Agenda
Minnetonka City Council
Regular Meeting, Monday, December 21, 2015
6:30 P.M.
Council Chambers

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Bergstedt-Wagner-Ellingson-Allendorf-Acomb-Wiersum-Schneider
4. Approval of Agenda
5. Approval of Minutes:
   A. November 23 and December 7, 2015 council meetings
   B. Revised council meeting minutes for June 22, 2015
6. Special Matters: None
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
    A. Ordinance amending judicial review provisions
    B. 2016 general liability insurance and workers’ compensation renewals
    C. Items related to Council Policy 11.6 – Use of the Burwell property
11. Consent Agenda - Items Requiring Five Votes:
    A. Resolution accepting gifts, donations and sponsorships given to the city during 2015
    B. Applications for renewed precious metal and secondhand dealer licenses for 2016
12. Introduction of Ordinances:
   A. Ordinance regarding vacation procedures
      Recommendation: Introduce the ordinance (4 votes)

13. Public Hearings:
   A. Resolution supporting an application to DEED for funds from the Minnesota Investment Fund
      Recommendation: Hold the public hearing and adopt the resolution (4 votes)

14. Other Business:
   A. Applications for renewed liquor licenses for 2016
      Recommendation: Approve the licenses (5 votes)

15. Appointments and Reappointments: None

16. Adjournment
Minutes
Minnetonka City Council
Monday, November 23, 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 Patty Acomb, Brad Wiersum, Tim Bergstedt, Tony Wagner, Bob Ellingson, Dick Allendorf, and Terry Schneider were present.

4. Approval of Agenda

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

5. Approval of Minutes: October 21, 2015 council meeting

Allendorf moved, Bergstedt seconded a motion to approve the minutes of the October 21, 2015 council meeting. All voted “yes.” Motion carried.

6. Special Matters:

A. Electronic pollbook presentation

City Clerk David Maeda gave the presentation.

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on the schedule of upcoming meetings.

Schneider said he was recently asked to serve on a panel for the governor appointed Citizen League’s study on the Met Council process. He said it was a good discussion.

8. Citizens Wishing to Discuss Matters not on the Agenda

9. Bids and Purchases: None
10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution approving agreement with MnDOT

Allendorf moved, Acomb seconded a motion to adopt resolution 2015-114 authorizing a master partnership contract with the Minnesota Department of Transportation. All voted “yes.” Motion carried.

B. Resolutions concerning no parking signs on Marlborough Court and Dynasty Drive

Allendorf moved, Acomb seconded a motion to adopt resolution 2015-115 authorizing a No Parking zone on Marlborough Court on Monday through Friday from 3 pm to 5 pm and the installation of signs as needed in the following areas:

- East side: Lake Street Extension to 30 feet south of Lake Street Extension
- West side: Lake Street Extension to 450 feet south of Lake Street Extension

and resolution 2015-116 authorizing a No Parking zone on Dynasty Drive and the installation of signs as needed in the area:

- East side: Lake Street Extension to the south end of the Dynasty Drive cul-de-sac

All voted “yes.” Motion carried.

C. Resolution approving a conditional use permit for an accessory apartment at 3514 Sunrise Drive West

Allendorf moved, Acomb seconded a motion to adopt resolution 2015-117 approving a conditional use permit for an accessory apartment at 3514 Sunrise Drive West. All voted “yes.” Motion carried.

D. Resolution approving a conditional use permit for a fast food restaurant with drive-up facility and site and building plan review for Dunn Brothers Coffee at 14525 State Highway 7

Bergstedt asked that the item be pulled from the consent agenda. He said the building was located on the south frontage road just east of Williston Road. Up until 2013, the building was a commercial building. The owners came to the city and got approval for a mixed use retail building. Over time more and more signs have gone up on the building. There are also two permanent signs in the windows of the building. He said he did not have a problem with Dunn Brothers moving into the building but it would add another sign adding to the busy look. There was nothing the city could do
about this, but he had received comments from residents in his ward about the issue.

Allendorf said he had a couple of people ask him if the city had a sign ordinance. He indicated to them there was a sign ordinance but it did not allow the city to restrict the signs even the ones in the windows.

Wagner said he was surprised there was nothing the city could do about the issue.

Schneider said years back when the ordinance was being updated the council discussed allowing people to publicize their business and not crossing any lines related to free speech. What was anticipated were things like liquor stores advertising sales through window signs. He said this was a stretch to that line of thinking with a long office building with wide letters on it. He agreed it stretched the limits of what was in good taste.

Wiersum said this was an example of unintended consequences from the approval to allow the switch to retail. He said changes to the ordinance could be considered in the future.

Bergstedt moved, Allendorf seconded a motion to adopt resolution 2015-118 approving a conditional use permit for a fast food restaurant with drive-up facility and site and building plan review for Dunn Brothers Coffee at 14525 State Highway 7. All voted “yes.” Motion carried.

E. Resolution authorizing the certification of delinquent fire alarm response fees to the Hennepin County Auditor

Allendorf moved, Acomb seconded a motion to adopt resolution 2015-119 authorizing the certification of delinquent fire alarm response fees to the Hennepin County Auditor. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:

A. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for People’s Organic Coffee and Wine Café, 12934 Minnetonka Boulevard
Barone gave the staff report.

Schneider closed the continued public hearing at 7:06 p.m.

Acomb said the staff report indicated the establishment had failed its compliance checks the past couple of years. She asked the new owner if anything was going to be done to ensure compliance going forward. Diane Alexander, 1800 Commerce Boulevard, Mound, said she couldn’t answer how the previous owners ran the business. She and her husband previously owned the business and passed all the compliance checks. All her employees receive and sign off on an alcohol awareness packet. She brings in outside trainers and all employees are required to attend the training. She said unlike the previous owner, she will be present at the business.

Wagner moved, Wiersum seconded a motion to grant the liquor licenses for People’s Organic Coffee and Wine Café, 12934 Minnetonka Boulevard. All voted “yes.” Motion carried.

14. Other Business:

A. Concept Plan for Highview Villas, a residential development of properties at 4301 Highview Place and an adjacent, unaddressed parcel

Acting City Planner Susan Thomas gave the staff report.

Wagner the information indicated the project would be similar to the Groveland Pond project. He asked if that was correct. Tim Whitten of Whitten Associates, 4159 Heatherton Place, provided the history of the project.

Rob Eldridge of Ridge Creek Custom Homes said he was not involved in the six lot concept. The driving force to the ten lot concept was the proximity to the highway. The infrastructure cost would require the homes in the six lot concept to be priced in the $900,000 to $1 million range. The ten lot concept would allow all the driveways to be off the new cul-de-sac. A PUD would allow more control for the council providing for restrictions for setbacks, infrastructure, and natural resource protection. For the six lot concept, other than the standard setback requirements, just about anything could be built and the homes could be located just about anywhere on the lots. There could also be possible water management issues for the homes downhill from the development. Clustering the homes together would allow the natural buffer of the trees to remain. He said he would be the developer and builder and wanted to work closely
with the city and neighbors. The price point for the homes would be in the $450,000 to $650,000 range.

Acomb said her initial thought was there may be a couple too many houses. Earlier in the day she asked staff if the developer considered R-1A zoning with 15,000 square foot lots. She wasn’t opposed to smaller lots but felt the lots in the concept plan may be too small. She liked the potential price point.

Allendorf said he was trying to understand the motivation for what was in the plan. Two years ago the price of the lots was for $300,000. At six lots it comes to $50,000 per lot. At ten lots it comes to $30,000 per lot. He noted Eldridge indicated six homes would be priced in the $900,000 to $1 million range. The projected total then would be $6 million. Ten homes at $500,000 would equate to $5 million. He asked what the motivation was for doing this. Eldridge said the motivation was he felt the product would sell faster than a $1 million product. There was a lot more upper bracket new housing product already in the city. The buyers for the upper bracket housing tend to be particularly picky. There was a cost to holding the money as well. He said there already was a person interested in buying what was in the plan.

Greg Carson, 4222 Maple Lane, said the development would be added into the middle of his neighborhood. There were six homes between the development and Lake Street Extension. Putting a bunch of cookie cutter homes in the middle of the neighborhood would change the neighborhood character.

Tony Fernandes, 4232 Highview Place, said he and his wife moved to the neighborhood around four and a half years ago. His house is fairly secluded. He believed that anybody who buys property should be allowed to do anything with the property as long as it does not impose any hardships on anyone else in the neighborhood. He said the lot next to his was empty and he was told when he bought his home that it was a watershed area and no one could build on it. Much to his surprise around two weeks after he bought his house there was a for sale sign on the neighboring property. There was one spot on the property a house could be built. The single location was 20 feet from his house. He attended a council meeting and was told by the council there was an ordinance requiring people to go through certain procedures in order to remove trees. He said the development pretty much cleared the lot. He didn’t see anything wrong with this even though others in the neighborhood did. Fernandes said if a person should be allowed to get as much money as they can for a property as long they stay within the rules.
Bergstedt said typically when a concept plan comes before the council the plan is way too dense and the developer is told it would have to be scaled back. He said last year when the initial concept plan for this property was reviewed it was for six homes, five off of a new cul-de-sac, one off the existing cul-de-sac. All the city’s standards were met and no variances were needed. He said it was a nice concept plan. One year later the plan was for ten detached villa homes sitting in the middle of the neighborhood. He shared the neighbors’ concerns that ten homes were too many. There could be a possibility for more than six homes. He liked the initial concept plan a lot better because it fit in with the neighborhood. While a PUD would provide for more control for the city, he didn’t feel the need for much extra control for a proposal that met all the city’s standards. His first home in the city was right off Highway 7 close to this area. The noise did not bother him but significantly bothered his wife. There were people that would be turned off by living this close to the highway. Others would be interested in buying. He said for the past year the discussion was about how the detached villas were the hot product and Groveland Pond was used as an example. So far there has only been one unit built. This made him worried about price points. He would hate to allow something this dense in the middle of a neighborhood that ultimately did not sell.

Allendorf said for Groveland Pond initially the proposal was for more units and then the development got scaled back. When asked why the proposal was scaled back the developer indicated it was to get a higher cost for the proposed homes. He said this was the opposite situation. He liked the price point being close to $500,000 in comparison with the Groveland Pond’s price point being around $760,000. He thought ten homes was too many but he liked the concept of the less expensive smaller homes. If an application was submitted, a traffic study would answer some of the neighbors’ objections. As for what was the correct number of homes, he would have to see the proposal to evaluate the setbacks between the homes.

Wiersum said he didn’t think this was an unattractive concept. The villa concept works but was unproven in Minnetonka. The issue was price point and $500,000 homes were more attractive to him than $1 million homes for this location. However the council’s track record related to price points was that the discussion started at one price but the eventual price was always higher. The sale sign for Groveland Pond indicated the prices started at $750,000. The model was closer to $900,000. This was the challenge. The amount of land was fixed and if 10 homes were built it obviously would be cheaper than if six to eight homes were built. He agreed that he would like to see fewer than 10 homes. He also agreed there was a demand for the product in the city. It was important to understand lowering the number of homes would cause the price point to
increase. He said this was a challenging piece of property because it abuts I494. This would appeal to some and not appeal to others. He disagreed with the comments that the development was in the middle of the neighborhood. It was in the middle of the access to the neighborhood. There was nothing to the north or east of the neighborhood other than the highway. He thought eight homes sounded reasonable with the understanding it would impact the price.

Wagner said the reason Groveland Pond was done was because it was higher zoned and then the zoning was lessened. The area for the villas by the townhomes near the Carlson Towers was zoned medium density for 30 plus years. Usually he was an advocate for the need for smaller lots in the city but this didn’t feel like the right location for that because it seemed awfully isolated. He agreed ten homes would be a challenge for this location. He understood the concern about price point. He didn’t think he would pay $800,000 for the Groveland Pond house because of the size of the property.

Ellingson asked how many homes under the comprehensive guide plan were permitted for the property. Wischnack said there was a four unit per acre guidance. The property was currently zoned R1 which allowed approximately two units per acre. She said eleven lots total, including the existing house, would equate to about 2.4 units per acre. Including the existing house the area was approximately 4.5 acres. Without the existing house included staff estimated the rest of the site was around 3.8 acres. The exact number would not be known until the survey was done.

Schneider shared the sentiment that six large homes priced at $1 million would be difficult to sell given the location. Having a little more diverse housing type available with the villa homes probably balanced keeping this low density residential with minimal impact while still mitigating the cost of the land with a public road adjacent to a busy highway on two sides. He didn’t know the correct number of houses but he thought what was in the plan was a little too dense. The density of the southern half appeared to be fairly reasonable. Going north with the remaining four lots looked a little tight. He would rather have eight attractive more moderately priced homes than either nothing or homes that cost around $1 million. He thought the city needed this type of housing. He said if the Groveland Pond developer had done what they originally intended to do, having smaller lots adjacent to the commercial area in the $650,000 price range, the houses would have sold. The value for an $850,000 home wasn’t there.
B. Resolutions concerning the Pagel Activity Center at Minnetonka High School, 18313 State Highway 7:

1) Conditional use permit; and
2) Site and building plan review

Thomas gave the staff report.

Allendorf said when the proposal was previously looked at there was a question about who would be accountable if problems occur. A lot of emphasis was put on the Minnetonka Youth Hockey Association being responsible as opposed to the neighbors and himself believing that the school district should be responsible for what occurs on its property. He asked how this would be addressed. Thomas said the school district would be responsible for all the implementation of the parking and traffic provisions. All the staff recommended conditions are included in the conditional use permit. The youth hockey association would be responsible for the things associated with the construction including a construction management plan. The overall site management over the long term would be the school district’s responsibility. Wischnack said the school district has agreed to a management plan.

Wagner said as he read through the staff report his assessment was there currently was a traffic challenge and there will continue to be a traffic challenge into the future as the number of students grows. The Pagel Center itself based on use times does not contribute to the challenges. Thomas confirmed that was correct.

Jim Van Bergen, 19200 Highland Avenue, Deephaven, said he was the vice president of the youth hockey board, coach, and father of three kids in the program. In the entire history of the youth hockey program there have never been more kids playing hockey. There were 977 kids signed up this year. The major issue was the shortage of ice. The retention rate from elementary school years through ninth and tenth graders has increased 23 percent over the past decade. He said the association buys ice time wherever it was available within a reasonable distance. He estimated about a 30 percent shortage of ice time or 1,200 hours from a developmental standpoint. A new rink would provide around 1,100 hours and would not impact the hours needed at the city’s ice arenas. The greatest need was for practice time and this would be a practice facility. There’s also a need for off-ice training areas. He said it would be a joint venture and the school district has been a great partner. The youth program would own the rink and the school district would own the land. This model has worked very well. A 20 year note would be taken out and
the building would be fully paid for by the membership, corporate sponsorship and user fees.

Charlie Kanan, 19715 Sweetwater Curve, Shorewood, said he served as the Minnetonka School Board chairman. He thanked the council past and present for approving a number of projects on the campus. He said the Minnetonka Youth Hockey Association was a proven entity with a great track record. The school board voted unanimously to approve the proposal.

Wagner said during his time on the council there have been stress points at the high school ranging from speaker noise at the baseball stadium to traffic maintenance. The staff report indicated there was very good collaboration between city staff and school district staff in working through the process for this project. The city was able to obtain some things that were not required under the city code like the conservation easement.

Wiersum congratulated the Minnetonka Youth Hockey Association for its success. His boys played hockey and the highlight for him as a hockey parent was a hockey practice in Delano on New Year's Day at 6:30 a.m. He understood what the need was. Over time there were challenges as Wagner had noted. A new sheet of ice was not going to reduce the traffic at the campus but he thought the mitigation plans and the active management plan were positives. He also thought the proposal and having a very successful hockey program at the high school were positives for the community. The benefits far outweigh the impacts.

Allendorf said it was interesting the problems identified in the staff report were not problems associated with the recommended addition but were problems associated with the management of the campus prior to the introduction of this application. He thought it was heartening that this application improved the relationship between the school district and city staff. He hoped this would continue because it was good for the community. He thought the proposal was also good for the community.

Acomb said she appreciated that the district was willing to put some of the remaining land in the conservation easement to ensure its protection going forward.

Bergstedt said he was fortunate to represent the part of the city where the high school campus was located. When the plan first came forward no one doubted the need for the ice time. The challenge was all the activity on the campus. The proposal provided a chance to look at traffic flow, circulation, and parking and how to improve those things. Being the ward council member he has periodically heard legitimate concern from the neighbors
of the campus about traffic patterns, noise and other issues. As part of the process for this application, there was a new traffic study conducted. Most importantly a new site management plan was developed. The plan includes standards and if there are problems along the way, the neighbors can work with the school district to resolve the problems. He said there were many potential deal breakers with the project. The youth association, the school district, and the city all tried to make it work and everyone worked well together.

Schneider said the evolution of a continually better dialogue and more communication with the school district in understanding the needs and concerns was a good step forward in the right direction. When the item first was presented to the council as another large building on the south side of the Pagel Center, he looked at the topography and didn’t think it would work. He said the use was very creative and he commended the designer and architect. He was very supportive increasing youth activity and having a continuing positive relationship with the school district.

Bergstedt moved, Wiersum seconded a motion to adopt resolution 2015-120 approving the conditional use permit and resolution 2015-121 approving final site and building plans. All voted “yes.” Motion carried.

Schneider called a recess at 8:03 p.m.

Schneider called the meeting back to order at 8:12 p.m.

C. Concept Plan for redevelopment of the TCF Bank site at 1801 Plymouth Road

Thomas gave the staff report.

Ellingson said it seemed to him the location was so prominent that there should be more going on than what was in this concept plan. During the Highland Bank discussion, it was suggested that because it was a high density development other redevelopments in the area would have a lower density. He thought that concept related more to the redevelopments closer to the residential neighborhood. He said this was the most prominent intersection on this side of Ridgedale.

Wiersum said the site was a retail bank with the current bank having more things going on in a bigger building. He asked what the expectation was from a traffic perspective with a smaller footprint than currently exists. One of his concerns was if there was single level retail on the other part of the parcel, and a smaller footprint bank with the same amount of traffic, traffic could double relative to what currently exists.
Wagner said he attended the neighborhood meeting. He had a conversation about a year ago with the developer about some of the concerns Ellingson raised. He noted this was a pretty small site. The site would be challenging to redevelop for anything larger than what was in the concept plan.

Steve Johnson with Solomon Real Estate said the site was small, about an acre and a quarter. TCF owns the entire site. The plan was for a lot split with his company owning their portion and TCF retaining ownership of their portion. He said this was one of TCF’s more prominent banks. TCF was only willing to work with the plan with the understanding that they would retain ownership and have a free standing building on their property. This left his company with less than three quarters of an acre to work a retail development on to. The optimal way to go would be to blend all three neighboring parcels into a development but currently there are three banks, TCF, US Bank, and Wells Fargo, wishing to own their own real estate.

Johnson said he met with a neighborhood group. The group indicated what it wanted to see was a sidewalk, not having any additional drive thru’s other than what was allowed for with the bank, and not wanting a Highland Bank type project. Originally the plan had more retail but it was scaled back. The current plan includes 5,400 square feet of retail which would meet the city requirements for parking and setbacks. A sidewalk would be wrapped from property corner to property corner. Pedestrian access into the site was part of the plan. The streetscaping would match what was being done with Highland Bank to provide for a contiguous look.

Mike Kraft, the architect for TCF Bank, said when the building was constructed at 12,000 square feet 40 years ago, there was a volume of traffic that grew for 20 years and has been on the decline for the past 15 years. The decrease in traffic coming to the building was due to what is happening to the industry. He said in many ways the building was being right-sized to accommodate the projected traffic. If the traffic increases due to the retail building, it won’t increase anywhere near the capacity that it was in the past. A lot of attention has been given in the plan to make sure the site was easy to move around in both for vehicles and pedestrians.

Allendorf asked what the existing use was for the second floor of the building. Kraft said over the past years there have been multiple functions all office related. Allendorf asked if Kraft had ever been asked to look at the skin of the existing building to upgrade it. Kraft said that was not one of the challenges he’s been faced with. TCF has equity in the brand. People
know they are pulling up to a TCF building by its look. Allendorf said the new design doesn’t say TCF to him at all. Kraft noted the columns were removed. One of the things that was attempted in retaining the brand was maintaining the brick and white pre-finished metal. Allendorf said the design looked plastic and didn’t indicate banking to him. He said he didn’t like the building as it was shown in the concept plan. Putting in another one story retail building seemed like an attempt to do something out of the ordinary because the land was there. He would prefer to see a park instead of the retail building. A smaller TCF building and a retail building did nothing for him.

Schneider asked Kraft to provide more information about the building prototype and how wedded TCF was to the design and where else it was being implemented. Kraft said the banking industry was in an evolution for the past 15 years, and a revolution since 2008. This resulted in fewer staff being able to do more things by being better trained, and allowed creating spaces that are smaller. This had a lot to do with creating a bank for the next generation of bank customers. The concept was about maximizing convenience for various needs. The building design parallels the launching of the new brand which happened earlier in the year. He said this location would be the first for the building design with two others that are being developed as well. He said one of the things commented on most was the use of the color red. A question was asked at the planning commission hearing if there was any wiggle room with the use of red and the answer was yes. He noted one difference between the TCF building and many small retail buildings was the bank building would use the highest quality materials. The building would be used for generations not just for the short term.

Schneider said he was struggling with how to comment on the concept plan. The city had long been very much a free market community unlike other metro cities, which have much more restrictive design standards. Minnetonka relies on quality developers to do a first class job. The council also had a culture of making sure to be objective, fair and not trying to pre-judge projects. As a registered architect he understood that taste was in the eye of the beholder. He said he had to be frank and his comments were meant to be constructive criticism to take back to TCF. When he opened the packet and saw the look of the building, he actually cringed. He showed the design to a number of people to get their feedback. Well over half also cringed. Part of it was the use of red. Several thought the building was a contemporary Kentucky Fried Chicken. That was the type of response the design was evoking. He said the design was not the kind of character, sophistication and quality that was highlighted in the premium corner of the Ridgedale area. He admitted everyone he showed the design to was over 45 years old. The building would definitely get
noticed but he wasn’t sure it would be noticed in a positive way. For the premium corner in the area, Nordstroms and other buildings were getting to a higher class of design. To have something that a number of people thought was a contemporary KFC gave him real heartburn. He noted this was the first time he had been critical of a design during his tenure on the council.

Kraft said he appreciated Schneider’s candor.

Wiersum said the first time he noticed the new TCF logo was on the office building near Hopkins Crossroad. His wife questioned if the TCF was actually a Twin City Federal or another business using that acronym. He understood banking was fundamentally changed and that these changes were driving the desire for a smaller footprint. This was probably a credible solution to the banking of tomorrow but the challenge for him was this was a premier location in the city, and taking a small parcel and cutting it in half with a building design that had a fast food aspect to it. The challenge was the contrast between the scale for what was needed there for TCF versus the scale of what the city envisioned for the area.

Bergstedt said he didn’t cringe when he saw the picture but instead his reaction was it was an interesting concept combining a bank with a fast food restaurant. Then he read the staff report and saw that was not the concept. He agreed he would have some reservation about the building design for any location in the city but particularly for this premier location. He said last year the council discussed the Highland Bank redevelopment and it was a contentious project. One of the biggest issues was the building height. One of driving reasons for his vote for approval was the city had a vision of what it would like to see in the Ridgedale area. This included increased density, adding higher buildings but adding them as far away from the residential neighborhood as possible. Now this concept plan for a premier property was to take down a two story building and putting up two one story buildings. This just didn’t feel right. This concerned him especially coming on the heels of the Highland Bank project.

Schneider said the real challenge was the city’s regulation didn’t clearly state what could or could not be done. The property was zoned and guided commercial. It was about finding the right cooperative long term solution that everyone could be proud of. This would take some work.

Wagner said his thoughts were similar to Schneider’s. When thinking about where higher density would go in the city it was on this side with a hotel because the city was underserved by the hotel market particularly the caliber needed given the corporate headquarters in the area. There
currently was no property for this to occur. He agreed TCF could probably move ahead with what was in the concept plan because there was no ordinance prohibiting splitting the lot. He felt having more lots long term was worse for the city than having fewer lots. Looking at the one acre property, he didn’t think the use was the best use, but at the end of the day the city did not own the property.

Allendorf said he didn’t think splitting the property and putting two one story buildings on it was consistent with what the residents want or what the property deserves. The reason he mentioned putting a park on the property was at least it was something people could understand. He could understand TCF wanting to upgrade the existing building but he could not understand two one story buildings.

D. Professional services agreement for the Shady Oak Site Redevelopment Study

Wischnack gave the staff report.

Wagner said he supported the agreement.

Acomb said she had some concern with engagement given the upcoming holidays. She was happy to see inclusion of the development roundtable that had been beneficial in the past.

Bergstedt said the schedule was aggressive but he hoped it was a schedule that could be kept to. While he was comfortable with the decision to purchase the property, he was uncomfortable with the city being a landlord for any longer than necessary.

Schneider said the primary peak time was when somebody breaks ground for the light rail. He thought the consultant and the engagement process were good. His only reservation was ensuring there was heavy emphasis that due diligence was done to determine what the right market was.

Allendorf agreed with Bergstedt’s comments. He said staff had learned that being a landlord meant much more than hiring a property management company. He said the city should have some idea of what the value of the property should be to the city. The tendency would be to look at a development on paper and go out to the development community who knew the city owns the property, and therefore wouldn’t necessarily bid the highest price. He said the city should determine the value and let the development community know that this was what the city believed the market value for the property was, and stick to the value.
Wischnack said when the roundtable occurs she’ll make sure the developers think about it as market price being paid for the property and there wasn’t a discount being considered at this point to get the development to occur.

Schneider said the project was not a subsidized project but instead was a quality project the city was guiding.

Allendorf moved, Wiersum seconded a motion to approve the agreement for the Shady Oak Site Redevelopment Study. All voted “yes.” Motion carried.

15. Appointments and Reappointments:

   A. Appointment of student representative to park board and amend Planning Commissioner John Powers’ term of office

   Schneider moved, Wiersum seconded a motion to approve the appointment of Jack Acomb to the park board and amending Planning Commissioner John Powers’ term of office to January 31, 2016. Wiersum, Bergstedt, Wagner, Ellingson, Allendorf, and Schneider voted “yes.” Acomb abstained. Motion carried.

16. Adjournment

   Bergstedt moved, Wiersum seconded a motion to adjourn the meeting at 9:05 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

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

4. Approval of Agenda

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

5. Approval of Minutes: October 26 and November 9, 2015 council meetings

Acomb moved, Allendorf seconded a motion to approve the minutes of the October 26, 2015 council meeting, as presented. All voted “yes.” Motion carried.

Acomb moved, Allendorf seconded a motion to approve the minutes of the November 9, 2015 council meeting, as presented. All voted “yes.” Motion carried.

6. Special Matters:

A. Resolution recognizing city of Hopkins Mayor Eugene Maxwell for his years of service as a city council member and mayor

Schneider read the recognition. He noted Maxwell helped establish a close working relationship between the two cities.

Wiersum moved, Bergstedt seconded a motion to adopt Resolution 2015-122 recognizing city of Hopkins Mayor Eugene Maxwell for his years of service as a city council member and mayor. All voted “yes.” Motion carried.
7. **Reports from City Manager & Council Members**

City Manager Geralyn Barone reported on the schedule of upcoming meetings.

8. **Citizens Wishing to Discuss Matters not on the Agenda**

Hennepin County Board Chair Jan Callison provided an update on the county’s proposed budget, transportation issues, and the home school.

Schneider said with the upcoming guide plan process it was prudent for the city and county to work together for the home school property to determine the proper and best use for the long term assuming something happens with the site.

9. **Bids and Purchases: None**

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

   A. **Resolution adopting a council policy regarding debt management**

   Schneider pulled the item from the consent agenda.

   Barone gave the staff report.

   Allendorf moved, Acomb seconded a motion to adopt Resolution 2015-123 adopting council policy 2.19, Debt Management. All voted “yes.” Motion carried.

   B. **Resolution approving a conditional use permit for accessory structures with gross floor area of 1,500 square feet at 3707 Farmington Road**

   Allendorf moved, Acomb seconded a motion to adopt Resolution 2015-124 approving a conditional use permit for accessory structures with gross floor area of 1,500 square feet at 3707 Farmington Road. All voted “yes.” Motion carried.

   C. **Resolution approving a conditional use permit for a licensed day care at 13505 Excelsior Boulevard**

   Allendorf moved, Acomb seconded a motion to adopt resolution 2015-125 approving a conditional use permit for a licensed day care at 13505 Excelsior Boulevard. All voted “yes.” Motion carried.
D. **Easement agreement with Minnehaha Creek Watershed District for Gray’s Bay dam**

Allendorf moved, Acomb seconded a motion to approve the easement agreement with Minnehaha Creek Watershed District for Gray’s Bay dam. All voted “yes.” Motion carried.

E. **Resolution relating to the 2016 non-union employee wages and benefits adjustments**

Allendorf moved, Acomb seconded a motion to adopt resolution 2015-126 relating to the 2016 non-union employee wages and benefits adjustments. All voted “yes.” Motion carried.

11. **Consent Agenda – Items requiring Five Votes: None**

12. **Introduction of Ordinances:**

A. **Ordinance amending judicial review provisions**

City Attorney Corrine Heine gave the staff report.

Wiersum moved, Bergstedt seconded a motion to introduce the ordinance amending judicial review provisions. All voted “yes.” Motion carried.

13. **Public Hearings:**

A. **Resolutions regarding utility related items:**

1) Municipal water and sanitary sewer rates;
2) Municipal water and sanitary sewer connection fees;
3) Recycling fee; and
4) Stormwater rates.

Finance Director Merrill King gave the staff report.

Schneider opened the public hearing at 7:02 p.m. No one spoke.

Schneider closed the public hearing at 7:03 p.m.

Wiersum moved, Bergstedt seconded a motion to adopt Resolution 2015-127 approving municipal water and sanitary sewer rates; Resolution 2015-128 approving municipal water and sanitary sewer connection rates; Resolution 2015-129 approving the recycling fee; Resolution 2015-130...
approving stormwater rates effective January 1, 2016. All voted “yes.” Motion carried.

B. Resolution vacating public right-of-way at 2634 Crosby Road

Acting City Planner Susan Thomas gave the staff report.

Wiersum asked what the city’s interest was in making the exchange. Heine said there had been a long standing dispute with the adjacent property owner regarding the city’s rights in the right-of-way parcel. This is the land conveyed to the city in the exchange. The city conveyed to the adjacent property owner a small strip of land that historically had been used by the property owner and was also a subject of dispute.

Schneider opened the public hearing at 7:06 p.m.

Lia Melrose, 2626 Crosby Road, said her property is on the other side of the city owned land. She said she fully supported the swap of land. The dispute had been ongoing for 20 years. She was happy there was a resolution.

Schneider closed the public hearing at 7:07 p.m.

Wiersum moved, Allendorf seconded a motion to adopt Resolution 2015-131 approving vacating the right-of-way, but reserving a utility easement. All voted “yes.” Motion carried.

14. Other Business:

A. Items related to the 2016 operating budget and levies

1) Public consideration of proposed budget and levies
2) Resolution adopting a budget for the year 2016, a revised budget for 2015, and setting a tax levy for the year 2015, collectible in 2016
3) Resolution setting a tax levy for the Bassett Creek Watershed Management Tax District for the year 2015, collectible in 2016

Barone gave the staff report.

Iris Westerberg, 10441 Greenbrier Road, said she had lived in her two bedroom condominium for over 30 years. She said there was a 95.8 percent increase in her property tax for 2016. She is retired, living on Social Security, and doesn’t want to sell her home. What matters was being able to afford the condo. Social Security has not increased but the
cost of everything except for gas has gone up. She said every other two and three bedroom condo in the two building unit has seen similar large property tax increases. Two years ago a condo exactly like hers sold for $88,000. The assessing staff indicated to her another condo like hers sold for $140,000. She noted that sale was in 2007 before the housing bubble burst. Many residents have two mortgages and can't sell. She said a lot of the residents do not know the property tax system and had no idea such an increase was going to hit.

King said she and the city assessor looked into what happened with the Greenbrier condos. She noted the condo market truly was the most volatile part of the market. Property taxes for this group of two unit condos were at their lowest last year. The 2016 property taxes are still significantly lower than they were in 2007. She calculated what the state property tax refund would be specifically for the Westerberg's and it came to around $300. She said the Westerberg's likely would be eligible for the refund every year.

Susan Wessman, 10441 Greenbrier Road, said she understood it was too late in the process to change anything but her concern were the factors that affect her property taxes. She questioned if the property tax system was too complex for the average person to figure out their own property tax. Schneider said if Wessman wanted to understand her property taxes, staff would sit down with her one on one to walk her through the factors.

John Mayer, 10451 Greenbrier Road, noted the recommendation was for a four percent increase from the city. He took the city portion of the proposed property tax statement and multiplied it by four percent. The number came to $82 but the city property tax was listed at $161. He questioned why that was. He noted his estimated market value increased but the homestead exclusion went down. He asked why that was as well. Barone said the four percent increase was for the amount the city levies. A formula determines what commercial properties and residential properties pay. The amount an individual property tax payer owes is determined by a number of factors. King said there was a very specific formula used to calculate the homestead exclusion. This formula is outlined in state statute. If the value of a home increase, the exclusion goes down. The philosophy was for it to be progressive so that higher valued homes pay more property taxes than lower valued homes. Schneider said this was part of the complexity of the property tax system that assumes a person with a half million dollar home can afford a half million dollar home. It's based on the current value of the house that may have been bought 30 years ago.
Barone encouraged residents to attend the city’s Citizen Academy where they can learn more about city finances and other city government functions.

Wiersum said the number one driver behind the large property tax increase for the Greenbrier Road residents was because the value of their condos increased so much. He noted if everything citywide stayed the exactly the same, then everyone’s property taxes would increase by the four percent. But values change differently all over and as the finance director indicated, the condo market was the most volatile. Before the recession the value of condos was high but they dropped through the floor when the recession hit. This meant property taxes went down during that time. Now the values went up a lot and so did the property taxes. He said it was important because of the volatility of the condo market that the residents pay attention to the valuation and come to the March council meeting if they feel the valuation is not accurate.

Schneider noted there were some people in the past who argued for a higher property value even if that meant higher property taxes. The reason was that people look at the market value when it comes to selling the home. The council can’t arbitrarily raise the value any more than it can arbitrarily lower the value.

Allendorf said it was important to note that the city looked at an overall increase of 4.2 percent. The levy and HRA levy were thoroughly looked at. It was pointed out that the comp plan was to be paid for by the HRA levy increase. That probably wasn’t the proper place for it. He said he wanted to recognize that staff found a more appropriate place to pay for the comp plan, which was the budget stabilization fund. This fund had been set up for one-time items or capital improvements. This meant the overall levy was 4 percent instead of 4.2 percent. He said residents should recognize the city really does take a close look at the levy increases.

Acomb moved, Bergstedt seconded a motion to adopt Resolution 2015-132 approving the 2016 operating budget, a revised budget for 2015, and setting a tax levy for the year 2015, collectible in 2016; Resolution 2015-133 setting a tax levy for the Bassett Creek Watershed Management Tax District for the year 2015, collectible in 2016. All voted “yes.” Motion carried.

B. Sale of GO temporary utility revenue notes

King gave the staff report.
Schneider said Minnetonka has one of the lowest per capita indebtedness partly because of years and years of long term planning. When major improvements are needed the city has the ability to get good rates and accomplish things in a quicker time frame because of this fiscal prudence.

Bergstedt moved, Wiersum seconded to adopt the resolution for the issuance and sale of General Obligation temporary utility revenue notes in the approximate aggregate principal amount of $10 million. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Bergstedt moved, Acomb seconded a motion to adjourn the meeting at 7:52 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #5B  
Meeting of December 21, 2015

**Brief Description:** Revised council meeting minutes for June 22, 2015

**Recommended Action:** Approve revised minutes

**Background**

Staff recently discovered that an incomplete draft of the minutes of the June 22, 2015 meeting was mistakenly submitted to the council for approval. The incomplete draft omitted the discussion and motion for “Consideration of the parking conditions at the Cedar Hills Shopping Center 11032 Cedar Lake Road” 14B item. The correct draft, which had been prepared prior to the July 13, 2015 council meeting based on the recording of the June 22, 2015 council meeting, includes a record of that motion. In order to accurately reflect the actions taken at the meeting of June 22, it is recommended that the council approve the revised minutes.

**Recommendation**

Approve the revised minutes of the June 22, 2015 city council meeting.

Submitted through:
- Geralyn Barone, City Manager
- Perry Vetter, Assistant City Manager

Originated by:
- David Maeda, City Clerk
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, Brad Wiersum, Tim Bergstedt, Bob Ellingson, Tony Wagner and Terry Schneider were present. Patty Acomb was excused.

4. **Approval of Agenda**

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

5. **Approval of Minutes: May 18, 2015 and June 1, 2015 council meetings**

Bergstedt moved, Wiersum seconded a motion to approve the May 18, 2015 regular meeting minutes. All voted “yes.” Motion carried.

Bergstedt moved, Wiersum seconded a motion to approve the June 1, 2015 regular meeting minutes. Allendorf, Wiersum, Bergstedt, Ellingson, and Schneider voted “yes.” Wagner abstained. Motion carried.

6. **Special Matters: Retirement recognition of Laura Ronbeck**

The council recognized Laura Ronbeck.

Ronbeck thanked her co-workers. She praised the Burwell House tour guides and the city’s election judges.

7. **Reports from City Manager & Council Members**

City Manager Geralyn Barone reported on the schedule for upcoming council meetings. She noted Susan Thomas was sitting in for City Planner Loren Gordon. She officially welcomed new City Engineer Will Manchester.
8. Citizens Wishing to Discuss Matters not on the Agenda

No one appeared.

9. Bids and Purchases:

A. Bids for Public Works building expansion

Barone gave the staff report.

Schneider said the staff recommendation was the right approach but he cautioned that he didn’t see the bidding environment changing a whole lot over the next few years. The city may need to begin looking at bid alternates providing for more flexibility. Projects may have to be scaled back.

Wiersum moved, Wagner seconded a motion to reject all bids. All voted “yes.” Motion carried.

B. Agreement with city of Hopkins for Oak Ridge Road and bids for 2015 mill and overlay project

Barone gave the staff report.

Wagner moved, Bergstedt seconded a motion to adopt resolution 2015-044 and award the contract to Bituminous Roadways, Inc. in the amount of $848,787.35. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution approving a conditional use permit for CrossFit Gym at 2806 Hedberg Drive

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-045 and approve the request. All voted “yes.” Motion carried.

B. Orders for liquor license stipulations

Allendorf moved, Bergstedt seconded a motion issuing the Findings of Fact, Conclusion, and Orders for Chipotle Mexican Grill #2051, People’s Organic, and Romano’s Macaroni Grill. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None
12. **Introduction of Ordinances:** None

13. **Public Hearings:**

   A. **Items concerning Eagle Ridge Academy, 11111 Bren Road:**
      1) Conditional use permit;
      2) Conduit bond host approval for issuance of a conduit bond by the City of Deephaven for the benefit of Eagle Ridge Academy

Thomas and Community Development Director Julie Wischnack gave the staff report.

Wagner noted the property was near a proposed light rail station. He asked if the property was in the overlay district. Wischnack said the property was just outside of the overlay district. The ordinance provides the city would not encourage too much input into the building before redevelopment related to light rail occurs. She said another issue to consider was the comp plan includes language about encouraging vital centers in and around Ridgedale and Opus and higher redevelopment densities to provide housing and commercial opportunities that support Opus. Wagner said there were comments during the planning commission hearing about interim use investment that was not part of an industrial zoning district. He asked staff questions earlier in the day about the issue.

Wiersum said the proposal would move the property from private tax paying ownership to public tax exempt ownership. He asked the approximate amount of property taxes that was being paid by the current owner. Wischnack said the property was valued at around $11 million. The overall property taxes were around $0.5 million. The city’s portion came to around $53,000. Wiersum asked if there was precedence in other cities in similar situation for addressing the loss of property taxes. Wischnack said what Wiersum was likely referring to was payment in lieu of taxes. There were examples of this being used in other communities.

Allendorf said this user would avail themselves to the use of city services. He asked if had had discussions with the applicant about a payment in lieu of taxes provision. Wischnack said staff had not but would if the council directed them to do so. Allendorf asked if there was a method to determine the city services normally provided to a facility and the cost of those services. Schneider said this would be a major policy shift.

Schneider opened the public hearing at 7:02 p.m.

Jason Ulbrich, 13589 Joseph Avenue, Becker, said he was the executive director at Eagle Ridge Academy. The academy had been in existence for
11 years and was one of the first classical traditional programs in the southwest metro area. The school started off with about 100 students and now has 860 students. There are 800 students on the waiting list. The academy recently received a $675,000 grant from the Minnesota Department of Education for the expansion. He said he was excited to find such a fantastic affordable facility close to where the current building is located.

Ellingson asked if the charter school received money from the state like a public school. Ulbrich said about 90 percent of the funding was exactly like a conventional public school. The only difference was the academy didn’t have the authority to levy a tax. Ellingson asked if tuition was charged. Ulbrich indicated it was not.

Wiersum said the information provided mentioned the proximity to the School District 287 school. He asked if this was done to show there was another school in the area or was the anticipation there would be programming between the two schools. Ulbrich said the information was provided to show that there was another school in the area. He said there were some opportunities for collaboration but the two programs were very different.

Wagner asked how the site was chosen and what other locations were looked at. Ulbrich said it was a long process. It became apparent the academy was outgrowing its current site. A strategic growth task force was created to determine the type of growth desired and how to manage the growth. The goal was to find a facility to house a K-12 program that could support today’s growth as well as growth 15-20 years into the future. The task force identified three or four major parameters. One was that the location had to be within ten minutes of the current site. Another was it had to be around 160,000 square feet or larger. The Datacard site was around 210,000 square feet. Green space and parking were also important. The building had to be affordable. The purchase agreement was for $7.5 million even though the building was valued around $11 million. Between 160,000 to 180,000 square feet would be renovated.

Amanda Weidner, 15008 Lynn Terrace, said she had three children who attend the academy. Her oldest son transferred into Eagle Ridge from Glen Lake Elementary School not because of the lack of quality of the Hopkins and Minnetonka school districts but because of the opportunities for him to grow in ways that would have not been possible in a traditional public school setting. The emphasis on character development, classical education, and college preparatory education would be beneficial for her son. He graduated a few weeks ago and she said the family could not have been more right about the decision. She said she served on the
strategic growth task force. Many different sites were looked at but as soon as she walked into the Datacard site she knew it was the right one. She encouraged the council to approve the proposal.

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

Wiersum asked if there was an optimal size for the academy or if the thought was the more students the better. Ulbrich said the board of directors passed a resolution in May 2014 stating that by fiscal year 2024 the academy would have between 1,200 and 1,600 students enrolled. The reason behind this was having a four section graduating class between 75-100 students was the optimal size for extracurricular activities and expanded educational opportunities.

Wagner said reading the council packet his reaction was the proposal was a great addition to the community. Thinking about it further the question that kept nagging at him was all the city’s efforts related to density, light rail and transit oriented development and how close the property was to the light rail station. Although the school would be a welcome addition to the community the question was if this was what the city wanted for its long term vision. His concern was triggered by a question raised at the planning commission hearing about if an interim use permit could be applied and the answer was no. The vision for the Opus area was probably for more density and greater intense use in the area. This didn’t mean that would apply to every piece of property but this was one of the closer properties to where the light rail station would be located. He thought this deserved a council discussion. At some point the property would be redeveloped if it did not have a school located on it. Once a conditional use permit was approved it would be for a long time.

Bergstedt said there were two other schools in the area, the School District 287 school and a Spanish immersion school. He asked if both were tax exempt. Barone indicated that was correct. Bergstedt asked if either school came on to a property that previously was not tax exempt. Wischnack said both properties were previously taxable properties before the schools opened. Bergstedt noted the Eagle Ridge proposal was not something new because of the two previous examples.

Wiersum said although he agreed with the point Wagner made, this was a case of timing being everything. Light rail would likely be built, but there wasn’t 100 percent certainty of that. Datacard wants to sell the building and there was a bonafide buyer with an appropriate use. Given the fact that there was uncertainty with light rail and there was a proposal before the council, and that Eagle Ridge Academy was an outstanding institution
that added value to the community, he would have a hard time voting against it.

Allendorf asked how big the other two school facilities were compared to this proposal. This would provide information about the level of services that may be needed. He also asked if there were discussions about payment in lieu of taxes when the two schools were approved. Wischnack said the two schools were much smaller. The Spanish immersion school was around a third of the size of this proposal. The 287 school was located on a larger parcel than the Spanish immersion school but the building wasn’t as large. The value of the two schools was in the $2 million to $3 million range. Payment in lieu of taxes were not discussed when the two schools were approved. Allendorf said it was likely this property would require a lot more city services than the other two schools. His concern wasn’t about taxes but rather was about equity in services to the property.

Schneider said over the years when a development changed a property from a tax paying property to a tax exempt property the council had discussions about the loss of tax revenue. The council had decided that the rights of a tax exempt entity to develop a property were the same as any other property owner and the loss of taxes was offset that part of the fabric of the community was made up of the varying different entities. None of those examples resulted in a significantly disproportionate impact on the city and the services provided. He said he was surprised the issue had been raised because it had never been an issue in the past. He said the times communities have negotiated payment in lieu of taxes it hasn’t been with a church, school or government entity but generally has been with casinos. In those cases a lot of public safety services are provided. In other cases it has been used in Greater Minnesota where the facility is the dominant facility in the community. While the state allows cities to negotiate payment in lieu of taxes, there wasn’t a lot of leverage to make it happen. There had to be a mutually beneficial situation involved. He said he thought it was a slippery slope and it would be hard to determine where to draw the line and could lead to a lot of inequities.

Wiersum said he raised the question to learn about precedents in other cities and not because he necessarily thought it should be used in this situation. He agreed churches, synagogues, schools, and nonprofit organizations all added to the fabric of the community. The property taxes aren’t lost they are spread to other taxpayers. He agreed establishing a policy would be a slippery slope because it would lead to the city evaluating nonprofit organizations to determine which ones should pay and which ones shouldn’t.
Bergstedt said Schneider’s comments reflected his own thoughts. He looked at Eagle Ridge Academy in similar terms of the Hopkins and Minnetonka school districts. Each had been a huge factor in the community that helped with the quality of life and housing stock in the community. The city may lose $50,000 in taxes but even if a few of the families move into the city to be closer to the academy, the loss would be more than made up. He thought it was a very good use of the property.

Allendorf said his concern was not about a loss of tax revenue but it was about an equitable look at how much the facility would require in services.

Schneider said when Datacard made the decision it had outgrown the facility it needed state assistance to move to the Shakopee site. In order to receive the assistance the company asked him to say he supported the idea. He did so because the company had outgrown the facility. He viewed the building as a job center that historically had been filled as such. With this proposal this would shift. There would be jobs, but they would be different types of jobs with the different use. He would never look for this site to be redeveloped into high density housing or mixed use. Predominately Opus is about jobs. He said the UMAGA site was a different story. That site cries for complete redevelopment. He would have serious reservations if someone proposed a low use with a long term lease. That’s why the overlay district had been created. Although there were some concerns he thought there was an upside to having a school use on the Datacard site.

Wagner questioned having something this close to a light rail station given all the planning and where ridership numbers were so important. He agreed there would not be high density residential on the site. He had thought that the building would be filled again with a lot of people working there and that was the theme of the light rail station. He said Eagle Ridge was a great use that he would love to have in the city but he wasn’t sure this location was where he would want them for the long term given the potential that light rail may come.

Ellingson said he attended a meeting with the two consultants from Portland who did some work on the Shady Oak station. They told him redevelopment doesn’t happen simply because of proximity of light rail but there were other factors. They thought the Shady Oak station was a wonderful location given its proximity to Shady Oak Road and Excelsior Boulevard intersection. They also mentioned reuse of existing buildings was a good idea. He said it was a wonderful location for the school and was a reuse of an existing building. He noted Eagle Ridge would still be paying the city for sewer and water services and it was a public school that was analogous with the other public schools in the city.
Schneider said he agreed with Wagner to a point. If this was going to be the major job center of the city with light rail coming, the city should encourage good quality jobs. That was what he had expected would happen. This did not lead him to the conclusion that he would prohibit anything else from moving on to the property. He might do that for the overlay district to some degree but this was outside the district. The light rail would create demand for the next 50 years and maybe in 20 years the school would decide that its enrollment had outgrown the site. This was the reality of development. It was subject to future demand.

Wiersum said the discussion was helpful because it was causing the council to debate a number of issues. If a church or synagogue started on fire the city would provide the service of putting the fire out. The demand for services for this building would be greater but that was part of the contribution taxpayers make to have things like the academy exist in the community. He agreed with Schneider’s point about how it was unknown what would happen in the future in terms of redevelopment. One concern was what would happen if another proposal for a school came forward. The city didn’t want Opus to turn into a campus of campuses. This proposal had merit and would contribute to the community. For future development the council would have to look hard at what it wanted to occur given the potential arrival of light rail.

Wiersum moved, Bergstedt seconded to open the adopt resolution 2015-046 approving the conditional use permit and Resolution 2015-047 issuance of conduit bond. Allendorf, Wiersum, Bergstedt, Ellingson, and Schneider voted “yes.” Wagner voted “no.” Motion carried.

B. Resolution vacating a drainage and utility easement for Bauer Custom Hitches at 13118 Excelsior Boulevard

Thomas gave the staff report.

Schneider opened the public hearing at 7:39 p.m. No one spoke.

Schneider closed the public hearing at 7:39 p.m.

Allendorf moved, Wiersum seconded to adopt the resolution 2015-048 which vacates the drainage and utility easement at 13118 Excelsior Boulevard. All voted “yes.” Motion carried.

C. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Yum! Kitchen and Bakery, two LLC, 6001 Shady Oak Road
Barone gave the staff report.

Patti Soskin, the owner of Yum! Kitchen and Bakery, said the restaurant is about to be 10 years old and has been looking for a new location for the last five years. She was excited about the location and the neighbors are excited about the restaurant.

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

Wagner moved, Allendorf seconded a motion to continue the public hearing to July 27, 2015. All voted “yes.” Motion carried.

D. On- sale liquor licenses for Kona Sushi, Inc. (Kona Grill), 12401 Wayzata Boulevard

Barone gave the staff report.

Schneider opened the public hearing at 7:42 p.m. No one spoke.

Wagner moved, Allendorf seconded a motion to continue the public hearing to July 27, 2015. All voted “yes.” Motion carried.

E. Use of the Community Investment Fund to finance renovation of Ice Arena A

Recreation Services Director Dave Johnson gave the staff report.

Schneider opened the public hearing at 7:50 p.m. No one spoke.

Wiersum moved, Wagner seconded a motion to continue the public hearing to July 27, 2015. All voted “yes.” Motion carried.

14. Other Business:

A. Concept plan review for an expansion to the Pagel Activity Center at Minnetonka High School

Thomas gave the staff report.

Jim Van Bergen, 19200 Highland Avenue, Deephaven, said he was a member of the Minnetonka Hockey Youth Association Board of Directors. He said the program had grown 32 percent in the last ten years. With the growth there is a severe ice shortage. The organization is governed by USA Hockey, which has established recommendations and ideals to develop the hockey players. Based on the recommendations the
Minnetonka Youth Hockey Association has determined it was 1,200 hours short of ice for a regular hockey season. They have worked closely with the Minnetonka School District. When the Pagel Activity Center was turned over to the district, there were discussions about putting in a second sheet. He said the program and building would be entirely funded by the membership, donors, and corporate sponsors. There would be no financial support from the school district or use of taxpayer dollars. There would be an economy of scale with the current employees being used. The operating hours would be similar to the current operating hours.

Tom Morris, HTG Architects, said he was aware of the existing technical issues related to stormwater, steep slopes and trees. Work will be done to preserve fields and circulation on the site.

Wiersum asked if the school district needed the second sheet for its use or was the second sheet being driven solely by the association. Van Bergen said the school district also had additional ice needs.

Allendorf asked for clarification about the roles of the association and the school district. The project was on the school district’s property. During the neighborhood meeting there were questions if the district’s management plan was being followed or not. He asked how the two entities would work together to make sure the management plan was followed if the facility were approved. Van Bergen said the setup would work similarly to the way the first Pagel Activity Center worked. The youth association owns and runs the building and the school district owns the grounds. He said it was a great partnership that worked incredibly well.

Allendorf said if he were a neighbor and there was an issue, it was unlikely he would call the hockey association but rather would call the school district instead. Paul Bourgeois, the executive director of finance and operations for the Minnetonka School District, said this was a Minnetonka Youth Hockey Association project. It would be convenient to have the district’s four hockey teams on campus, but it was not a necessity. The school board’s approval was based on the project not costing the district any money. Any issues on the campus should be directed to the school district. Allendorf questioned if a neighbor had a complaint that the management plan was not being followed that person should contact the school district. Bourgeois indicated that was correct.

Bergstedt said his thought process was similar to Allendorf’s. He commended the Minnetonka Youth Hockey Association for its past success, its growth, and its initiative. He was not comfortable with the school district saying it was a association driven project because it was on the school district’s property. He said the high school had done a fabulous
job with its facilities. This plan was for another piece to go on the school district property so the school had to be the major player. The city required a new traffic study to be done. When the first Pagel Center was done there was a management plan from January 2004. The plan indicated it was the intent of the district through the development of the site management plan to be a good neighbor to the residential community surrounding the high school site and to have the high school be considered an asset to the neighborhood. The goal of the plan was to maximize the use and access to the public facilities. The management plan was to address traffic management, communication with neighbors, parking, access to the site via the city’s trail system and would be reviewed on an annual basis. He said it would be helpful to the whole development at the high school to get the traffic study and an updated management plan. To look at this project as just being proposed by the hockey association avoided the much bigger questions.

Schneider said it was a tight campus with a lot of activities. The project was one more thing being packed on and that raised a level of concern. He said the use was good and it served the youth. The flipside was the city had a strong steep slope protection and tree preservation ordinance. This was adopted somewhat to maintain the character of the community but predominately developments on steep slopes tend to create more problems than solutions. This situation was unique because although it was a very steep slope, what was proposed was basically getting rid of the slope altogether. The character would be lost but there would be nothing left to degrade. This left him at a loss at how to evaluate whether this was a pro or a con. He would likely go back to looking at what point the campus was becoming too complicated and difficult to manage.

Wiersum said his two sons were part of the hockey association when the Pagel Center was first built. He thought the idea of getting another sheet of ice was great but he agreed the space was getting tight. He said a key issue was managing the relationship with the neighbors and taking a good hard look at the management plan was the essential piece.

Wagner said it was a valuable amenity. The challenge was the intensity of use on the campus crept up on a regular basis.

Wischnack said the planning commission asked the association to look at other areas where the building could be placed other than on the steep slope. She asked if the council wanted them to pursue that.
Bergstedt said everything had been laid out nicely in the plan. Even with the steep slopes and trees it wasn’t the same as with parcels being looked at to be developed. This was a non-walkable steep slope. Trying to look for another parcel didn’t make sense for a number of reasons. It would be enough of a challenge trying to figure out the stormwater management.

Wiersum agreed. He did want a good sense about the safety of the retaining wall. He recently received calls about safety issues related to tall retraining walls and fences.

B. Consideration of the parking conditions at the Cedar Shopping Center 11032 Cedar Lake Road

Wischnack gave the staff report.

Wagner said he was pleased to hear there was movement on the item. There currently weren’t parking or traffic issues. There could be in the future however. If the council had to take a more aggressive approach in the future, which he hoped it didn’t have to do, it could be still be done. He was happy with the staff recommendation.

Wiersum suggested combining options one and three in the staff report. The city would give the property owners until December 31, 2015 to work out an agreement. If an agreement had not been reached the CUP would be revoked at that time. Six months was plenty of time to get things done. Wischnack said the only issue with that approach was a hearing to revoke the CUP would have to be scheduled. The hearing could occur at the December 7 or December 21 council meetings. Wiersum said the last council meeting in November might be the appropriate meeting for the hearing.

Schneider said he agreed with the idea that there needed to be closure on the issue but he thought there needed to be more thoroughness and due diligence associated with the revocation of a major facility’s license. He preferred a motion that would state the item would be continued until December 31 with the idea that there would be consequences for the issue not being resolved at that time. This would send the message without locking the council into a corner.

Bergstedt said the issue was about still dealing with the failure to enact a cross-parking agreement from 1988. The item had come before the council multiple times and each time the council chose to give the parties more time to figure out the agreement. He said he didn’t know if he would support Wiersum’s approach but something was needed to finally resolve the issue.
Schneider said the only reason he made his suggestion was the city had other elements it could control on the site including proof of parking that would put the bulk of the onus on getting a resolution instead of a revocation. To pre-judge things when there seemed to be some movement was a little bit of overkill.

Allendorf said the draconian solution may be a little too harsh. He was not aware of other solutions though. The lack of agreement was ongoing for 30 years but he questioned if there was anything not happening on the property that would happen if the easement were in place. Wischnack said everything was operational. She noted Play and Learn had cut back night time hours. Allendorf asked if the night time hours were cut back because it was good for business or because of the parking. Wischnack said it was done for the business. Allendorf said he didn’t take the issue lightly but he would not close down Lone Spur on December 31 because it was a valuable asset to the community.

Schneider said part of the issue was principle and part was reality. The reality was the current situation could probably keep working. The principle was there actually was a condition and the requirements of the condition had not been complied with.

Wagner said if the parties changed there could be a problem. Wischnack noted the property on the east side was on the market. This was one of the reason staff wanted the issue resolved. Wagner asked if there was any other legal avenue that could be taken to force compliance of the condition outside of revoking the CUP. Heine said in terms of enforcing a condition in a CUP the city had the option of issuing citations. Typically this was not the most effective way to enforce the zoning code. Bringing legal action was another option. The difficulty a court might have in that situation was the city’s requirement was to require a cross easement but didn’t specify terms. She said a court would be in a difficult position to tell the parties what terms had to be agreed upon other than the cross easement had to be in place. The other option would be to revoke or modify the CUP. She said the meeting earlier in the day with the parties went better than she expected. The two owners reached an agreement in concept over the three key issues.

Barone noted an example of one of the other things in the CUP that could be modified was the allowance of the outdoor patio. Heine said it was possible to relate whatever was being modified to the noncompliance issue. To the extent the outdoor patio generated more traffic, thus the need for the parking agreement, it was an option to revoke that condition.

Wagner thought the option of giving the property owners more time, while the council keeps abreast of the situation was the best option. The
situation operated for 30 years, he just didn't want it continuing into the 31st year.

Wiersum said one thing he has learned during his time on the council was everyone liked rules but no one liked enforcement. This was where the city was at in this situation. Since there had been a positive meeting earlier in the day he didn't want to do something drastic to destroy that. The expectation was there would be closure within a reasonable amount of time.

Wagner moved, Allendorf seconded a motion directing staff to report back to the council on August 31 with a status update. All voted “yes.” Motion carried.

15. Appointments and Reappointments:

A. Appointments to the senior citizen advisory board

Schneider moved, Allendorf seconded a motion to appoint Wendy Woodfill, to the senior citizen advisory board, to serve the remainder of a two-year term, effective June 22, 2015 and expiring on May 31, 2017.

16. Adjournment

Wiersum moved, Bergstedt seconded a motion to adjourn the meeting at 8:32 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk
City Council Agenda Item #10A
Meeting of December 21, 2015

Brief Description: Ordinance amending judicial review provisions

Recommended Action: Adopt the ordinance

Background

This is a technical amendment to the city code. Each of the sections that is proposed to be amended includes a provision that directs the manner in which an aggrieved applicant or other individual can obtain judicial review of a city decision. The ordinances are specific not only as to the court in which an appeal must be filed (district court versus court of appeals) but in some cases also specify the particular form of appeal, such as writ of certiorari.

The city attorney recommends that the specific direction in the ordinances be removed and that the ordinance simply provide that review can be sought before a court of competent jurisdiction. The amended language provides essential information about the availability of judicial review but eliminates the potential for designating the wrong court in the ordinance. Jurisdiction of a court is established by state law and cannot be designated by ordinance.

The ordinance amendment was introduced at the December 7, 2015 city council meeting, and there were no questions.

Recommendation

Adopt the ordinance

Submitted through: 
  Geralyn Barone, City Manager

Originated by: 
  Corrine Heine, City Attorney
Ordinance No. 2015-

An Ordinance amending judicial review provisions in the city code; amending sections 615.050, subd. 2, 925.110, subd. 3, 1025.030, subd. 3(c) and 1310.045

The City of Minnetonka Ordains:

Section 1. Section 615.050, subdivision 2 of the Minnetonka City Code, related to licenses for sexually-oriented businesses, is amended to read as follows:

2. No license, except for a renewed license, may be issued for a sexually-oriented business until the council has held a public hearing. Notice of the hearings must be made in the same manner as that specified in section 300.09, subd. 3, for a zoning ordinance amendment affecting district boundaries. The council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the action of the city council may seek review by a writ of certiorari before the Minnesota court of competent jurisdiction.

Section 2. Section 925.110, subdivision 3 of the Minnetonka City Code, relating to forfeiture of animal ownership rights, is amended to read as follows:

3. If the owner requests a hearing, the hearing will be held within 15 days after the city receives the appeal. The hearing will be held in accordance with city code section 1310.035(3). The hearing officer must make written findings of fact and reach a conclusion whether the allegations are true and whether the animal will be forfeited to the city. The findings and conclusions must be made within 10 working days after the hearing and must be served on the owner personally or by registered mail. The decision of the hearing officer is final but may be appealed by a writ of certiorari to the district court of competent jurisdiction.

The stricken language is deleted; the underlined language is inserted.
Section 3. Section 1025.030, subdivision 3(c) of the Minnetonka City Code, relating to permits for dangerous weapons, is amended to read as follows:

c. A permit holder aggrieved by a revocation of a permit may appeal the decision to the Hennepin county district court of competent jurisdiction.

Section 4. Section 1310.045 of the Minnetonka City Code, related to administrative penalties, is amended to read as follows:

An aggrieved party may obtain judicial review of the decision of the hearing officer or the city council by proceeding under a writ of certiorari in district court of competent jurisdiction.

Section 5. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 6. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this Ordinance:

Date of introduction: December 7, 2015
Date of adoption:
Motion for adoption:
Seconded by:

The stricken language is deleted; the underlined language is inserted.
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on

______________________________
David E. Maeda, City Clerk
Brief Description: 2016 general liability insurance and workers’ compensation renewals

Recommended Action: Authorize renewal of policies as outlined

Background
The city council is being asked to review the proposed insurance package for the city’s 2016 policy term, and formally authorize the coverage options for the package policies and workers’ compensation policy as outlined by staff.

LMCIT Program
The city has been with the League of Minnesota Cities Insurance Trust (LMCIT) since the early 1980s. The program continues to offer the broadest coverage for municipal operations at very reasonable rates. LMCIT also offers a program for return of excess premiums based on successful experience ratings, and the city continues to receive dividends for the general liability program. Staff recommends that the city remain in the LMCIT program.

Package Policies
The coverage provided by the package policies are:

- **General Liability**, which provides coverage when the city is liable for incidents such as sewer backups, injuries incurred on city property, employee actions, errors and omissions for elected officials, Open Meeting Law, and Inland Marine (coverage for vehicles not licensed for road use, such as the Zamboni).

- **Property**, which provides coverage for physical losses to city-owned facilities. Coverage is purchased for replacement of structures and contents due to damage by fire or acts of nature.

- **Automobile**, which provides liability and physical damage coverage for all city vehicles.

Premiums and Recommended Coverage

- **Premiums**
The city’s general liability premium decreases from $388,982 to $365,458. The primary factor for the decrease was a drop in the city’s liability rating. This rating is based on the actual cost of the city’s liability claims during a three year period.

Staff recommends the city stay with the $25,000 per claim and $150,000 annual deductibles.
Open Meeting Law
Staff recommends that the city continue with the Open Meeting Law coverage at 100% coverage.

Waiver of Statutory Limits
LMCIT writes its coverage to mirror the liability caps for governmental agencies. Staff continues to recommend that the city not waive those statutory limits.

These premiums are paid from the Insurance Fund, and a sufficient balance is maintained in that fund for these expenses.

Workers’ Compensation

The premium quotation for renewal of the city’s worker’s compensation for the upcoming insurance year through LMCIT, minus credits for a $10,000 deductible is $470,751. The workers compensation premium in 2015 was $479,293. The decrease was due to the city’s mod factor falling from 0.96 to 0.84. The mod factor relates to the frequency and severity of an employer’s claims over a three-year period, and it is used to calculate the premium. A mod factor of 1.00 is considered average for an employer's particular industry.

The workers’ compensation premium fits within the budget allocation for the year.

Premiums for both general liability and worker’s compensation are expected to rise in future years. These projections are based on claims that will be reviewed during the next look back period. Staff will continue to implement recommendations identified in its workers’ compensation study and monitor the general liability claims as the potential for litigation is determined.

Recommendation

Staff recommends that the city council renew the city’s insurance policies through LMCIT for package policies with the following options:

- $25,000/$150,000 deductible for the package policies
- 100% Open Meeting law coverage
- No waiver of statutory limits

Staff recommends that the council also authorize renewal of the LMCIT workers’ compensation policy with a $10,000 deductible.

Submitted through:
Geralyn Barone, City Manager
Perry Vetter, Assistant City Manager

Originated by:
David Maeda, City Clerk
Brief Description: Items related to Council Policy 11.6 – Use of the Burwell Property

Recommended Action: Adopt the resolution approving changes to Council Policy 11.6

Background

In 1981 Council Policy 11.6 – Use of the Burwell Property was adopted establishing the conditions for use and reservation guidelines for the Burwell property. The property is classified as parkland and has the designation as a National Historic Site. The home (restored to its 1894 condition), adjacent structures and related grounds are the primary focus of this policy. Since its establishment and last amendment in 2003, a number of significant improvements have occurred to the property and surrounding parkland.

The improvements, which have resulted in the park area now referred to as Minnetonka Mills Park, consisted of additional boardwalk paths, seating areas, garden areas, access points to the creek and a bridge crossing. These now provide for a stronger connection to Minnehaha Creek and the historic property. The improvements have been extremely well received, and both public visits to the park and guided tours have increased exponentially.

Along with the growth in public use, staff received an increase in requests for private use of the site—primarily weddings and wedding receptions. Prior to the improvements fewer than three private use requests were received annually and were typically small-scale events requiring minimal city resources, often handled by volunteer tour guides. Most recent permit applications have primarily been to host weddings at the site for groups and include requests to install tents, amplify music, serve alcohol and provide logistical coordination with surrounding institutions to utilize cross parking agreements.

On March 23, 2015 staff requested the council consider a moratorium on private use of the site. This allowed staff to conduct an analysis of the type, size and scope of private use of the site that would not conflict with its surroundings. On September 2, 2015 the Minnetonka Park Board reviewed the suggested changes and approved a recommendation that the council adopt the revised policy. During the discussion, the board debated removing the ability to serve alcohol during private use of the site. The result was that the board left that in the recommended policy, but was reflected in the 5-1 vote. Some of the significant changes are:

- Recognizing the Minnetonka Park Board as the lead agency for making recommendations to the city council.
• No longer requiring permits for photography solely used for personal, family or news purposes.
• Permits for private use of the site are required for groups of 10 or more.
• Private use of the site is limited to groups of 50 people or less.
• Private use of the site is limited to certain days and frequency in order to maintain accessibility for general park visitors, its intended use.
• Clarification on permit requirements for private use.
• Moving the private use fees from policy to the application process so that they can be reviewed annually.

Recommendation

The city council is requested to approve the resolution amending City Council Policy 11.6, Use of Minnetonka Mills Park and the Burwell Property.

Submitted through:
   Geralyn Barone, City Manager

Originated by:
   Perry Vetter, Assistant City Manager
Policy Number 11.6
Use of Minnetonka Mills Park and the Burwell Property

Purpose of Policy: This policy establishes conditions for use of and reservations for Minnetonka Mills Park and the Burwell property.

Introduction
This policy applies to the city-owned property known as Minnetonka Mills Park and the Burwell property, consisting of buildings and land generally located at 13209 McGinty Road.

Burwell Minnetonka Mills Park and the Burwell House
The property is designated as "City of Minnetonka Parkland" with the additional designation of "National Historic Site." Because of its unique historical nature, the property is not a typical city park and is not a traditional public forum. Public use of the property is limited to uses that do not detract from that historical nature.

Burwell Minnetonka Mills Park Grounds
The Burwell Minnetonka Mills Park grounds will be open and available to the general public for passive recreational activities such as small picnics and the enjoyment of the gardens and Minnehaha Creek. The grounds are a designated public forum only for those limited purposes. Any other use of the site requires advance permission.

Burwell Structures
The Burwell buildings are non-public forums and may only be used with advance permission. This is necessary to protect the physical and historical integrity of these structures.

Decision-Making
The city recognizes the joint interests in the Burwell property of its city council, community heritage commission (CHC), park board, and the Minnetonka Historical Society (MHS). The city council has designated the CHC park board as the lead agency for making recommendations to the city council concerning use of this site. In making this designation, the city council likewise charges the CHC park board to ensure the involvement of MHS and the park board in decisions related to the site. All significant restoration plans and physical improvements must be approved in advance by the city council. Staff may proceed with emergency or routine maintenance without prior city council approval.

Site Use Policy
The city council places strong emphasis on protection of this site and the safety of visitors and staff. The CHC park board is responsible for preparing and recommending the site use policy for the Burwell site Minnetonka Mills Park and the Burwell Property. A copy of this policy is attached as Appendix A. The council park board will receive an annual update on site usage.
Rules and Regulations
All other park rules and regulations of the city which are not inconsistent with the above will apply to Burwell-Minnetonka Mills Park and the Burwell site.

Adopted by Resolution No. 81-6537
Council Meeting of April 20, 1981

Amended by Resolution No. 94-9770

Amended by Resolution No. 2002-060
Council Meeting of June 24, 2002

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2015-xxx
Council Meeting of December 21, 2015

Appendix A follows
APPENDIX A

Minnetonka Mills Park and Burwell Site Use Policy

Responsibility
The Minnetonka city clerk’s office Recreation Services Department or its designee is the primary agency responsible for the use of Minnetonka Mills Park and the Burwell site. They will maintain the site calendar and be responsible for administering this policy.

Public Use
The city of Minnetonka and the Minnetonka Historical Society (MHS) may use the Burwell site for public education, tours, and the staging of events. MHS must contact the city clerk's office to reserve the dates for its intended use of the site to ensure there are no scheduling conflicts. A permit is not required for filming/photography conducted solely for personal or family use or for news purposes.

The site will be open for public tours from June 1 through September 30, with days and times set by the city clerk's office each year. Public tours may also be available in November, times and dates will be determined on a yearly basis.

Private Uses
The site will be available for special tours from June 1 through September 30, with days and times set through the city. Dates outside this set range will be considered per individual request. Private tours will be considered for groups of seven or more from June 1 – September 30 and groups of ten or more during the off season.

Permits are available for private use of Minnetonka Mills Park and the Burwell site for events such as weddings and receptions. Permits grant the user non-exclusive use of the site. Permits are required for groups of 25-10 or more. Users must understand that the site is a public park with multiple access points, including Minnehaha Creek, so there may be other users of the park at any time.

Written Applications for Permits – Applications for private uses must be made in writing, on forms provided by the city, through the Recreation Services Facility Division and be received by the city at least three weeks in advance of the desired date of use. Residents may apply 18 months in advance of their event; non-residents within 12 months.

Fees for Private Use of the Site are listed on the permit application

- Non-refundable reservation fee $100
- Damage deposit $200
- User Fee:
  - Minnetonka Resident $200
  - Non-resident $275

(For example, a Minnetonka resident would pay $300 and post a damage deposit.)
In addition, permit holders must reimburse the city at the rate of $25/hour for a staff person to be present at the site when the interior of the cottage will be accessed. Permit holders must also hire off-duty Minnetonka police staff to direct traffic when off-site parking is used. The officers must be present one-half hour before and one-half hour after guests are scheduled to arrive. Additional fees will apply if liquor will be served (see below).

Application Review Criteria – The city clerk’s office will use the following criteria to evaluate applications for private use:

The permitted use may not interfere with the public tour program or conflict with any other scheduled use. The intended use must not negatively impact the site.

• No more than one event may be scheduled within any one calendar week (Thursday, Friday, Saturday or Sunday) and only two events per month shall be authorized in order to minimize negative impacts to the site. Permits will not be granted for a Monday, Tuesday or Wednesday.

The intended use must not negatively impact the site.

• Because the site offers only minimal parking, the permit holder must have written permission for alternative parking. No overnight parking is allowed.

• The site may not be used for fundraising or profit making enterprises by organizations other than the city and MHS.

If the proposed use is deemed appropriate by the city clerk, a permit will be issued. In any case, the applicant will be notified within 10 business days of receipt of the application's disposition.

Rules – In addition to the standard rules for Minnetonka parks, the following rules and provisions apply to private use of Minnetonka Mills Park and the Burwell site:

Use of the site will not extend beyond 10 hours, and the event must occur between 10:00 a.m. and 8:00 p.m. Event set-up will not begin prior to 9:00 a.m. on the day of the event.

• A permit is required for all commercial film/video taping and still photography conducted at Minnetonka Mills Park and the Burwell Property. A permit is required for each day that a photography/film shoot occurs and the permit holder is required to have a copy of the permit on location during the shoot. Permit holders are responsible for cleaning up the site of the shoot and ensuring that the area is returned to its original condition.

• Use of tents, canopies, tables, and chairs is subject to prior review and approval by city staff. Staff will consider the following criteria in this review: size, means by which the items will be secured to the ground, and potential damage to the site. No overnight storage is available or allowed. All equipment, including tents or
canopies, must be brought in and set up during the permit time period. No anchors shall be driven to secure tents, canopies, tables or chairs. The city will not be responsible for any damage to or loss of equipment brought to the site by others.

- Private uses must be limited to 400-50 people or less.

- Permit holders may only use the interior of the cottage for permitted uses. The house, workshop and woodshed are not available for private use. Parties wishing interior tours of the house as part of their event must make specific pre-arrangements. With prior approval from the city, the southeast porch may have limited use.

- Users must not cut or trim plantings, nor may they use paint, tape, nails, staples or screws to affix items to the structure or trees.

- Running water and a handicapped accessible restroom are available in the cottage.

- Electric power is available on site. Applicants must provide a list of appliances and/or equipment for which power is needed. These items are subject to staff review and approval.

- Applicants must submit a site plan with their permit application describing where food and beverages will be served, as well as the placement of tables, chairs, and other equipment.

- Motor vehicles, including delivery vehicles, may not be operated in any area outside the driveway and parking lot surfaces and shall conform to all traffic regulations on adjacent public streets.

- Arrangements for approval of PA systems must be made through the city's recreation services department on the submitted permit application.

- Birdseed may be thrown at weddings, but no other substances may be thrown.

- There are no indoor alternatives at this site. Permit holders are responsible for their own alternate plans.

- If food will be served, the responsible party or the caterer must provide a current catering license to the city. If a non-licensed caterer will be used, a certificate of liability insurance as proof of liability coverage in the amount of $1,500,000 or more must be provided. This documentation must be received no later than 10 business days prior to the event. Permit holder is responsible for disposal of all catering waste, materials and products.

- The use and/or serving of alcoholic beverages is allowed only under the approval of the city by special permit, with an additional fee of $100 and a proof of liability
insurance acceptable to the city. Permits will be granted only for beer, or white or blush-wine in non-glass containers. Permits will be issued only to groups of 25-10 or more people. Alcoholic beverages may be possessed and consumed only in areas designated on the site plan. The person responsible for the gathering must remain on the premises at all times that alcohol is being served, must have the special permit in possession, and must display it upon the request of authorized city personnel. Alcohol may not be sold on the site, and servers may not accept gratuities. Permit holders serving alcohol must also hire an off-duty Minnetonka police officer.

- Applicants for permits must provide a signed waiver of liability of the city for damage or injury, and an acceptance of responsibility for any damage to the property occurring as a result of the use of the site. The waiver must be on the city’s form and must be received by the city within ten business days of the intended use.

- The damage deposit will be refunded within 30 days of the event, provided the permit holder causes no damage to the site or structures, and leaves the site and structures in the same condition as when the permit holder arrived at the site (for example, the cottage and site must be clean and the garbage removed).

**Variances** – The city clerk has discretion to grant variances to this policy provided such variances are in keeping with the spirit of the policy and pose no threat to the historical integrity of the site.
Policy Number 11.6
Use of Minnetonka Mills Park and the Burwell Property

Purpose of Policy: This policy establishes conditions for use of and reservations for Minnetonka Mills Park and the Burwell property.

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Decision-Making
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Permits are available for private use of Minnetonka Mills Park and the Burwell site for events such as weddings and receptions. Permits grant the user non-exclusive use of the site. Permits are required for groups of 10 or more. Users must understand that the site is a public park with multiple access points, including Minnehaha Creek, so there may be other users of the park at any time.

Written Applications for Permits – Applications for private uses must be made through the Recreation Services Facility Division and be received by the city at least three weeks in advance of the desired date of use. Residents may apply 18 months in advance of their event; non-residents within 12 months.

Fees for private use of the site are listed on the permit application. In addition, permit holders must reimburse the city for a staff person to be present at the site when the interior of the cottage will be accessed. Permit holders must also hire off-duty Minnetonka police staff to direct traffic when off-site parking is used. The officers must be present one-half hour before and one-half hour after guests are scheduled to arrive.

Application Review Criteria – The city will use the following criteria to evaluate applications for private use:

- The permitted use may not interfere with the public tour program or conflict with any other scheduled use. The intended use must not negatively impact the site. No more than one event may be scheduled within any one calendar week (Thursday, Friday, Saturday or Sunday) and only two events per month shall be
authorized in order to minimize negative impacts to the site. Permits will not be granted for a Monday, Tuesday or Wednesday.

- Because the site offers only minimal parking, the permit holder must have written permission for alternative parking. No overnight parking is allowed.

- The site may not be used for fundraising or profit making enterprises by organizations other than the city and MHS.

If the proposed use is deemed appropriate by the city, a permit will be issued. In any case, the applicant will be notified within 10 business days of receipt of the application's disposition.

**Rules** – In addition to the standard rules for Minnetonka parks, the following rules and provisions apply to private use of Minnetonka Mills Park and the Burwell site:

Use of the site will not extend beyond 10 hours, and the event must occur between 10:00 a.m. and 8:00 p.m. Event set-up will not begin prior to 9:00 a.m. on the day of the event.

- A permit is required for all commercial film/video taping and still photography conducted at Minnetonka Mills Park and the Burwell Property. A permit is required for each day that a photography/film shoot occurs and the permit holder is required to have a copy of the permit on location during the shoot. Permit holders are responsible for cleaning up the site of the shoot and ensuring that the area is returned to its original condition.

- Use of tents, canopies, tables, and chairs is subject to prior review and approval by city staff. Staff will consider the following criteria in this review: size, means by which the items will be secured to the ground, and potential damage to the site. No overnight storage is available or allowed. All equipment, including tents or canopies, must be brought in and set up during the permit time period. No anchors shall be driven to secure tents, canopies, tables or chairs. The city will not be responsible for any damage to or loss of equipment brought to the site by others.

- Private uses must be limited to 50 people or less.

- Permit holders may only use the interior of the cottage for permitted uses. The house, workshop and woodshed are not available for private use. Parties wishing interior tours of the house as part of their event must make specific pre-arrangements. With prior approval from the city, the southeast porch may have limited use.

- Users must not cut or trim plantings, nor may they use paint, tape, nails, staples or screws to affix items to the structure or trees.

- Running water and a handicapped accessible restroom are available in the
cottage. Electric power is available on site. Applicants must provide a list of appliances and/or equipment for which power is needed. These items are subject to staff review and approval.

- Applicants must submit a site plan with their permit application describing where food and beverages will be served, as well as the placement of tables, chairs, and other equipment.

- Motor vehicles, including delivery vehicles, may not be operated in any area outside the driveway and parking lot surfaces and shall conform to all traffic regulations on adjacent public streets.

- Arrangements for approval of PA systems must be made on the submitted permit application.

- Birdseed may be thrown at weddings, but no other substances may be thrown.

- There are no indoor alternatives at this site. Permit holders are responsible for their own alternate plans.

- If food will be served, the responsible party or the caterer must provide a current catering license to the city. If a non-licensed caterer will be used, a certificate of liability insurance as proof of liability coverage in the amount of $1,500,000 or more must be provided. This documentation must be received no later than 10 business days prior to the event. Permit holder is responsible for disposal of all catering waste, materials and products.

- The use and/or serving of alcoholic beverages is allowed only under the approval of the city by special permit, with an additional fee and a proof of liability insurance acceptable to the city. Permits will be granted only for beer, or wine in non-glass containers. Permits will be issued only to groups of 10 or more people. Alcoholic beverages may be possessed and consumed only in areas designated on the site plan. The person responsible for the gathering must remain on the premises at all times that alcohol is being served, must have the special permit in possession, and must display it upon the request of authorized city personnel. Alcohol may not be sold on the site, and servers may not accept gratuities. Permit holders serving alcohol must also hire an off-duty Minnetonka police officer.

- Applicants for permits must provide a signed waiver of liability of the city for damage or injury, and an acceptance of responsibility for any damage to the property occurring as a result of the use of the site. The waiver must be on the city’s form and must be received by the city within ten business days of the intended use.

- The damage deposit will be refunded within 30 days of the event, provided the permit holder causes no damage to the site or structures, and leaves the site and structures in the same condition as when the permit holder arrived at the site (for
example, the cottage and site must be clean and the garbage removed).

**Variances** – The city has discretion to grant variances to this policy provided such variances are in keeping with the spirit of the policy and pose no threat to the historical integrity of the site.
No one appeared.

9. **Bids and Purchases:**

   **A. Items related to the property at 2510 Oakland Road**

   Assistant City Manager Perry Vetter gave the staff report.

   Wiersum asked for additional information about how residents would access the property once it was developed. Vetter said there would be a planning process to determine what amenities would be on the property. The agreement was very restrictive. Any structure would be built in the footprint of the house. There was an allowance for benches, interpretive signs, etc. but basically it would be a nature preserve with minimal walking paths. ADA accessibility would be allowed.

   Acomb said the $2.6 million purchase price was a lot of money but it was half of what the property was valued at. She said she hoped the city could do something to honor and recognize Ann Cullen Smith's generosity and gift to residents.

   Allendorf moved, Acomb seconded a motion to:
   
   1) Amend the 2015-2019 Capital Improvement Program
   2) Adopt resolution 2015-018 reimbursing certain expenditures from the proceeds of the bonds to be issued by the city

   All voted "yes." **Motion carried.**

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

   **A. Order for tobacco license violation for Lucky's Station LLC**

   Allendorf moved, Wiersum seconded a motion to approve issuing the Finding of Fact, Conclusion, and Order for Lucky's Station LLC

   All voted "yes." **Motion carried.**

   **B. Resolution amending Council Policy 2.5 regarding tax exempt financing**

   Allendorf moved, Wiersum seconded a motion to adopt the resolution amending Council Policy 2.5. All voted "yes." **Motion carried.**

   **C. Items related to Council Policy 11.6 – Use of the Burwell Property**
Allendorf asked that the item be pulled from the consent agenda. He noted the recommendation was for a 12 month moratorium on the use of the Burwell property. The reason was there had been some requests to hold some large events like weddings on the property and there were not procedures and policies in place to accommodate those requests. He said he couldn’t recall many times when the council approved a 12 month moratorium for something. The few granted dealt with difficult development related issues. He felt in this case staff could develop appropriate rules and procedures without having to take away an important asset for residents for an entire year. He asked if a six month moratorium would allow staff and the park board to come up with a process and procedures to handle the larger requests. Vetter said he believed six months would allow enough time to develop a process and procedures. The initial concern was it would be sometime in late summer before the item could be added onto the next available park board agenda. Allendorf said the Burwell House was such an asset that he would hate to see it unavailable for general use for 12 months.

Wiersum said he did not disagree with Allendorf’s concern but given the timing of the park board meetings perhaps a compromise of a nine month moratorium might make sense.

Allendorf said he thought six months would be enough time to allow the park board to look at the item in time for the joint meeting with the council in November.

Barone said staff had not received many, if any, requests for winter use. The goal would be to have a policy in place to allow use in the summer of 2016.

Bergstedt said if the vast majority of requests were for spring and summer the compromise suggestion seemed to make sense.

Allendorf moved, Wiersum seconded a motion to approve a moratorium until the end of 2015 on the private use of the Burwell site, City Council Policy 11.6, until amendments to the policy can be presented for consideration. All voted “yes.” Motion carried.

D. Labor agreement between the city of Minnetonka and the International Union of Operating Engineers Local 49 – Public Service Workers

Allendorf moved, Wiersum seconded a motion to approve the 2015-2017 labor agreement between the city of Minnetonka and the International
Kist noted that she drove by the location prior to the meeting and noticed several children playing in the immediate area without a park. She felt that a park was needed and on her initial look at the property did not feel like there were trees on the property with considerable value. She liked the fact that the location seemed to be very walkable for residents in the neighborhood. Evenrud expressed concern that neighbors living next to the parcel will have concerns and the park board needs to hear from them. He felt the neighborhood was in need of a park within a reasonable distance.

Hearing no further comments, Gabler moved and Seveland seconded a motion to direct staff to schedule a neighborhood meeting to receive input from residents regarding the potential addition of a mini park on the city owned lot on the cul de sac at the end of Royzelle Lane. All voted “Yes”. Motion carried.

Johnson reviewed the upcoming meeting schedule and suggested that the neighborhood meeting not take place until January 2016 due to other commitments the board had leading up to that date. He added that a January 2016 meeting still provided adequate time for the park board to make a recommendation that could be included in the park board’s review of the 2017 – 2021 CIP review in March 2016.

B. Review of the Burwell Use Policy

Perry Vetter, Assistant City Manager, provided a historical record of how special events on the Burwell property have been managed in the past noting that in 1981 Council Policy 11.6 – Use of the Burwell Property was adopted establishing the conditions for use and reservation guidelines for the Burwell property. He explained that the property is classified as parkland and has the designation as a National Historic Site. Vetter added that the home (restored to its 1894 condition), adjacent structures and related grounds are the primary focus of this policy. Since its establishment and last amendment in 2003, a number of significant improvements have occurred to the property and surrounding parkland.

Vetter explained that several willing open space acquisitions have occurred which have expanded the size of the park to its current 16 acres, more than half of which is passive. In addition, Vetter noted that the area has been under natural resource stewardship for invasive species since 2005 and was a focus of the Upper Minnehaha Creek Corridor initiative that began in 2009.

Vetter noted that the improvements completed have resulted in the park area, now referred to as Minnetonka Mills Park, becoming very popular and in demand for private events. He added that the improvements have been extremely well received, and both public visits to the park and guided tours have increased exponentially.
Vetter noted that staff has received an increase in requests for private use of the site—primarily weddings and wedding receptions. Prior to the improvements fewer than three private use requests were received annually and were typically small-scale events requiring minimal city resources, often handled by volunteer tour guides. Most recent permit applications have primarily been to host weddings at the site for groups and include requests to install tents, amplify music, serve alcohol and provide logistical coordination with surrounding institutions to utilize cross parking agreements.

Because the policy did not anticipate such an increase in use requests, Vetter reported that staff asked the council to consider implementing a moratorium on private use of the site which the city council approved in March, 2015 and would remain in place until the end of 2015. Vetter explained that this moratorium allowed staff to conduct an analysis of the type, size, and scope of private use of the site that would not conflict with its surroundings. He noted that analysis has been completed and the logistical roles of providing for reservations, event coordination and site support have been determined.

Vetter introduced Moranda Zimmer, Projects and Innovations Specialist, who oversees operations at the Burwell House and surrounding property.

Zimmer and Vetter proceeded with a review of the staff recommended changes to City Council Policy 11.6 relating to Burwell site use. Significant aspects of the policy include:

- No permit is required for filming or photography conducted solely for personal or family use or for news purposes. A permit is required for all commercial requests.

- Fees for use of the site will be included on the permit application so the policy does not have to be revised when rates change

- Events may only be scheduled Thursday – Sunday; with no more than one event per week and no more than two events per month

- Private uses must be limited to 50 people or less

- Permit holder is responsible for disposal of all catering waste, materials and products.

- Serving of alcohol is allowed only under the approval of the city by a special use permit. Permits will only be granted for beer or wine in non-glass containers. Permit holders must also hire an off-duty Minnetonka police officer.

Vetter noted that many of the conditions recommended by staff, such as the 50 person limit, were put in place due to parking limitations of the site and the potential
for traffic in the area to be significantly impacted if larger groups or more events were permitted.

Kvam questioned the amount of dates and frequency that permits would be allowed and asked what staff’s reasoning was. Vetter responded that it was the intent of staff to provide as much public use of the park as possible. He felt that reducing use from four times per month to two would increase general visits to the park by residents and visitors.

Kist followed-up Kvam’s question by suggesting that logistics in general (lack of rest rooms, parking) justified cutting guests limits from 100 to 50, and monthly events from four to two as proposed by staff.

Seveland agreed with staff’s recommendations related to group size and commented that the 50 person limit will attract groups looking for a smaller venue.

Johnson noted that the Minnetonka Park system provides existing venues at Lone Lake Park and the Civic Center for larger events.

Kist commented that any possible future expansions to the Glen Lake Activity Center might also provide event options at that facility.

Raarup asked if staff had a financial goal related to event revenue at the Burwell and Minnetonka Mills Park. Vetter indicated that for events, the goal from staff’s perspective was to not lose money when events were held there.

Gabler commented that it seemed like the restrictions in place made it easier than simply having to say “no” to several event requests. Vetter indicated that staff’s intend was to create a use balance that the site could reasonably accommodate.

Gabler asked the question why use of alcohol was even being recommended by staff. Vetter noted that not all staff were in favor of allowing, however the decision was made to include in the final draft for the park board to review. Johnson noted that alcohol is allowed at Lone Lake Park where several special events occur each summer. He noted that both picnic shelters at Lone Lake can accommodate up to 175 people. The park board discussed alcohol further and decided to support the staff recommendations noting that this can always be reviewed at a later time.

Evenrud noted that he was supportive of the recommendations and restrictions developed by staff.

Kvam noted two description “housekeeping” additions to the policy that provided consistency but did not change the scope of the policy. Vetter indicated the additions would be included.
Hearing no further questions or input, Evenrud moved and Kvam seconded a motion to adopt recommended changes to City Council Policy 11.6 relating to use of Minnetonka Mills Park and the Burwell Policy as presented by staff, insert “housekeeping” items reviewed, and forward the park board’s recommendation for city council consideration. Evenrud, Kist, Gabler, Kvam, and Seveland voted “Yes”; Raarup voted “No”; motion carried on a 5-1 vote.

C. Recreation Services Summer Programming Report

Ann Davy, Recreation Services Programming Division Manager, provided an overview of the 2015 summer program offerings noting that the department’s summer brochure was published in late February and registration began on March 2. Davy noted that the traditional summer programs that Hopkins and Minnetonka residents have come to expect were offered in addition to some new programs intended to attract participants of all ages.

Davy reported that in 2015 registrants were introduced to RecTrac, a new registration software package purchased to manage registrations, financial reports, memberships, and rentals for all divisions of Recreation Services. Davy explained that RecTrac went live on May 4, 2015 and, despite some challenges, staff made the transition as easy as possible for those wanting to register for summer programs.

Davy reported that overall participation numbers for participants and teams totaled 6,132, down slightly from the previous year but still very strong. She specifically highlighted two camps; Jidana Day Camp and Horseback Riding Day Camp, overall teen programming, Music in the Park series, and senior Yoga. In addition, Davy reviewed a program summary that was included in the meeting packet which provided totals for over 43 programs offered in 2015; as well as comparisons to 2014. These programs were broken down in categories of youth, teen, adult and senior.

Raarup commented that she has some challenges with the new RecTrac program. Davy responded that many of the initial problems were caused by the fact that staff was working with two systems RecTrac and Class© due to migration and not all information being able to come over from the old system.

Evenrud praised Davy for her development of well-rounded programs and activities for participants of all ages and more specifically for the fall soccer program his children are currently participating in. Johnson commented that Davy not only supervises the division she is responsible for, but is also an active program provider who is responsible for many of her department’s largest programs including adult softball, youth soccer and adult volleyball.

The board thanked Davy for her report and her provision of quality community programs.
Resolution No. 2015-

Resolution amending Council Policy 11.6 Use of Minnetonka Mills Park and the Burwell Property

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. On April 20, 1981 the city council adopted the first council policy on use of the Burwell Site in order to establish the conditions for use and reservations.

1.02. Periodically, the policy has been revised, with the last significant amendment in 2003.

1.03. With the number of significant improvements that have taken place in and around the Burwell House and Minnetonka Mills Park since 2009 the policy was reviewed by the Minnetonka Park Board and updated.

Section 2. Council Action.

2.01. The city council hereby approves amending Council Policy 11.6 (attached), regarding Minnetonka Mills Park and the Burwell Site establishing the conditions for use of and reservations for the Burwell Property.

Adopted by the City Council of the City of Minnetonka, Minnesota, on December 21, 2015.

____________________________________
Terry Schneider, Mayor

Attest:

____________________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: 
Seconded by: 
Voted in favor of: 
Voted against: 
Abstained: 
Absent: 
Resolution adopted.
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on .

________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #11A  
Meeting of December 21, 2015

Brief Description: Resolution accepting gifts, donations and sponsorships given to the city during 2015

Recommended Action: Adopt the resolution

Background

Council Policy 2.12 regulates the receipt and acceptance of gifts, donations and sponsorships to the city in compliance with Minnesota Statutes §465.03. The policy provides that the council must officially approve acceptance of gifts to the city by adopting a resolution.

Attached is the list of all such donations received between last year’s council acceptance and during 2015 that were not otherwise individually approved by the city council during the period. As required by the council policy, staff certified that all listed donations were an official sponsorship of an approved city program; a donation to the Richard Wilson Scholarship Fund or Parks for Tomorrow Fund; a conservation easement; or were merchandise or equipment meeting the following criteria:

- provide for a previously identified need and is for public benefit and use;
- no long-term costs exist for accepting, maintaining and disposing (if applicable) of the donation; and
- the donation is free of any quid pro quo expectations by the donor.

Volunteer time does not require specific council approval nor do advertisements supporting city enterprise funds, the latter because the monies are payment for the benefit of the advertising.

Except where the donation was anonymous, staff has acknowledged each gift, e.g. a thank you letter, printed or electronic publication of the sponsorship, etc.

Recommendation

Staff recommends the city council adopt the resolution to accept the attached list of gifts, donation and sponsorships for 2015, which have a total estimated value of $262,439.00.

Submitted through:
   Geralyn Barone, City Manager
   Perry Vetter, Assistant City Manager

Originated by:
   Merrill King, Finance Director
<table>
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<th>Date Received</th>
<th>Department</th>
<th>Program</th>
<th>Donor Name, if not anonymous</th>
<th>Amount/Value</th>
<th>In-kind Description, if applicable</th>
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<td>Assisted Living, Freedom</td>
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<td>6/1/2015</td>
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<td>Natural Resources - Habitat Restoration</td>
<td>West Metro Chapter Master</td>
<td>$50.00</td>
<td>Two PVC Buckthorn daubers and</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Naturalists</td>
<td></td>
<td>replacement tips</td>
</tr>
<tr>
<td>6/1/2015</td>
<td>Public Works</td>
<td>Parks for Tomorrow</td>
<td>Glen Lake Mighty-Mites</td>
<td>$20,000.00</td>
<td>Check</td>
</tr>
<tr>
<td>6/3/2015</td>
<td>Public Works</td>
<td>Native Plant Market and Eco Fun Fest</td>
<td>Rainbow Treecare</td>
<td>$650.00</td>
<td>Arborists to staff Kid's Tree Climbing event</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(4 arborists for 6.5 hours)</td>
</tr>
<tr>
<td>6/11/2015</td>
<td>Recreation</td>
<td>Senior Services - Monthly Party</td>
<td>Home Care Solutions</td>
<td>$50.00</td>
<td>Food</td>
</tr>
<tr>
<td>Date</td>
<td>Department</td>
<td>Program</td>
<td>Donor Name, if not anonymous</td>
<td>Amount/Value</td>
<td>In-kind Description, if applicable</td>
</tr>
<tr>
<td>----------</td>
<td>------------------</td>
<td>------------------------</td>
<td>------------------------------</td>
<td>--------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>6/16/2015</td>
<td>Recreation</td>
<td>Music in the Park</td>
<td>Minnwest Bank</td>
<td>$500.00</td>
<td>Staff time and metal water bottles for audience at June 16 concert</td>
</tr>
<tr>
<td>6/30/2015</td>
<td>Public Works</td>
<td>Parks for Tomorrow</td>
<td>Ana Hagensick</td>
<td>$856.00</td>
<td>Check - Memorial Bench</td>
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<tr>
<td>7/14/2015</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Mall of America</td>
<td>$150,000.00</td>
<td>10,000 mall passes (each ticket estimated value average $15)</td>
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<tr>
<td>7/14/2015</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Mall of America</td>
<td>$60,000.00</td>
<td>10,000 Nickelodeon theme park passes (each ticket estimated value at least $6)</td>
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<tr>
<td>7/14/2015</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Target - Hwy 101</td>
<td>$249.00</td>
<td>$249 in gift cards</td>
</tr>
<tr>
<td>7/14/2015</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Cub Foods-Minnetonka</td>
<td>$300.00</td>
<td>Ten $30 gift cards</td>
</tr>
<tr>
<td>7/14/2015</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Target - Ridgedale</td>
<td>$1,049.00</td>
<td>$249 in giftcards + $800 in various dollar bin items</td>
</tr>
<tr>
<td>7/14/2015</td>
<td>Police</td>
<td>Night for Neighbors</td>
<td>Cargill</td>
<td>$1,155.00</td>
<td>500 wrist bands &amp; 500 carabiners</td>
</tr>
<tr>
<td>7/16/2015</td>
<td>Recreation</td>
<td>Senior Services - Monthly Party</td>
<td>Brookdale Living</td>
<td>$60.00</td>
<td>Food</td>
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<tr>
<td>8/10/2015</td>
<td>Recreation</td>
<td>Facilities - Community Center</td>
<td>Minnetonka Senior Garden Club</td>
<td>$1,500.00</td>
<td>Check - furniture replacement</td>
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<tr>
<td>8/17/2015</td>
<td>Recreation</td>
<td>Senior Services - Monthly Party</td>
<td>Homewatch Care Givers</td>
<td>$100.00</td>
<td>Food</td>
</tr>
<tr>
<td>8/27/2015</td>
<td>Fire</td>
<td>Air Monitoring</td>
<td>ADT</td>
<td>$10,000.00</td>
<td>Check</td>
</tr>
<tr>
<td>10/11/2015</td>
<td>Recreation</td>
<td>Senior Services - Dementia Series</td>
<td>Homewatch Care Givers</td>
<td>$100.00</td>
<td>Help with meal provided</td>
</tr>
<tr>
<td>10/21/2015</td>
<td>Public Works</td>
<td>Parks for Tomorrow</td>
<td>Janet Sullivan</td>
<td>$771.00</td>
<td>Check - Memorial Bench</td>
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<td>10/21/2015</td>
<td>Recreation</td>
<td>Senior Services - Sips and Songs</td>
<td>WestRidge</td>
<td>$50.00</td>
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<td>10/25/2015</td>
<td>Recreation</td>
<td>Senior Services - Dementia Series</td>
<td>Qualicare Family HomeCare</td>
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<td>Help with meal provided</td>
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<tr>
<td>10/27/2015</td>
<td>Recreation</td>
<td>Senior Services - Monthly Party</td>
<td>Meridian Manor</td>
<td>$75.00</td>
<td>Food</td>
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<tr>
<td>11/10/2015</td>
<td>Recreation</td>
<td>Senior Services - Veterans Week</td>
<td>Brookdale Living</td>
<td>$50.00</td>
<td>Cash/Check</td>
</tr>
<tr>
<td>11/10/2015</td>
<td>Recreation</td>
<td>Senior Services - Veterans Week</td>
<td>WestRidge</td>
<td>$50.00</td>
<td>Cash/Check</td>
</tr>
<tr>
<td>11/10/2015</td>
<td>Recreation</td>
<td>Senior Services - Veterans Week</td>
<td>Emerald Crest</td>
<td>$50.00</td>
<td>Cash/Check</td>
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<tr>
<td>11/10/2015</td>
<td>Recreation</td>
<td>Senior Services - Veterans Week</td>
<td>Legacy Care Home</td>
<td>$50.00</td>
<td>Cash/Check</td>
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<tr>
<td>11/10/2015</td>
<td>Recreation</td>
<td>Senior Services - Veterans Week</td>
<td>Brookdale Home Health and Hospice</td>
<td>$50.00</td>
<td>Credit Card</td>
</tr>
<tr>
<td>11/10/2015</td>
<td>Recreation</td>
<td>Senior Services - Veterans Week</td>
<td>Qualicare Family HomeCare</td>
<td>$50.00</td>
<td>Cash/Check</td>
</tr>
<tr>
<td>11/17/2015</td>
<td>Recreation</td>
<td>Senior Services - Monthly Party</td>
<td>Home Care Assistance</td>
<td>$100.00</td>
<td>Food</td>
</tr>
<tr>
<td>12/15/2015</td>
<td>Recreation</td>
<td>Senior Services - Monthly Party</td>
<td>Brookdale</td>
<td>$100.00</td>
<td>Food</td>
</tr>
<tr>
<td>12/16/2015</td>
<td>Recreation</td>
<td>Senior Services - Sips and Songs</td>
<td>WestRidge</td>
<td>$50.00</td>
<td>Cash/Check</td>
</tr>
</tbody>
</table>

2015 Total Value $262,439.00
Resolution No. 2015-

Resolution accepting gifts, donations and sponsorships made to the city in 2015

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. Council Policy 2.12 regulates the receipt and acceptance of gifts, donations and sponsorships to the city. The policy requires the council to officially approve acceptance of gifts to the city.

1.02. Minnesota Statutes, section 465.03 allows cities to accept gifts of real or personal property, including money, and to use the gifts in accordance with the terms prescribed by the donor. The statute requires the gift to be accepted by resolution, approved by two-thirds of the members of the city council.

1.03. During the year 2015, the city received gifts, donations or sponsorships as set forth in the list attached to this resolution.

1.04. City staff has certified that all listed donations conform to Council Policy 2.12.

1.05. The total estimated value of the gifts, donations and sponsorships for 2015 is $$262,439.00.

Section 2. Council Action.

2.01. Council accepts the gifts, donations and sponsorships set forth on the attached list and designates those gifts for the uses specified in the attached list or, if no use is specified, for the general fund.

Adopted by the City Council of the City of Minnetonka, Minnesota, on December 21, 2015.

________________________________________
Terry Schneider, Mayor

Attest:

________________________________________
David E. Maeda, City Clerk
Action on this resolution:

Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on December 21, 2015.

________________________________________
David E. Maeda, City Clerk
City Council Agenda Item #11B  
Meeting of December 21, 2015

**Brief Description**  
Applications for renewed precious metal and secondhand dealer licenses for 2016

**Recommendation**  
Approve the licenses

**Background**

The city has received applications for renewal of precious metal and secondhand dealer licenses for the following establishments:

- Evergreene Jewelers, 3500 County Road No. 101
- Ideal Diamond, Inc., 11900 Wayzata Boulevard, #116K
- Best Buy #4, 13513 Ridgedale Drive
- Best Buy Mobile #2975, 12401 Wayzata Blvd
- Best Buy #2621, 12411 Wayzata Blvd (Inside Macy’s)
- Shane Co, 11300 Wayzata Blvd, Suite A

There have been no changes to the ownership structure or day-to-day operations since the licenses were approved last year.

**Police Contacts**

The police department reports that they have had no adverse contacts with any of the businesses this year.

**Other Issues**

All applicants meet all the requirements of the precious metal dealer/secondhand dealer ordinance. All assessments and other city claims against these establishments, as well as property taxes, are current.

**Recommendations**

Staff recommends that the city council approve the precious metal and secondhand dealer licenses for the above establishments, for the license year January 1, 2016, through December 31, 2016.

Submitted through:  
Geralyn Barone, City Manager  
Julie Wischnack, AICP, Community Development Director

Originated by:  
Kathy Leervig, Community Development Coordinator
City Council Agenda Item #12A  
Meeting of December 21, 2015

**Brief Description:** Ordinance regarding vacation procedures

**Recommended Action:** Introduce the ordinance

**Background**

The city charter was amended in January 2015 to modify the procedure for vacating streets, alleys, easements and public grounds. The charter no longer requires petitions for vacation but simply requires an application.

The city attorney, planning and engineering staff have reviewed the procedures used for vacating public interests and have prepared the proposed ordinance. Previously, all applications to vacate public interests were made to the planning division – even those that were unrelated to pending land use applications. Engineering staff also reviewed all applications, because that department manages all city rights of way and easements. Under the proposed ordinance, vacation applications must be submitted to the engineering department, and only those applications that are related to pending land use applications will be submitted to planning staff.

In addition to improving internal efficiencies, the proposed ordinance also sets out specific requirements for notifying utility companies and affected property owners. The city has utilized those procedures in practice, but the ordinance is intended to ensure clarity and consistency in notification procedures.

**Recommendation**

Introduce the ordinance

Submitted through:
- Geralyn Barone, City Manager
- Julie Wischnack, AICP, Community Development Director
- Will Manchester, City Engineer

Originated by:
- Corrine Heine, City Attorney
- Loren Gordon, AICP, City Planner
- Jeremy Koenen, Assistant City Engineer
The City of Minnetonka Ordains:

Section 1. The Minnetonka City Code is amended by adding Section 1140 entitled “Vacation of Public Streets, Easements and Public Grounds,” as follows:

Section 1140. VACATION OF PUBLIC STREETS, EASEMENTS AND GROUNDS

1140.005. Purpose; council authority.

This section is adopted pursuant to section 12.06 of the city charter. The city council may vacate all or a part of any street, alley, public easement, public way or public ground, either upon its own motion or upon application as provided in this section.

1140.010. Application for vacation.

1. An application for vacation must be filed with the city engineer on a form provided by the city. An application must be signed by the owner of property that directly abuts the street, alley or public way to be vacated, or by an owner of property that is encumbered by the street, alley, public easement, public way or public ground to be vacated.

2. The applicant must provide the following information with the application:

   a. Information, written and graphic, that describes the reason for, and the location of, the proposed vacation, including whether the application relates to a pending request for subdivision, rezoning, or other land use approval;
   b. A legal description of the area to be vacated;
   c. A copy of the instrument that created the interest to be vacated, except that copies of plats are not required to be provided;
   d. Proof of the applicant’s ownership of property that abuts or is
encumbered by the interest to be vacated;

e. Names and addresses of other property owners whose properties the applicant knows are directly benefited by the easement to be vacated.

3. Upon receipt of the application, the engineer will determine the estimated costs for publication of the hearing, postage for the mailed notices, and recording fees for a notice of completion of proceedings. The application will not be processed until the applicant has paid those estimated costs, together with the fee specified in section 710 of this code. If the application is denied, the city will reimburse to the applicant the estimated amount of recording fees.

4. If the application relates to a pending request for subdivision, rezoning or other land use approval, the city engineer will refer the application to the community development department to process in conjunction with the land use application.

1140.015. Public Hearing Required.

1. The city engineer must notify every right of way user, as defined by Minnesota Rules 7819.0050, that has registered with the city of any application or council proposal for vacation, not less than two weeks in advance of the public hearing

2. Notice of the public hearing must be published in the official means of publication at least two weeks in advance of the public hearing.

3. Notice of the public hearing must be mailed at least 10 days in advance of the hearing to (a) the owner of each property that abuts the area to be vacated; and (b) if the interest to be vacated was dedicated as part of a plat, the owner of each property in the plat; and (c) to owners of other properties, if any, that city staff determines receive public services from the area to be vacated and do not have alternate means of receiving the public services. For the purposes of giving mailed notice, the city engineer or community development department may use any appropriate records. Defects in the mailed notice will not invalidate the proceedings.

4. The council will conduct the hearing, consider the request, and render its decision. A street, alley, public easement, public way or public ground, or

The stricken language is deleted; the underlined language is inserted.
portion thereof, may not be vacated unless the city council determines, by resolution, that there is no existing or future public need for the real estate interest that is vacated. The resolution must specify whether there are any existing utility facilities located within the area vacated and whether an easement for continued operation and maintenance of the facilities is reserved. The resolution must be adopted by a majority of all members eligible to vote.

1140.020. Notice of completion.

Upon the adoption of a vacation resolution, the city engineer will prepare and record in the county land records a notice of completion of vacation.

Section 2. Section 710.005, subdivision 15, relating to fees for land use applications, is amended by deleting the following:

vacation of easement application $800.00 400.080

Section 3. Section 710.005 is amended by adding a new subdivision 37 as follows and by renumbering all subsequent subdivisions accordingly:

vacation of street, alley, easement or public ground $800.00 1140.010 plus costs

Section 4. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 5. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on

Terry Schneider, Mayor
Attest:

______________________________
David E. Maeda, City Clerk

**Action on this Ordinance:**

Date of introduction:
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on

______________________________
David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
City Council Agenda Item #13A  
Meeting of December 21, 2015

**Brief Description**  
Resolution supporting an application to DEED for funds from the Minnesota Investment Fund

**Recommendation**  
Hold the public hearing and adopt the resolution

**Background**

Recently, the city was contacted by DEED (Minnesota Department of Employment and Economic Development) and Greater MSP about a company expanding at a site in Minnetonka. The company is NatureWorks located at 15305 Minnetonka Boulevard (see map on A1). NatureWorks is the first company to offer a commercially available product derived from 100 percent annually renewable resources. The product competes with oil-based plastic and fiber manufacturers. The company headquarters are located in Minnetonka. There is also an applications demonstration facility in Savage which employs over 60 individuals (including 20 scientists). NatureWorks also has a manufacturing facility located in Blair, Nebraska. The company has representatives in 10 countries including North America, Europe, Japan and Asia Pacific with over 50% of their products being exported.

**Proposal**

NatureWorks desires to accelerate their research and development work, which is currently happening in California. The proposed project will ultimately be a four phase project.

- **Expand the current Minnetonka facility.** The company would develop a biogas-to-biopolymer research and development facility. This phase will generate six (6) jobs averaging $30-$80 dollars an hour and include a capital investment of approximately $1 million dollars.
- **Develop a 25,000 square foot pilot plant.** The pilot plant would create 15 additional high paying jobs.
- **Construct a $50 million dollar demonstration plant.** This plant will prove the technology for the fourth phase of the project.
- **Construct the actual plant.** The lactic acid plant is estimated to cost between $250-$400 million dollars. This phase is anticipated to create between 50-75 additional jobs (both direct and indirect).

**Minnesota Investment Fund (MIF) and Proposed Loan**

As part of the meetings with DEED and Greater MSP, the company became aware of DEED’s program called the Minnesota Investment Fund (MIF). The MIF program is designed to retain and create high quality jobs, with focus on industrial, manufacturing,
and technology related industries. The MIF program is also intended to be used to increase the local and state tax base and improve the economic vitality of the state.

Funds are awarded to cities from DEED. Cities then provide loans or grants to the business for such expenses as land, buildings, and equipment to assist in expansion. In order to receive the funds, the business is required to create a minimum number of jobs at a certain wage level. Minnetonka has received various MIF funds for past projects.

The company is requesting $250,000 for Phase I. The loan would be divided into two parts: $100,000 would be a forgivable loan and the remaining $150,000 would be a 0% interest loan that would have a 4 year term.

The city’s role is to service the loan, which is entirely from state funds with cash flowing in and out through the city’s Development Fund. There are no actual city dollars involved. The exact terms of the agreement have yet to be determined between DEED, the city and NatureWorks. However, the city will be asked to approve the loan agreement when details are finalized. The resolution authorizes the mayor and city manager to execute those documents.

**Recommendation**

Staff recommends the city council hold the public hearing and adopt the resolution (pages A2-A3) supporting the application to DEED for funds from the Minnesota Investment Fund.

Submitted through:
  
  Geralyn Barone, City Manager

Originated by:
  
  Julie Wischnack, AICP, Community Development Director
Resolution No. 2015-

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

Be it resolved by the City Council of the city of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. NatureWorks is a business located in the city of Minnetonka (City) at 15305 Minnetonka Blvd.

1.02. NatureWorks wants to renovate/expand this facility to meet the needs of their business (the Project).

1.03. The City is assisting NatureWorks by applying for $250,000 of financial assistance from the Minnesota Department of Employment and Economic Development.

Section 2. Findings.

2.01. The City has the legal authority to apply for this financial assistance, and the institutional, managerial, and financial capability to ensure, through a contract with NatureWorks, adequate construction, operation, maintenance and replacement of the proposed Project for its design life.

2.02. The City has not incurred any costs and has not entered into any written agreements to purchase property in connection with the Project.

2.03. The City has not violated any Federal, State, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

2.04. Upon approval of its application by the state, the city may enter into an agreement with the State of Minnesota for the above-referenced project, and the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements and described on the Compliance Section (S-7) of the Business and Community Development Application.

2.05. City staff has reviewed information from the United States Bankruptcy Court and has found no concerns about NatureWork’s financial status. The City acknowledges that the failure to disclose any adverse information could result in revocation of assistance or other legal action.
Section 3. Council Action.

3.01. The City shall act as the legal sponsor for the Project, and Terry Schneider, Mayor, and Geralyn Barone, City Manager, are hereby authorized to execute the Business and Community Development Application to the Department of Employment and Economic Development for funding of this Project to be submitted on or about December 21, 2015.

3.02 Terry Schneider, Mayor and Geralyn Barone, City Manager or their successors in office, are authorized to execute such agreements, and amendments thereto, as are necessary to implement the Project.

Adopted by the City Council of the City of Minnetonka, Minnesota, on December 21, 2015.

_______________________________
Terry Schneider, Mayor

Attest:

_______________________________
David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:  
Seconded by:  
Voted in favor of:  
Voted against:  
Abstained:  
Absent:  
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on December 21, 2015.

_______________________________
David E. Maeda, City Clerk
City Council Agenda Item #14A
Meeting of December 21, 2015

Brief Description
Applications for renewed liquor licenses for 2016

Recommendation
Approve the licenses

Background
The city has received applications for renewed on-sale and Sunday on-sale intoxicating liquor licenses, off-sale intoxicating liquor licenses, on-sale wine licenses, on-sale 3.2 malt beverage licenses, and off-sale 3.2 malt beverage liquor licenses as follows:

On-sale and Sunday On-sale Intoxicating Liquor Licensees

There are twenty-four applicants requesting renewals of on-sale and Sunday on-sale liquor for 2016. Romano’s Macaroni Grill closed in 2015. Kona Grill was approved for a license in 2015, but will not be open until 2016. Avenida opened last week. Redstone was also approved to relocate to Ridgedale, but has not started construction at this point.

Cedar Hills Ribs, Inc., dba as Lone Spur Bar & Grill, has requested to renew their liquor license and city staff recommends conditional approval at this time. Section 210.005 of the city code provides that a license may be granted only to an applicant who is in compliance with all ordinance requirements and conditions attached to other approvals that the city has granted to the applicant. The licensee is not operating in compliance with its approved conditional use permit (CUP) regarding the cross-parking easement at the Cedar Hills Shopping Center. Staff reported on August 31, 2015, that if an executed cross-parking agreement is not received by December 31, 2015 staff would inform the council and the council could consider revoking the CUP for Cedar Hills Ribs, Inc. If the council chooses to proceed with CUP revocation, staff would schedule the public hearing for January 25, 2016.

Below is a list of those establishments requesting to renew their license for 2016:

- Avenida
- Bacio
- Bar Louie
- Big Bowl
- Blvd Kitchen and Bar
- Café Carlson
- Champp’s Americana
- Christos Greek Restaurant
- Crossroads Delicatessen
- Famous Dave’s BBQ Shack
- Gold Nugget Tavern and Grille
- Hurricane Grill and Wings

<table>
<thead>
<tr>
<th>Establishment</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avenida</td>
<td>11390 Wayzata Boulevard</td>
</tr>
<tr>
<td>Bacio</td>
<td>1571 Plymouth Road</td>
</tr>
<tr>
<td>Bar Louie</td>
<td>12401 Wayzata Boulevard</td>
</tr>
<tr>
<td>Big Bowl</td>
<td>12649 Wayzata Boulevard</td>
</tr>
<tr>
<td>Blvd Kitchen and Bar</td>
<td>11544 Wayzata Boulevard</td>
</tr>
<tr>
<td>Café Carlson</td>
<td>701 Carlson Parkway</td>
</tr>
<tr>
<td>Champp’s Americana</td>
<td>1641 Plymouth Road</td>
</tr>
<tr>
<td>Christos Greek Restaurant</td>
<td>15600 State Highway 7</td>
</tr>
<tr>
<td>Crossroads Delicatessen</td>
<td>2795 Hedberg Drive</td>
</tr>
<tr>
<td>Famous Dave’s BBQ Shack</td>
<td>14601 State Highway 7</td>
</tr>
<tr>
<td>Gold Nugget Tavern and Grille</td>
<td>14401 Excelsior Boulevard</td>
</tr>
<tr>
<td>Hurricane Grill and Wings</td>
<td>17790 State Highway 7</td>
</tr>
</tbody>
</table>
Ike’s Minnetonka 17501 State Highway 7
Jimmy’s Food and Cocktails 11000 Red Circle Drive
Kona Grill (Ridgedale) 12401 Wayzata Boulevard
Lake Shore Grill (Macy’s-Ridgedale) 12411 Wayzata Boulevard
Lone Spur Grill & Bar 11032 Cedar Lake Road
Marriott Minneapolis Southwest 5801 Opus Parkway
Nordstrom Ruscello 12441 Wayzata Boulevard
Redstone American Grill 12501 Ridgedale Drive
Scoreboard Bar & Grill 5765 Sanibel Drive
Sheraton Minneapolis West Hotel 12201 Ridgedale Drive
SPASSO 17523 Minnetonka Boulevard
Zuhrah Shriners (Club License) 6120 Blue Circle Drive

**Off-Sale Intoxicating Liquor Licensees**

There are twelve applicants requesting renewals of off-sale intoxicating liquor. Below is a list of those establishments requesting to renew for 2016:

Big Top Liquors 12937 Ridgedale Drive
Byerly’s Wines & Spirits 13081 Ridgedale Drive
Glen Lake Wine & Spirits 14704 Excelsior Boulevard
Haskell’s 12900 Wayzata Boulevard
Lucid Brewing & On-Sale Taproom 6020 Culligan Way
MGM Wine & Spirits 4795 Co Rd 101
Strong Liquor 11048 Cedar Lake Road
Sundial Wine & Spirits 5757 Sanibel Drive
The Wine Shop 17521 Minnetonka Boulevard
Tonka Bottle Shop 17616 Minnetonka Boulevard
Trader Joe’s 11220 Wayzata Boulevard
US Liquor & Wine 11333 State Highway 7

**On-Sale Wine Licensees**

There are fifteen applicants requesting renewals of on-sale wine licenses, including four new establishments in 2015. Cocoa Loco closed in October 2015. Below is a list of those establishments requesting to renew for 2016:

Big Thrill Factory 17501 State Highway 7
Bukhara Indian Bistro 15718 Wayzata Boulevard
Cheers Pablo (2015) 13027 Ridgedale Drive
Chipotle Mexican Grill 12509 Wayzata Boulevard (Ridgedale)
Chipotle Mexican Grill 4717 Co Rd 101
Davanni’s Pizza & Hot Hoagies 15200 State Highway 7
Dragon Jade Restaurant 14406 Excelsior Boulevard
General Store 14401 State Highway 7
Noodles & Company 12977 Ridgedale Drive
Noodles & Company 4937 Co Rd 101
Oliver’s (2015) 12401 Wayzata Boulevard
People’s Organic Coffee & Wine Café 12934 Minnetonka Blvd
Ruth Stricker’s - The Marsh 15000 Minnetonka Boulevard
Tiger Sushi (2015) 12401 Wayzata Boulevard
Yum! Kitchen and Bakery (2015) 6001 Shady Oak Road

**On-sale 3.2 Percent Malt Liquor Licensees**

There are seventeen applicants requesting renewals of 3.2 percent malt liquor licenses for 2016:

- Big Thrill Factory 17501 State Highway 7
- Bukhara Indian Bistro 15718 Wayzata Boulevard
- Bunker Indoor Golf Center 14900 State Highway 7
- Cheers Pablo (2015) 13027 Ridgedale Drive
- Chipotle Mexican Grill 12509 Wayzata Boulevard, Suite 1305
- Chipotle Mexican Grill 4717 Co Rd 101
- Davanni’s Pizza & Hot Hoagies 15200 State Highway 7
- Dragon Jade Restaurant 14406 Excelsior Boulevard
- General Store 14401 State Highway 7
- Glen Lake Golf & Practice Center 14350 County Road 62
- Noodles & Company 12977 Ridgedale Drive
- Noodles & Company 4937 Co Rd 101
- Oliver’s (2015) 12401 Wayzata Boulevard
- People’s Organic Coffee & Wine Café 12934 Minnetonka Boulevard
- Ruth Stricker’s – The Marsh 15000 Minnetonka Boulevard
- Tiger Sushi (2015) 12401 Wayzata Boulevard
- Yum! Kitchen and Bakery (2015) 6001 Shady Oak Road

**Off-sale 3.2 Percent Malt Liquor Licensees**

There are two applicants requesting renewal of off-sale 3.2 percent malt liquor licenses. Below is a list of those establishments:

- Glenn’s 1-Stop 12908 Minnetonka Boulevard
- Target Store T-1356 4848 County Road 101

**Police Contacts**

The enclosed reports recap police contacts over a 5-year period (pages A1-A2) and those occurring between October 1, 2014, and October 1, 2015 (page A3), at licensed establishments. In staff’s opinion, no contacts reported at the establishments rise to a level warranting denial or postponement of renewed licenses. The police department follows up with management at establishments having incidents of particular concern.

**Food/Liquor Sales**

The city ordinance states that all on-sale intoxicating liquor licensees must meet the requirement that no less than 50 percent of gross sales be attributable to the sale of food. All establishments have met the city requirements for food to liquor ratio. Enclosed is a report that shows the percentages of food and liquor sales reported by each
establishment during 2014-2015 (see page A4-A5). Reported food sales ranged from a high of 99.9 percent (Chipotle Mexican Grill, On Sale Wine License) to a low of 58 percent (Bar Louie, On-Sale Intoxicating License) of gross sales.

As provided by city ordinance and council policy, two establishments were randomly selected for a review of the ratio of food to liquor sales: Crossroads Delicatessen and Sheraton Minneapolis West Hotel. Both of these establishments were audited by a staff accountant from CliftonLarsonAllen LLP and were found to be in compliance with city requirements.

Health Inspection Results

Staff has also reviewed the city’s health inspection results from the past 12 months for each of the on-sale licensees (pages A6-A7). Some establishments did not have satisfactory inspection scores, which have resulted in follow-up enforcement actions. However, all affected establishments have taken appropriate corrective actions.

Recommendations

Staff recommends that the city council approve all of the renewals adding that a condition of approval is placed on the Cedar Hills Ribs, Inc. (Lone Spur Grill & Bar) liquor license. The condition should note that if the executed cross-parking easement agreement is not received by December 31, 2015, a public hearing will be scheduled for the January 25, 2016 city council meeting to discuss revocation of the conditional use permit for Cedar Hills Ribs, Inc.

Submitted through:
   Geralyn Barone, City Manager
   Julie Wischnack, AICP, Community Development Director

Originated by:
   Kathy Leervig, Community Development Coordinator
# Liquor License Establishments

**Police Department Incidents**  
**Five-Year History**

<table>
<thead>
<tr>
<th>Establishment</th>
<th>Address</th>
<th>Type of License</th>
<th>2010-11</th>
<th>2011-12</th>
<th>2012-13</th>
<th>2013-14</th>
<th>2014-15</th>
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<td>Bacio</td>
<td>1571 Plymouth Rd</td>
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<td>12653 Wayzata Blvd</td>
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<td>17501 State Hwy 7</td>
<td>On-Sale Wine &amp; 3.2%</td>
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<td>Big Top</td>
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<td>Blvd Kitchen and Bar</td>
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<td>15718 Wayzata Blvd</td>
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<td>Bunker Indoor Golf Center</td>
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<td>Chipotle Mexican Grill (101/7)</td>
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A1
## Liquor License Establishments
### Police Department Incidents
#### Five-Year History

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<tr>
<th>Establishment</th>
<th>Address</th>
<th>Type of License</th>
<th>2010-11</th>
<th>2011-12</th>
<th>2012-13</th>
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<td>Nordstrom Ruscello</td>
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<td>The Wine Shop</td>
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<td>6001 Shady Oak Rd</td>
<td>On-Sale Wine</td>
<td>11</td>
<td>1</td>
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*NOTE: Case 15-3904 Sep 27, 2015 noise compliant, live performance on outdoor patio, noted as loud and profane music.*
### ON-SALE INTOXICATING LIQUOR LICENSES

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<tr>
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<tbody>
<tr>
<td></td>
<td>FOOD</td>
<td>LIQUOR</td>
<td>FOOD</td>
</tr>
<tr>
<td>Bacio</td>
<td>71</td>
<td>29</td>
<td>72</td>
</tr>
<tr>
<td>Bar Louie</td>
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<td></td>
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</tr>
<tr>
<td>Big Bowl</td>
<td>90</td>
<td>10</td>
<td>90</td>
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<td>Blvd Kitchen and Bar</td>
<td>69</td>
<td>31</td>
<td>71</td>
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<tr>
<td>Café Carlson</td>
<td>71</td>
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<td>72</td>
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<td>Champp's Americana</td>
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<td>72</td>
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<tr>
<td>Christos Greek Restaurant</td>
<td>85</td>
<td>15</td>
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<td>Crossroads Delicatessen</td>
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<td>97</td>
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<td>Famous Dave's BBQ Shack</td>
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<td>Gold Nugget Tavern and Grille</td>
<td>73</td>
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<tr>
<td>Hurricane Grill</td>
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<td></td>
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<tr>
<td>Ike's Minnetonka</td>
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<td>32</td>
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<td>Jimmy's Food &amp; Cocktails</td>
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<td>29</td>
<td>70</td>
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<tr>
<td>Lake Shore Grill (Macy's)</td>
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<td>76</td>
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<td>Redstone American Grill</td>
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<td>Scoreboard Grill &amp; Bar</td>
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<td>79</td>
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<tr>
<td>SPASSO</td>
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### ON-SALE WINE* AND/OR 3.2 MALT LIQUOR LICENSES

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<tbody>
<tr>
<td></td>
<td>FOOD</td>
<td>LIQUOR</td>
<td>FOOD</td>
</tr>
<tr>
<td>Big Thrill Factory</td>
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<tr>
<td>Bukhara Indian Bistro</td>
<td>95</td>
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<td>96</td>
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<tr>
<td>Bunker Indoor Golf Center</td>
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<td>35</td>
<td>62</td>
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<tr>
<td>Chipotle Mexican Grill* (Ridgedale)</td>
<td>99.7</td>
<td>.3</td>
<td>99.7</td>
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<td>Chipotle Mexican Grill (101/7)</td>
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<td>99.8</td>
</tr>
<tr>
<td>Davanni's Pizza &amp; Hot Hoagies</td>
<td>99.5</td>
<td>.5</td>
<td>99.6</td>
</tr>
<tr>
<td>Dragon Jade*</td>
<td>98</td>
<td>2</td>
<td>98</td>
</tr>
<tr>
<td>General Store</td>
<td>Liquor License approved in 2013</td>
<td>98</td>
<td>2</td>
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<tr>
<td>Licensee</td>
<td>Score</td>
<td>Area</td>
<td>License Type</td>
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<td>--------------------------------</td>
<td>-------</td>
<td>------</td>
<td>--------------</td>
</tr>
<tr>
<td>Glen Lake Golf &amp; Practice Center</td>
<td>73</td>
<td>27</td>
<td>Golf &amp; Practice Center</td>
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<tr>
<td>Noodles &amp; Company (Ridgedale)</td>
<td>99.5</td>
<td>.5</td>
<td>Restaurant</td>
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<tr>
<td>Noodles &amp; Company (101/7)</td>
<td></td>
<td></td>
<td>Restaurant</td>
</tr>
<tr>
<td>People's Organic</td>
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<td>Restaurant</td>
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<tr>
<td>Ruth Stricker’s – The Marsh*</td>
<td>89</td>
<td>11</td>
<td>Restaurant</td>
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</tbody>
</table>

The symbol “*” after the name indicates licensees have both wine and 3.2 malt beverage liquor licenses.
This information provides health inspection dates and scores for all licensed food establishments in Minnetonka serving liquor. The scores are based on risk factors and public health interventions. The inspection program ensures operators address critical violations (C) that have the potential of causing food borne illnesses in the food establishments. The routine and re-inspections are based on a scale of C-0 to C-27, with C-3 generally considered to be satisfactory. Seven or more risk factors (represented as C-7) is generally considered failing and requires a reinspection.

### ON-SALE AND SUNDAY ON-SALE INTOXICATING LIQUOR LICENSEES

<table>
<thead>
<tr>
<th>Establishment</th>
<th>Date of Inspection</th>
<th>Score</th>
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<tbody>
<tr>
<td>Bacio</td>
<td>3/30, 4/16</td>
<td>13, 0</td>
</tr>
<tr>
<td>Bar Louie</td>
<td>7/22, 8/5</td>
<td>8, 3</td>
</tr>
<tr>
<td>Big Bowl</td>
<td>2/23, 3/11, 3/25</td>
<td>14, 2, 0</td>
</tr>
<tr>
<td>Blvd Kitchen and Bar</td>
<td>9/22, 10/9</td>
<td>9, 1</td>
</tr>
<tr>
<td>Café Carlson</td>
<td>4/7, 4/28</td>
<td>6, 1</td>
</tr>
<tr>
<td>Champps Americana</td>
<td>4/22</td>
<td>7</td>
</tr>
<tr>
<td>Christos Greek Restaurant</td>
<td>2/12</td>
<td>4</td>
</tr>
<tr>
<td>Crossroads Delicatessen</td>
<td>3/18, 3/22, 4/27, 5/12, 5/26</td>
<td>23, 23, 7, 11, 1</td>
</tr>
<tr>
<td>Famous Dave's BBQ Shack</td>
<td>3/18</td>
<td>2</td>
</tr>
<tr>
<td>Gold Nugget Tavern &amp; Grill</td>
<td>8/6, 8/21, 9/8</td>
<td>6, 4, 2</td>
</tr>
<tr>
<td>Hurricane Grill</td>
<td>8/3, 8/17</td>
<td>7, 1</td>
</tr>
<tr>
<td>Ike’s</td>
<td>11/9, 11/30</td>
<td>21, 4</td>
</tr>
<tr>
<td>Jimmy's Food and Cocktails</td>
<td>8/18, 9/2, 9/16, 10/1</td>
<td>11, 9, 2, 0</td>
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<tr>
<td>Lake Shore Grill (Macy's)</td>
<td>10/21, 11/3</td>
<td>6, 0</td>
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<tr>
<td>Lone Spur Grill &amp; Bar</td>
<td>3/17, 4/3</td>
<td>12, 1</td>
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<tr>
<td>Marriott Minneapolis Southwest</td>
<td>12/2</td>
<td>6</td>
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<tr>
<td>Nordstrom Ruscello</td>
<td>11/17, 11/30, 12/2</td>
<td>14, 5, 0</td>
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<tr>
<td>Redstone American Grill</td>
<td>3/18, 4/1</td>
<td>23, 2</td>
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<tr>
<td>Scoreboard Grill &amp; Bar</td>
<td>4/21, 5/5</td>
<td>8, 0</td>
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<tr>
<td>Sheraton Minneapolis West Hotel</td>
<td>3/9, 3/25, 4/9</td>
<td>27, 10, 3</td>
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<tr>
<td>Spasso</td>
<td>9/18, 10/2, 10/16</td>
<td>8, 6, 2</td>
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### ENVIRONMENTAL HEALTH ENFORCEMENT ACTIONS

#### CITATIONS

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<th>Date</th>
<th># Citations Issued</th>
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<td>Crossroad Delicatessan</td>
<td>3/2, 3/18</td>
<td>2, 3</td>
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<tr>
<td>Sheraton Minneapolis West Hotel</td>
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<tr>
<td>Redstone</td>
<td>3/18</td>
<td>1</td>
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<tr>
<td>Bacio</td>
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### ADMINISTRATIVE CONFERENCE

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### FORMAL COMPLAINTS

<table>
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<th>Date</th>
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</table>
This information provides health inspection dates and scores for all licensed food establishments in Minnetonka serving liquor. The scores are based on risk factors and public health interventions. The inspection program ensures operators address critical violations (C) that have the potential of causing food-borne illnesses in the food establishments. The routine and re-inspections are based on a scale of C-0 to C-27, with C-3 generally considered to be satisfactory. Seven or more risk factors (represented as C-7) is generally considered failing and requires a re-inspection.

### ON-SALE 3.2 PERCENT MALT LIQUOR & WINE* LICENSEEES

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<th>Establishment</th>
<th>Date of Inspection/Re-inspection</th>
<th>Score</th>
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<tbody>
<tr>
<td>Big Thrill Factory</td>
<td>6/3</td>
<td>0</td>
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<tr>
<td>Bukhara Indian Bistro*</td>
<td>8/14, 8/28</td>
<td>13, 3</td>
</tr>
<tr>
<td>Bunker Indoor Golf Center</td>
<td>4/20</td>
<td>0</td>
</tr>
<tr>
<td>Cheers Pablo</td>
<td>11/25</td>
<td>1</td>
</tr>
<tr>
<td>Chipotle Mexican Grill*</td>
<td>4717 Co Rd 101</td>
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<td></td>
<td>8/3, 9/4, 8/17, 9/18</td>
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<td>12509 Wayzata Blvd</td>
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<td>1/8, 1/22, 2/9, 2/26, 3/16</td>
<td>7, 3, 5, 5, 2</td>
</tr>
<tr>
<td>Davanni’s Pizza and Hot Hoagies</td>
<td>7/1, 7/16</td>
<td>4, 0</td>
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<td>Dragon Jade Restaurant*</td>
<td>5/28, 6/15</td>
<td>9, 1</td>
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<td>General Store Cafe</td>
<td>2/25, 3/11</td>
<td>5, 2</td>
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<tr>
<td>Glen Lake Golf &amp; Practice Center</td>
<td>6/24</td>
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<tr>
<td>Noodles &amp; Company (Ridgedale)</td>
<td>7/28</td>
<td>2</td>
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<tr>
<td>Noodles &amp; Company (101/7)</td>
<td>5/16</td>
<td>4</td>
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<tr>
<td>People’s Organic</td>
<td>11/4, 11/18, 12/2</td>
<td>18, 16, 4</td>
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<tr>
<td>Ruth Stricker’s - The Marsh*</td>
<td>4/6, 4/22, 5/6, 5/20</td>
<td>18, 8, 5, 1</td>
</tr>
<tr>
<td>Yum Kitchen and Bakery</td>
<td>11/23, 12/2</td>
<td>23, 3</td>
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*Establishment having both wine and 3.2 malt beverage licenses

### ENVIRONMENTAL HEALTH ENFORCEMENT ACTIONS

#### CITATIONS

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<th>Establishment</th>
<th>Date</th>
<th># Citations Issued</th>
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#### ADMINISTRATION CONFERENCE

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#### FORMAL COMPLAINTS

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