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

4. Approval of Agenda

Wiersum moved, seconded a motion to accept the agenda with the addenda adding a new item 14A, changing the previous item 14A to 14B, incorporating information from a change memo to item 14B. All voted “yes.” Motion carried.

5. Approval of Minutes: December 15, 2014 regular meeting

Wagner moved, Bergstedt seconded a motion to approve the December 15, 2014 regular meeting minutes. All voted “yes.” Motion carried.

6. Special Matters:

A. Citizens Lifesaving Award for Daniel Shaw

   Police Chief Jeff Sebenaler presented the award.

B. Citizens lifesaving awards for Adriene Luxford, Meagan Matrejek and Nathan Krogstad

   Sebenaler presented the award.

C. Recognition of Paul Lehman

   Schneider read the recognition and presented a wooden plaque to Lehman. Lehman thanked the council and staff. He said his service was as beneficial to him as it was to the community.
7. **Reports from City Manager & Council Members**

Barone reported on the schedule for upcoming council meetings. Schneider provided an update on a recent meeting related to the Southwest Light Rail's locally requested improvements. He also presented an update on the closed portion of the January 12, 2015 Study Session related to the city manager’s performance review.

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

No one appeared.

9. **Bids and Purchases:**

A. **Bids for diseased and miscellaneous tree maintenance and removal**

   Barone gave the staff report.

   Bergstedt moved, Wiersum seconded a motion to award the tree removal contract to YTS Companies LLC. All voted “yes.” Motion carried.

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

    A. **2015 general liability insurance and workers’ compensation renewals**

        Wiersum moved, Acomb seconded a motion to 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
        also authorize renewal of the LMCIT workers' compensation policy with a $10,000 deductible.

        All voted “yes.” Motion carried.

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

12. **Introduction of Ordinances:**

    A. **Ordinances amending various sections of city code pertaining to natural resources:**

        1) Tree Ordinance
        2) Wetland Ordinance
        3) Grading Ordinance
        4) Illicit Discharge Ordinance
City Planner Loren Gordon gave the staff report.

Bergstedt moved, Acomb seconded a motion to introduce the ordinances and refer them to the planning commission. All voted “yes.” Motion carried.

B. Ordinance amendment regarding snow removal restrictions

Barone, City Attorney Corrine Heine, and Public Works Director Brian Wagstrom gave the staff report.

Wagner said he appreciated staff bringing the item before the council. As the council discussed higher density and walkability in some of the village centers, the expectation was in the wintertime residents can walk those areas. Clarity on what the council expects of staff, residents, and business owners was pretty important. He said he provided information earlier in the day that there were parts of the ordinance and policy he felt needed clarification in terms of expectations. Part of this was the section on public sidewalks and the difference from an expectation standpoint with private sidewalks. He also felt the council should have a discussion at some point if it was the city’s or the property owner’s responsibility to plow the sidewalks. He thought it was important to get the ordinance and policy in place as soon as possible.

Wiersum said the proposed policy was a great start. He learned a lot and he felt it would help him better be able to objectively explain to residents the city’s process for plowing snow. His expectation has always been if residents have a sidewalk in front of their home it was their responsibility to clear it. Looking at the situation with County Roads 5 and 101 he would like to see the property owners step up and take responsibility for clearing the sidewalks. He thought this was worth discussing. He said as far as the mailbox policy he thought a dollar limit made sense.

Schneider said the council had placed a high priority for the village centers and Ridgedale area to provide pedestrian access and connectivity. This didn’t just mean the immediate sidewalks but being able to get to the areas. He thought if this was a priority for the city and residents there had to be a mechanism to make sure the sidewalks are plowed. He didn’t think the city needed to just rely on the general revenue tax base to do that. There were mechanisms associated with commercial areas where a special service district could be established. An assessment process would be put in place to allocate the costs. The advantage to this was the consistency, uniformity and predictability. People would know that after a snow fall they would be able to walk from point A to point B. As for mail boxes, he felt $200 was a reasonable limit. He noted in his private job he
worked with many communities and for most subdivisions residents did not get mail boxes but instead got a postal service gang mail box down the street. Minnetonka missed that wave. He was concerned if the postal service started requiring this, the city had many streets where it would be difficult to provide an area accessible to 30 different homes. He said this should be kept in mind in case the policy had to be amended.

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

13. Public Hearings:

A. Items concerning Legacy Oaks
   1) Resolution vacating an obsolete drainage and utility easement at 15501 Legacy Oaks Trail
   2) Resolution approving the final plat of LEGACY OAKS 2nd ADDITION

Gordon gave the staff report.

Schneider opened the public hearing at 7:20 p.m. No one spoke. He closed the public hearing at 7:20 p.m.

Wagner moved, Bergstedt seconded a motion to adopt Resolution No. 2015-006 vacating an obsolete drainage and utility easement at 15501 Legacy Oaks Trail. All voted “yes.” Motion carried.

Gordon gave the staff report.

Schneider opened the public hearing at 7:22 p.m. No one spoke. He closed the public hearing at 7:22 p.m.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2015-007 approving the final plat of LEGACY OAKS 2nd ADDITION. All voted “yes.” Motion carried.

14. Other Business:

A. Approving and amending a conditional use permit for a restaurant at 10982 Cedar Lake Road

Gordon gave the staff report.
Acomb asked how the monitoring of parking in March, June, and September would be conducted. Gordon said in addition of getting feedback from the businesses the parking consultant would do the same type of observation that was done for the parking study. Acomb said the look back was a great way to handle it.

Wagner noted the staff report indicated a deficit on the east side. People do not like to walk 400 feet in the winter to get to a restaurant. The staff report indicated a net deficit of 10 parking spots. There were other considerations that stated if for some reason the space adjacent to the Lone Spur was occupied it would be another eight spots. He asked if this meant a deficit of 18 or if it meant the deficit was really 10 depending on if the space was filled. He said the resolution was appropriate because the council indicated it felt the restaurant was a positive addition to the community. At the same time restaurants were a very difficult business. The ability for patrons to park was very important. He had concern with the idea the situation would be monitored for a period of time when the report indicated a shortage between 10 and 18 spots. There was a row of proof of parking that was not very obtrusive to the operation and he thought there should be strong consideration to make sure both businesses succeeded. This could mean looking at part of the proof of parking or the area with 35 spaces next to Cedar Lake Road be considered versus waiting until the fall when people might have bad experiences causing the two businesses to suffer. Gordon said the 18 spaces were included in the table in the staff report. It was a cumulative evaluation of what the space actually was. This meant the deficit was 10 spaces. Wischnack said the difficulty was figuring out what the normal use would be.

Wiersum noted the owner of Lone Spur felt there were too few data points in the parking study and the observation occurred during one of the coldest days of the year. Wiersum said with too few data points and restaurant business being down in the winter, and being down even further on one of the coldest days, the numbers likely were on the low side. This caused him concern and he said could agree with Wagner's comments about proof of parking. Wischnack agreed January was not the best time to measure the number of parking spaces.

Schneider said he agreed with Wagner and Wiersum that it was better to error on the safe side and have an additional 10-15 spaces. He said he was having difficulty supporting making that a condition of the permit. Wagner said he was not suggesting making it part of the permit and supported the item before the council to allow the Play and Learn Café to get up and running. He said according to the Lone Spur owner the peak time was in the May/June period. This meant there was time to deal with the parking issue. Schneider said it was common sense that the building
owner would want the businesses to be as viable as possible so they could pay the rent. If it were to be more profitable to add the additional spaces, he would be the first to be asking that be done. If the additional spaces were needed, even during peak times when the real margins are gained, it would be better if the city allowed the spaces rather than requiring the owner to prove the need. Wagner said he thought staff should be encouraged to proactively require that proof of parking be put in place. He was confused why the city would be hesitant when the study showed there was a problem.

Mark Ravich, owner of Lone Spur, said he did not have an objection to the Play and Learn Café going forward. The dispute was over the timing of the extra parking being discussed. It took many years to build the business and if the concerns were right and there was a parking problem, to have to wait 6-9 months for the study to be complete and construction of the spaces, the customers will go elsewhere and not come back. A mistake would cause irreparable damage to the business. The entire calculation of the parking study was from one data point on the coldest day of the year. He proposed the parking study be extended while the Play and Learn Café was being built. Just getting average data points would show the deficit would jump from 10 to 20, 30, or 40. He said a study was conducted of his customers, many of them repeat customers, who all indicated it was difficult to park. He wanted to be prepared to add the parking as soon as weather permits rather than waiting until the fall.

Chris Grote, from Lindquist & Vennum, said he represented the owner of the east buildings where the Play and Learn Café would be leasing space. He said the parties had a productive meeting earlier in the day and were committed to working through the cross parking easement issue within a 30 day period. There also appeared to be agreement that the condition should be removed from the permit to allow Play and Learn to proceed. His client supported getting the restaurant up and running while doing further evaluation of the parking. He said the consultant the city used was one of the best in the area and the council could feel comfortable with the study even with just one data point. The consultant likes to have 10 percent of the parking open to allow for better circulation. In this instance that added up to 18 spaces.

Ali Mishkee, general manager of Lone Spur, said he has 20 years of experience at the restaurant and the one issue that he and customers have identified was the lack of parking. When asked, his customers indicated they would not sit and wait for parking to open up if they could not find a space. A lack of parking would put a damper on the Lone Spur’s business. Most of his customers would not want to park in the back of the building and walk around to the front.
Wagner moved, Wiersum seconded a motion to adopt Resolution No. 2015-008 approving and amending a CUP for a restaurant at 10982 Cedar Lake Road.

Wagner said his recommendation would be not to wait until fall for staff to make a determination of proof of parking.

Wiersum said he would like to see all the parking figured out by Mother’s Day.

Wischnack said observations could occur during February, which was an important month; and May, if the Play and Learn Café was open. Staff believed there needed to be time for observation so September would be appropriate. When a business first opens there is a certain peak period of time that levels off. Based on the findings the property owners had to agree on the solution. She said part of the issue was no one had agreed to an actual solution. In order to get the parking in place there had to be an agreement between the property owners and tenants.

Schneider said it made good common sense that the landlord and both tenants would benefit from having the parking put in as soon as the weather permits. His direction to staff was to work with all the parties to enable the parking to occur as soon as possible. The city likes proof of parking to keep green space but in this case the parking was needed. Wagner said the proof of parking provision was from 1988 and the bottom line was if the city wanted the parking to be required there didn’t need the parties’ approval. He said he wanted two successful businesses.

Schneider said what he was saying was that the people who had the need should be the ones to figure it out and get it done. Wiersum said he understood the staff position about having enough information to make a recommendation. He said he would like to be in the position to take action on the proof of parking by the last council meeting in April. The city had the authority to require the proof of parking be built and this should be leveraged to get the parking done by the end of May if needed. He didn’t want to be wrong and damage a successful business because of process. He would rather be action oriented.

All voted “yes.” Motion carried.

B. Items concerning One Two One Development located at 14217 Stewart Lane
Gordon, Wischnack, and Heine gave the staff report.

Acomb asked for setback information of other R5 buildings in the city. Gordon showed slides of other R5 buildings in the city.

Julie Murray, vice president of sales, marketing, and business development for Ecumen and co-chief manager for One Two One Development, said this building was not a care driven senior community. There would not be staff present 24 hours a day. The residents would not be the same type of population who live across the street at the Glenn. The term was senior cooperative because it was for people 55 years old and up, but it would be the younger, active seniors looking for a maintenance free lifestyle who would be living in the facility. Ecumen’s need driven facilities typically are for people 84 years old or older. She said the team has listened to people in the community and wanted to be a good neighbor. They have done everything possible to make the project something positive for the community but it had to be financially feasible.

Tim Nichols from Lifestyle Communities, said One Two One had identified a huge demand in the growing empty nester population. These are the people who would be served by the development. The proposal would allow people who want to stay in the community to do so. This would also allow other people to move into the homes sold by the people who would move into the cooperative. He said One Two One looked at itself as life cycle housing developers. The site was a tremendous site. The proposal was largely consistent with the prior application from the prior developer. The neighborhood had been listened to which resulted in elements of the building to be brought in tighter. Numerous configurations were considered and the number of units were reduced from 60 to 54. Four units would be affordable. One concern with the townhome owners was the location of the path. Nichols said One Two One was fine with either path choice. Because it was so important to the townhome owners he endorsed building a path to the west even though the path would need steps and would cost more.

Link Wilson, the project architect, said at the last planning commission meeting there were a lot of comments about mass and density and that the building appeared large. Since the summer brick and metal and screened in porches were added to address concerns that people would be looking out from their decks. The number of units also went down to 54. There was an 11 inch height different to what was previously approved. He said this was somewhat deceptive because what was previously approved had an additional story that was exposed to everyone who viewed it from the lakeside.
Wiersum asked for more information about how cooperatives worked and how they were different from condominiums. Dena Meyer, from One Two One Development and Ecumen, said she has marketed between 500-600 cooperative units throughout the Twin Cities in the past 20 years. She said for this project there were 54 residences equating to 54 shares in the corporation. All the people who move into the cooperative will own a share and will own the building. The residents are governed by an elected board of directors. Unlike a condo, the residents do not get a deed. A cooperative gives people the option of paying less than they would in a condominium situation. For this development a share would range from $45,000 to $150,000. There also is an ongoing monthly carrying charge. The value of the units range from $200,000 to $450,000.

Wiersum said for a person who buys a share at $45,000 for a $200,000 unit there was a difference of $155,000. He asked how this difference was paid for. Meyer said there was a 40 year fixed master mortgage for all the units. A resident chooses how much they want to buy into that mortgage. The difference in the monthly carrying charge is determined by how much the person buys into the mortgage. The monthly carrying charge covers a portion of the mortgage and includes property taxes, basic utilities, and required reserves. The reserve is required by HUD for future exterior and interior replacements. Schneider noted the board could hire a manager to maintain the property. Meyer said that was correct. Part of the carrying charge goes toward building management. Ecumen would be the onsite management for this proposal. One Two One would serve as the interim board for the first year.

Jim Zachman, 14194 Glen Lake Drive, provided historical information about FHA and HUD and the Pruitt Igoe housing project in St. Louis, Missouri. He said he was worried about the tax increment financing for this project. He noted the project started out with two phases, each with an affordable housing component. Both phases were successfully completed. Things did not go as originally planned and a third property was added. He said the site was needed to produce the tax increment financing. After the economy worsened there was a seven year extension granted for the collection of the TIF money. He said this was one of the ways TIF gets abused and the federal government no longer allowed the bonds to be sold with tax deductibility. There are now lots of restrictions that help ensure TIF money is used for what was planned. The $3 million is paid for by the people outside the TIF district. He said in 2010 it wasn’t necessary for Kinsel Point to be developed. The money was available through the additional seven years. The neighborhood wanted to see phase three completed but this was a great opportunity to lower the density and to achieve the original goal for the site- to increase the mixture of people who live in the area. This could still be achieved by lowering the density. He
suggested putting the property up for sale to get the proper development. There were options to bring things back within the scope of what TIF was designed to do.

Jim Stroebel said he lived in the condos adjacent to the property. The condos were one of the few properties in area that met the setback requirements. He questioned why the city had setback requirements if they were waived every time someone wanted to make an investment in the community. An argument had been made that this development would allow residents to remain in the city while opening up other housing for families to move into Minnetonka. A sample of residents who live in Glen Lake Shores showed that 10 percent, or three residents, moved in from other areas of the city. He questioned where the numbers that were used for this development had come from. He said the architect had compared this development with St. Therese and the Glenn. The building’s mass was not compared to the immediately adjacent property. Compared with the townhomes and condos, the development was massive and did not fit in. There were ways to access the park already and if staff was concerned about the accessibility of the path, looking at the east side was an option. He said at the planning commission hearing a comment was made that something was better than nothing. He found this appalling. The project had been around for eight years and needed to go away. He said the city was not looking at the project’s merits or if it met the goals of what the whole revitalization project was for in the first place. Instead what was being done was increasing the number of senior residents in the area. More than 50 percent of the senior housing in the city was in this area.

Carol Seiler, 4811 Spring Circle, said she and her husband live in a three story townhome and were looking for single level living. She had been searching for around six months. She wants to stay in Minnetonka but hadn’t found anything that would work until she went to an information meeting for this project. She asked the council to give careful consideration to the proposal because there were many residents in the city interested in the project.

Grace Sheely, 14325 Grenier Road, said she was disappointed to hear the legal opinion offered about the contract. When the contract had come up for renewal council was told it needed to be approved because the city could not have a contract that was out of compliance. She was told a proposal would go back through the planning process for review and none of the previous plans still existed. She thought this proposal would get a reasonable planning and council review because it was a new project. She didn’t see that happening and questioned if the legal advice had changed over the years. She noted the contract specified 45 units were to be built and they were to be high end condos. The city planner had indicated this
proposal was similar to what was approved in 2006. She said the 2006 approval was for single mortgage deed homes and not cooperative living. In 2006 there were no age restrictions and this proposal was for people 55 years old and older. The 2006 approval was for homes with a half million dollar value as opposed to a quarter million dollar value. The parking used to be 124 spaces and now was 93 spaces. The setbacks used to be 100 feet and now they were 76 feet. The height used to be 68 feet and now was around 57 feet. The number of units used to be 45 and now was 54. She said the number of units was important because affordability had been removed from the project. Site A was supposed to be 100 mid-priced condominiums but was now 150 senior living memory care units. Site B was supposed to be 32 condominiums and now was 52 apartments. The TIF district was different.

Sheely said in 2006 the city planner indicated if site C was looked at by itself it would be looked at differently. The changes to site A and B would not be all that different from the criteria in the guide plan. The changes to site C would be more dramatic. She said the building was too massive and large back then and still was. She questioned why variances should be granted for the proposal when half of the building was in the setbacks. This was not done for the neighboring properties. Given the setbacks for the property the building should be two stories. She provided information showing all the senior housing in Glen Lake. She asked the parking rules be fixed and put into the code. She said residents did not understand why setbacks rules were changed for developers but not residents. She suggested waiting until April and then redoing the contract.

Jean Maurice Ansolabehere, 14908 Glendale Street, said years back he used to walk his dog down Stewart Lane. On one property there were a half dozen junky cars. Another property had the power grid that was not fenced in like it is now. There was also a body shop in the area. Further down was a building that housed Al-Anon and the Gold Nugget that had outdoor tables. The council at the time decided to try to improve the area. He supported moving forward with the project.

Keith Weigel, 14209 Glen Lake Drive, said if the proposal was looked at as just a land transaction it did not warrant the variances. He noted the applicant said the city should be happy after a failed project to have this proposal. This would indicate the applicant viewed it as a different project. If the property was zoned correctly there would be no variances. Given the condemnation Weigel asked if the property would be transferred to the applicant or if it would go through the redeveloper since the redeveloper was the one who gave all the reasons why the property was taken from another developer. He asked the applicant what kind corporate policy they had in regard to using eminent domain for residential property. He said
contracts are not one way streets where one party dictates the terms. He was thankful the planning commission said the building was too big. The building did not conform to the neighborhood because it didn't conform to R3 townhomes. He suggested the city do not do piece meal planning in the area.

Ann Flanagan, 15024 Cherry Lane, said she had lived in her home since 1967 and had seen the city go from five and 10 acre lots to half acre lots. This was hard but she didn't want to go back to the days of separate septic systems and wells. If she moved she did not want to move into a retirement community. When she first heard about the project she was very skeptical. She attended several meetings and thought the overall design was much improved over what was previously approved. The flat roof flattened the profile. She said the cooperative was for healthy vital residents. She agreed there were other things that would be better for the site, like a park, but she didn't think that would happen. While not perfect there had been a lot of thought that had gone into the proposal.

Dan Shannon, 5501 Dickson Road, thanked the applicant for all the work that was done. He was against the proposal. There were other places available for people looking for single level living. He said if the proposal was approved, Stewart Lane would need to be updated. It was dangerous now and adding additional traffic would make it worse.

Jeff Schultenover, 13424 Maywood Curve, said he walks the area often and since the slopes and the grade was a consideration for the path on the west side of the property, he measured the slopes on the east side of Kinsel Park, Kinsel Road and North Street. Currently the area has a paved path and at its steepest point for a run of 65 feet the grade is 21 percent. On the west side of the property the steepest location is 18 percent slope for a run of 50 feet. This would indicate that the argument the path could not be built on the west side was not valid. He asked if a drawing could be created to show a building that would fit on the site without any variances.

Melissa Pilney, 5524 Mayview Road, said she was never notified of any neighborhood meetings about the proposal even though she would have to look at the building all the time. She felt the building was too big and was concerned about the precedent being set.

Randall Neal, 14203 Glen Lake Drive, said everybody agreed the location was a beautiful setting. He was not happy with any of the massive projects that had been proposed. The ideal would be an extension of Kinsel Park. High end condos were preferable. A smaller footprint was preferable. He said it appeared the direction the city was headed was that something would happen on the site and it would have some size to it. He fully
agreed that the west side was the ideal setting for the path. He said since it appeared something big would be built on the property, he reluctantly agreed the proposal might be the best option.

Schneider called a recess at 10:03 p.m. He called the meeting back to order at 10:15 p.m.

Joe Herzog, 5538 Mayview Road, noted there were no comments at the meeting from anyone who wants the development. He said if this project were approved the next one would be bigger. By giving into this the developer would be using part of the easement and would be closer to the park. The contract was good until June. Denying the proposal would give time to clean up the language. He noted the proposal for 54 units was 20 percent bigger than the 45 that were previously approved and there was no reason to approve such a big building.

Wischnack said the city had a signed redevelopment contract that covered all the tax increment provisions. The construction date in the revised contract is September 30, 2015 with an opening date of December 31, 2016. She noted that a lot of the comments indicated a belief that there was a lot of money to be made on the development. She said there was a little misunderstanding about this because there was a look back provision in the contract that was a methodology where the city will look at the properties sold and how it came back through the development and the qualified costs. Did the developer make a certain threshold of money according to the TIF contract? If there was too much money made by the developer, and she didn’t believe there was according to the contract, then the city could withhold the tax increment from the TIF note. This was the safety net to prevent the developer from making a large amount of money on the development.

Wiersum said looking at the history of the property, it was pretty clear something would be built. He shared the concerns about the setbacks. He questioned what a building would look like that met the setback requirements. Gordon displayed information about the buildable area. A building with one less story than the proposed building would have a setback of 61 ½ feet from the north and west property lines. This would be a conforming 41 foot tall building. Wiersum asked if there would be any buildable area left if the building had 100 foot setbacks. Gordon displayed information showing a 96 foot tall eight story building that would have a 100 foot setback. Wilson noted there was an unlimited height for the building as long as it conformed to R5 standards. He said it was possible to build a 20 story building that would cast a lot of shadows but would meet the setback requirements. Acomb noted the contract provided for only 45 units. Heine said that provision was for the tax increment
financing. Wilson said the proposal was not for a 20 story building and was not any part of anyone’s thinking. It was information that was put together as an exercise for what another developer could do on the site.

Ellingson noted that for what was previously approved, most of the building was outside the buildable area. If that was what was proposed now for the first time it would not be approved. He said the council made a mistake nine years ago with its approval. The question was how to correct the mistake. A couple of council members indicated that it was difficult envisioning how big the St. Therese building would be until it was built and regretted their votes on that development. He said everybody knew what was being proposed was too big for this site. Half of the building would be outside the buildable area. He said it wasn’t realistic to not grant some variances because of the shape of the lot, but a shorter building could fit on to the site. He agreed with the city attorney’s opinion that the council had some discretion about the setbacks but were limited by past actions. Several changes were being made to the development agreement and the council had to use its best efforts to approve something. He thought for the council to exercise its best efforts it should negotiate the setback requirements and the size of the building in the context of the development agreement since there were other things being changed in the contract. This was the way to correct the mistake that was made. He said this was the most somber discussion he could remember and it reflected the depth of feeling people had. The city was obligated to honor the development agreement but it was also obligated to the residents to get a good project.

Wiersum said the 2006 project was part of a package. There were pros and cons to what happened with the Glen Lake redevelopment. Meaningful blight was eliminated. Viable buildings were built. The Gold Nugget reopened. A nice grocery store did well for a while. The city got a lot of things that were hoped for but a lot of things did not happen. The Exchange was supposed to be condominiums but ended up being nice apartments. The Glenn was a nice building but it was a big building. What was being proposed was not a small building but would be the smallest of the three on the most sensitive site. He said the Glen Lake redevelopment did not go the way anyone expected it to. The challenge was he did not get to design a building he would like but he had to say yes or no to what was before the council. If the council approved the proposal it knew what would be built. If it voted no then it would not be known what would be built and when it would be built. The council was elected to vote yes or no while considering the community values and do the best job possible. He thought the proposed building was decent and the setbacks had been improved. Even though the buildable area was larger, the building was smaller. It was a challenging site that would always require variances.
Wagner said he reviewed his comments from 2006. He said the discussion was all about the package. There was blight that needed to be addressed and the city wanted affordable housing and a grocery store. Everyone struggled with site C and people wanted to a mix up the content of the residential mix in Glen Lake from where it was at the time. He agreed with Sheely that everything changed. Nothing that was originally approved is what is occurring in Glen Lake today. Some of this had to happen rather than have three properties sitting doing nothing. The dilemma is if this proposal aligns with the broader package and what options the council had. It was up to the council to gauge the risk with the contract. He said the proposed product was valued by residents who were looking for alternatives. At the same time, the council had to recognize the variances were some of the biggest that would be approved. He said this was one of the most perplexing discussions the council has had in a while because things had changed so much from the original intent. His biggest concern was that even though the situation changed the council had to decide if the proposal fit with the original intent.

Acomb said since she wasn’t on the council in 2006 there were a lot of sentiment expressed that she wasn’t a part of. Still the emails, phone calls and conversations she has had showed there was a lot of passion. She said the redevelopers did a good job at providing opportunities for the community to be a part of the conversation and being open to concerns. From the beginning her concerns have been about the setbacks and with them not being consistent with the rest of the R5 properties in Glen Lake. She thought the product was a great product and there were people in the community who desired it. She was concerned about the effect of the product on this site.

Bergstedt said he also was not part of the council when the original approval was made. It was and remains a very controversial decision. If there was no previous history with the site and this project was before the council on its own merits, most would agree it was too big and the setbacks needed to be decreased. The proposal before the council was very similar to what was previously approved. He didn’t see the change from condominiums to a senior cooperative as a real ownership difference. The demographics of who would live in the cooperative is similar to who would have lived in the condominiums. He didn’t consider this proposal to be like the Glenn or other senior housing. This was for active people who wanted to remain in the community. He said the developer had a stellar record and had done a good job in trying to work with the neighbors. This made it difficult in that a better developer likely would not come forward. The site had sat vacant for nine years. If there were a number of developers waiting in line proposing high end
townhomes that may shade things differently. This was the first viable proposal that had come before the council. It was a big building and there was an attempt to balance a fragile site with the surrounding residences and something that would be an asset to the community. Reducing the number of units was not realistic because the building had to be economically feasible to work.

Schneider said everyone knew this was a challenging site that had been dealt with for many years. The first approval process was not easy and the current process had not been easy either. The city had entered into a binding contract through the TIF agreement that said the city would use its best efforts to facilitate a development as part of a package. Parameters were established as part of the approved site plan that was part of the package. For him best efforts included the height, the look, the trail access, and the setbacks that were stipulated in the site plan. Physically the proposed building fit within the envelope. There were some changes from the original approval and the changes had to be evaluated to determine if they were a plus or a minus. He said for the original approval the council wanted home ownership, not necessarily condos, with some higher values to make the TIF and the rest of the development work. This proposal was for home ownership in a different format. There was a change in the number of units from 45 to 54 but during the process all of the affordable housing had been transferred to the Glenn. The developer was willing to add four affordable units. This was a plus. An even bigger plus was rather than having condos selling for three quarter of a million dollars or more, there now would be a few more units in the same footprint with much more diversity of pricing options. The condos may have generated more value but they could also lose value significantly. Traditionally cooperatives have been more stable. He viewed the change in the number of units as a net plus. Because of the new design the building would look less massive when viewed from the lake. He said he did not disagree about the comments about the Glenn being too big but if the residents who lived there were asked now, they would be highly supportive of their residence.

Wiersum said the Glen Lake redevelopment had a significant impact on the history of the city. He said the development contract was not an insignificant issue. It was prudent to avoid lawsuits. He agreed the building was improved and this proposal was for home ownership. He had not been in a meeting where people were asking for more expensive housing. The demand for one level housing in the city was great.

Acomb said she also compared the pros and cons. She identified a lot fewer pros for the community than cons. She agreed the product was good and was needed in the community. Her concern was the impact on
the site. She walked the area where the trail would be and it was very crowded from the building location and the neighbors. She said while the proposal was improved, it still wasn’t quite good enough. The site and community deserved a little bit better. Having fifty percent to the building in the setbacks felt too great for her to support.

Bergstedt said given the emotional history he was impressed by everyone who contacted him and spoke on the item. He said people were respectful and worked to become educated and well informed on the issues. He supported the proposal because of the contract the city had entered into. The city attorney advised that if a developer came forward with a similar project to what was previously approved, the council would be hard pressed to legally deny it. The proposal came from a high quality developer with a great track record and was a product that likely would be a very popular product in the city. He said decisions should not be based just on potential legal issues, but in this case it was a major part of his decision. It was a big building and he wished it was smaller but he was supportive because he truly felt the council gave its best efforts to help improve the proposal. This was an important parcel but there were several other nearby parcels that would be redeveloped in the near future. He hoped a timely process would be determined on how the city along with the residents could best figure out how to redevelop the area. The worst thing that could happen would be to make independent decisions on parcels on a piece meal basis.

Wagner said as he reviewed the history he was reminded that one of the things that was supposed to happen with site A was mid-priced affordable housing that was lacking. He agreed with Bergstedt’s comments about not wanting to make a decision based on potential legal action but at the same time there was a risk. It definitely was a consideration in his decision making on the proposal. Even though there was little neighborhood support for the project, a protracted legal process would not allow healing to occur. He thought there was some value being gained that wasn’t previously a part of site C with the additional affordable housing. He leaned toward supporting the development but some of the elements like the trail gave him some pause. He thought it was reasonable to have a further discussion about the trail.

Acomb said there had been a few comments about the contract and in some ways it felt like the council was picking and choosing the things it wanted to stick to in the contract. The contract specified 45 units and that number was being changed. She felt if the council decided to stick to the contract, the contract should strictly be followed. If not, there were other provisions that could be adjusted like the setbacks. She didn’t want the city to be sued but there were other provisions that could be discussed.
Schneider said there was a previous discussion about the number of units. The number had been changed to make the building slightly smaller. The importance of the 45 units was the value that was needed to factor into the overall TIF subsidy. He said the important thing was getting the same sized building that was previously approved and if the same projected value was there to make the TIF work. Wischnack agreed with Schneider’s comments about the unit count. She said the value of unit was definitely less. The unit sale price was much lower than what was anticipated in 2006. There would be around $900,000 of tax increment over the life of the district that this portion would create based on around $8 million in construction. Schneider noted the staff report indicated the numbers were adequate to pay off the note. The goal had always been to only collect the TIF needed to pay back the city. Wischnack said the pay back had improved with a smaller project. This was due to the value increases that happened with the other parts of the project that did better than expected. Schneider said a specific component of the previous approval was a site plan with specific criteria that included building shape, height, volume, and the setbacks. If the general intent was met, no matter how many units, it would be difficult to say there was a substantial deviation from the original agreement.

Wagner said there was not a substantial difference to what was previously approved. The difficulty was because it was so far removed from the rest that was built, it felt worse. He was supportive after weighing the risks involved and the incremental improvements. He suggested the council discuss the trail.

City Engineer Lee Gustafson said a project engineer did an analysis and based on the grades the trail would work better where it was proposed. Wischnack said staff recommended the trail location on the north side to avoid having a multitude of stairways that would be needed if the trail was located on the west side. Gustafson said he did not see a way snow removal would work and how things would fit if the trail was on the west side.

Schneider said he was ambivalent about the location as long as there was a trail. He understood the preference of the owners of the townhomes of not having a trail right outside their window. The reality was the townhome owners would not be able to see people on the trail because the trail would be quite a ways below their homes and because of the retaining walls. The area was confined compared to the west area but with good landscaping the area could be made into a pleasant trail. He agreed with staff that the trail would be less impactful where proposed.
Acomb asked who would be responsible for removing snow from the trail. Gordon said the trail would be for public use. There would be a maintenance agreement and the owners would be responsible for snow removal. Wischnack said it would be the same arrangement that was made for the Tonka on the Creek development.

Wiersum questioned if the developer would be responsible for building the trail. He said the developer had indicated a willingness to come up with a trail that worked best for the site and the neighbors. He didn't doubt what Gustafson said about the trail location but suggested the developer look at both locations. Schneider said he interpreted the developer's comments to be that they could make both locations work but the preference was to locate the trail on the north location.

Wiersum moved, Bergstedt seconded a motion to:
1) Adopt Resolution No. 2015-009 approving final site and building plans and associated variances for One Two One Development at 14217 and 14301 Stewart Lane.
2) Adopt Resolution No. 2015-010 approving a Third Amendment to the Second Amended Contract for Private Redevelopment between the economic development authority, the city and Glen Lake Redevelopment LLC with the changes included in the staff change memo.

Ellingson asked why the price of the land was specified in the amendment to the contract. Wischnack said there was a reference in schedule H of the original contract to acquisition and purchase numbers. Ellingson asked the reason the price was included. Wischnack said it was related to the TIF look back provision. The original contract anticipated certain dollar amounts in land acquisition. The higher amount of repayment for the land, the more profit there was, the lower the increment. There was a ceiling for the amount of profit from the land sale. This was a protection element.

Ellingson asked if the number reflected the sale price for the land in the purchase agreement. Wischnack said to her knowledge the answer was no. This was a question for the developer. Ellingson said the developer would have to buy the land for at least that amount of money. Wischnack said her information indicated the number was lower than the amount actually being paid.

Wiersum, Bergstedt, Wagner, and Schneider voted “yes.” Ellingson and Acomb voted “no.” Motion carried.

15. Appointments and Reappointments:
A. Appointment

Wagner moved, Bergstedt seconded a motion to approve the following appointments and reappointments to the Minnetonka Boards, Commissions and Committees:

- Chris Gabler, to the park board, to serve a two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Deborah Calvert, to the planning commission, to serve a two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Kathryn Aanenson, to the EDAC, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Benita Bjorgo, to the EDAC, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Ken Isaacson, to the EDAC, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Nelson Evenrud, to the park board, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Peggy Kvam, to the park board, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Elise Raarup, to the park board, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Brian Kirk, to the planning commission, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Heather Odiand, to the planning commission, to serve another two-year term, effective February 1, 2015 and expiring on January 31, 2017.
- Kathryn Aanenson as chair and Ken Isaacson as vice chair for the EDAC for 2015.

All voted “yes.” Motion carried.

16. Adjournment

Wagner moved, Wiersum seconded a motion to adjourn the meeting at 11:31 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk