Minutes
Minnetonka City Council
Monday, August 17, 2015

1. Call to Order

Schneider 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 Dick Allendorf, Patty Acomb, Brad Wiersum, Tim Bergstedt, Tony Wagner, and Terry Schneider were present. Bob Ellingson was excused.

4. Approval of Agenda

Wagner moved, Wiersum seconded a motion to accept the agenda, as presented. All voted “yes.” Motion carried.

5. Approval of Minutes: July 13, 2015 and July 27, 2015 meetings

Bergstedt moved, Allendorf seconded a motion to approve the July 13, 2015 minutes. Allendorf, Acomb, Bergstedt, Wagner and Schneider voted “yes.” Wiersum abstained. Motion carried.

Bergstedt moved, Allendorf seconded a motion to approve the July 27, 2015 minutes. Allendorf, Acomb, Wiersum, Bergstedt, and Schneider voted “yes.” Wagner abstained. Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on the schedule for upcoming council meetings.

Wagner noted an upcoming meeting hosted by the Minnesota Department of Transportation on closing the 16th Street access and the pending reconstruction of Highway 169 in the fall of 2016.

8. Citizens Wishing to Discuss Matters not on the Agenda
Jason Gadd, co-chair of the Southwest Twin Cities Beyond the Yellow Ribbon Coalition gave an update on the coalition’s activities.

9. **Bids and Purchases:** None

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

   A. **Resolution amending Hennepin County residential recycling grant agreement**

   Wagner asked that the item be pulled from the consent agenda. He said he was very supportive of the item but given the focus on organics recycling, he asked staff to provide more information.

   Public Works Director Brian Wagstrom gave a staff report.

   Wagner noted his family had about two large bags of organics versus one bag of garbage per week. He said separating the two wasn’t very difficult. There was no separate container necessary. All the bags go into the regular garbage container.

   Wiersum asked if there were parts of the country that had done a better job with organics recycling so the city could benefit from the best practices from other areas. He said education was critical because of the lack of clarity over what should go in what waste stream. Wagstrom said it was more effective to use positive enticement rather than a punitive approach.

   Schneider said a question he had about the use of weight goals was if the city was effective in getting residents to purchase products with less packaging, there would be a reduction in the waste generated and the goals would not be achieved. Wagstrom said the goals were pounds recycled or taken out of the waste stream per household. As more is taken out, the poundage increases. He said at a certain point the county would recognize the concern Schneider raised and would work with the state to also recognize the issue.

   Wagner moved, Wiersum seconded a motion to adopt resolution 2015-064. All voted “yes.” **Motion carried.**

   B. **Resolution approving a conditional use permit for an educational institution at St. Paul Lutheran Church, 13207 Lake Street Extension**

   Allendorf moved, Acomb seconded a motion to adopt resolution 2015-062. All voted “yes.” **Motion carried.**
C. Resolution approving a conditional use permit and minor amendment to the West Ridge Market master development plan for an outdoor patio for a new restaurant, Salsa a la Salsa at 11390 Wayzata Boulevard

Allendorf moved, Acomb seconded a adopt resolution 2015-063 approving the request. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance regarding private fire hydrants

Barone gave the staff report.

Allendorf said if a fee was assessed and not paid, the fee would go against the property itself. He asked what happened if the property belonged to multiple owners. City Attorney Corrine Heine said the situation Allendorf raised would be included in the policy. The fee would be set by agreement. If the hydrant was located on a common area owned by a townhome association, the association would receive the bill and it would be their responsibility to levy each of the unit owners for their share. The assessment would go on the common area property and the association would be responsible for payment. The city would never have to deal with the individual unit owners. Allendorf asked what would happen if the association did not pay the fee. Heine said it would then go on to the property taxes.

Schneider said there were issues that had to be worked through, but it was prudent for the city to take ownership of the private hydrants.

Bergstedt commended staff for bringing the item before the council because it was an under the radar issue. The city had done a great job inspecting public hydrants but there was not a policy to allow the same inspection of private hydrants. He said public safety would be greatly enhanced.

Wiersum said the way the policy was written made it attractive for owners of private hydrants to turn them over to the city. In his view this was exactly what the policy should do.

Wiersum moved, Bergstedt seconded a motion to introduce the ordinance regarding private fire hydrants. All voted “yes.” Motion carried.
13. Public Hearings:

A. On-sale licenses for Kona Sushi, inc. (Kona Grill), 12401 Wayzata Boulevard

Barone gave the staff report.

Acomb moved, Allendorf seconded a motion to continue the public hearing to August 31, 2015. All voted “yes.” Motion carried.

B. On-sale wine and on-sale 3.2 percent malt beverage liquor license for Cheers Pablo Twenty Three Holdings LLC (Cheers Pablo), 13207 Ridgedale Drive

Barone gave the staff report. Schneider opened the public hearing at 7:03 p.m. No one spoke.

Wiersum moved, Acomb seconded a motion to continue the public hearing to September 14, 2015. All voted “yes.” Motion carried.

C. Off-sale liquor license for Target Corporation, 4848 County Road 101

Community Development Director Julie Wischnack gave the staff report.

Wiersum asked if there was anything about the liquor store, other than it being in a Target that would make it unique. Brittany Kasson, executive team leader at the Target Superstore, said given the store’s size, staff would have to be particularly careful about what was being put on the shelves. This would mean being really localized and catering to Minnetonka. Wiersum noted the store would be different compared to other Target locations but asked if there would be a difference compared with other liquor stores in Minnetonka. Kasson said the size would be the biggest distinction. She said it was likely there would be more shelf space per square foot for craft beers than other stores in the city.

Schneider closed the public hearing at 7:08 p.m.

Wiersum said he supported the liquor policy. He likely was the most outspoken council member and he thought the city had plenty of liquor stores. Given his view of the policy he was not going to support Target’s application for a liquor license. The Highway 7/County Road 101 area was adequately served from a liquor store perspective. MGM was less than 200 feet away from Target. Tonka Bottle Shop and the Wine Shop were within two miles of the proposed location as was Team Liquors in
Shorewood. The area was not void of liquor stores. He didn’t see anything unique about the proposed liquor store and it was not part of a village center that was underserved. He said it was generally understood that increased access to any commodity likely increased use of that commodity. He quoted a provision in the liquor license policy that states, “An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city.” He said any benefit of supporting the application was outweighed by the negatives associated with increasing access to liquor in the community.

Allendorf said a lot of time was spent looking at the liquor policy and wordsmithing the 2010 policy to allow the council to look at any application against the policy to determine if it met the policy. He noted one of the words pointed out during the discussion was “or.” The provisions state “offers a distinctive specialty service” or “is a complementary part of a business that would add positively to the experience of living and working in the city,” or “was part of a village center that is not currently served.” He noted it wasn’t “and” but it was “or.” He saw the application for a 2,800 square foot liquor store to be a convenience in an 180,000 square foot store. Therefore it was a complementary part of the business. Aside from the policy, he noted Target already had a 3.2 liquor license and to go to a full liquor license was not a huge jump. He said he would be hard pressed to see any other application come in that more closely fit the policy.

Acomb said she wasn’t on the council for the 2010 policy discussion. She said what she thought the council wanted to come out with during the recent discussion to modify the policy was flexibility in the policy. The council wanted flexibility to approve licenses that they felt were appropriate and also deny an application even if the city did not have 12 approved licenses. She thought the city was adequately served with the current number of liquor stores. She believed an increase in the number of liquor outlets influenced underage substance use and other public safety issues. She said because she didn’t feel the village center was underserved, and because she didn’t feel the application was for something unique enough, she couldn’t vote to approve it.

Bergstedt said he agreed with Allendorf’s comments. The policy had been worked on quite a bit and it allowed for flexibility in evaluating liquor license applications. He said Target’s proposal would provide a complementary use within an existing establishment. Target held a malt beverage liquor license since 2002 and there were no violations. If it were a new free standing store, he might look at it differently. He thought the store could enhance the experience for customers with busy lives. To have a small store within a larger store was an enhancement. He noted
that people might think that if this Target store got a liquor license that the other location in the city might then also get a license. State law only allows one license per license holder in a city. He said because the policy states that 12 was the number of licenses that was generally adequate to serve the city and currently there were only 11 approved licenses, and because Target had no violations with their current malt beverage liquor license, he would be supportive of granting this license.

Wagner said even with the great amount of time discussing the policy, he felt the dialogue had been worthwhile and had been a good public policy discussion. The policy likely would have to be looked at every three to four years as the council changes. He tended to be more aligned with Allendorf and Bergstedt's position. He felt there was an element of convenience that was not distinct but tied to the policy. He also thought it was relevant there was an existing 3.2 license even though that license did not allow the sale of hard liquor. He said he balanced that with liking a consistency in the message. The item required five votes for approval, and given the discussion, with Ellingson’s absence, the vote appeared to be 2-2, so he was going to vote against granting the license.

Schneider said he was pretty liberal in his belief that liquor establishments should be market driven. There was a point the character of the community would be changed by approving another one or two liquor stores but he felt the city was a long way away from that. The struggle he had with the Target concept was not about the number of stores in the city, but about the idea of fairness. He looked at the proposed store as being strictly about convenience. He would have generally been supportive if the council had decided to allocate in the policy a certain number of licenses for accessory type establishments that were small in size and were for convenience for customers, and made this available to stores like Cub or Whole Foods. It was decided not to go that route. While the wording included “or” there was different weights to different parts of the policy. For him the convenience or accessory part didn’t carry a lot of weight because the council did not formally adopt that as a position. He didn’t see this application as matching that provision. He said the main reason to control the number of licenses was to ensure there were not underage drinking violations. Target had a great record with not having any violations. The overall concept of how many small stores the city should have or could support and where the line should be drawn about giving it to one business but not giving it to an almost identical operation because of the number of licenses, made him lean toward deciding this was not the right time for this type of a license. He said he could go either way but since it looked like there were not enough votes for approval he, like Wagner, was likely to vote against granting the license.
Allendorf moved, Bergstedt seconded a motion to grant the license. Allendorf and Bergstedt voted “yes.” Acomb, Wiersum, Wagner, and Schneider voted “no.” Motion failed.

14. Other Business:

A. Resolution for the Cartway Lane/Ridgedale Drive project

Barone introduced the item. She said staff had been working on the proposal for quite a few months. The Highland Bank discussions brought concerns about traffic flow and congestion in this area to a head. There was quite a bit of work done with the Ridgehaven Mall property to come up with a configuration that would allow a flow through. There was consensus and agreement to put this proposal forward. Over the past few months there were several neighborhood meetings and meetings with the businesses in the area. The Ridgehaven Mall property manager had now indicated concerns with the proposal. She said staff now was asking for more time to address concerns and come back at the September 14 meeting with a proposal for the council to review.

City Engineer Will Manchester gave the staff report.

Wagner said he appreciated the decision on the recommendation was being delayed because he felt the neighborhood should have been fully notified about something as impactful, and that a recommended action was being made. He said it was extremely important to get things right and there was a lot of concern in the neighborhood about connectivity and there was no perfect solution. It wasn’t just the connectivity with how to improve the movements in the area but it was also about assessing the connectivity in the walkability study and hearing the neighbors’ concerns and the business concerns about being cutoff. He strongly encouraged everyone be notified when a vote was scheduled as historically had been done. He also suggested that the maps that are used be broadened to include the other Ridgedale access point. This would provide an understanding of the other options. His biggest concern looking at the right in to the Byerlys area was that there would be the same choke point with people trying to take a left into the Ridge Square properties.

Kurt Stenson, property manager for Cushman & Wakefield/NorthMarq, the managing agent for Ridgehaven Mall, said when he first looked at the options and met with city staff, he agreed with the recommended plan. He later met with his asset manager from Investco and city staff and looked at three options. The asset manager indicated interest in improvements, but wanted to be notified about the recommended plan. Stenson said he did not see the recommended plan until the August 3 neighborhood meeting.
After discussion with the owner, the owner said he was not in favor of the recommended option. It seemed like they were the only property owner giving up land for the concept and that was a negative factor. It also seemed like there was a city street dropping into the Byerlys’ parking lot that would increase the confusion. There already was a parking issue and they would lose an additional 74-75 parking spaces. He said there was an outlet used for piling snow in the winter. The proposal would make the outlet difficult to sell in the future. Stenson said he would be glad to work with the city to develop alternatives understanding there was not a perfect plan but that something needed to be done.

Sonja Piper, traffic engineer with Westwood Professional Services, said her company was a contractor for Ridge Square North and Ridge Square South to provide opinions on the plan. She said the primary source of congestion was the traffic wanting to access I394 and the options presented would not solve that problem but simply shift the congestion to another location. She suggested a full access intersection at Ridgehaven and that further study was needed. One concern raised was the grades in the area but she noted this was not like Duluth and she felt a reasonable engineered solution could be achieved to solve some of the problems. The required storage length for vehicles at the intersection would need to be addressed, but with proper signal timing and coordination between the intersections, as currently was being done on all the traffic signals in the area, the queue impacts could be lessened.

John Dietrich, Target Corporation, said the company was one of the two properties owners in the Ridgehaven area and they had not had much contact with city staff. He said it was disappointing to see the same concepts that came out in March being presented now indicating there was no progress on the recommended concepts. Target does not support the recommended changes shown in concept #3. Frontage roads were designed to be connecting routes, connecting businesses. The design was for the peak hour and one does not design infrastructure for peak hour events but rather the design should be designed for appropriate scenarios. The area is busy but even with the recent Highland Bank traffic studies, the information indicated traffic was acceptable at all of the intersections. He said he was interested in a solution that provided better management during the peak hour, with peak hour being during the Christmas season. The proposed design assumed consumption of private property. Public facilitation of traffic should be within the public realm. He said Target wanted to continue to be part of the process and felt the best option was a no build option at this point until another solution came forward.

Norman Abramson, an attorney with Gray, Plant, Mooty, said he was representing Ridge Square North and Ridge Square South. The owners of
the malls had been in operation for over 20 years. They understood and appreciated the efforts to reduce traffic congestion during the holiday season but they opposed the plan. The tenants were concerned the changes would lead to a more confusing and disjointed travel experience for their customers. The tenants believe cutting off the ability to make a left turn on Cartway Lane and the connectivity of Ridgedale Drive would cause the loss of visibility and accessibility with their customer base. In speaking with several of the residents who live behind the malls, they also share the concerns about the ability to get to the stores. He said the concern was strong enough to hire a traffic engineer at his client’s own expense to see if there were alternatives to preserve the connectivity and address the traffic congestion.

Audra Johnson, 13419 Larkin Drive, said she applauded the city for trying to make lemonade out of lemons. It appeared the city had been studying the area for nearly 40 years with nothing being done until now when things were at a fever pitch. Taking a little more time to get things right was not a big deal. She lives behind Ridge Square North and was very concerned about the viability of the buildings and the tenants. She loved the little shopping plazas as it spoke volumes that the city was not overly developed. The area was more critical as more development is done, and that Highland Bank would be a total disaster. If the area gets redeveloped even further it would make things even more difficult. She said traffic congestion was a daily problem. The area was not only busy during the holidays but was busy during other times as well.

Wiersum said he felt taking more time was the right decision. There was no design that people felt figured things out and it was likely that would never happen because the area was very challenging. Looking at alternatives and listening to the business community for solutions was a good idea. Everyone had a vested interested and to come up with a solution would require everyone to get a little and give a little. The solution had to be fair, valued the existing businesses, and worked for the neighborhood. The proposals had some benefits but he also thought the no build option should be one of the considerations. The last thing he wanted was to spend a lot of money and not have improvements. The fairness issue had to be looked at so there were not winners and losers with whatever solution was picked.

Schneider said he fully agreed with Wagner that the area being looked at needed to be broadened because the other intersection could be just as problematic as Cartway Lane. To make anything work it had to be in addition to the existing right-of-way. Brainstorming with all the businesses and their consultants might lead to bits and pieces that needed to be molded together. He wouldn’t discount the ability to do some exiting on the
current entrance off of Plymouth Road. If there were one signal in the area that worked really well for all the movements it may improve the flow.

Acomb said when the council first heard ideas for a fix it was mainly in response to the residents’ concerns. There was enthusiasm that things could be improved. Now the council was hearing from the businesses that the proposed solutions were not making things better but was making it more challenging. She suggested sitting down with a combination of businesses and residents.

Wagner said the process was iterative and now the business community was engaged. He said it would be helpful to quantify staff’s information about why moving everything to the south to Plymouth Road didn’t make sense. It meant the city would have to buy expensive right-of-way. Quantifying the hindrances engineering staff and consultants have identified would be beneficial to the dialogue. Context was important. He thought the walkability study should be tied into the process.

Wiersum said going forward it would be helpful to clearly identify all the streets on the drawings. There were different levels of knowledge of the area.

Barone said staff would go back and work on solutions. A lot of time an effort had been spent on traffic studies and she wasn’t sure how much deeper staff could delve into a solution. She wasn’t optimistic that the item could be brought back for the September 14 meeting. The longer the city spent on trying to find a solution and the more process involved, she cautioned that 2016 was not a realistic construction timeframe. The end of the construction was really important. November was the goal to prevent going into the holiday season.

Schneider said he didn’t think finding a solution to be considered at the September 14 meeting was doable. He said what he heard during the discussion was that the issues were of the magnitude that it would be a 2017 project.

Wischnack said there were coordination issues with Highland Bank that had to be worked on as well. There were sidewalk tie-ins that were construction related.

Bergstedt said the area had been challenging for years and years. Last year during the Highland Bank discussions the council heard from residents and some businesses about the issues. Council worked to get the improvements done more quickly with the hope that solutions could be found that everyone coalesced around. He said when he saw the
recommended solution and then heard from some residents and a lot of businesses about their myriad of concerns, he felt the last thing that should done was do something quickly that would either move the problem to another area or potentially make things worse. He hoped the no build option was not the one finally decided upon but at least now the problem was understandable. He agreed taking some time to find the long term solution was a good decision. As the focus was on traffic issues he hoped other features like connectivity, walkability, bikeability were also discussed.

Allendorf agreed that not rushing into a decision was a good idea. He would like additional facts as other alternatives were looked at. What he heard was Byerlys did not want to give up anything especially parking spaces. Target did not want to give up anything and wanted a no build. Ridge Square North and Ridge Square South wanted some say over what happened with other people’s property because of connectivity. The residents want the whole area to be easier to traverse through. Any solution meant a party had to concede something. He said he would benefit in seeing a list of what the parties would have to give up and who had to compromise for what with any solution. It would take a lot of compromise to come up with a good solution.

Schneider said he believed there had to be a plan B that wasn’t necessarily a no build but a delayed build and what could be accomplished particularly with the walkability.

15. Appointments and Reappointments: None

16. Adjournment

Schneider read the recognition for departing planning commissioner Jim Rettew who was unable to attend the meeting.

Wiersum moved, Bergstedt seconded a motion to adjourn the meeting at 8:23 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk