Minutes
Minnetonka City Council
Monday, August 31, 2015

1. Call to Order

Schneider called the meeting to order at 6:32 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, Dick Allendorf and Terry Schneider were present. Bob Ellingson was excused.

4. Approval of Agenda

Wiersum moved, Wagner seconded a motion to accept the agenda with an addendum to item 10E. All voted “yes.” Motion carried.

5. Approval of Minutes: August 17, 2015 meeting

Bergstedt moved, Allendorf seconded a motion to approve the August 17, 2015 minutes. All voted “yes.” Motion carried.

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on the schedule for upcoming council meetings.

Wagner reported he attended a meeting about the proposed Highway 169 reconstruction area. Residents near the 16th Avenue exit that is proposed to be closed, expressed concern about the closure. Staff is working with MnDOT to hold a public meeting for Minnetonka residents.

8. Citizens Wishing to Discuss Matters not on the Agenda

Ashwin Patel, 2431 Emerald Trail, said he and his neighbors would like the city to address a safety issue in the neighborhood. There is no sidewalk on Plymouth Road from Amy Lane to Hilloway Road. Because of the amount of traffic it is very dangerous to walk down to Hilloway. The neighborhood has residents of all ages. He said Wagner had notified him the cost for a sidewalk would be around
$100,000 without a simultaneous road reconstruction and about half of that amount if it was included with road reconstruction. Patel questioned what the cost would be if the city waited another five years. If done five or ten years ago, the cost would have been a lot cheaper. Because it is a county road, the group contacted Hennepin County who informed them to work with the city. He noted examples from other cities who have installed sidewalks separate of road projects. The group is looking for safe access to all the services around Ridgedale and to get to the trails.

Schneider said the council discussed the item at the recent budget study session. He said there was a general approach and philosophy of enhancing pedestrian access particularly around commercial areas. The area Patel identified would qualify. It had been a while since the council had gone through and reevaluated all the sidewalk and trail connections to reprioritize where the limited money should be spent. He said the council would have a study session in the next few months to discuss the issue. There was a possibility there may come a point in time when the council decides to do a community bond referendum to enhance community access and trails.

Wagner noted the segment was relatively easy compared to other segments that had things like retaining walls. He thought the item was worth the council's attention with a number of young families coming into the area.

Acomb said the entire length of Plymouth Road could be looked at.

Wiersum said the idea of looking at reprioritizing the list made sense because trails had gone from being an amenity to being part of a transit solution. This would make what had been categorized as unfunded significantly different.

Barone noted the area would be included in the walkability study being done for the Ridgedale area. The park board annually reviews the trail segments so it could play a further role in the process. She said the philosophy in the past has been to construct trails as part of a road reconstruction project because of costs and what was being discussed would be a change to that philosophy. However it was known that some of the county roads that could use trails for connectivity would not be reconstructed for a long time.

9. **Bids and Purchases:**

A. **Bids for Wells 16A and 16B**

Barone gave the staff report.
Wiersum moved, Bergtstedt seconded a motion to award the contract, including the base bid and both alternates, to Rice Lake Construction Group in the amount of $756,200.00. All voted “yes.” Motion carried.

B. Authorize execution of solar garden subscriber contracts

Public Works Director Brian Wagstrom gave the staff report.

Wiersum asked if the three developers were working together to develop a single solar garden that the city would participate in or if they were each developing individual solar gardens with the city having a part of each. Wagstrom said the three developers were working independently and the city would have a portion of what the developers were developing.

Acomb noted carbon credits currently did not have value yet other cities had used them for improvements. She asked if the carbon credits were similar to the renewable energy credits. Swanson said there was a short period of time when the Chicago Board and Trade was trading the credits but the cost and value of the credits had gone way down. Right now Xcel Energy was giving credit of two cents per kilowatt hour for the renewable energy credits. The market currently was only at a quarter of that so the opportunity to sell the credits was limited.

Allendorf said a recent media article indicated the developers were having difficulty finding land upon which to develop. He asked where the three developers were in the process of finding the land upon which the solar gardens will be developed. Gary Swanson, Energy Management Solutions, said all the developers went through a vetting process to determine that they were financially sound and had land that was selected for the sites. Each of the developers had selected the land, had permits in place with the landowners, and had submitted the gardens to Xcel Energy. The process requires them to submit $100,000 as a placeholder for the individual gardens. Allendorf asked if the various counties and municipalities had given approval. Swanson said not all of the county and municipality approval process had been completed. Also, no one had yet received the interconnection agreement with Xcel Energy.

Schneider indicated if any of the three developers did not achieve their end goal, the agreement provided that the city would not get the value of the savings but would not lose anything by participating in the process. Wagstrom confirmed that was correct. The only thing the city would lose would be the time involved. Schneider said his only concern related to actually getting the lines connected or qualifying for the credits by the end of 2016. He asked if a final interconnection agreement with Xcel met the requirement for the tax credit or if the connection to the grid had to be in place in order to qualify.
Swanson said the majority of the plant had to be connected to the grid by the end of 2016 in order to qualify for the tax credit. Xcel Energy had committed as part of the Public Utilities Commission negotiations to turn around the interconnection agreements within 50 days. He said there was a very high likelihood the agreements would be approved at a very low cost. Schneider said the one major caveat was Xcel performing in a timely manner to get the connections to happen. There also was the possibility the tax credit would be extended.

Acomb moved, Wagner seconded a motion to execute contracts with Innovative Power Systems, Solar Stone and TruNorth Solar, subject to approval of the final language by the city manager and city attorney. All voted "yes." Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolutions pertaining to levying the 2015 Special Assessments

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-065 for project No 4894 (1-year). All voted "yes." Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-066 for project No 4894 (3-year). All voted "yes." Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-067 for project No 4894 (5-year). All voted "yes." Motion carried.

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-068 for project No 4894 (10-year). All voted "yes." Motion carried.

Allendorf moved. Wagner seconded a motion to adopt resolution 2015-069 for project No 4902 (1-year). All voted "yes." Motion carried.

Allendorf moved. Wagner seconded a motion to adopt resolution 2015-070 for project No 4902 (3-year). All voted "yes." Motion carried.

Allendorf moved. Wagner seconded a motion to adopt resolution 2015-071 for project No 4902 (5-year). All voted "yes." Motion carried.

Allendorf moved. Wagner seconded a motion to adopt resolution 2015-072 for project No 4902 (10-year). All voted "yes." Motion carried.

Allendorf moved. Wagner seconded a motion to adopt resolution 2015-073 for 2015 city court fines, Project No. 1020 (1-year). All voted "yes." Motion carried.
B. Amendment to the conservation easement for 1906 Linner Woods Court

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

C. Resolution approving the final plat of Applewood Pointe of Minnetonka

Allendorf moved, Wagner seconded a motion to adopt resolution 2015-074 approving the final plat received August 25, 2015 subject to conditions. All voted “yes.” Motion carried.

D. Amendment of the On-sale liquor license for Redstone American Grill, Inc. 12401 Wayzata Boulevard

Allendorf moved, Wagner seconded a motion to approve the amendment to the liquor license. All voted “yes.” Motion carried.

E. Resolution ordering the abatement of nuisance conditions existing at 3348 Plymouth Road

Wagner moved, Wiersum seconded a motion to postpone the item until September 28, 2015. If item is resolved before then, no further council action is required. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:

   A. On-sale licenses for Kona Sushi, inc. (Kona Grill), 12401 Wayzata Boulevard

      Barone gave the staff report.

      Schneider closed the public hearing at 7:13 p.m.

      Wiersum said he was impressed by Kona Grill’s management plan related to the sale of liquor. He thought they did a thorough job that could act as a model for others.
Wiersum moved, Acomb seconded a motion to grant the license. All voted “yes.” Motion carried.

B. On-sale liquor license for Nordstrom, Inc. (Nordstrom Ruscello)

Barone gave the staff report.

Kate Becker, the attorney working with Nordstrom on the application, introduced Karen Ingram from Nordstrom Ruscello. Ingram said the restaurant would be Mediterranean inspired with salads and sandwiches. The food would have a one day shelf life. She said she was well versed in responsible alcohol service. She was excited about the restaurant.

Schneider closed the public hearing at 7:17 p.m.

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

C. On-sale liquor licenses for Three Amigos Minnetonka, LLC (Salsa A La Salsa)

Barone gave the staff report.

Allendorf moved, Acomb seconded a motion continue the public hearing to September 14, 2015. All voted “yes.” Motion carried.

14. Other Business:

A. Items regarding private fire hydrants
   1. Ordinance regarding private fire hydrants
   2. Resolution adopting Council policy 12.9 regarding maintenance of fire protection water supplies

Barone gave the staff report.

Heine responded to a question Allendorf had raised at a prior meeting related to the responsible party for payment in a condominium association situation. She said state law provides that for the common elements owned by a condominium development or planned community, the assessment had to be divided among all the units. The condominium association would be billed if payment was not received or if the association requested the amount be assessed.

Bergstedt said the city had worked diligently over the past couple of years to make sure that 100 percent of publically owned and maintained fire
hydrants were operational. The one grey area had been with privately owned hydrants. There was agreement that the public safety could not be split between the public and private sectors because when the hydrants are needed by the fire department, there had to be certainty they were working. He said the ordinance and policy went toward achieving that.

Allendorf said the staff report indicated that 577 fire hydrants had been identified as privately owned. He asked if the owners would be notified about the policy. Barone said notice would be sent to the owners and the ordinance did not become effective until January 1, 2016 to give the city time to work on the necessary administrative procedures. Allendorf said when the item was last discussed it was noted that many of the associations do not even know that the hydrants are privately owned. He said hopefully with approval of the policy, the associations would now know about the privately owned hydrants.

Wiersum asked if the ordinance provision providing for the transfer of private ownership to public ownership came with no cost to the property owner. Wagstrom said it depended on how clearly the city could determine if a hydrant was publically or privately owned. There were a number of hydrants where it was not clear. The approach would be if the city could not prove a hydrant was privately owned the assumption would be it was publically owned. Wiersum said it was a great policy to provide an inducement to transfer ownership of a private hydrant to the city.

Schneider said the discussion had been there should not be privately owned hydrants and the city needed to work toward full ownership. There likely would be a cost associated with acquiring the rights and replacing the hydrants that are not in working condition. The incentive for a property owner to transfer ownership would be the annual costs for inspection and maintenance. It was likely property owners would not want to continue the ownership of a hydrant so if the city could make the transition easy and fair it would go a long way toward full public ownership. His one concern was the requirement of the property owner to grant a utility easement over the right of way not just for the fire hydrant but also for the water line. In many situations involving an association in order to get a formal easement recorded it required agreement from all the individual owners and their mortgage companies. This could be difficult if not impossible. He suggested rather than requiring a formal utility easement, that language be added to allow a similar agreement that provided the same rights. Heine said her discussions with Wagstrom were that the city would only get control of the hydrant itself up to the gate valve and not all the piping. She said every circumstance would need to be looked at individually. Schneider said the piping leading to the hydrant had to be maintained in order for it to work and if the city was starting from scratch the service to
the hydrant would be maintained by the city. Wagstrom said the idea was to control the city’s exposure by limiting the city’s responsibility at least from the gate valve to the hydrant. Without knowing the amount of pipe lying underneath private property he would be a little hesitant to take on that exposure and potential replacement of the pipe. Schneider said he agreed with looking at each situation on a case by case basis. Wagstrom said there would be discussions with the owners to find a happy medium.

Heine said the policy provided the flexibility about the easements that Schneider had mentioned. It specifies the city manager was authorized to enter into an agreement that included the conveyance of the facilities. In many of the townhome and condominium situations she expected many of the hydrants to be located on common elements. State statute specifically allows associations to convey public easements for public purposes over common elements. Wagstrom said the good news was there were a lot of private hydrants in the Opus area that the fire chief indicated could currently not be accessed because the area was designed for fire trucks to get access by driving on the trails. Many of the bridges did not allow that. Many of these hydrants would be eliminated.

Wiersum moved, Wagner seconded a motion to:
1. Adopt ordinance 2015-14 regarding private fire hydrants
2. Adopt resolution 2015-075 adopting council policy 12.9 regarding the maintenance of fire protection water supplies. All voted “yes.” Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:34 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk