Minutes
Minnetonka City Council
Monday, May 20, 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 Mike Happe, Tim Bergstedt, Bob Ellingson, Deb Calvert, Rebecca Schack, Susan Carter and Brad Wiersum were present.

4. Approval of Agenda

City Manager Barone reported Item 13A had an addenda which included the Planning Commission minutes. She explained staff received a letter for Item 14B after the packet was distributed to the Council.

Calvert moved, Schack seconded a motion to accept the agenda with addenda for Items 13 A and 14 B. All voted “yes.” Motion carried.

5. Approval of Minutes:

A. April 15, 2019 regular council meeting

Calvert moved, Carter seconded a motion to approve the minutes of the April 15, 2019 regular council meeting, as presented. All voted “yes.” Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Barone reported on upcoming city events and council meetings. She noted city offices would be closed on Monday, May 27 in observance of Memorial Day.

City Manager Barone recognized Assistant City Manager Perry Vetter noting this would be his last meeting with the City of Minnetonka. She thanked him for his 20 years of dedicated service to the community. She provided a summary of the
projects he had a hand in over the years and wished him well with the City of Edina. A round of applause was offered by all in attendance.

Assistant City Manager Vetter thanked the council and staff for the recognition. He discussed some of the projects he had been a part of and commended the council for having vision and strong leadership.

Calvert thanked Assistant City Manager Vetter for his humble service to the community and for having a tremendous level of integrity.

Wiersum indicated he has been with Minnetonka for three-fourths of Assistant City Manager Vetter’s tenure with the city. He noted the city was losing one of its best but wished him all the best chasing his passion as Edina’s Park and Recreation Director.

Happe stated he was proud to know and work with Assistant City Manager Vetter. He wished him all the best in the future.

Bergstedt reported trees were extremely important to the City of Minnetonka. He commented on the recent tree sale which was held last Friday and Saturday. He thanked Leslie Yetka for her assistance at this event.

Calvert commented on the activities she participated in over the past few weeks noting she attended a dinner with Sakya Trichen, a Tibetan Buddhist. She reported she attended an Iftar dinner with a number of local representatives. She explained she attended a meeting with the Minnetonka Family Collaborative.

Carter indicated she was appointed to Tonka Cares. She provided the council with an update from this unique collaboration.

8. Citizens Wishing to Discuss Matters not on the Agenda: None

9. Bids and Purchases:

A. Bids for the 2019 Ridgedale Drive project

City Engineer Will Manchester gave the staff report.

Wiersum asked if one motion or two would be required for this item. Manchester noted a single motion was required.

Bergstedt moved, Happe seconded a motion to approve a conditional award of the contract for the 2019 Ridgedale Drive Project No. 19501 to Eureka Construction in the amount of $9,169,383.25 and amend the CIP, subject to the requirement that the city manager and city engineer, in their sole discretion, must
determine that the city has secured the right-of-way necessary for the construction of the project; and authorize the city engineer and city manager to reject the contract and return the bid bond if, in their sole discretion, they determine that the right-of-way cannot be secured for the project. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Land lease agreement with Verizon Wireless (VAW) LLC for telecommunications tower at 4525 Williston Road

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

B. An Ordinance amending section 920.020, subdivision 2 of the Minnetonka City Code; amending the Minnesota state fire code; regulating storage and use of grills in apartment or condominium buildings two or more stories in height

Ellingson moved, Calvert seconded a motion to adopt Ordinance 2019-12. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Conditional use permit for an accessory apartment with a front yard setback variance at 5000 Acorn Ridge Rd.

Ellingson moved, Calvert seconded a motion to adopt Resolution 2019-042 approving the conditional use permit and variance. All voted “yes.” Motion carried.

12. Introduction of Ordinances:

A. Ordinance relating to food establishment licensing

Community Development Director Julie Wischnack gave the staff report.

Schack moved, Happe seconded a motion to introduce the ordinance. All voted “yes.” Motion carried.

B. Ordinance amending various sections of city code related to pollinators

City Planner Loren Gordon gave the staff report.
Calvert asked if the city would be limiting the use of pesticides. Natural Resources Staff Manager Yetka explained she has been with the city for five weeks and explained Christine Peterson would be answering this question.

Christine Peterson reported the city was in the process of addressing the use of pesticides. She explained a variety of steps would be taken to reduce the use of pesticides and increase the use of goats where possible.

Happe indicated he was allergic to bees and stated he was pleased to see this ordinance addressed other pollinators such as butterflies and hummingbirds. He questioned how staff came up with the 25% requirement for plantings. Yetka reported there was no standard regarding native plants and explained staff believed the 25% was achievable. Peterson commented the 25% includes trees, shrubs, aquatic plant, buffers plants and grasses. Gordon stated after reviewing several recent projects in the city he indicated these landscaping requirements were already being met. He noted Minnetonka would be the first city in the nation to put these requirements into an ordinance.

Calvert commented on the importance of pollinators and thanked staff for all of their hard work on this ordinance.

Wiersum stated he supported the ordinance but asked if staff had considered how climate change may impact native plantings. He explained he wanted all plantings in Minnetonka to thrive both now and into the future. Yetka reported the intent of the ordinance was to allow for current plantings along with flexibility as the climate changes. She indicated her office would have to keep revisiting what the city deems native in the years ahead.

Wiersum recommended the city hold a native plant sale to encourage residents to purchase pollinator friendly plants. Peterson reported the city holds a pollinator field day every summer and native plants would be sold at this event.

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

13. Public Hearings:

A. Items related to Patriot Estates subdivision
   1. A two-lot subdivision at 3515 Park Valley Road:
      a. Preliminary plat; and
      b. Vacation of easements

City Planner Loren Gordon gave the staff report.

Wiersum opened the public hearing.
Andy Freeland, 3426 Robin Wood Terrace, explained he has been working on this project with the city for some time. He indicated he would like to build a home on the new lot.

Wiersum closed the public hearing.

Carter moved, Happe seconded a motion to hold the public hearing and adopt Resolution 2019-043 and Resolution 2019-044 approving the requests. All voted “yes.” Motion carried.

2. Items related to sale of city property adjacent to 3515 Park Valley Road

City Attorney Corrine Heine gave the staff report.

Schack moved, Calvert seconded a motion to approve the purchase agreement and adopt Ordinance 2019-13 authorizing the sale. All voted “yes.” Motion carried.

14. Other Business:

A. Concept plan review for the Shady Oak Redevelopment located at 4312 Shady Oak Road.

City Planner Loren Gordon gave the staff report.

Happe stated this appeared to be a massive structure for this neighborhood. He believed the three story building was too high and questioned how many units would be lost if the structure were reduced to two stories. Gordon reported the building would lose 14 units if the third floor were eliminated.

Schack asked if this proposal would use the adjacent lot for drainage purposes. Gordon explained the lot to the west was owned by the city and the rear of the lot would be used for stormwater treatment.

Wiersum questioned what the process would be going forward for the developer. Community Development Director Wischnack reported staff would work first with the City of Hopkins on the annexation. She stated the developer would then seek land use approvals. City Manager Barone explained a project had been approved, but noted if this revised plan were to come forward, the whole approval process would have to start over. Wischnack clarified that if the revised plans were not approved by the city the original plans would continue unless rescinded by the council.
Michael Waldo, Ron Clark Construction, described how he had addressed traffic concerns for this development. He discussed the changes that were made to the site noting how this had went from a good project to a great project. He stated there would be a more efficient use of resources if he were allowed to add a third story which would create 20 more affordable housing units. He indicated he was comfortable that staff would be able to address the annexation issue with the City of Hopkins.

Tim Witten, Witten Associates, explained he was the architect for this project. He reviewed elevations of the new building noting comments from the neighbors had been taken into consideration. He commented on the grade of the site, where the retaining walls would be located and discussed the landscaping plans. It was noted the building would have a flat and hipped roof. He reviewed the location of the play area stating he would hate to add too much asphalt to this site if it was not necessary. He explained the apartments would be served by 90 underground parking spaces and noted the surface parking was for visitors.

Mr. Waldo reported a two-story apartment building would be very difficult to make work financially. He stated most apartment complexes were three or four stories.

Ellingson asked how steep the grade would be to access the structured parking. Mr. Witten reported the grade would be approximately 9%.

Ellingson questioned how long the building was from north to south. Gordon reported the building would be 420 feet long.

Carter commented she approved of the play area being located to the interior of the building as this would be safer for children.

Happe inquired if there were other three story buildings in the area. Gordon stated on this stretch of Shady Oak Road the buildings were one story commercial structures or two story single family homes.

Wiersum asked what the anticipated height of the building would be. Mr. Waldo explained the building height would be the same as was previously approved.

Wiersum questioned if there was another building of comparable size in Minnetonka. Wischnack reported the Ridge building would be very comparable except that building was four stories and the proposed building would be three stories.

Calvert inquired how many units were located within Applewood Point. Wischnack stated this development had 84 units in four stories. She noted the square foot per unit was much higher for that development than for the proposed apartment complex.
Wiersum opened the meeting for public comments. There were none.

Schack stated she was not part of the council that approved this project but had served on the Planning Commission that approved this project. She was of the opinion the revised plans were much improved and appreciated the fact the developer had addressed the access concerns. She commented the city knew light rail was coming and appreciated the fact this development would have close access to light rail. She noted she also supported the play area being moved to the interior of the project.

Calvert indicated she believed the new plans were dramatically improved. She thanked the developer for providing a hipped roof. She stated she could support the play area being put in either location so long as the space receives natural sunlight. She thanked the developer for adjusting access to the site. She noted the number of units does not bother her at this location.

Bergstedt stated he was pleased the city had an outstanding developer willing to make revisions to the project per the feedback that has been received from the neighbors. He explained the original building iterations were for a larger building. He was pleased the building size had been reduced. He thanked the developer for making this building appear to be more like row houses and for providing access to Shady Oak Road. He supported the play area being moved to the east away from traffic and the adjacent roadways. He commented he appreciated the hipped roof as it softened the building. He stated the proposed development would provide Minnetonka with more workforce housing. He noted his only concern with the project was how long the building was.

Happe indicated he believed the site plan and building design was great. However, he believed the building was too big for the area, as both the length and height of the building were too great. He feared this massive structure was being shoe-horned onto this property. He expressed concern with the fact the building would be very close to the road and may appear to be a big wall adjacent to the roadway.

Ellingson thanked Bergstedt and Happe for their observations. He stated he appreciated the fact the access to the site had been improved. He noted he was concerned with the size of the building and the lack of a setback from the street. He feared the proposed building would not fit very well into the neighborhood. He understood this was an urban setting, but explained he would be reluctant to support the revised plans.

Calvert explained the neighbors on Oak Drive Lane were concerned with the amount of traffic that would be using this roadway. She encouraged the
developer to ensure traffic using Oak Drive Lane would have adequate stacking lanes for safety purposes.

Wiersum commented this proposal was better than the previous proposal for a number of reasons, the first being improved access to the underground parking. He stated this was a big deal and noted the developer was proposing to construct an expensive building. He believed this project was better because it works. He indicated he was concerned about the building mass given the fact this was a 400+ foot long building. He was of the opinion the building design worked and he anticipated this area of the city would become more urban over time. He explained the proposed apartment complex would serve as a sound wall for the adjacent neighborhood. He appreciated the fact that the access issues had been addressed and noted the city was sorely in need of more workforce housing. He believed that the benefits of the project outweighed any of the drawbacks. He encouraged the developer to further break up the building and noted he supported the proof of parking.

Discussed concept plan with the applicant. No formal action required.

B. **Items concerning the demolition and construction of a new automobile dealership at 15906 Wayzata Boulevard**
   1. An ordinance approving a master development plan and final site and building plans, with a parking setback variance; and
   2. A resolution approving a conditional use permit, with a building-to-parking ratio variance, and a sign plan

City Planner Loren Gordon gave the staff report.

Wiersum requested further information on the approval timeline. Gordon stated state law gives cities 60 days to act on an application after being deemed complete. Typically action can be taken in 60 days, however, if additional time is needed a 60 day extension is allowed. He reported the city was on the 120 day clock at this time and the 120 time period would expire on June 3rd. He explained the city could request another 60 days from the applicant in order for the planning commission to review the revised plans before seeking council approval.

Bergstedt stated he would feel more comfortable with this item having another 60 days given the fact the plans have been revised. He indicated he would be in a much better position to make an informed decision if the revised plans were reviewed by the planning commission.

Wiersum asked if the council had any questions for staff.
Ellingson questioned if the city had tree loss percentage guidelines. Gordon commented in this case, the site was being redeveloped. Therefore, the tree loss would be based on a mitigation plan and tree replacement rate.

Schack inquired what the distance was from the berm to the closest home. Gordon reported this distance was approximately 800 feet.

Wiersum called the applicant forward at this time.

Jack Reck, RJ Ryan Construction, stated he was acting as a representative for Walser. He discussed the revised plans that were presented to the city and explained the berm would remain intact per the neighbors request. He reported none of the trees would be taken off the berm. He commented on the building elevation and tree mitigation plan. He explained the height of the new building would be lower than the existing building. He stated Walser’s goal was to keep the Nissan franchise in Minnetonka while updating the site to meet Nissan’s requirements. He reported time was of the essence for this project given the fact this was a tough site and construction season was underway.

Wiersum opened the meeting for public comment.

Mark Burnbaum, 325 Towns Road, stated it appears the proposed building was a long way from the adjacent homes, but noted some homes have a straight line view of the car dealerships. He suggested an indoor dealership be considered for this site. He explained he had a problem with the fact the council was considering waiving several city code requirements with respect to setbacks and parking ratios. He appreciated the concessions that were being made by the applicant but expressed concern with how the rear of the site would look from his home. He encouraged the council to send this item back to the planning commission for further review and consideration.

Brad Schaeppi, 315 Towns Lane, explained he lived in the mailed notice area and had a direct view of the subject property. He reviewed several photos of the view he had from his backyard noting he could see the BMW dealership. He stated he appreciated the fact progress had been made and that the berm would remain in place. He understood the city was up against a clock but he encouraged the city to delay action on this item for another 60 days to allow for proper consideration of the revised plans.

Jeff Koblick, 351 Towns Road, noted he has lived in his home for the past 40 years. He discussed the atmosphere at the BMW neighborhood meeting versus the attitude that has been presented by Walser/Nissan. He expressed frustration with the fact the city sign was not posted and that the neighbors have not been contacted. He noted he and Mr. Schaeppi had spoken to 30 neighbors regarding this project. He commented on the inventory Walser had and questioned why
the city was considering variances. He stated he did not see a hardship with this request. He encouraged the council to follow Walser’s code of conduct and do the right thing by making the berm effective and that Minnetonka city code be followed. He expressed frustration with the fact Walser had not provided the city with views of each side of the building in order for the residents to better understand the full impacts of this redevelopment.

Mr. Reck discussed the differences between the BMW site and the Nissan site. He explained he was available to speak with any members of the public regarding the proposed redevelopment. He noted the berm would not be touched, nor the trees. He indicated the building elevations were included in his plan.

Calvert requested further information regarding the grading and berm. Mr. Reck reviewed photos of the berm and noted the existing berm would remain intact.

Chad Ayers, Sambatek, reviewed the berm elevation in further detail with the council.

Carter stated she would like to see a view of the site with the proper elevations to better understand the grading with respect to the berm. Gordon reviewed a map of the site.

Carter expressed concern with the fact cars would be seen from the adjacent homes given the fact the elevation of the building would be raised, which would negate the existing berm. Mr. Reck stated he believed the building would be four or five feet lower than the top of the berm. He noted the tops of cars may be seen.

Happe commented the council was put in a hard position at its last meeting. He stated he was not in a place to approve the revised plans. He supported the planning commission reviewing this item again given the changes that were made to the plan. He requested the developer consider granting the city an additional 60 days to review the plans. He stated if the applicant were to decline this request, he would not be able to support action on this item this evening.

Mr. Reck stated he was not able to make the decision to extend.

Wiersum indicated the council was feeling a little bit like they have been painted into a corner on this item. Barone reported another option available to the council would be to continue this item to June 3. He encouraged the applicant to come forward with visuals on June 3. Wischnack reported if the applicant were to provide a waiver prior to June 3 staff could send this item directly to the planning commission.
Wiersum supported staff taking this action. He questioned how the council should proceed. City Attorney Heine reported the recommended motion would be to table action to June 3.

Schack moved, Calvert seconded a motion to table action on this item to June 3, 2019. All voted "yes." Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Carter seconded a motion to adjourn the meeting at 9:30 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk