Minutes
Minnetonka City Council
Monday, July 23, 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 Mike Happe, Deb Calvert, Bob Ellingson, Patty Acomb and Mayor Wiersum were present. Tim Bergstedt was excused.

4. Approval of Agenda

Calvert moved, Acomb seconded a motion to accept the agenda with addenda to items 12A, 14A, and 15B. All voted “yes.” Motion carried.

5. Approval of Minutes: None

6. Special Matters: None

7. Reports from City Manager & Council Members

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

Acomb noted the yellow balloons in the Minnetonka Mills area welcoming home Karen Webster from the hospital after an automobile accident in April.

Calvert reported that she attended the Metro Cities Metropolitan Agency Committee Meeting.

Wiersum congratulated candidates for the Ward 2 council position.

8. Citizens Wishing to Discuss Matters not on the Agenda

Ray Lewis, 10521 Cedar Lake Road, Apt. 202, requested an election judge appreciation proclamation for all of the hard work that the judges put in.
City Clerk David Maeda stated that the proclamation from two years ago was only for that specific year; however, a new one could be drafted for the current year.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

   A. Resolution appointing election judges and absentee ballot board for the August 14, 2018 State Primary

      Ellingson moved, Calvert seconded a motion to adopt resolution 2018-078 appointing the election judges for the August 14, 2018 State Primary. All voted “yes.” Motion carried.

   B. Resolution approving an emergency polling place change

      Acomb requested that this item be pulled from the consent agenda so that people would be aware of the change.

      Maeda shared that the normal poll place for voters in Ward 2 Precinct D was Ridgedale Library; however, the new polling place would be Minnetonka’s Public Work’s facility at 11522 Minnetonka Boulevard.

      Ellingson moved, Happe seconded a motion to adopt resolution 2018-079 changing the polling place for Ward 2 Precinct D from the Hennepin County Ridgedale Library to the Minnetonka Public Works Facility at 11522 Minnetonka Blvd. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:

   A. Resolution approving the final plat of ARUNDEL ADDITION, a three-lot residential subdivision at 15500 Minnetonka Blvd.

      Ellingson moved, Calvert seconded a motion to adopt resolution 2018-080 approving the final plat of ARUNDEL ADDITION. All voted “yes.” Motion carried.

12. Introduction of Ordinances:

   A. Ordinances related to tobacco-related products

      Community Development Director Julie Wischnack gave the staff report.
Acomb mentioned several cities that had passed T21 ordinances, but wondered how many cities had passed packaging and pricing ordinances.

Happe asked whether electronic cigarettes were included in the definition of tobacco related products and if so, whether it had to be included. City Attorney Corrine Heine answered that the definition of tobacco related products as used in the ordinance did include electronic cigarettes. She added that the city council did have the ability to exclude specific products if they chose to do so.

Acomb and Wiersum discussed whether or not the city council should take public comment. Barone communicated that typically an introduction to an ordinance would go to the Planning Commission, but because this one did not public input would be appropriate.

Wischnack noted that Brooklyn Center, Bloomington, Minneapolis, Richfield, Robbinsdale, and St. Paul had all passed packaging and pricing ordinances.

Caleb Schultz, 4401 Wilson Street, voiced concern about youth usage of electronic cigarettes and the dangers that nicotine addiction posed for youth. He concluded that decreasing accessibility was one of the most successful ways to address these issues.

Gene Nichols, 5910 David Court, Shoreview, on behalf of African American Leadership Forum, discussed tobacco related issues that plague African American youth and supported increasing the minimum age to purchase tobacco to 21 and restricting the sale of flavors to adult only tobacco shops.

Holly Magdanz, Community Education Coordinator for Hopkins One Voice Coalition, supported the proposed ordinances and expressed concern with the increasing use of electronic cigarettes after a previous decline in tobacco use by high school freshman.

Steve Rush, on behalf of Holiday Stationstores, stated that Holiday stores have a 97% compliance rate when checked for underage sales according to the U.S. Food and Drug Administration. He was opposed to increasing the minimum age because customers would go elsewhere causing loss of other sales such as food and gas. He was also concerned with the economic impact that a flavor ban would cause and requested an appropriate implementation period if passed.
Rachael Schwartz, 17416 Manor Road, shared that she was previously an oncology nurse and was in support of the ordinance because tobacco use was the most preventable cause of death.

Jerry Levine, 11720 Vista Drive, Hopkins, shared his story of lung cancer. He began smoking at age 15.

Tom Madden, owner E-Cig POD, discussed the number of chemicals in a cigarette versus electronic cigarettes and noted that science was proving that electronic cigarettes are much safer and do help with smoking cessation. Madden also asked if there would be any type of grandfathering policy for 18 to 20-year old’s who were already purchasers.

Scott Stevens, owner Lucky’s Station, talked about free trade and unfairly restricting small business owners in single cities.

Molly Moilanen, on behalf of Clearway Minnesota, asked the council to choose the health of its residents over the profits of the tobacco industry. She mentioned that Clearway was working at the state level, but partnering with local governments was important to success.

Cap O’Rourke, President of the Board of Directors for Smoke-Free Alternative Trade Association, shared that over 75% of the U.S. vapor market was owned by small business owners. O’Rourke shared concerns over restricting flavoring and raising the minimum age to 21. He encouraged the council to separate electronic cigarettes from traditional tobacco products.

Wiersum noted that there were three different ordinance changes including age, flavor, and housekeeping. He suggested that the council discuss whether electronic cigarettes should be included in the definition of tobacco related products.

Acomb wanted to include electronic cigarettes because of the increased use among a younger age group.

Happe shared that he would like to separate electronic cigarettes because he had not seen validated health impacts as compared to traditional tobacco products.

Calvert appreciated the public health issues, but did believe that cigarettes and electronic cigarettes were somewhat separate issues. She also noted a concern with the candy flavors.
Ellingson expressed an interest in introducing the ordinances in order to further consider the issues.

Happe suggested that if the minimum age was increased to 21 that the flavor ordinance was no longer necessary.

Wiersum discussed public health, state verses local control, and the potential impacts on local retailers.

Heine answered a question concerning number of votes required to introduce the ordinances stating that four votes were needed.

Acomb noted that she was in support of allowing a period of time for retailers to comply.

Wischnack suggested aligning compliance with the licensing on January 1, 2019.

Acomb moved, Ellingson seconded a motion to introduce an ordinance amending sections 625.040 and 625.045 of the Minnetonka City Code, relating to the minimum age for sales of tobacco-related products; an ordinance amending sections 625.005 and 625.040 of the Minnetonka City Code, relating to tobacco-related products; and an ordinance amending sections 625.010, 625.015, 625.025, and 625.040 of the Minnetonka City Code, relating to tobacco-related products. All voted “yes.” Motion carried.

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

Land Use Items
1) Ordinance rezoning the property from B-2, commercial, to PUD, planned unit development;
2) Master development plan;
3) Final site and building plan review; and
4) Preliminary and final plats.

Economic Development Items
1) Tax Increment Pooling
2) Contract for Private Development

Assistant City Planner Susan Thomas and Wischnack gave the staff report.
Becky Landon, President Newport Midwest, introduced herself as the developer and stood for questions.

Acomb asked a question concerning utility easements. Landon noted that the property was constrained on all four sides so there are not alternate areas for a dog run or parking.

Calvert asked questions concerning water storage, storm water management, and native landscaping species. Landon answered that roof rain water would be piped to underground storage tanks, that the site could not manage all of its rain water, and that they were focusing on native species.

Acomb encouraged the planning commission to look at bike and pedestrian connections.

Acomb moved, Calvert seconded a motion to introduce Ordinance No. 2019-xx rezoning the properties at 10400, 10500, and 10550 Bren Road East from I-1, industrial to PUD, planned unit development, to refer the rezoning ordinance to the planning commission, and to approve the notification area. All voted “yes.” Motion carried.

13. Public Hearings:

A. Items concerning a multi-family residential development by Dominium, at 11001 Bren Road East.

1) Ordinance rezoning the property from I-1, industrial, to PUD, planned unit development;
2) Resolution approving a master development plan and final site and building plans;
3) Resolution approving preliminary and final plats;
4) Resolution approving vacation of easements; and
5) Negative declaration on the need for an Environmental Impact Statement

Thomas gave the staff report.

Wischnack gave the staff report regarding financing.

Calvert asked for further explanation on smaller parking ratio. Thomas said that it was based on staff experience from other projects and also because senior housing required less parking.
Ryan Lunderby, Vice President Dominium Apartments, addressed parking issues.

Acomb asked who would receive the savings from the solar panels. Lunderby communicated that it would be a combination between tenants and owners.

Calvert applauded the solar panels, native landscaping, and water reuse.

Wiersum asked why the property was being divided into two lots and whether the project would happen without the Southwest Light Rail Transit. Lunderby explained why the property was being divided and that Dominium was committed to moving forward regardless of Southwest LRT. Wiersum asked if anything such as insolvency could lessen the commitment to 30 years of affordable housing. Lunderby explained that affordable housing is what Dominium does and that the program and financing structure lend itself to a long-term commitment.

Julie Eddington, Kennedy & Graven, explained the declaration of restrictive covenants.

Wiersum opened the public hearing at 8:55 p.m.

Norine Larson, 5923 Abbott Court, Hopkins, expressed concern over increased Shady Oak Drive traffic and issues with exit/entry from their single entrance neighborhood.

Wiersum closed the public hearing at 8:58 p.m.

Happe asked staff to address the traffic concern. Thomas discussed previous traffic studies, the environmental assessment worksheet, and residential versus commercial traffic. Wischnack confirmed that the area was operating at an acceptable level according to traffic studies, the environmental assessment worksheet, and the city engineer. Happe asked about potential cumulative problems specifically on Shady Oak Drive. City Engineer Will Manchester shared that the area had been studied extensively and it was an area that would continue to be watched, but that it still had more capacity due to an upgrade a few years back.

Calvert moved, Acomb seconded a motion to approve ordinance 2018-10 rezoning the property from I-1, industrial, to PUD, planned unit development, and adopting a master development plan; resolution 2018-081 approving final site and building plans; resolution 2018-082 approving preliminary and final plats; resolution 2018-083 approving vacation of easements; and resolution 2018-084 approving making a negative
declaration on the need for an Environmental Impact Statement. All voted “yes.” Motion carried.

B. Items concerning a multi-family residential development by Dominium, at 11001 Bren Road East

Calvert moved, Acomb seconded a motion to adopt resolution 2018-085 Establishing the Dominium Tax Increment Financing District within the Opus Redevelopment Project by adopting a redevelopment plan, establishing a tax increment financing district and adopting a tax increment financing plan; resolution 2018-086 approving the contracts for private redevelopment between the Economic Development Authority and for the City of Minnetonka, the City of Minnetonka, and Minnetonka Leased Housing Associates II and III, LLLP for Senior and Workforce Housing; and resolution 2018-087 authorizing a grant application through the Metropolitan Council Livable Communities Transit Oriented Design (TOD) Program. All voted “yes.” Motion carried.

14. Other Business

A. Concept plan review for Hennepin County Medical Examiner’s Office at 14300 Co. Rd 62

The item was pulled from the agenda at the request of Hennepin County.

15. Appointments and Reappointments:

A. Appointment of Chris LaBounty as Minnetonka representative to the Suburban Rate Authority

Wiersum moved, Happe seconded a motion to approve the appointment of Chris LaBounty as Minnetonka representative to the Suburban Rate Authority. All voted “yes.” Motion carried.

B. Appointment of Matt Henry to the Planning Commission

Wiersum moved, Calvert seconded a motion to appoint Matt Henry to the Planning Commission to serve the remaining portion of a two-year term effective July 23, 2018, expiring January 31, 2020. All voted “yes.” Motion carried.

16. Adjournment
Acomb moved, Happe seconded a motion to adjourn the meeting at 9:18 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk