Minutes
Minnetonka City Council
Monday, September 12, 2016

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

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

4. Approval of Agenda

Wiersum moved, Bergstedt seconded a motion to accept the agenda with amendments and additional comments provided in the addendum dated September 12, 2016. All voted “yes.” Motion carried.

5. Approval of Minutes: July 11, 2016 and July 25, 2016 regular council meetings

Allendorf moved, Wagner seconded a motion to approve the July 11, 2016 regular council meeting minutes as presented. All voted “yes.” Motion carried.

Allendorf moved, Wagner seconded a motion to approve the July 25, 2016 regular council meeting minutes as presented. Acomb abstained. Wiersum, Bergstedt, Wagner, Ellingson, Allendorf, and Schneider voted “yes.” Motion carried.

6. Special Matters: None

7. Reports from City Manager & Councilmembers

City Manager Geralyn Barone reported that the first town hall meeting for Imagine Minnetonka, the city’s strategic planning process through community engagement, was held August 24, 2016. There was a nice turnout of 25 residents. The next meeting will be done virtually on September 21, 2016 at 8 p.m. There will be another in-person meeting October 12, 2016 at 7 p.m. at the community center. All Minnetonka residents are welcome to attend and provide input.
The last Farmer's Market will be Tuesday, September 27, 2016.

Barone announced the upcoming city council meeting dates.

8. Citizens Wishing to Discuss Matters not on the Agenda

9. Bids and Purchases:

A. Bids for the Shady Oak Road landscape project.

Barone provided the staff report.

Wiersum moved, Acomb seconded a motion to reject the bids received and direct staff to re-advertise for bids for the Shady Oak Road landscape project. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution approving a concurrent detachment from Hopkins and annexation to Minnetonka of properties located adjacent to the Minnetonka public works facility.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-088 requesting concurrent detachment from Hopkins and annexation to Minnetonka. All voted “yes.” Motion carried.

B. Resolution approving a conditional use permit and final site and building plans for a storage facility at Hopkins West Junior High School at 3830 Baker Road.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-089 approving a conditional use permit for a storage facility at 3830 Baker Road. All voted “yes.” Motion carried.

C. Resolution approving a wetland rezoning to accommodate construction of that portion of the Southwest Light Rail Transit line located in the city of Minnetonka.

Allendorf moved, Acomb seconded a motion to adopt resolution 2016-090 removing area from the wetland overlay zoning district. All voted “yes.” Motion carried.

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

A. Items concerning LeCesse Apartments at 10101 Bren Road East:

1) Ordinance rezoning the property from I-1 to PUD;
2) Master development plan; and
3) Site and building plan review with parking variance.

City Planner Loren Gordon provided the staff report.

Wagner recalled a policy that expects 10 to 20 percent of units to be affordable for projects that propose a land-use change. He encouraged capturing stormwater and using it for irrigation of the site.

Wiersum expected affordable housing to be included in a project of this scope.

Acomb agreed with including an affordable housing component and considering a conservation easement to protect the green space.

Allendorf agreed with Acomb, but was open to creative recreational uses for the green space.

Schneider thought that the design is better than a previous proposal. Open space is great if it functions well and contributes to the overall character of the area. Another compatible use, such as a daycare, could work. He would be open to more alternatives than a conservation easement would provide.

Wagner moved, Allendorf seconded a motion to introduce the ordinance and refer it to the planning commission. All voted "yes." Motion carried.

B. Items concerning Ridgedale Corner Shoppes at 1801 Plymouth Road:

1) Major amendment to an existing master development plan;
2) Site and building plan review, with variances;
3) Conditional use permit; and
4) Preliminary and final plats.

Gordon provided the staff report.

Schneider suggested including the sidewalks on all of the graphics. He confirmed with Gordon that the same street lighting and intersection
treatment would be done at Cartway Lane and Plymouth Road to provide the same character.

Bergstedt was glad that the process is starting. He saw no reason to change the notification area since this would be consistent with what has always been done.

Wiersum stated that the applicant has been a good sport. The end result is a good plan. He appreciated the applicant listening to the council’s suggestions. Wagner concurred.

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

C. Ordinance amending the city code regarding floodplain districts.

Gordon provided the staff report.

Allendorf asked if residents could be grandfathered in to protect them from added insurance costs. Gordon explained that the city must adopt the Federal Emergency Management Agency’s (FEMA) map as presented. Residents will be notified as a courtesy. It is still the property owner’s decision to purchase flood insurance, although a change in the floodplain designation of a property may cause a mortgage lender to require additional insurance. Existing structures would be grandfathered as a nonconforming use. Wischnack added that the city must have the ordinance in place to allow residents to purchase flood insurance if they choose to do so.

Barone noted that the updated FEMA map will be included in the city council’s next review of the proposed ordinance.

Schneider stated that there is an appeal process through FEMA that residents could consider.

Gordon clarified that notification will be mailed to owners of properties that have increased in floodplain area. The letters will probably not address each specific circumstance, so meetings will be held with affected residents.

Wiersum moved, Acomb seconded a motion to introduce the ordinance and refer it to the planning commission. All voted “yes.” Motion carried.
13. Public Hearings:

A. Resolutions for special assessment of 2015-2016 projects.

Barone provided the staff report.

A public hearing was opened.

No one spoke.

The public hearing was closed.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-091 adopting special assessments for 2016 Nuisance Abatement Project No. 4894, one-year assessment term. All voted “yes.” Motion carried.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-092 adopting special assessments for 2016 Nuisance Abatement Project No. 4894, three-year assessment term. All voted “yes.” Motion carried.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-093 adopting special assessments for 2016 Nuisance Abatement Project No. 4894, five-year assessment term. All voted “yes.” Motion carried.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-094 adopting special assessments for 2016 Nuisance Abatement Project No. 4894, ten-year assessment term. All voted “yes.” Motion carried.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-095 adopting special assessments for 2016 Diseased Trees Project No. 4902, one-year assessment term. All voted “yes.” Motion carried.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-096 adopting special assessments for 2016 Diseased Trees Project No. 4902, three-year assessment term. All voted “yes.” Motion carried.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-097 adopting special assessments for 2016 Diseased Trees Project No. 4902, five-year assessment term. All voted “yes.” Motion carried.

Wagner moved, Allendorf seconded a motion to adopt resolution 2016-098 adopting special assessments for 2016 City Court Fines Project No. 1020, one-year assessment term. All voted “yes.” Motion carried.
B. **Resolution vacating sanitary sewer easements over 17300 County Road 101 and unaddressed parcel 08-117-22-33-0009.**

A public hearing was opened.

Tom Bakritges, of JMS Custom Homes, agreed with staff’s report. He was available for questions.

Acomb moved, Bergstedt seconded a motion to adopt resolution 2016-099 approving the vacation of the sanitary easements. All voted “yes.” Motion carried.

C. **Off-sale liquor license for Minnesota Fine Wine & Spirits, LLC, (DBA Total Wine) 1005 Plymouth Road.**

Community Development Director Julie Wischnack and traffic consultant Matt Pacyna, of SRF Consulting, provided the staff report.

Acomb asked if the traffic study considers the proposed use a regional or local draw. Pacyna clarified that the study assumes that the majority of trips would be local, but allows for some regional trips. There are other Total Wine stores in the region. Customer-count data was used to determine the amount of traffic that the site would generate.

Allendorf asked if the office-building owner would be amenable to moving the entrance from the north side to the southeast side as shown in Option B. Wischnack answered that the property recently sold and the new owner has not yet been identified.

Wagner stated that traffic counts and the internal-traffic pattern were a concern for him when he first learned of the location. Pacyna explained that the average number of trips per square foot was calculated for Total Wine stores located in the twin cities. That number was applied to a store with 13,500 square feet to provide the base number of trips for Scenario 1. Scenario 2 was based on a building with 23,000 square feet and Scenario 3 was based on a building with 33,000 square feet. Market conditions also impact the number of trips.

Wagner asked if during peak travel times some parking stalls would be unusable because of vehicles stacking. Pacyna looked at the overall demand for the site and estimated that there would be 50 to 60 extra parking stalls during peak travel times. The additional exit would prevent stacking of more than 3 or 4 vehicles at a time.
Edward Cooper, vice president of public affairs for Total Wine, applicant, stated that he appreciated the opportunity to speak. He reiterated what he told the council in July which is that Total Wine gives customers what they deserve: price, service, selection, and store experience. Total Wine has a record of being a responsible retailer to customers and employees. A Total Wine store has never been closed due to failing to get a license. The application meets all requirements. He listened when the city said it wanted no new liquor licenses in the Ridgedale-village area. He relied on the city’s independent parking and traffic study. The applicant supports Option B. The consumers in the west metropolitan area overwhelmingly support Total Wine coming to Minnetonka. He is consistently asked when a Total Wine will open in Minnetonka. He was available for questions.

The public hearing was continued.

Andrew Mullin, Wayzata resident and councilmember, stated that he identified the proposal’s issue to be public safety concerns in regard to traffic and the desired image of the city. He read from Policy 6.1 regarding the increase in the number of liquor outlets contributing to residents’ access to liquor and detracting from the desired image of the city. The council reserves the right to deny a liquor license even if the number of liquor licenses falls below 12. Mullin did not see Total Wine as an ordinary liquor store. It is a superstore. The business model is disruptive and hides behind advocating for the consumer while ignoring local practices in many states. He had concerns about the applicant and its business practices following local and state regulations for a controlled substance. He asked councilmembers to consider the traffic safety concerns and how Total Wine would relate to the city.

John Wolf, 825 East Lake Street, Minneapolis, stated that:

- Six and a half years ago he applied for a liquor license for a business called “Crazy Johnny’s." His license was denied because of an exclusion included in Policy 6.1. The changes to Policy 6.1 were done to prevent something like this license from happening.
- He questioned what assets Big Top Liquor is selling to Total Wine. It might make more sense if Total Wine would be located in Big Top Liquor’s location. What is being proposed is the same as what he proposed six and a half years ago.
- He questioned if this is a race to see who gets the liquor license if Big Top closes. He stated that a new liquor license application needs to meet one of three requirements: offer a distinctive, specialty service; be a complementary part of a business that would
add positively to the residents or workers in Minnetonka; or be part of a village center not currently being served.

- He guessed that Big Top may make $2 million per year. The average Total Wine store makes $20 million per year. The council may as well issue 10 liquor licenses instead of one.
- There is a build-out in the plans for 32,000 square feet. That would represent 41 percent of gross retail square footage of liquor businesses in Minnetonka. A store with 32,000 square feet would be Total Wine's largest store in Minnesota.
- There is no way that this should be considered or approved.

Bob Bertelsen, 13513 Larkin Drive, stated that:

- The application does not meet the criteria to obtain a liquor license.
- There are currently 13 liquor licenses in Minnetonka right now.
- The Ridgedale-village study promotes a variety of businesses.
- Target's liquor license was denied because the area is already served.

Ted Farrell, 12900 Wayzata Boulevard, president of Haskell's, stated that:

- Haskell's has operated in Minnetonka for over 40 years. He accepts competition with open arms.
- The traffic is a safety concern. The traffic counts in the study were completed July 7, 2016 and July 9, 2016 so traffic would be down those days. He hired SPAC to lay strips down to count traffic. Traffic increases at 10 a.m. and does not slow down until 6 p.m. It stays at 230 vehicles almost all day.
- Total Wine is all about volume and being big.
- Council denied Target's liquor license because it found that the County Road 101 and Highway 7 area was adequately served by liquor stores.
- Haskell's is within 1,200 feet of the proposed site.
- Total Wine is not unique, just big.

Chris Erickson, from Spasso and The Wine Shop located at 17523 Minnetonka Boulevard, stated that:

- He was nearly hit by another vehicle when exiting Wendy's on the way here. It is a dangerous corner.
- There should be full disclosure of the terms of the sale between Total Wine and Big Top Liquor to determine if a liquor license is being sold. Common sense dictates that a liquor license is being
sold. The process should be delayed until the terms of the sale are disclosed to the public.

- He looked at the property taxes for the wrong building the last time he spoke at the city council meeting. He estimated that the property taxes on the proposed parcel must be raised $94,000 a year or decrease the property taxes for Spasso and The Wine Shop $22,000 to "create a level playing field."

- He estimated that three local stores would be put out of business to provide an unfair tax advantage for a company from Bethesda, Maryland.

- The market is already saturated. There is not enough consumption to support the proposed store.

James Smisek, 400 Kenmar Circle, stated that:

- He has lived in the area for 14 years. The traffic in the area is already really congested. The proposed store would cause major problems, especially during Thanksgiving, New Years, and Christmas.

- The store would be a little too big for the space.

Jim Slattery, a Plymouth resident, read from a newspaper that stated that Total Wine was fined for pricing products in violation of Connecticut's minimum pricing law.

Tom Taylor, chair of the public policy committee for the Burnsville Chamber of Commerce, stated that:

- Burnsville went through a similar experience when Total Wine applied for a liquor license in Burnsville.

- The Burnsville City Council found no reason to turn down the application. Two years later, one of four liquor stores that opened just before Total Wine started operating closed.

- Total Wine has been a positive impact on the community. It has the ability to draw customers in from the region. The patrons shop at multiple places once in the area.

- The other liquor stores have adjusted.

- Total Wine has supported a number of non-profit organizations in a number of ways. He appreciates that.

John Johannson, of Welsh Companies located at 4350 Baker Road, clarified that he is the sole owner of the proposed property. He pays close to $5 per square foot in property taxes. He does not receive a subsidy. He is happy to be part of the community.
The public hearing was closed.

There was a short recess.

Schneider noted the additional letters and emails staff received after the agenda was distributed. There were 23 comments in support and 1 comment opposed to the proposal.

Allendorf asked about the timing of the traffic study. Pacyna said that SRF has studied the area numerous times over the years. The study set out to determine the amount of trips that the site is generating each day. The study was completed in July and provides a good, average, data point. He also looked at average daily traffic volumes published by the Minnesota Department of Transportation (MNDOT) to determine a true, average, daily, traffic condition. His findings were consistent with MNDOT’s findings, so he feels confident with the results.

Wagner confirmed with Heine that Total Wine challenged the lawfulness of the Connecticut statute that set a minimum price. Total Wine settled with the state.

Wiersum asked if Total Wine had been found guilty in Connecticut, then would the company have been qualified to obtain a liquor license in Minnesota. Heine stated that a conviction of the violation for which Total Wine was charged in Connecticut would constitute a significant violation of state law regulating the sale of alcoholic beverages.

Allendorf asked staff to explain the difference between 11 stand-alone liquor licenses and 14 liquor licenses. Wischnack explained that the 11 stand-alone liquor licenses refer to liquor stores that operate separately from another use such as a restaurant.

Wiersum questioned if the application should be tabled until Big Top Liquors would no longer have an operating liquor license. Wischnack stated that many factors go into determining whether Minnetonka issues a liquor license including the number of existing liquor stores, density, proximity, uniqueness, and geography. She noted that timing may also play a part.

Schneider confirmed with Heine that it would not be improper for the council to consider the 2017 liquor license application as it has been provided by Total Wine. The city council could table action on the application until all 2017 liquor applications would be considered.
Wagner saw the traffic challenges for the site. He liked Option B of the traffic report. He was comfortable with the traffic study since it took a conservative approach associated with a 31,000 square-foot store. The store could be a regional draw to the area. He was glad that counts from existing Total Wine stores had been used. His biggest concern with the proposal is safety from a traffic and internal traffic pattern standpoint. He strongly favored Option B which would provide a controlled, left-hand turn. That made him feel better about the site. The proposal might improve current conditions of the site. Burnsville found that Total Wine has solid policies and a record of preventing underage sales. The council purposefully chose not to include a proximity limit in the policy.

Wiersum agreed with Wagner's comments regarding the traffic study. It is a challenging site. The proposal would improve the traffic flow and he liked the three-way stop which would increase safety. He believes that Minnetonka is adequately served from a liquor perspective. Minnesota statutes state that cities of first class are limited to not more than one off-sale liquor license for each 5,000 of population. Minnetonka has 50,000 people, so he felt that 10 liquor stores would be appropriate. Total Wine's proposal of a 13,556 square-foot store would be a significant intensification of the liquor business in the city. Total Wine aspires to expand its size significantly. If Big Top would close and Total Wine would have a 33,000 square-foot store, then Total Wine would have 41 percent of the liquor store square footage in the city. The proposed store would be a regional draw. He questioned if the city's goal is to be a regional draw for liquor purchases or to adequately provide liquor for the residents which is occurring already. His preference would be to deny or table action until Big Top is closed and, at that time, consider the application.

Allendorf looked at the state requirements and read the administrative judge's review of the Burnsville application. He did not see a reason for people to call the applicant "big and bad." He empathized with Taylor's experience in Burnsville. It is similar to many people's reactions to new developments which are a change and can be scary, but usually work out pretty well. Total Wine is proposing a new business model for the city. He does think it fits in Policy 6.1. He has gotten a number of calls from stand-alone-liquor-store owners. He heard what they said. He is not legally allowed to vote "no" on something in an attempt to protect another business. Competition makes each business better. He supports granting the license.

Acomb stated that Policy 6.1 recognizes that off-sale establishments increase access to alcohol, contribute to public-safety concerns, and
detracts from the desired image of Minnetonka. It also provides broad discretion regarding the number of liquor licenses approved. She voted to deny Target’s liquor license because she felt that area was already adequately served, she had access concerns, and she did not like possible implications in regard to underage consumption. The traffic study did not take into account that the use would be a regional draw, so she felt skeptical about it. Other Total Wine locations have had police officers directing traffic. She did not want to create that type of situation. She felt that the Ridgedale area does have enough liquor stores and she has concerns with access and public safety issues, so she does not support the application.

Bergstedt appreciated the civility of the audience. The site is not ideal. He struggled to find a reason to deny the application. He would not approve the use in any other village center in the city. This would be a major regional draw for Minnetonka. The traffic study shows that at full buildout, the level of traffic service would not change. Total Wine is a disruptor and has been very successful. He took to heart Taylor’s comments with what happened in Burnsville. He did not see a valid, legal reason to deny the application.

Ellingson did not support the application. He agreed with Wiersum and Acomb. Minnetonka is adequately served by existing stores. He was concerned with public safety consequences of increased alcohol consumption and the public health aspects. He has been to the Total Wine in Bloomington and the parking lot was packed. He was a little skeptical of the traffic study.

Schneider stated that:

- He takes the responsibility of issuing a liquor license seriously. He wants to make decisions based on facts instead of emotion. The goal is to debate issues consistently, fairly, and reasonably to gain understanding.
- Total Wine has a different business model. The whole liquor industry is changing. The microbrewery scene has gone crazy in the twin cities. That increases beer consumption. For that industry to succeed, there will have to be outlets to sell specialty beers. He saw benefits to the large-format store. There is a large selection and educational aspect that no other store in Minnetonka has the capacity to accommodate. That adds an amenity that the city would not have without a large-format store.
- The Ridgedale area is a regional shopping center. The goal is to attract customers from the region. That is a positive goal.
The bottom line is that change is unsettling, but fighting against the direction that the liquor industry is going is somewhat counterproductive.

Total Wine has shown competence by not selling to underage patrons and having a successful business.

Denying the liquor license may be shortsighted. Hours of debate were spent before settling on the number of 12 liquor licenses and it still seems right. Total Wine representatives took that to heart and made sure that the city would not add a liquor license without subtracting one. That could be a condition of approval.

He supports approving the liquor license. The use would be a disruptor, but not, necessarily, a negative disruptor. The industry will evolve and change and this is part of the evolution of change. Minnetonka has a major regional center that could benefit from the amenity that Total Wine dispenses.

He has gotten several calls and emails from residents in support of the application.

Wagner considered Total Wine to be a regional draw and that was also included in the traffic study. Most residents he has talked to are excited about the application. The council has a serious duty to uphold public safety and traffic. Total Wine is a well-run company that is bringing innovation to the market.

Schneider agreed with Option B being the best traffic solution. He visits the site often and it is a challenge now. It is a poorly designed intersection. That would not be changed until a successful retail business is approved for that location and the intersection improvements would be made a condition of approval. Option B would be a big improvement.

Allendorf thanked Total Wine representatives for listening to councilmembers over the last couple years. Total Wine is a class operation.

Heine explained that approval of a liquor license requires five votes in favor of the motion to approve. A motion to deny the application would require four votes in favor of the motion to deny. The council could table action to allow additional time to consider the application or direct staff to prepare findings. A vote could be taken and Heine could prepare a statement of reasons for those councilmembers supporting denial of the application to review. Councilmembers could review the written findings and confirm their agreement with the findings or make their decision based on the record as it stands since they have articulated their reasons.
Barone suggested providing the applicant with an opportunity to speak. Schneider invited the applicant to comment.

Mark Jacobson, with Lindquist and Vennum, representing the applicant, stated that he preferred the council table action. Heine noted that Councilmember Bergstedt would be absent for the next regular city council meeting.

Allendorf agreed with Wagner that the reasons given opposing the application do not have much to do with Total Wine, but with beliefs. He did not know what the applicant or anyone else could say to change those beliefs.

Schneider chose to let councilmembers’ comments articulate the reasons why the vote to approve the liquor license failed.

Allendorf moved, Wagner seconded a motion to grant the liquor license contingent upon closure of Big Top Liquors at 19237 Ridgedale Drive. Improvements noted in Option B are required to be completed before issuance of the certificate of occupancy. Bergstedt, Wagner, Allendorf, and Schneider voted “yes.” Wiersum, Ellingson, and Acomb voted “no.” Motion failed.

14. Other Business:

A. Items concerning Eldorado Villas, located at 11901 Minnetonka Boulevard:

1) Major amendment to the Minnetonka Townhomes master development plan;
2) Final site and building plans; and
3) Preliminary and final plats.

Gordon provided the staff report.

Wagner was concerned that the homeowners’ association would be unintentionally burdened with costs that it would have no control over. That was not the intent in 2004. The intent was to develop the townhomes in conjunction with each other, not that one would subsidize the long-term plan. Gordon noted that the condition was included in the approval of 2004 and declarations. It is within the council’s prerogative to change or remove conditions.
David Carlson, 2249 Portico Green, applicant, stated that:

- He is trying to attract the empty-nest, one-level-living market. There would be an option for a loft upstairs, but all activities could be done on one level.
- He met with the neighbors and addressed their concerns. He is going to pay for the cost of removing the drive, replacing the drive with low-maintenance seed, and installing a boulder wall for the Big Willow Association.
- A class-five trail would be added to provide access to the mailboxes.
- The declaration amendment needs unanimous approval from the homeowners.
- He agreed to give the association control of who does the plowing.
- He would provide beautification, screening, and erosion control to prevent water damage by planting two 10-foot black spruce trees. The new access would eliminate a steep driveway and increase landscaping.
- He is doing the improvements without any cost to the association.

Gary Feldhege, 11909 Minnetonka Boulevard, stated that:

- He was speaking on behalf of the Big Willow Association. Residents of Big Willow wish to live in harmony with the neighbors.
- He agreed with Carlson’s statements.
- He would appreciate being permitted to use the current access until the new access is completed and paved. Residents want to keep a distance from the construction and unsafe conditions. If that is not possible, then residents would appreciate rock being laid down to allow access.
- Carlson stated that he will add two large trees. He asked that a few more trees be planted where a few trees would be removed to provide a buffer to the driveway.
- He was pleased with the path.
- He wanted to be assured that there would be an escrow to fund the improvements in case something should happen to the applicant.
- He appreciated councilmembers’ service to the community.

Karmen Nelson, 11895 Minnetonka Boulevard, stated that she is president of the Windmill Ridge Townhome Association. She was available for questions. She has no objection. The townhomes would be an attractive addition to the neighborhood. Carlson said that there would be no encroaching on the townhomes’ property.
Schneider reviewed the initial complications with the proposal. He commended the developer for working out all of the issues. It is the only way to do it fairly. He liked the idea of the trail. The applicant providing the boulder wall, path, and trees would be a pretty good deal for the townhome owners.

Wagner agreed that securing funds in an escrow for the improvements would be a good idea and could be worked out by staff with the applicant.

Schneider supported the agreements between the applicant and property owners being recorded.

Carlson explained that he needs the final plat approved and recorded before he can close on the property.

Schneider confirmed with Gordon that the preference would be to install a public hydrant. Gordon stated that if services would be able to be connected, then a public hydrant would be installed. The language in the resolution would provide for a public hydrant.

Schneider asked if it would be possible to make all private fire hydrants public. Gordon will research the possibility.

Schneider favored the city having an easement over the utilities. Gordon stated that staff would look into the feasibility.

Wagner suggested conducting a study session to review how some easements are issued, but never recorded by private parties. Gordon explained that now each project has a checklist of items that must be completed before the plat may be filed. After the plat is filed, then there is another list of things that must be completed before the building permit would be allowed to be issued.

Wagner moved, Wiersum seconded a motion to adopt ordinance 2016-10 approving a major amendment to the existing Minnetonka Townhomes master development plan. All voted “yes.” Motion carried.

Wagner moved, Wiersum seconded a motion to adopt resolution 2016-100 approving final site and building plans for the proposed townhomes. All voted “yes.” Motion carried.

Wagner moved, Wiersum seconded a motion to adopt resolution 2016-101 approving preliminary and final plats. All voted “yes.” Motion carried.
B. Items related to the 2017 preliminary tax levy:

2) Resolution setting a preliminary 2016 tax levy, collectible in 2017, for the Bassett Creek Watershed Management Tax District.

Barone provided the staff report.

Wiersum moved, Bergstedt seconded a motion to adopt resolution 2016-102 setting a preliminary 2016 tax levy, collectible in 2017, and preliminary 2017 budget. All voted “yes.” Motion carried.

Wiersum moved, Bergstedt seconded a motion to adopt resolution 2016-103 setting a preliminary 2016 tax levy, collectible in 2017, for the Bassett Creek Watershed Management Tax District. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Wiersum moved, Acomb seconded a motion to adjourn the meeting at 10:24 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

Lois T. Mason  
Deputy City Clerk