Minutes
Minnetonka City Council
Monday, June 22, 2015

1. Call to Order

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

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

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

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

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

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

6. Special Matters: Retirement recognition of Laura Ronbeck

The council recognized Laura Ronbeck.

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

7. Reports from City Manager & Council Members

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

No one appeared.

9. Bids and Purchases:

A. Bids for Public Works building expansion

   Barone gave the staff report.

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

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

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

   Barone gave the staff report.

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

10. Consent Agenda – Items Requiring a Majority Vote:

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

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

B. Orders for liquor license stipulations

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

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

13. **Public Hearings:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thomas gave the staff report.

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

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

Allendorf moved, Wiersum seconded to adopt the resolution 2015-048 which vacates the drainage and utility easement at 13118 Excelsior Boulevard. All voted “yes.” Motion carried.
C. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Yum! Kitchen and Bakery, two LLC, 6001 Shady Oak Road

Barone gave the staff report.

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

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

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

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

Barone gave the staff report.

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

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

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

Recreation Services Director Dave Johnson gave the staff report.

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

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

14. Other Business:

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

Thomas gave the staff report.

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

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

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

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

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

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

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

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

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

Wischnack said the planning commission asked the association to look at other areas where the building could be placed other than on the steep slope. She asked if the council wanted them to pursue that.
B. Consideration of the parking conditions at the Cedar Hills Shopping Center 11032 Cedar Lake Road

Discussed the item

15. Appointments and Reappointments:

A. Appointments to the senior citizen advisory board

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

16. Adjournment

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

Respectfully submitted,

David E. Maeda
City Clerk