Minutes
Minnetonka City Council
Monday, March 18, 2019

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

Council Members Bob Ellingson, Deb Calvert, Rebecca Schack, Susan Carter, Tim Bergstedt and Brad Wiersum were present. Mike Happe was absent.

4. Approval of Agenda

Bergstedt moved, Calvert seconded a motion to accept the agenda with addenda to Item 14.A. All voted “yes.” Motion carried.

5. Approval of Minutes: Dec. 17, 2018; Jan. 7, 2019; and Jan. 28, 2019 regular council meetings

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

Calvert moved, Schack seconded a motion to approve the minutes of the Jan. 7, 2019 regular council meeting, as presented. Ellingson, Calvert, Schack, Bergstedt, and Wiersum voted “yes.” Carter abstained. Motion carried.

Calvert moved, Schack seconded a motion to approve the minutes of the Jan. 28, 2019 regular council meeting, as presented. Ellingson, Calvert, Schack, Bergstedt, and Wiersum voted “yes.” Carter abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on the process for filling the vacancy in the office of Council Member At Large Seat B. She also reported on upcoming city events and council meetings.
Calvert had attended an interfaith service at the Dar Al-Farooq mosque in honor of New Zealand victims. She had also attended a neighborhood meeting about the Woodhill Road project and the Energy, Environment & Natural Resources Federal Advocacy Committee meeting at the National League of Cities.

Schack had also attended the National League of Cities and spent a day with the local congressional representatives and senators in order to advocate on behalf of the city.

Wiersum joined his colleagues at the National League of Cities and had been invited to Minnetonka United Methodist Church to participate in a conversation on racial equality.

8. Citizens Wishing to Discuss Matters not on the Agenda

9. Bids and Purchases:
   A. Bids for the Main Lift Station Junction Box
      Barone gave the staff report.
      Schack moved, Calvert seconded a motion to award the contract to S.M. Hentges & Sons, Inc. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:
    A. Resolution amending resolution No. 2019-011 regarding INVERNESS ESTATES
       Ellingson moved, Carter seconded a motion to adopt resolution 2019-021 amending resolution No. 2019-011. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:
    A. Items concerning the demolition of an existing auto dealership building to construct a new auto dealership building at 15906 Wayzata Blvd.
       1) Ordinance replacing the existing master development plan and approving final site and building plans;
2) Amendment of an existing conditional use permit; and

3) Variance for parking setback

City Planner Loren Gordon gave the staff report.

Calvert asked about the changes in parking. Gordon explained the request was to reduce the setback for parking from 20 feet to 10 feet which would be looked at by the Planning Commission.

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

13. Public Hearings:

A. Items related to financing public safety facility improvements for the police and fire departments.

Barone introduced the item.

Finance Director Merrill King gave the staff report.

Wiersum asked if this debt would put the city’s Triple A bond rating at risk. King said it would not and that total debt was only one portion of the rating.

Wiersum opened the public hearing at 7:02 p.m. No one spoke. He closed the public hearing at 7:02 p.m.

Calvert was very excited to approve this needed and useful project.

Calvert moved, Carter seconded a motion to adopt Resolution 2019-022 amending the 2019-2023 Capital Improvement Program and Resolution 2019-023 authorizing the sale of $25,000,000 in general obligation bonds. All voted “yes.” Motion carried.

B. Items regarding Boom Island Brewing at 5959 Baker Rd.

1) Conditional use permit for a microbrewery and taproom at 5959 Baker Road.

2) On-sale brewer’s taproom and Sunday liquor license and off-sale liquor license (for growlers) for Boom Island Brewing Company, LLC 5959 Baker Rd, Minnetonka.
Gordon gave the staff report related to the conditional use permit.

Community Development Director Julie Wischnack gave the staff report related to the liquor license.

Calvert moved, Bergstedt seconded a motion to adopt resolution 2019-024 approving the conditional use permit for a microbrewery and taproom at 5959 Baker Road. All voted “yes.” Motion carried.

Wiersum continued the public hearing on the liquor licenses from the Feb. 11, 2019 City Council meeting.

Dan Syverson, part-owner Boom Island Brewing, talked about the business.

Wiersum closed the public hearing at 7:12 p.m.

Schack thought it was a good business to have in that area of town and that it would be well received.

Calvert moved, Schack seconded a motion to approve on-sale brewer’s taproom and Sunday liquor license and off-sale liquor license (for growlers) for Boom Island Brewing Company, LLC 5959 Baker Rd, Minnetonka. All voted “yes.” Motion carried.

C. Resolution authorizing an application to the Minnesota Department of Employment and Economic Development for funding from the Minnesota Investment Fund for PeopleNet

Ellingson left the dais at 7:13 p.m.

Wischnack gave the staff report.

Wiersum opened the public hearing at 7:16 p.m.

James Gomochak, consultant for the applicant, explained that the representative was traveling for business purposes, but he was asked to attend on the applicant’s behalf. He was happy to answer questions.

Wiersum was glad to have the addition of the business and jobs.

Wiersum closed the public hearing at 7:17 p.m.
Calvert moved, Bergstedt seconded a motion to hold the public hearing and adopt resolution 2019-025. Calvert, Schack, Carter, Bergstedt, and Wiersum voted “yes.” Ellingson absent. Motion carried.

D. Surplus CDBG Block Grant Funds from 2014, 2015, 2016, and 2017
Wischnack gave the staff report.
Carter asked for a clarification on the percentage required for spend down. Wischnack said she would need to look up the exact number, but because it was July to July it was not on the annual budget. Ellingson returned to the dais at 7:21 p.m.
Wiersum asked if all of the projects had a loan forgiveness option if residents stayed in the property long enough. Wischnack explained that the requirement was 80% area median income or below and that repayment forgiveness happened at year 10.
Wiersum opened the public hearing at 7:23 p.m. No one spoke. He closed the public hearing at 7:23 p.m.
Schack moved, Carter seconded a motion to adopt resolution 2019-026. All voted “yes.” Motion carried.

E. On-sale liquor licenses for MTKA Pizza, LLC (DBA Station Pizzeria), at 13008 Minnetonka Boulevard
Wischnack gave the staff report.
Wiersum opened the public hearing at 7:25 p.m.
Calvert moved, Bergstedt seconded a motion to continue the public hearing to April 15, 2019. All voted “yes.” Motion carried.

F. Items regarding Marsh Run (Doran Apartments)
1) Public hearing approving vacation of easements at 11650 and 11706 Wayzata Blvd
2) Marsh Run (Doran Apartments)
Gordon gave the staff report related to the vacation of easements.
Wischnack gave the staff report related to tax increment financing and the contract for private development.

Calvert mentioned resident concerns over selling or giving property to the developer. Gordon explained the city was giving up publicly held conveyances for drainage or utility purposes not land owned by the city. City Attorney Corrine Heine clarified that the Minnesota Department of Transportation had deed a portion of former Highway 12 to the city, but the item for consideration did not involve any sale of land to the adjacent owner. Calvert said there was a letter in the packet that said the Economic Development Authority was contemplating reimbursing the developer. Wischnack answered the city looks at the "but for" analysis for tax increment districts. In this case, there were extraordinary costs of redevelopment that qualified for tax increment financing. Carter asked if there would be a new district for Marsh Run or if it would be combined with the existing Boulevard Gardens district. Wischnack said there would be two separate districts.

Schack asked staff to clarify if there were any substantive changes to the terms from December to today. Wischnack said all of staff's proposals were in the contract. There had been some contention, but staff was confident that it followed the other contracts for affordable housing in the city.

Wiersum asked if the $4,571 per unit per year was for 17 years or 30 years. Wischnack answered 30. She explained that each project had different terms so this allowed an apple to apple comparison.

Anne Behrendt, Chief Operating Officer Doran Companies, thanked the council and talked about the challenges of the project. She appreciated the thoroughness and thoughtfulness of everyone involved. Doran was proud of the 20% affordable housing and was committed to being a good neighbor. Wiersum appreciated the comments concerning the council and staff. He acknowledged the tension at the previous meeting, but said we march forward. He was excited about the project and the affordable component.

Wiersum opened the public hearing at 7:51 p.m.

Pam Lewis, 980 Fairfield Court, Hopkins, asked for the city's and the developer's help. She thought there were still a lot of logistical issues that had not been fully vetted. She expressed concern over two neighboring pieces of property that had even larger environmental concerns.
Wischnack communicated that prior to construction, staff would hold a neighborhood meeting to share the construction management plan.

Wiersum encouraged residents to contact their council members, staff, and himself if there were concerns. He said staff would hold the developer accountable.

Wiersum closed the public hearing at 7:55 p.m.

Schack reiterated that the project was already approved. She thought it was important to now make sure the project went forward in the best way possible.

Calvert agreed with Schack and said the vote was procedural. She still had issues with the project, but affordable housing was a top priority.

Wiersum understood the environmental concerns about adjacent properties, but was not aware of any current plans. He encouraged residents to continue communicating with the council.

Wiersum closed the public hearing at 7:58 p.m.

Carter moved, Bergstedt seconded a motion to adopt resolution 2019-027 vacating drainage and utility easements at 11650 and 11706 Wayzata Blvd. All voted “yes.” Motion carried.

Calvert moved, Carter seconded a motion to adopt resolution 2019-028 modifying the Development Program for Development District No. 1, establishing Marsh Run Tax Increment Financing District and adopting a tax increment financing plan AND to adopt resolution 2019-029 approving contract for private development and a construction addendum. All voted “yes.” Motion carried.

14. Other Business:

A. Conditional use permit for a religious institution at 11021 Hillside Lane West; 2327, 2333 and 2339 Hopkins Crossroad; and 11170 Mill Run

Gordon gave the staff report.

Carter asked if the council wanted to add a stipulation where construction vehicles could and/or could not park, would that be added to the permit or was that part of the construction management process. Gordon explained that it was handled at a staff level; however, the council should point out
any issues it wanted staff to look at. Carter said it was helpful to see the commitment to extend fencing, but asked if the requirement would be added to the conditional use permit. Gordon answered that the fencing was shown on the site plan which was an official document being approved as part of the project.

Schack asked about the fence between the property and the neighbors that was going to be replaced in the earlier application. Gordon suggested the applicant should speak to the existing fence versus proposed. Schack asked about prohibiting parking on adjacent roads. Gordon said the city could post parking signage for specific hours, but the city relied on neighbors to petition the city for that need.

Wiersum asked about the additions to the conceptual site plan dated today and asked if the triangular area on the map would be an easement. Gordon confirmed. Wiersum asked the city attorney to talk about precedent which was addressed in a letter from a resident. Heine explained that the letter cited examples of conditions that had been imposed on developments in other cities and states, but those were not binding legal precedents She stated that if someone were reviewing the council's decision, what the council had done in similar neighborhoods or properties would be much more relevant than something that had been done in a different city or state.

Rabbi Mordechai Grossbaum, 3301 Robinwood Lane, Hopkins, thanked the council and staff for the time spent on the project. He noted that receiving a no from the council for the previous application brought them to a much better proposal and hopefully a safer Minnetonka. He thanked the neighbors for their input and staff for help with the rules and regulations.

Jeff Herman, 4740 W 27th Street, Minneapolis, was surprised at how controversial the project had been and was honored to help with this project. He was concerned with the life and safety aspect and thought all the pieces came together when they added access from Hillside. He talked about the landscaping and screening.

Gabriel Keller, P/K Architecture, noted the passion on both sides was a testament to the commitment that people had to the City of Minnetonka. He talked about being a residential firm and how that helped them fit the project into the residential community. He discussed the changes, floor plan, materials, fences, landscaping, and parking.

Michael Leirdahl, 2390 Vernon Circle, reviewed what happened in 2018. He explained that the neighbors had met with the Rabbi at the suggestion
of the council. One of the things agreed to was a new fence. He thought the changes were a huge improvement, but was upset that a new fence was not included in the current plans. He asked the council to add a stipulation that required the installation of a new fence.

Mike Anderson, 11105 Hillside Lane W, appreciated the screening that was added, but was concerned that his car would block the view for people exiting the site. He was also concerned that this was the sixth event-based facility on this road.

Amy Taswell, 11120 Mill Run, suggested prohibiting parking on the roads, but providing parking permits to residents. She also asked about the parking contract that was mentioned in the previous application and sidewalks. She asked the council to attach the stipulations listed in the neighborhood letter dated March 4, 2019. She also asked the council if it would approve anything else here if it was not a religious institution.

Gabriel Keller, P/K Architecture, commented that Mike Anderson’s car was parked in front of a garage.

Mike Fiterman, 2200 Isengard Street, thanked the council and staff for their hard work and dedication. He had been a proud resident of Minnetonka for 39 years. Minnetonka was the only community this side of the Mississippi that had every type of Jewish religious practice present. Mr. Fiterman thought it was time the members of the Chabad had their own home. He commented that the members were loving, humble, and caring people who would make great neighbors.

Marvin Liszt, attorney for the applicant, thought the first project was good, but commented that this project was really good. He noted the letter regarding the fence and explained that he would be happy to answer any questions the council had.

Calvert noted that she was in favor of the previous project; however, the project not going through was a blessing in disguise. The revised project was more attractive, lower profile, and higher quality materials. She understood that change was hard and hoped discussions could continue.

Schack said she had weighed in on the previous application as a Planning Commissioner. She thought this plan was much better, but was disappointed that the entire fence would not be replaced. She noted that there was more than one landscape plan and wanted to be clear the correct plan was included.
Carter was moved by the number of people that attended in support. She hoped in the spirit of building community, a negotiation about the fence could be managed. She also wanted to see stipulations about where construction vehicles could park.

Bergstedt agreed that the new building and landscaping were a big improvement. He shared a concern over the fence and thought the Chabad should work with the neighbors to construct a new fence. He noted the Chabad could have found another community or pursued a legal issue, but instead they listened to the concern of the neighbors, staff, planning commission, and the council.

Calvert commented on the suggestion that the council would not approve the project if it was anything other than a religious institution. She said religious institutions were appropriate for residential areas according to city ordinance.

Ellingson agreed with Bergstedt and Calvert. He thought safety was a big improvement and hoped the Chabad and neighbors would continue working together.

Schack asked how it would be handled if parking became an issue. Gordon explained that a Conditional Use Permit was always open for review by the council if circumstances warranted. Heine clarified that a conditional use permit once granted continued in effect unless there was a violation of a condition. If changes occurred over time and the use was no longer consistent with the original plans, which would provide an opportunity for the council to say that a project had exceeded the approval given.

Wiersum asked how the significance was measured, for instance if traffic doubled. Heine answered the specific use would need to cause a significant increase. Wischnack continued that in the event of a complaint, staff would need to find evidence to prove the point.

Wiersum said the process had been long, but the plan was dramatically better. The previous plan was a very intense use of a very small piece of property and the safety concerns were real. He thought it had been a very hard decision and personally thanked the rabbi and members for their good will. He thought a new fence would be good, but did not want to require it as a condition of approval.

Wischnack asked for clarification from the applicant as to which landscape plan should be included. Mr. Keller answered the Feb. 14, 2019 plan.
Calvert moved, Bergstedt seconded a motion to adopt resolution 2019-030 including landscape plan dated Feb. 14; 2019.
All voted “yes.” Motion carried.

Wiersum called a recess at 9:55 p.m.

Wiersum called the meeting back to order at 10:06 p.m.

B. Ordinances amending various sections of the city code regarding:

1) Residential zoning districts;
2) Wetland overlay district;
3) Shoreland overlay district;
4) Retaining walls;
5) Opus overlay district; and
6) Sign ordinance

Gordon gave the staff report.


C. Resolution approving OAKLAND ESTATES, a 4-lot subdivision at 1922 Oakland Rd

Gordon gave the staff report.

Ellingson returned to the dais at 10:15 p.m.

Calvert pointed out that the subdivision was removing 36% of trees which was more than the 35% cap. Gordon answered that the application did not include a variance, and the subdivision would be required to comply with the 35% cap. Calvert said that it was very wooded, but not a woodland preservation area. She asked Gordon to explain the difference. Gordon explained that woodland preservation areas were defined in an
ordinance and needed specific species of trees and other characteristics. There were mapped areas in the community that had those specific species.

Curt Fretham, Lake West Development, noted that he only had contact from one neighbor. He presented a handout with information concerning Lake West Development and the tax revenue that its developments had generated. He acknowledged the importance of trees and said he would look into the 35% cap.

Wiersum thought the summary was helpful.

Calvert said even though the development brought in tax revenue, there were some things that you could not put a price on. Trees were one of the things that made Minnetonka unique.

Bergstedt said it was a straight forward subdivision and appreciated the creativeness with the storm water.

Bergstedt moved, Schack seconded a motion to adopt resolution 2019-031. All voted “yes.” Motion carried.

D. Drainage and utility easements within public properties

City Engineer Will Manchester gave the staff report.

Calvert moved, Carter seconded a motion to adopt resolution 2019-032, establishing drainage and utility easements within public properties. All voted “yes.” Motion carried.

E. Resolutions for the Carlson Parkway project

Manchester gave the staff report.

Wiersum said it would be nice to have the new signals and ADA compliant sidewalks.

Bergstedt moved, Schack seconded a motion to adopt resolution 2019-033 accepting plans and specifications for the Carlson Parkway project and authorizing advertisement for bids, and resolution 2019-034 approving the cooperative construction agreement with the Minnesota Department of Transportation. All voted “yes.” Motion carried.

F. Resolution approving providing park credits for RIDGEDALE CENTER TENTH ADDITION
Gordon gave the staff report.

Schack moved, Calvert seconded a motion to adopt resolution 2019-035, replacing resolution No. 2018-108 and assigning park dedication credits. All voted “yes.” Motion carried.

15. Appointments and Reappointments:

A. Appointment of representatives to various advisory boards, commissions and committees

Wiersum read the appointment of Will Manchester as the Minnetonka City Council’s representative to the Suburban Rate Authority.

Wiersum moved, Carter seconded a motion to approve the appointment. All voted “yes.” Motion carried.

16. Adjournment

Schack moved, Bergstedt seconded a motion to adjourn the meeting at 10:38 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

Becky Koosman
Acting City Clerk