Minutes
Minnetonka City Council
Monday, May 22, 2017

1. Call to Order

Mayor Terry Schneider called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Bergstedt moved, Acomb seconded a motion to accept the agenda with an addendum to item 13C. All voted “yes.” Motion carried.

5. Approval of Minutes: April 24 and May 1, 2017 regular council meetings

Acomb moved, Bergstedt seconded a motion to approve the April 24, 2017 meeting minutes, as presented. Acomb, Wiersum, Bergstedt, Wagner, Ellingson, and Schneider voted “yes.” Allendorf abstained. Motion carried.

Acomb moved, Bergstedt seconded a motion to approve the May 1, 2017 meeting minutes, as presented. All voted “yes.” Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming city events and council meetings.

Schneider said that it appeared that the provisions that would have ended the Southwest Light Rail have been removed from the bills still being negotiated at the legislature.

8. Citizens Wishing to Discuss Matters not on the Agenda

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

A. Resolution approving agreement with MnDOT

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-048 authorizing a master partnership contract with the Minnesota Department of Transportation. All voted “yes.” Motion carried.

B. Resolution approving a conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road

Allendorf moved, Acomb seconded a motion to adopt resolution 2017-049 approving a conditional use permit for an eight-resident licensed residential care facility at 5531 Eden Prairie Road. All voted “yes.” Motion carried.

C. Request for temporary banners at Destiny Hill Church at 13207 Lake Street Extension

Allendorf moved, Acomb seconded a motion to approve sign permit for display of temporary signage at 13207 Lake Street Extension for the “Grand Opening.” Approval subject to the following conditions: (1) temporary signage must not exceed 35 square feet in total area; (2) temporary signage must be setback at least 10 feet from all property lines and cannot be located within any right-of-way; and (3) temporary signage may be displayed for up to 45 days for the event. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Items concerning implementation of a SAC/REC deferral program:

1) Resolution amending Council Policy No. 12.4 regarding Sanitary Sewer and Water Connection Fees and adopting Council Policy No. 12.10 regarding Met Council Sewer Availability Charge and City Residential Equivalency Charge Payment Deferral Program

2) Master SAC Deferral Agreement with Metropolitan Council

3) Introduce the ordinance amending city code

Community Development Director Julie Wischnack gave the staff report.
Wagner said the staff report indicated that if someone decides four years into a five-year assessment that their business no longer can handle it, the city wouldn’t be charged the additional deferral charges. He asked if he had understood that correctly. Wischnack confirmed that was correct.

Schneider said this was a fairly creative program that had probably been underutilized. He has seen many two or three people businesses that thought they had a good business idea only to find they owed a $35,000 fee. This can really kill a project.

Wiersum moved, Wagner seconded a motion to adopt resolution 2017-050 amending Council Policy No. 12.4 regarding Sanitary Sewer and Water Connection Fees and adopting Council policy No. 12.10 regarding Met Council Sewer Availability Charge and City Residential Equivalency Charge Payment Deferral Program; and to approve the master SAC Deferral Agreement with Metropolitan Council; and to introduce an amending Section 1200.025, subdivision 1 of the Minnetonka City Code. All voted “yes.” Motion carried.

13. Public Hearings:

A. Temporary on-sale liquor license for The Rotary Club of Minnetonka Foundation, 14600 Minnetonka Blvd.

Barone gave the staff report.

Chris Rosenlund from the Minnetonka Rotary Club said the license was being requested to run the beer concession at Summerfest. Funds will go into the foundation.

Schneider opened the public hearing at 6:45 p.m. No one spoke. He closed the public hearing at 6:45 p.m.

Acomb moved, Wiersum seconded a motion to grant the temporary liquor license in connection with a fundraising event for The Rotary Club of Minnetonka Foundation. All voted “yes.” Motion carried.

B. On-sale Wine and On-sale 3.2% Malt Beverage liquor licenses for Greenfield Farm + Vine, Inc., DBA Farm + Vine at 1700 Plymouth Road

Barone gave the staff report.

Schneider opened the public hearing at 6:47 p.m.
Doug Sams, the applicant, said his attorney had advised setting up a separate corporate entity for the business.

Schneider closed the public hearing at 6:47 p.m.

Wagner moved, Bergstedt seconded a motion to continue the public hearing to June 26, 2017. All voted “yes.” Motion carried.

C. Off-sale liquor licenses for Target Corporation, 4848 Co Rd 101

Wischnack gave the staff report.

Jason Fremstad, senior director of adult beverages for Target Corporation, said the plans to add a liquor store to the location were part of Target’s philosophy to deliver a convenient, affordable, one-stop shopping experience for their guests. Focus groups and research have delivered a loud and clear message that their guests want the convenience and affordability of being able to buy their adult beverages while on their Target run. He said over the past year, Target has learned that close to 70 percent of their adult guests purchase adult beverages somewhere. What has changed since the 2015 application was Target recently announced plans to invest $7 billion into the business over the next three years. Much of that for store remodels to meet changing consumer demands in a new era of retail. He said Target's alcohol business was established and growing across the country. There are seven locations in Minnesota that sell wine and spirits. There have been zero violations of selling 3.2 beer to minors at the Minnetonka location. Statewide there have been no violations anywhere since 2008. He said Target has been a proud member of Minnetonka for over 35 years.

Linda Roslansky, 431 Trapline Lane, Chanhassen, said she was a parent and volunteer in the Minnetonka School District, serves on the Tonka Cares Coalition and was an advocate for at risk kids. There already were liquor stores within two miles from the high school. Studies show that close proximity of liquor stores to schools was a known risk factor for youth consumption. Keeping kids safe and healthy was more important that convenience for adult consumers.

Schneider closed the public hearing at 6:57 p.m.

Bergstedt noted the Target location was in his ward and when it was previously before the council, he supported granting the license. He thought it provided a complimentary service. It is a difficult time for brick and mortar retail businesses. Target has been a great neighbor for a long time. When he visits other states, adult beverages are available for
purchase in grocery stores 24/7. He didn’t think there was anything revolutionary about Target’s request. He thought their liquor store would be a nice addition.

Wagner said he also supported granting the license. He noted he and the mayor voted against granting the license the last time because it was clear there were not the necessary votes in support. His comments that meeting centered around believing convenience was important for residents and Target had shown they were a responsible retailer with only selling to legal age purchasers. He said because they already had a license to sell 3.2 beer, technically one could make the argument the city wasn’t adding a full license but was adding a partial license. He received emails indicating extra stops made it difficult for parents with young children. He didn’t think granting the license was out of bounds for a responsible retailer in a 2,500 square foot location. The request fell within the council’s policy.

Wiersum said he visited Target’s Chaska liquor store. It probably was the nicest liquor store he has ever been in. He was convinced Target was a quality retailer and he valued having them in the community. He appreciated all they do in the community and that they are a Minnesota corporation. He has long held that this area and the city are already well served. He didn’t see much difference between this application and the last one. His vote and his attitude toward it were the same. With Total Wine coming to the city the number of liquor stores was decreased by one but the total square footage of all the stores combined increased by 20 percent. He preferred to wait to see the impact of that increase. He has long held that increased access led to increased consumption and he thought the argument about the proximity of the proposed store with the high school had some merit.

Allendorf said the last time the proposal came before the council he made the comment that he hadn’t seen any application that fit the council policy more closely than this one. He was going to support granting the license.

Acomb said there were regulations around liquor stores because of the recognition that there were public safety and health risks involved. She noted the recent community survey had a question about the number of liquor stores in the city and 68 percent of the people indicated they thought the city had enough with its current number. She said there already were liquor stores in the area and her decision not to support granting the license had nothing to do with Target. She was a faithful and loyal Target shopper.

Ellingson said this Target location was his wife’s favorite and they shop there often. He agreed this part of the city was already adequately served.
The availability of alcoholic beverages was expanded quite a bit with the approval of Total Wine.

Schneider noted it would take five votes to approve the license and it appeared there were not five votes given the comments.

Fremstad said he would like to request a delay on the vote to address outstanding questions and potential options.

Schneider said he didn’t see what the options would be. Wischnack said if the council articulated what might change their mind, then there might be an option available for Target. There were circumstances with Total Wine that caused their license to eventually get approved. Schneider said he preferred that Target withdrew their application because he didn’t see that anything had changed since the last time they applied and didn’t see anything changing significantly in the future.

Fremstad said in preparation for the meeting there had been discussions with owners from other liquor stores in the city to do what Total Wine did to address the concern about the city already being adequately served.

City Attorney Corrine Heine said it would require four votes to table the item.

Bergstedt moved, Allendorf seconded a motion to table the item. Wiersum, Bergstedt, Wagner, Ellingson, Allendorf, and Schneider voted “yes.” Acomb voted “no.” Motion carried.

Heine said the understanding was the item was tabled indefinitely until the applicant asked for it to be considered again. Schneider confirmed this.

D. Resolution vacating public drainage and utility easements at 15815 Minnetonka Boulevard and 15820 Wood Knoll Lane

City Engineer Will Manchester gave the staff report.

Schneider opened the public hearing at 7:10 p.m. No one spoke. He closed the public hearing at 7:10 p.m.

Allendorf moved, Wiersum seconded a motion to adopt resolution 2017-051 approving the vacation of the drainage and utility easements. All voted “yes.” Motion carried.
14. Other Business:

A. Conditional use permit for a telecommunications tower with a height variance on the property located at 4525 Williston Road

City Planner Loren Gordon gave the staff report.

Wiersum asked for clarification about the photos Verizon had provided. Gordon clarified the height of the towers that was shown in the pictures. Wiersum said the pictures were helpful.

Bergstedt said the tower was in his ward and there were two neighborhood meetings. At the first meeting, one person attended. At the most recent neighborhood meeting, no resident showed up. He said when the pole first goes up, it will look pretty big. He feared that if the pole was 150 feet it would result in losing the colocation opportunities and that would lead to more monopoles. Going with the extra 30 feet provided better options. He asked with the changing technology, if it would lead to monopoles becoming obsolete at some point. Gordon said the small cell technology was evolving but the structures would always be needed to provide feedback from the small cell sites. He said the best analogy was the relationship between wireless routers and devices like cell phones and tablets.

Wiersum said when this proposal first came up he was pretty vocal about his dislike for it. He complimented staff for helping to educate him and see that this was better than the alternatives. He agreed with Bergstedt’s comments about the colocation opportunity. An extra 30 feet made a lot more sense than having two or three more poles.

Karyn O’Brien, 323 North Cedar Street, Chaska, said she was representing Verizon. She requested the sunset provision of the conditional use permit be extended from 12 months to 18 months. She said the leasing process had not yet begun. That process would require additional time. Gordon said the expiration date was December 31, 2018. O’Brien indicated this would work for Verizon.

Schneider said he thought the 180 feet was the right thing to do particularly because of the colocation. Everyone has gotten used to the water tower so adding the pole was not that big of a deal. He has talked with more and more people who want to give up their landline phones but are concerned because of poor coverage for their cell phones. This would help some people make the change.
Bergstedt moved, Wiersum seconded a motion to adopt resolution 2017-052 approving a conditional use permit for a telecommunication facility with a height variance at 4525 Williston Road. All voted “yes.” Motion carried.

**B. Appeal of planning commission denial of a sign plan amendment for the CycleBar at Ridgedale Center**

Gordon gave the staff report.

Wagner said the staff report mentioned a nonconforming, non-approved sign with a slightly similar circumstance. He asked for more information. Gordon said the sign was at the south entrance and was for LensCrafters. LensCrafters has an interior entrance in the mall. They also have a door that sits behind a pillar making it hard to see. This is the entrance for the optician portion of the office. Immediately to the left of the door is the name of the store in small letters on the face. Staff was not aware of this until receiving the CycleBar application. Staff was following up with LensCrafters to address the issue.

Wiersum said the staff report noted that window signs were available to the applicant and the city had no regulation of window signs. Looking at the façade of CycleBar there were windows where a sign could go. He asked if a window sign could go on the upper level windows. Gordon said this was something staff discussed with the applicant. Currently the design was for the upper level windows to be opaque and that would need to be changed if a sign was put on the inside window. Wiersum said the applicant had the option to do this. Gordon said that was correct.

Wagner said the city had made some considerations for some signs at Ridgedale. He asked if the size variance for these signs was for the ordinance or for the sign plan for Ridgedale. Gordon said the variances approved were all consistent with the uses identified in the sign plan. The variances have all been for the size of the sign.

Allendorf said he visited the location and noticed a sandwich sign. There were sandwich signs near every main entrance to the mall. He asked what the procedures were for making sure sandwich signs were in compliance. Gordon said the sandwich sign by this location was a temporary sign in the city code. He said the sign was troubling to him because it might not allow for somebody to identify it from the street and the street was a long ways away. Allendorf asked if the council followed the staff recommendation, if this would allow CycleBar to use a sandwich sign. Gordon said he thought a sandwich sign might be allowable.
Greg Rendell from Sign-Source said what was being requested was for CycleBar to be allowed to have a sign over the exterior of their location. This was the only entrance to their location. He cited the need because of the unique situation. This was the only location at the mall with one door and the door was to the exterior. There needed to be a sign to help customers identify the location. Most of the customers would come before the mall opens. He said the planning commission liked the look of the sign but was concerned about setting a precedent. The precedent had already been set by the LensCrafters sign. Staff wasn’t aware of the sign and no other tenants had come in asking to do the same thing. The other staff concern was what happened if Sears went out of business and several other stores move into that part of the mall. He said at that point in time General Growth would have to change its code but the code wouldn’t have to be changed for this one unique situation. Not having an exterior sign would be very detrimental to CycleBar’s success.

Wagner asked if the mall needed city approval to add exterior doors and entrances. Gordon said the mall could add entrances and he did not know if this would require them to go through a master plan review. Minimally they would need a building permit.

Wagner said normally he tended to be a little more lenient on sign variances at Ridgedale because of the distance from the mall to the road and the value signs provide for shoppers. He agreed with the planning commission that this sign was very attractive. He thought CycleBar would be a great addition to the mall. Everybody knows the southeast corner of the mall will be going under a massive transformation over the next few years and it is unknown what this would look like. He said he had great hesitation to open the door to setting a precedent for anything that was against the existing sign plan. As much as he wants this business to succeed, he had too great of concern to go against the staff recommendation.

Allendorf said CycleBar had the option of putting a sign in the window. If they didn’t have that alternative, he would wonder if the city wasn’t being too harsh on their business plan by not allowing them to be recognized from the exterior. Because there was an alternative available, he supported the staff recommendation. He thought the city should continue to think about the bigger picture for this part of the mall.

Schneider said as the council had looked at signage, particularly at Ridgedale, he had repeatedly stated what should be looked at is proportionality and quality and overall feel rather than some prescriptive magic number that established limits. So far, the things the council has decided upon have been well received. From an aesthetic and design
standpoint he thought what CycleBar came up with was top notch. He eventually would like to see the sign at their location. The caveat was without some clear direction and overall holistic looking at the center and how it might evolve into a more exterior facing shops, which was the current trend, the city could end up with a collage of all types of signs with no uniformity. He didn't want that to happen. When there finally is a bigger picture plan than he would encourage CycleBar to do this sign. The city shouldn't be stifling the ability of having more storefronts and activity at this part of the mall. He thought it would be productive if General Growth came forward with a plan, and the council could then discuss sign regulations.

Wiersum said he agreed with Schneider's comments and wanted CycleBar to be successful. He thought with some creativity on the window sign there was a reasonable alternative. The council had to look at this holistically because the mall was such an important part of the community. Sign ordinances and sign plans were difficult to do but it was better to do them upfront rather than after the fact.

Acomb said coming into the meeting she thought CycleBar's request made some sense given the doorway and the uniqueness of the location compared to other parts of the mall. She said the other council members' comments made her think the holistic approach was important. She appreciated CycleBar's interest in coming to the mall and having something other than another retail store at the mall.

Bergstedt said he was not a fan of window signs especially the one on an office building on Highway 7 that he drives by every day. The council knows there will be major changes coming to this part of the mall so he thought it would be shortsighted, even though there was sympathy for what was being asked for, to approve the request without first having a conversation with General Growth.

Wagner moved, Allendorf seconded a motion to adopt resolution 2017-053 upholding the commission's denial. All voted “yes.” Motion carried.

15. Appointments and Reappointments:

A. Reappointments to the senior citizen advisory board

Schneider moved, Wiersum seconded a motion to approve the reappointments to the senior advisory board. All voted “yes.” Motion carried.
B. Appointments to the comprehensive guide plan steering committee

Schneider said he was pleased to round out the steering committee with the appointment of two women. Being new to the community, Farhia Mohamed expressed concern about her ability to contribute, until he explained what the committee did and then she was excited about being asked to serve. He said Barb Westmoreland would bring an important perspective to the committee.

Bergstedt thanked Schneider for his work in putting together the committee.

Schneider moved, Acomb seconded a motion to approve the appointment of Farhia Mohamed and Barb Westmoreland to the 2040 Minnetonka Comprehensive Guide Plan Steering Committee. All voted “yes.” Motion carried.

16. Adjournment

Bergstedt moved, Wagner seconded a motion to adjourn the meeting at 7:55 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk