Minutes
Minnetonka City Council
Monday, September 28, 2015

1. Call to Order

Schneider called the meeting to order at 6:33 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Wiersum moved, Bergstedt seconded a motion to accept the agenda, with addenda to items 12A and 13A. All voted “yes.” Motion carried.

5. Approval of Minutes: None

6. Special Matters:

   A. Retirement recognition of Mark Stock

      Schneider read the recognition.

      Stock thanked the city for the opportunity to serve its residents. He noted it was a difficult time to serve as a police officer so the amount of support the police department receives was greatly appreciated. He requested this level of support for the officers continue.

      Allendorf noted Stock had numerous assignments during his time with the city and asked Stock what assignment was the most satisfying. Stock said he enjoyed his eleven years as an investigator most. The reason was investigators get to see cases pretty much from beginning to end. In particular, during the mortgage fraud era it was extremely gratifying to hold folks responsible for what they had done.

7. Reports from City Manager & Council Members

   Barone reported on upcoming meetings and events.
8. Citizens Wishing to Discuss Matters not on the Agenda

Kathryn Stada, owner of Rock and Bella Massage and Spa, Highway 7, said she wanted to bring to the council’s attention an issue she was struggling with. She said the city had in the neighborhood of 50 to 100 illegal massage therapists operating without a license. It was frustrating for someone who has her entire life invested in a building and a business and who was following the law. She said she couldn’t compete with the prices because these therapists were operating under the radar with spaces not up to code. There was no background check and there were sexual allegations made against some of them. Because they were uninsured, there would be issues if somebody was injured. She said she would provide her investigation files to the city. The issue was a serious problem for many reasons and she hoped it would be a priority to address.

Schneider said that because the issue was under the radar, he was not previously aware of it. It was assumed there was some illicit activity going on, particularly with licensing, but if the issue was that broad he said Stada should work with staff to follow up.

Stada said currently the city’s regulations create a gray area. If the massage therapist is an employee of a chiropractor’s office, they do not have to be licensed. If the massage therapist was merely renting room from a chiropractor, they are required to be licensed. She suggested that similar to other cities and states, Minnetonka require the massage therapist to include their license number on all literature.

Community Development Director Julie Wischnack said she would be happy to speak with Stada about her concerns. The city does investigations on a regular basis but does depend on help from residents and businesses in regulating massage businesses in the city.

9. Bids and Purchases:

A. Bids for water treatment plant #11 electrical rehabilitation

Barone gave the staff report.
Wagner moved, Bergstedt seconded a motion to award the contract to Electrical Installation & Maintenance Co. All voted “yes.” Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution appointing election judges and the absentee ballot board for the November Municipal General Election
Allendorf moved, Wiersum seconded a motion to adopt resolution 2015-087 appointing the election judges for the November 5, 2015 Municipal General Election. All voted “yes.” Motion carried.

B. Resolution approving a conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Boulevard

Wiersum said he had received emails about the item and asked if there was anyone present at the meeting who wished to speak about the item. No one came forward.

Allendorf moved, Wiersum seconded a motion to adopt resolution 2015-088 approving the conditional use permit for a pet boarding and daycare facility at 14901 Minnetonka Industrial Boulevard. All voted “yes.” Motion carried.

C. Resolution approving a floodplain alteration permit for a Purgatory Creek water management project, generally located east of County Road 101 and north of Creek View Trail

Allendorf moved, Wiersum seconded a motion to adopt resolution 2015-089 approving a floodplain alteration permit for a Purgatory Creek water management project. All voted “yes.” Motion carried.

D. Resolution amending the Water Resources Management Plan

Allendorf moved, Wiersum seconded a motion to adopt resolution 2015-090 approving the amendment to the Water Resources Management Plan. All voted “yes.” Motion carried.

E. Resolution approving a concurrent detachment from Minnetonka and annexation to Eden Prairie of a property located at the southeast intersection of Highway 62 and Shady Oak Road

Allendorf moved, Wiersum seconded a motion to adopt resolution 2015-091 requesting concurrent detachment from Minnetonka and annexation to Eden Prairie. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Resolution approving a conditional use permit, with variance, for a dental clinic at 13059 Ridgedale Drive
Allendorf moved, Wiersum seconded a motion to adopt resolution 2015-092 approving a conditional use permit, with variance, for a dental clinic at 13059 Ridgedale Drive. All voted “yes.” Motion carried.

12. Introduction of Ordinances:

A. Items concerning Cherrywood Pointe at 2004 Plymouth Road:
   1) Ordinance rezoning properties from R-1 to PUD;
   2) Master development plan; and
   3) Site and building plan review.

Acting City Planner Susan Thomas gave the staff report. She noted staff received an email from Council Member Acomb asking that the notification area be extended further down Plymouth Road.

Wagner said he spoke with quite a few of the neighbors, those west on Essex Road, and residents on Larkin Drive and Tudor Lane, who agreed about expanding the notification area. The residents suggested notifying residents on Cherrywood Road and as far down as Sheffield Curve. There were also suggestions about notifying those further east into Sherwood Forest and Austrian Pines Trail. He said he thought the impact was more through the wetlands and up through that area.

Schneider said he didn't object to expanding the notification area for this proposal, but there had to be logical limits set at some point. One of the reasons the city puts a big sign in front of the property was to direct them to the website for information and to sign up for notifications. He questioned the idea of notifying the entire Ridgedale shopping center. He thought the notifications were meant to engage residents, and not necessarily businesses, who might be impacted.

Wagner said the expanded notification area was most important for residents on Cherrywood Road and Stone Road because of the walkshed and viewshed and the great trail amenities. The property could be connected through more access to trails. Wischnack suggested using the original notification area that was used for Ridgedale. This included around 1,200 households and would pick up areas that were mentioned. Not all had a direct connection or feelings about the proposal but it would be an easier process. Wagner said he was fine with Wischnack’s suggestion.

Allendorf agreed that the city shouldn't deprive anyone of notice, but a logical boundary had to be established. He said he didn't quite understand
the Sherwood Forest request. Wagner said he was passing along the request and he didn’t necessarily think it was necessary.

Wiersum agreed with Schneider that noticing the commercial areas was not as essential. He supported sufficient noticing and a public process. At the same time there were other ways to communicate information. He encouraged residents to use social media and the city’s website.

Wagner said he appreciated the fact that the developer incorporated a lot of the council’s feedback during the concept plan review. It appeared that this was a concept plan that worked well.

Bergstedt there were some pretty pointed comments during the concept plan review and he applauded the developer for starting to scale back.

Wiersum agreed the concept plan review process worked well and this was the best plan the council had seen for this site. He said one of the questions the council will receive from residents was what the public purpose was for the PUD. He indicated he would also like to know the number of variances would be required if the proposed building came forward as is under R5 zoning. A person’s perspective might be different if there was one variance versus twelve.

Schneider commended the developer not only for scaling back the proposal, but also for the shape and concept that really fit the topography. There still would be an impact on the site but that was unavoidable with a high density development on this site. He thought the developer truly figured out the best way to do it right with as minimal tree impact as possible and fitting in with the grades and steep slope. The one area he wanted more information about was for the south edge of the property and understanding how the transition would work. Even with a lower level parking area below, there still would be a 16 foot drop that would require something like a retaining wall. Although it may not be visible he wanted to understand what it was and how it fit with the rest of the site.

Wagner noted that the area was guided high density and had been for quite a long time.

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

13. Public Hearings:

A. Resolutions for special assessment of 2014-2015 projects
Barone gave the staff report.

Schneider opened the public hearing at 7:05 p.m.

Myroslav Billy, 15309 Skyview Circle, asked the $100 abatement fee for the second mowing of his lawn be reconsidered. He said there was a misunderstanding when he spoke with staff. He did not know there was a specific cutoff date and he was told the fee would be included with his property taxes. He assumed that meant it was included on property taxes paid in 2014 not 2015. This was the reason for the abatement fee. He said he was single, living by himself, and responsible for the mortgage on his own. He is currently employed, works a lot of hours, and has lived in the city for 36 years. It was difficult for him to pay $168 for mowing his lawn given the size of his yard. He previously worked for a lawn care company and estimated his yard could be mowed in 20 minutes with a big mower. He felt the cost was a little steep given the misunderstanding. He was willing to pay everything immediately except the $100 abatement fee because it made his financial situation difficult.

Schneider said typically the council did not waive the fees because the preference was not to have to assess them at all given the extra staff time needed for the process. Wischnack said Billy was notified multiple times. Schneider said while it would be nice to waive the fee, there had to be a solid and compelling reason to do so.

Allendorf asked Billy how he normally took care of his lawn. Billy said he mows it himself. Allendorf noted the lawn was mowed after the second assessment. Billy indicated that was correct. Allendorf asked why Billy didn’t mow the lawn after the first assessment. Billy said he was out of town. When he came back to town, the lawn was already mowed. His mail included the city’s notices but no information about the abatement fees. He understood there were rules and but hoped the council would consider waiving the $100 given his financial situation. Allendorf said anyone who gets a charge from the city could say they didn’t have the money to pay the charge. This was unfortunate but the city had to follow the ordinance.

Schneider closed the public hearing at 7:15 p.m.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-093 adopting special assessments for 2015 Nuisance Abatement Project No. 4894, one-year assessment term with the addendum. All voted “yes.” Motion carried.
Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-094 adopting special assessments for 2015 Nuisance Abatement Project No. 4894, three-year assessment term. All voted “yes.” Motion carried.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-095 adopting special assessments for 2015 Nuisance Abatement Project No. 4894, five-year assessment term. All voted “yes.” Motion carried.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-096 adopting special assessments for 2015 Nuisance Abatement Project No. 4894, ten-year assessment term. All voted “yes.” Motion carried.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-097 adopting special assessments for 2015 Diseased Trees Project No. 4902, one-year assessment term. All voted “yes.” Motion carried.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-098 adopting special assessments for 2015 Diseased Trees Project No. 4902, three-year assessment term. All voted “yes.” Motion carried.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-099 adopting special assessments for 2015 Diseased Trees Project No. 4902, five-year assessment term. All voted “yes.” Motion carried.

Allendorf moved, Bergstedt seconded a motion to adopt resolution 2015-100 adopting special assessments for 2015 Diseased Trees Project No. 4902, ten-year assessment term. All voted “yes.” Motion carried.

B. Secondhand Dealer License for Best Buy Stores, LP at 12411 Wayzata Boulevard

Barone gave the staff report.

Schneider opened the public hearing at 7:17 p.m. No one spoke.

Wagner moved, Allendorf seconded a motion to continue to October 26, 2015. He noted he would have to abstain from voting on the item because his wife is employed by Best Buy.

All voted “yes.” Motion carried.

14. Other Business:

A. Resolution approving an interim use permit for a home occupation at 25 Milbert Road
Thomas gave the staff report.

Wiersum moved, Wagner seconded a motion to adopt resolution 2015-101 approving the interim use permit for a home occupation at 25 Milbert Road. All voted "yes." Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 7:21 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk