Minutes
Minnetonka City Council
Regular Meeting, Monday, July 13, 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 Tony Wagner, Bob Ellingson, Dick Allendorf, Patty Acomb, Tim Bergstedt, and Terry Schneider were present. Brad Wiersum was excused.

4. Approval of Agenda

Allendorf moved, Wagner seconded a motion to accept the agenda with addenda to items 14D, 14E, and 14F. All voted “yes.” Motion carried.

5. Approval of Minutes: June 22, 2015 regular meeting

Bergstedt moved, Wagner seconded a motion to approve the June 22, 2015 regular meeting minutes. Wagner, Ellingson, Allendorf, Bergstedt, and Schneider voted “yes.” Acomb abstained. Motion carried.

6. Special Matters:

A. Recognition of former Park Board member Nate Pasko

Schneider read the recognition and presented a plaque to Pasko. Schneider noted Pasko had been one of the better student representatives on the park board.

Pasko said he was glad he grew up in the city and had been afforded many opportunities. He will be attending George Washington University in Washington DC and plans to come back to the city and get involved with city government.

B. Review of the 2014 financial report with the city’s audit firm of CliftonLarsonAllen LLP

Doug Host from CliftonLarsonAllen presented the audit.
7. Reports from City Manager & Council Members

Barone reported on the schedule for upcoming council meetings.

Bergstedt said he had received many unsolicited comments from residents over the past month commenting on the beauty of the landscaping and flowers both in the Minnetonka Mills Park area and the entrance to city hall. He thanked city staff.

8. Citizens Wishing to Discuss Matters not on the Agenda

No one appeared.

9. Bids and Purchases:

A. Bids for parking lot improvements for Shady Oak Road project

Barone gave the staff report.

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

10. Consent Agenda - Items Requiring a Majority Vote:

A. Resolution approving a conditional use permit and side yard setback variance for an addition to the property at 3211 Chase Drive

Acomb asked for the item to be pulled from the consent agenda. She said the proposal was for a home renovation and addition in her neighborhood to accommodate a family’s needs to allow their daughter to have a more independent lifestyle while also allowing the parents to remain on the property. Acomb recognized the Masons for making the creative choice to stay in the neighborhood. She said it was a win for all involved.

Acomb moved, Allendorf seconded a motion to adopt Res. 2015-049 approving an aggregate side yard setback variance for an addition and a conditional use permit for an accessory apartment at 3211 Chase Drive. All voted “yes.” Motion carried.

B. Conditional use permit for Kona Grill at 12401 Wayzata Boulevard

Allendorf moved, Bergstedt seconded a motion to adopt Res. 2015-050 approving a conditional use permit for a restaurant at Ridgedale Center at 12401 Wayzata Boulevard. All voted “yes.” Motion carried.
C. Resolution Recognizing League of Minnesota Cities Executive Director Jim Miller

Allendorf moved, Bergstedt seconded a motion to adopt Res. 2015-051 recognizing League of Minnesota Cities Executive Director Jim Miller. All voted "yes." Motion carried.

11. Consent Agenda - Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance amending liquor regulations

City Attorney Corrine Heine gave the staff report.

Wagner moved, Acomb seconded a motion to introduce the ordinance. All voted "yes." Motion carried.

Barone reported on additional addenda items to the agenda that had been inadvertently left out of the earlier changes.

13. Public Hearings:

A. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Tiger Sushi 1, LLC (Tiger Sushi), 12401 Wayzata Boulevard

Barone gave the staff report.

Acomb asked why the license was for wine and on sale 3.2 percent malt beverages and yet the applicant would still be allowed to serve strong beer as well. Barone said it was allowed because it was not just a 3.2 percent malt beverage license but a combination wine and 3.2 license. Acomb asked if the name of the license should be changed for clarification purposes. Heine said it was a provision in state law making it an automatic right to sell strong beer without a further license. Acomb said she was not concerned about Tiger Sushi being allowed to sell strong beer, she supported that, but before staff clarified the issue she was concerned the restaurant would be restricted from selling strong beer.

Schneider said he had a similar question. He said if a wine and beer license was issued the applicant could still sell 3.2 beer. He questioned why the city was not issuing a wine and beer license to avoid any confusion. Heine said state law authorizes the issuance of particular type of licenses. One of the licenses is a wine license another is for on sale 3.2 malt liquor. If an establishment has both of those licenses, it is authorized
to sell strong beer without getting another license. Schneider said he understood that but was asking if there was a reason a wine and beer license was not being granted instead. Community Development Director Julie Wischnack said issuing a wine and on sale 3.2 malt beverage license was the customary way of allowing sale of strong beer under the state law. Heine said without looking at the fees she thought getting an intoxicating liquor license in addition to a wine license would be more expensive than getting a wine license and a 3.2 percent license.

Wagner asked for information on when the restaurant might open up given the renovation going on in the mall. Wischnack said she had read the goal was for the restaurant to be open by November.

Schneider closed the continued public hearing at 7:09 p.m.

Allendorf moved, Wagner seconded a motion to grant the licenses. All voted “yes.” Motion carried.

B. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Magnus Group LLC dba Oliver’s, 12401 Wayzata Boulevard

Barone gave the staff report.

Schneider closed the continued public hearing at 7:10 p.m.

Allendorf moved, Wagner seconded a motion to grant the licenses. All voted “yes.” Motion carried.

C. Items related to the granting of a cable communications franchise

Barone gave the staff report.

Stephen Lyon, 15237 Lynn Terrace, said the decision was obvious that competition should be allowed into the area. Comcast is a monopoly that is commissioned by the city. This was basically government extending itself by not allowing competition. This was likely why the company had horrible ratings and high prices. He urged the council to allow competition.

Barone clarified it was not a monopoly because Comcast does not have exclusive franchise. This was why CenturyLink was being considered. Comcast was the only corporation that has come forward to operate a cable franchise in the city. Others have the same opportunity. Schneider said the city was also bound by many federal laws and rules and FCC regulations on what can and cannot be approved.
Schneider closed the public hearing at 7:15 p.m.

14. Other Business:

A. C Preliminary plat, with lot width at setback variances, for OAKHAVEN 2nd ADDITION, at 13929 Spring Lake Road

Principal Planner Susan Thomas gave the staff report.

Ben Wikstrom, Lake West Development, said he believed the proposal was not detrimental to the neighborhood and fit right in line with the lot widths. He said a couple of suggested changes were made during the planning commission review, relocating the driveway and utility connections. He said the applicant was happy to make the changes and those would be covered during the time of the building permit. As far as the variance and the proposal itself, he felt with the change in elevation and the location of the two pads, the intent of the lot width minimum was met because the visual impact would be minimal.

Wagner moved, Acomb seconded a motion to adopt Res. 2015-052 approving the preliminary plat, with lot width variances, of OAKHAVEN ACRES 2nd ADDITION at 13929 Spring Lake Road. All voted “yes.” Motion carried.

B. C Preliminary plat of SAVILLE WEST, a twelve lot subdivision generally located at the southeast quadrant of the County Road 101/Excelsior Boulevard intersection

Thomas gave the staff report.

Reid Schulz, Landform Professional Services, 105 South 5th Street, Minneapolis, said he believed the development would be a great addition to the neighborhood and met and fit the intent of the new R1-A zoning.

Acomb noted staff indicated the stormwater would be diverted into wetland and there would be some rain gardens. She asked who would be responsible for maintaining the stormwater structures. Schulz said an application had been submitted to the Riley Purgatory Creek Watershed District and options were being looked at. The site was mainly clay soil with a pocket of sandy soil near the bulb of the cul-de-sac. One alternative being looked at was to go underground to get to the sandy soil. The applicant was open to whatever the watershed district and the council were comfortable with. Acomb clarified that her question was about the rain gardens that sometimes require maintenance. She asked if this would be made clear to the homeowners at the time of purchase. Schulz said it
would. An alternative being looked at to surface rain gardens, which would only take filtration and not infiltration, was to go underground instead. Schneider noted the drainage would first go into a storm water pond and before it went into the wetland.

Ellingson asked what was being done to minimize the tree loss. Schulz said work was done with staff with the belief the development could get down to the 35 percent threshold. This was done by shrinking the cul-de-sac bulb. This allows lots seven and eight to be more conventionally placed around the bulb and pushes the pond behind lot seven further south preserving a lot of the significant trees.

Bergstedt said over the last year and a half the council had seen many versions of this plan. He thought the current plan showed much more creativity, a lot less density, and better traffic flow than some of the original plans. He said the developer came up with a nice plan to address the challenging site.

Bergstedt moved, Allendorf seconded a motion to adopt Res. 2015-053 approving the preliminary plat of SAVILLE WEST, generally located at the southeast corner of the County Road 101/Excelsior Boulevard intersection. All voted “yes.” Motion carried.

C. Preliminary plat, with lot width variances, for BUCKMAN ADDITION at 15700 Highwood Drive

Thomas gave the staff report.

Linda Buckman, 15700 Highwood Drive, thanked the council for considering the proposal.

Acomb moved, Bergstedt seconded a motion to adopt Res. 2015-054 approving the preliminary plat, with lot width variances, of BUCKMAN ADDITION at 15700 Highwood Drive. All voted “yes.” Motion carried.

D. Preliminary plat, with lot width at setback variances, at 12601 Ridgemount Avenue

Thomas gave the staff report.

Wagner asked if the information in the council packet was showing lot width setback or lot width at right of way. Thomas said they were lot widths at right of way.
Ashish Aggarwal, 16135 55th Avenue North, Plymouth, said he lived in Minnetonka for 11 years. When his family decided to move to a different house, they could not find a modest sized home in Minnetonka. He said he was present because of his past experience and also because he believed in doing the right thing. The two small homes would greatly enhance the value to the neighborhood. The full criteria of subdivision were being met. The only variance required was width at setback. The question before the council was if the deficiency in width was big enough and so crucial to pass up two affordable homes that fit the scale and character of the neighborhood. He said the project was supported by pretty much all of the neighborhood and was consistent with the city's vision for 2030. He presented a letter of support from 15 of the 18 neighbors. He said that after the subdivision both lots would be half acre. The project would revitalize the neighborhood while fitting in with the scale and character of the neighborhood. The lot was unique within the neighborhood. There was no other lot in the neighborhood as large and as wide. Twenty percent of the adjoining properties do not meet the setback requirements. A large McMansion on the lot would decrease the value of the adjoining lots. He said the lots were in the same spirit as the R1-A zoning the council recently approved. The lot splits support the city's land use and comprehensive guide plan for 2030. The advantages of the project far outweigh the one shortcoming.

Samantha Grose, JP & Co., 10800 Normandale Boulevard, Bloomington, said she was a degreed architect that does all the design work for her company. She said if a large home were built on the lot it would continue the trend of large home redevelopments that devalues the neighboring homes. Builders would look at them as land value only. The vision for the property was to create two homes with character that fit nicely on the lot and remain in scale with the neighborhood. Preventing McMansions and keeping affordable housing was a common theme with all the neighbors that were met with. She said she had a discussion with Schneider earlier in the day who suggested bringing forward some other options for laying out the subdivision.

Max Norton, 3649 73rd Court East, Inver Grove Heights, said he had been a professional designer for over 50 years. He had designed and built over 60 homes and countless remodels across the metro area and Greater Minnesota including six in Minnetonka. He said he felt the staff and planning commission had made some possible oversights in the analysis. The three burdens of proof for a variance that staff determined were not met, need to be reevaluated. The difference between the zoning standard width and the proposed width was less than 20 percent. Compared to the other substandard lot widths in the neighborhood there was less than 10 percent difference. He said these were metrics but in truth the average
passerby would not be able to tell the difference between an 87½ foot lot and a 110 foot lot. Looking at the map the obvious unique circumstance was the present lot was nearly twice as wide as the other lots in the immediate area. The two proposed lots and homes would be more consistent with the neighborhood than one large home that would not require any variances. This was an opportunity to expand and provide affordable housing in the area. He said he could not concur with the staff finding about character of the neighborhood that if something was slightly different from its surroundings, it was unacceptable. Controlled diversity of character helps maintain desirable property value, not erode them. He pointed to Summit Avenue in St. Paul as an example.

Schneider noted that he had discussed with the applicant that if this proposal was not acceptable to the council, there may be an alternative to do a reconfiguration with more of a lot behind a lot. That alternative might be more attractive than this proposal.

Wagner noted that if approved it would set a precedent lot at setback. He said this was an area of the city that had unique homes at different age stages.

Grose showed two different alternative options. Aggarwal said when he initially met with staff he brought up a couple of different options that put the houses one behind the other. Staff feedback indicated the council did not like lot behind lot so this was not an option. He said building the two homes in a neighborhood that was in need of revitalization was absolutely the right thing to do. Schneider said it was not always a good idea to assume what the council might accept. The council had to look at the situation, and every application and lot was different. There was a general tone and preference but it could never be said the council would never do this or always do this. He said in this case he looked at the drawing first before reading the staff recommendation. Without having all the details it did look like a natural lot behind lot because of the hill on the backside. Aggarwal said the back of the lot was heavily wooded. If the house was located there, trees would have to be removed. If the houses were put side by side, there would be no tree impact. Schneider said he had concern over the type of variance being requested. If approved it would set a precedent for other areas.

Allendorf asked how many votes were required to overturn the planning commission’s denial. Heine said the planning commission was not the final decision maker. On some issues the planning commission makes a decision that unless it is appealed, is final. That was not the case in this situation. She said in this case the planning commission made a recommendation to the council. The council could make any decision it
wanted and was not bound to follow the recommendation. Because a variance was required, the ordinance required five votes for approval.

Allendorf said as he went up the neighborhood from the east it really was a changing neighborhood with Ridgemount on the south side. As he looked at the homes on the east he could easily delineate approximately where the lot line was based on where the house was. After a couple of blocks however the trees became denser and the houses were placed differently, not just front to back, and he couldn’t tell where the lot line was or even where the house was from Ridgemount. He didn’t think it was the lot size that made the difference but it was the size of house on the lot. The petition that was passed around showed two houses that were approximately 3,200 square feet each. He asked if this was controllable through side yard setbacks or through a floor area ratio. Thomas said the house size could be controlled through setbacks if the council wanted to have side yard setbacks and front yard setbacks that were greater than standard through a floor area ratio. If applied under the McMansion policy the floor area ratio would provide for 7,800 square feet. The council could choose to do a lower floor area ratio. Because a variance was involved the council had broad discretion. Allendorf said when he looked at the information in the council packet he thought the two homes would fit into the neighborhood and he couldn’t tell what the setback was. He was not adverse to two homes on the lots as they were split but controlling the size of the houses to be consistent with the look of the neighborhood.

Barone said in the past the city had tried to control house size when an application was reviewed but when it came time for the person to actually build the house, they ended up coming back and asking for a larger size. Wischnack said the two most recent examples were Braeburn Woods and Locust Hills. This led to using floor area ratio more for the calculation. In this case the floor area ratio was not terribly helpful for the house size issue. She noted some of the drawings shown by the applicant had two car garages while the renderings in the council packet had three car garages. Allendorf said if there was a way to keep the houses on the lots around 3,200 square feet he thought it would be within the character of the neighborhood and he would not be averse to approving that.

Wagner said he drove the road quite a bit and when he met with the applicant he, like Allendorf, could envision reasonably sized homes fitting in well. He would never favor creating a precedent for lot behind lots. Given all the work that had been done looking at mid-priced housing and housing variety, this neighborhood screamed out for that. He would be willing to look at that for this area. He worried a little bit about precedent
for a couple of the lots but looking at the map there were very few lots it
could be done. He would be open to the suggestion made by Allendorf.

Acomb said looking at the map there appeared to be several lot behind
lots. She asked if this didn’t already set the stage for doing a lot behind lot
that would not establish a precedent. Doing a lot behind lot was not her
preference. She preferred side by side lots. She said it seemed there was
room for coming up with something that would work.

Ellingson said he was not a big fan of doing lot behind lot because in the
past there were examples ending up not working well including the
Hennepin County medical clinic. He said he had sympathy for the
applicant’s proposal because it was more straightforward but he realized
the difficulty of limiting the size of the house.

Schneider commended the applicant for the idea of doing relatively
modestly sized homes. He saw a benefit of having a modest priced home
with appropriate size. The council usually looks pretty closely at house
size and lot setbacks in the general area. If the Plymouth Road property
was included it probably made more sense. It would be hard to say the
council was following what it did in the past. Combine this with the
recommendations from staff and the planning commission for denial, it
gave him pause. However he thought this lot deserved two homes. It
would be more out of character to have one big home on the lot. The
question was if there was an alternative configuration. He said he was
somewhat on the fence but was leaning toward being worried about
setting a precedent.

Wagner said he didn’t want the council to try to design something at the
meeting and would prefer tabling the item directing staff to present an
alternative with a floor area ratio limit that would accommodate Allendorf’s
comments. He would not support lot behind lot in any way. The council still
might not approve the proposal but it would provide an alternative to look
at.

Wagner moved, Allendorf seconded a motion to table item.

Allendorf asked if there was a way to somehow memorialize in what staff
brought back to the council what was being discussed in terms of size.
Wagner asked if the lot split could be conditioned to building plans that
were aligned to Allendorf’s comments. If the applicant returned asking for
a 5,000 square foot house the lot split approval would be nullified. Heine
said a condition could be put on the variance and Wagner’s suggested
condition was reasonable. Wischnack noted there was a timing issue on
the application so the applicant would have to come back with a solution
by the August 17 meeting or would have to waive their right for review within 180 days. Wagner noted he would be absent from the August 17 meeting.

Aggarwal said they would be open to waiving the review deadline. He said he would be out of the country for the August 17 meeting. He said the smaller homes were absolutely the right thing to do and the homes would not be built for somebody specific but would go on the market once built. This provided more flexibility as opposed to building something for a specific buyer. Wischnack clarified that Aggarwal was agreeing to extend the review period for another 60 days. Aggarwal indicated that was correct.

Bergstedt said on one hand there was a staff and planning commission recommendation for denial based on long standing variance standards. On the other hand the council was all in agreement about looking for smaller, more affordable housing and avoiding McMansions. Like others he was not excited about discussing lots behind lots without staff looking at it first. He said it would be beneficial to have staff look at alternatives and also to have all seven council members present especially since this proposal was in Wiersum's ward and he was excused from tonight's meeting.

Schneider said his suggestion for a lot behind lot alternative was made to keep moving toward a resolution rather than just having a denial. While this property probably wasn't ideal for a lot behind a lot, what he was looking for was a little bit of separation from the frontages. He said the current plan had a shared driveway with a turnaround. This was a lot of asphalt that he wasn't sure was wise. Moving one of the homes back 10 to 15 feet would provide relief from the frontage and would blur the lot line issue.

All voted “yes.” Motion carried.

E. Resolution amending Council Policy 6.1 regarding standards and criteria for the issuance of liquor licenses

Wischnack and Heine gave the staff report.

Schneider said for some reason the topic had been in the news recently and he received calls from reporters asking what the city was doing. He said it really wasn’t newsworthy because what was being proposed was a tweak to the policy.
Wagner said he thought the discussion at the special study session a couple weeks back had been a good one. He thought staff had done a good job fine tuning the policy language that was discussed at that meeting. The discussion was not having a formal cap to ensure a vibrant community that served the village centers but was responsible at looking at each application on its own merits. He thought the proposed changes by staff reflected that conversation.

Stephen Lyon, 15237 Lynn Terrace, said he was disturbed by what he read in the newspaper article. He spent ten years in the licensed beverage business and worked for the world's largest winery. He was very familiar with the three tier system. He represented the winery to distributors who then worked with the stores. He said one thing the city had to be careful about was the system bred protectionism. Local laws could be influenced by people who were not necessarily residents. It frustrated him to see so much time spent on this issue and to see laws applied only to the licensed beverage industry like not allowing stores to be open on Sunday and not allowing sales in grocery stores. A lot of the laws were carried over from when Prohibition was repealed. When it was decided to allow alcohol in the 1930's, the decision was made to do so with some restrictions. The people in the business had nothing in common with the temperance and religious movements.

Lyon said there likely was a lot of concern when Trader Joe's wanted to come to town and now the average resident was elated that they did. The average Eden Prairie resident was probably happy that Costco came into the city. The residents living in cities with Total Wine stores seem to be very happy and the stores seem to be very busy. He said some of the news articles mentioned tying the number of licenses with the number of residents. He cautioned against that. Edina, Wayzata, and Eden Prairie all have municipal stores so it was logical that Minnetonka would have more stores. He liked progressiveness in any industry. Minnetonka was a retail magnet with Ridgedale and the big players wanted to be there. This should be accommodated because it made the area more successful. If the city had a policy limiting the number of licenses it would be difficult to get the new stores into the city. At the end of the day the city wanted to have the best retailers in the community regardless of what they sell.

Schneider said at the work session there was discussion regarding accessory use with Target being a smaller, more convenience use. He said the term complementary in the policy captured the accessory use by tying it to a restaurant or food establishment or something similar rather than something like a furniture store which would not be what he would consider complementary. One thing that was discussed at the work session that he wasn't sure was emphasized in the policy was to include
language about whatever is approved adding to a positive experience to living and working in the city. He said this was one of the fundamental things that would provide discretion to the council and he thought there was discussion about making that a separate provision.

Allendorf said he thought the two things went together: complementary part of a business and adding to a positive experience to living and working in the city. He thought putting the two together added clarity not only for the council but to any potential applicant. He said including the number 12 licenses in the policy could be quibbled with. Between 2001 and now there were between nine and 12 licenses varying up and down. This indicated to him that the marketplace thought nine to 12 wasn't a bad number. The council had the flexibility to go above 12 if “a,” “b,” or “c” provisions in the policy were being met. Anyone could submit an application but if “a,” “b,” or “c,” were not being met the applicant shouldn’t be disappointed if the application was not looked at as positively as someone else’s application. He thought the main paragraph indicating the number 12 was borne out by the marketplace over the past 13 years and “a,” “b,” or “c,” provides the council and an applicant some rules by which the expectation level is set. He thought it was a good change and a policy that should be approved.

Acomb said she was in favor of the policy as it provided both a limit and flexibility.

Ellingson asked how many village centers in the city did not have a liquor store that potentially could fit in under the exception in the policy. Wischnack clarified it wasn’t an exception because it was a policy to guide decision making. She said none of the “or” statements were exceptions to the rules but rather were more about how the council would evaluate a license application. She displayed a map showing the city having 13 village centers. There were five village centers that currently do not have a liquor store. Ellingson said five was more than he expected. One of the village centers being shown was at the intersection of Excelsior Boulevard and Baker Road. The intersection had a couple of gas stations, a pool store, an auto repair shop, and a U-Haul store. He said the village center concept was so broad it ranged from this intersection to the Ridgedale area. He doubted anyone would propose to put a liquor store at the intersection but under the changes to the policy it would signal to people that the council would be receptive to reviewing an application, not that it would necessarily be approved. Barone clarified the current policy would allow the council to consider a license in that area already. Ellingson said the current policy included language about redevelopment which was more restrictive.
Ellingson asked for information about the five village centers without a liquor store. Wischnack said they were at: Williston Road and Highway 7; east on Baker Road; Shady Oak Road and Excelsior Boulevard; Highway 169 and Minnetonka Boulevard; and Minnetonka Mills. Ellingson said these were the commercial intersections of the city that would have the appropriate zoning to accommodate a liquor store although they might not have the density of commercial use to support a liquor store. He noted during a previous discussion Schneider had raised a concern about fairness of approving the 12th license for Target and then potentially not approving a license for the Cub across the street. Ellingson asked for clarification about what “complementary” meant. Was it grocery stores like Byerly’s? Was it discount stores like Target, Costco, or Sam’s Club? He noted Wisconsin had gas stations that sold liquor. Wischnack said during the 2010 council discussion the city was experiencing things like Spasso and Pairings. She said “complementary” included a wide range and if the council was uncomfortable with that range they should add clarifying language. Ellingson said he thought it was a good thing that “complementary” included things like restaurants, discount stores, and grocery stores, since the city already had those examples.

Wagner said what he had taken away from the discussions in 2010 and since was the council did not want to box itself in. The intent was every application would be guided by whatever was in front of the council. The council would try to use the criteria as a guideline.

Schneider said the council had diverse opinions and didn’t know if a new store was the right thing until seeing what it was. In regard to the fairness issue and his comments about Target and Cub, he said by leaving the term “complementary” vague but looking at the language about adding positively to the experience of living and working in the city gave better direction. Putting a liquor store next to the Baker Road gas station probably would not add positively to the character of the city. A liquor store in Minnetonka Mills might add positively to the experience, and it was more likely a liquor store at Shady Oak as the area redevelops, would add positively. The idea that the industry was evolving and not knowing what is coming in the future, he was comfortable with the proposed wording in the policy. It would always take five council members to agree that issuing the license made sense.

Lyon said he was looking for the best possible liquor retailers to be available to come to the city. He said the criteria in the policy would exclude Total Wine because it was not a distinctive specialty service and was not a complementary part of a business. He said the complementary provision was problematic because liquor stores were supposed to be separate from other stores. If Cub were to do a liquor store it would
require a separate entrance and be located next to the grocery store. He said Minnesota laws do not accommodate the term complementary. He noted Total Wine would not want to locate in a village center currently not served but rather they would want to be in the Ridgedale area.

Bergstedt said it would be easy to argue for any side of what was being discussed. Many communities were wrestling with the same issues. He said the last time the policy was looked at was five years ago and he didn’t foresee the council ever again going five years without having to relook at the policy. The market for the liquor industry was changing rapidly. A few years ago microbreweries were brand new. Now microdistilleries are being looked at as well as the sale of growlers on Sunday. Things were happening fast. Many other states allow liquor sales in grocery stores seven days a week. He was comfortable with the number 12 but in reality the city could have 18-20 licenses under the policy. He was a little concerned with keeping the number 12 in the policy because it didn’t really limit the number of licenses but instead was an arbitrary number. He agreed that the amended policy would likely exclude Total Wine or something similar from being approved.

Ellingson suggested adding the word “is” in front of the word complementary to be consistent with the other provisions. Schneider suggested the wording be “is a complementary…”

Allendorf moved, Acomb seconded a motion to adopt Res. 2015-055 amending Council Policy 6.1 establishing Standards and Criteria for the Issuance of Liquor Licenses.

Wagner clarified that the comments that the policy would exclude Total Wine in the city were not accurate. There currently were only 11 liquor licenses in the city and the Total Wine application had not been reviewed by the council.

All voted “yes.” Motion carried.

F. Green Line Extension funding commitment

Barome gave the staff report.

Schneider said the end result was the right thing regardless of how things got to this point. The Southwest transit station which wasn’t originally included now was included and the Shady Oak station was preserved with a larger park and ride. There were other minor changes that would have implications for Eden Prairie. The stage was set for a significant ridership increase with all the connectivity in the new outcome. To chop away three
quarters of a billion dollars for such a robust project was not easy to do. The commitment being made allowed Hennepin County to come to the table to fill the gap. It allowed CTEP and the Hennepin County Railroad Authority to justify contributing significant cash back into the project with the cities putting in funds. The other thing it did was to allow an increase in the Shady Oak station. The parking increased from 250 space up to 800 spaces, some temporary until redevelopment occurs. He said none of the cities would pay for the increase out of their general tax fund. There was the full expectation that through the redevelopment and other aspects the cities would get the money back in a relatively short period of time. The funding mechanism was a short term way to finance the actual construction costs when they occur. The expectation particularly for Minnetonka and Hopkins was the contributions would be focused on building the infrastructure for the Shady Oak station. There had been discussions with Hopkins to do a more coordinated joint development agreement. He said there were also other grant funds and funding sources that everyone was convinced would likely become available later in the process.

Wagner said he had only received one email and the resident indicated that other alternatives should be looked at again. Wagner said as the city had looked at things like redevelopment around the Shady Oak station and the Opus/169/Bren Road interchange, light rail was part of what was included in the long term plan. General fund money would not be used as the city would look at how to recapture revenue from the redevelopment that needs to occur in the areas. This was where the comp plan said the city would put density. He said $2 million was a lot of money but it was no different from when the city did TIF for affordable housing to achieve those comp plan goals. He supported committing to the additional funding and looked forward to staff's recommendation about how to bridge the gap. This was a 100 year plan and not a two year plan. He said this was important for the west metro and the entire region.

Bergstedt said when the average resident reads about the size of the shortfall and the additional funding from the cities, it almost sounds like Monopoly money was being discussed. He wanted to assure people that staff and the council had looked at the funding thoroughly. It was a lot of money but the city spends a lot of money on roads and other infrastructure projects. The council and other city councils along the line continue to believe the benefits light rail will bring far outweigh the money being spent with the redevelopment, making the cities more vibrant, and helping with employment. It was a little bit of a leap of faith that had been proven in other places.
Allendorf said there had been creep throughout to the overall project not only dollar-wise, but when it was first proposed the line was supposed to be delivered in 2014. He had been supportive along the way however he had seen how much staff time has been put into the project and now the city was being asked to put in more money. Over the last year and a half the station ready Smetana location had come up that wasn't studied. The discussion was this was a 50 to 100 year project so the city decided to pay the costs. Then Hopkins had to give up some land for a maintenance facility and the council decided to work with Hopkins to do some type of swap, not knowing exactly what that meant or where the money would come from. He questioned why the Met Council was not making that happen and why Minnetonka was paying for it instead. The commitment of $2 million, where it wasn’t known where the funds would come from, with the thought there would be development dollars down the line, gave him concern. To put it into perspective, $2 million, was a six percent increase in taxes in relation to the current budget. This may be spread over three years, but this meant a two percent tax increase before the city went through what city services would be. He said what concerned him was it wasn’t known how this would be paid for and also it wasn’t known what the alternatives were. There had been mention of using the HRA levy but this would be tax dollars. Even though someone said it wouldn’t come out of the general fund, it would, either through taxes or deferring things for residents that were already in the budget. He said he may look at the commitment differently if the council could see all the alternatives and see some creative ways to come up with the funds. The resolution from the Met Council stated the city would commit to the additional funding. He could not support committing $2 million without knowing how it would be spent and how it would affect the taxes of the city’s residents.

Schneider said the additional funds would specifically be spent on building the road and enhancing the park and ride for the Shady Oak station. He agreed this should have been paid for by the Met Council, but the Met Council did not have the money as they were trying to get the 10 percent state match put together. He said the funding issue was complicated because the decision to commit to the additional money had to be made shortly. What was being discussed was a mechanism to leverage resources to be able to provide $2 million. It was not a permanent funding source. He said for him, the permanent funding source was either a special assessment district and/or a TIF district on the Shady Oak Road area. This would include Hopkins as well. The $2 million would be recouped in a relatively short period. This would require the area to redevelop. If the light rail went in and redevelopment did not happen in 20 years, then Allendorf was correct that taxpayers would pick up the cost.
Allendorf said the same was true if redevelopment did not happen within five years. Schneider did not agree. Wagner said he looked at this as the same leap of faith as occurred when the council looked at the Bren Road interchange. The city did not have $19 million to pay for the interchange but staff came up with a creative way to come up with the funding. All the buildings in Opus that someday would redevelop would pay a trip generation fee and someday in the future they would pay back the city for what it had cash flowed. State grants were used as well as money from the city's fund balances. If no Opus redevelopment happened and not a single new trip was generated, the city hypothetically was on the hook for whatever the balance was on the bridge. He said the council was making a similar decision with the additional $2 million here. He had confidence staff could come up with something the council would debate as a backstop if nothing ever happened in the Shady Oak area. The city would have purchased a $2 ½ million road to connect Ktel Drive to Excelsior Boulevard. He would probably be OK with that because he thought there would be a mechanism to recover the $2 ½ million because it was done before. Based on countless meetings he has been at with consultants from all over, he was confident there would be enough redevelopment in the area.

Allendorf said he heard two council members say general fund money would not be used. This was not true. There would be a six percent increase, perhaps over three or four years. To say otherwise was not being honest with residents. He did not see a plan to get the money back. He could not commit to something he could not actually see. He did not like to spend taxpayer dollars when he did not know how the city would get the dollars back.

Barone said the funds would be one time funds. It would not be a six percent perpetuity tax increase. The amount was equal to what would be raised if the city increased taxes by six percent in one year. She said staff would come back to the council with options. There would be a range of things looked at including bonding, delaying projects, and bonds that will be paid off soon. She said she understood Allendorf's concerns about not having the information and it was unfortunate it wasn't available at this meeting.

Schneider said it was not an easy decision and was something the council was concerned and had reservations about, but it was absolutely essential if the council wanted the community to grow and prosper as it had envisioned.
Wagner moved, Acomb seconded a motion to adopt Res. 2015-056 with the addendum supporting $2 Million in local funds to the Green Line Extension. Wagner, Ellingson, Acomb, Bergstedt and Schneider voted "yes." Allendorf voted "no." Motion carried.

15. Appointments and Reappointments: None.

16. Adjournment

Acomb moved, Wagner seconded a motion to adjourn the meeting at 9:26 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk