support the appointment process.

Wagner said he waited until the end to share his thoughts because it would be the rest of the council’s job to fill the vacancy. The city had long legacy and history of protecting the odd number year election. If he were making the decision to fill the vacancy the partisanship issue would be the key determining factor he would weigh heavily. There were some other practical things that should be considered. When the council chose to call for a special election when the Ward 3 seat became vacant, Wiersum was the new mayor, and he still was a resident of the ward and was someone residents of the ward could reach out to. Because of changes to the state election law, there would be a four month gap before the special election could be held. During this time the council would have a budget study session, which was a deep dive into the proposed budget. There likely would be development that would come up in the Ridgedale area. There also would be constituent issues that needed to be addressed. He thought it was unfair for the rest of the council and for residents of Ward 2 not to have representation for over four months. The position would be up for election in November 2019, so residents would have the opportunity to vote on how they felt the appointed person was doing.

Wiersum said he was proud of the city and the council. He was proud the council was nonpartisan and was able to work together respectfully. The council respected each other’s decisions whether they agreed with them or not. This was a legacy he was proud of. The city’s charter speaks specifically to this issue. If there was more than two years left in a term, the charter requires a special election when a vacancy occurs. The times he supported calling for a special election were the times when there was close to two years left in the departing councilmember’s term. In this circumstance there was substantially less than two years left in Wagner’s term. If the seat was filled by a special election, there would be less than a year left in the term. If the appointment process was used, the vacancy would either be 38 days or 53 days depending on when Wagner
officially resigned. If there was a special election, the earliest the seat would be filled would be November 19. The vacancy would be for 129 days. The next available date for a special election would be in February, which would mean an additional 98 days, meaning the vacancy would be for 227 days. He said there were clear reasons for the charter provision and why an appointment made a lot of sense. The charter also provides for off year city elections. The intent of this provision was compelling for his support for doing an appointment.

Calvert moved, Happe seconded a motion to establish a process to fill the upcoming vacancy by appointment. Acomb, Happe, Calvert, Bergstedt, Wagner and Wiersum voted “yes.” Ellingson voted “no.” Motion carried.

Barone asked for feedback on the application and the appointment process that was included in the council packet.

Wagner said he never had been a big fan of the process used for the boards and commissions interviews. He said the last time the council used an appointment process for a council vacancy, it worked pretty well. The council scored the applicants in real time. He suggested articulating the attributes that the council was looking for in filling the position so that applicants would have a clearer understanding on what they were being rated on. This would help when thinking about what was a good score and what a bad score was. One possible area was how people think about decision making and how they balanced dilemmas.

Acomb said earlier in the day she asked Barone if staff could get applications other cities have used to fill council vacancies. The city of Plymouth provided one she felt got at some critical information in a different way. One question was about the philosophy of the appropriate function of a responsible government. Another was asking about the strengths and weaknesses of the city. She thought these were good, thought provoking questions. She said she liked Calvert’s suggestion about a format similar to the League of Women Voters candidate forums. This would eliminate the advantage of candidates being interviewed toward the end having the benefit of hearing what the candidates before them answered.

Calvert said one of things she would like to see achieved both in the application and the interview questions was to get to some level of objectivity so personal biases were removed and the decision was more data driven in determining how well an applicant might do as a councilmember. The idea was to find someone who would help fulfill the goals of the city and not the personal vision of individual councilmembers. She also suggested using a rank choice voting system for the applicant scoring sheets.

Wiersum said having good questions on the application form was important so the council had a good measure on paper of the applicant. He noted a paper application favors those who are better writers. When Amber Greves was appointed to the council there were 34 applicants. When he was appointed in 2003 there were 29 applicants. He guaranteed that many people would not be interviewed. When he applied, there were seven finalists. He thought this was a reasonable number. His experience in interviewing for jobs was that the
interviews were a day long process. The interview for the council vacancy would be 15-20 minutes. He said the boards and commissions interview process was pretty good given the limitations of the state’s open meeting law. The council couldn’t require the applicants to leave the room while other applicants were being interviewed. They could ask the other applicants to do so voluntarily. He said when he interviewed he was the last person interviewed and it was an advantage to listen to all the other applicants first. The council also had to decide if there would be one round of interviews or two.

Acomb asked how and when the process would ultimately be determined. Barone said staff would immediately begin working on an application process. One option would be to wait to see how many people apply. The interviews were scheduled for July 30 so there was an opportunity to make changes to the scoresheets and modify the interview questions as needed.

Wiersum said he agreed with Calvert’s comments about reducing personal biases from the process. Everyone has biases and the key was recognizing what personal biases exist and work to be as objective and fair as possible. Everyone wanted to pick the best person to represent Ward 2 and the city well.

15. **Appointments and Reappointments:** None

16. **Adjournment**

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

Respectfully submitted,

David E. Maeda
City Clerk