

**Minutes
Minnetonka City Council
Monday, March 21, 2022**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:31 p.m.

2. Pledge of Allegiance

Wiersum welcomed members from Boy Scout Troop #426 and all joined in the Pledge of Allegiance.

3. Roll Call

Council Members Kissy Coakley, Brian Kirk, Rebecca Shack, Kimberly Wilburn, Deb Calvert and Brad Wiersum were present.

Council Member Bradley Schaeppi was absent (excused).

4. Approval of Agenda

Kirk moved, Calvert seconded a motion to accept the agenda with addenda to Items 12.A, 14.A and 14.B. All voted "yes." Motion carried.

5. Approval of Minutes:

A. February 28, 2022 regular meeting minutes

Calvert noted she spoke with staff regarding changes she would like made to the minutes.

Calvert moved, Schack seconded a motion to approve the minutes as amended. All voted "yes." Motion carried.

B. March 7, 2022 regular meeting minutes

Calvert moved, Schack seconded a motion to approve the minutes. All voted "yes." Motion carried.

C. February 14, 2022 study session minutes

Calvert moved, Schack seconded a motion to approve the minutes. All voted "yes." Motion carried.

D. March 2, 2022 study session minutes

Calvert moved, Schack seconded a motion to approve the minutes. All voted "yes." Motion carried.

6. Special Matters: None.**7. Reports from City Manager & Council Members**

Acting City Manager Mike Funk reported on upcoming city events and council meetings.

Calvert stated several councilmembers went to the National League of Cities Conference in Washington DC. She noted she was able to attend the Energy, Environment and Natural Resources committee meeting. She commented on the other events she was able to attend and stated it was always an honor to be able to represent Minnetonka at these events.

Calvert urged residents to keep Ukraine in their thoughts and prayers and to give generously.

Coakley discussed several letters that were written to the *Sun Sailor*. She reported some of the comments within these letters were difficult to address. She explained the City of Minnetonka created a DEI task force because there were problems in the city. She thanked the councilmembers and city staff for doing the work to address racial issues in the community. She explained the DEI task force was not just about racial issues, it was also about abilities, disabilities, accessibility and making sure everyone feels included. She was thankful the city continues to move forward with this work and appreciated the fact that the councilmembers were supporting this work. She noted she was always available for conversations from residents in Minnetonka.

Wiersum thanked Councilmember Coakley for her comments. He stated the goal for the city would be to find common ground and this was done through respectful conversations. He understood people had the right to their opinions, but he thought having conversations and seeking common ground was the work of the city.

Wiersum reported the city has been getting a lot of calls regarding property valuations and assessments. He stated average single family home went up 16.1%. He explained the value of a home does not determine what taxes will be but rather what share of the budget a homeowner was responsible for. He indicated if all properties go up 16% then a homeowners share of the budget is unchanged. He commented the bigger indicator for taxes was if there was a

budget increase. He encouraged residents with concerns about their property value to speak with the city assessor.

8. Citizens Wishing to Discuss Matters not on the Agenda

Eric Bell, 10511 Cedar Lake Road, stated he would like standard sales tax and fees included in the cost for items in stores and at restaurants in Minnetonka. He suggested the council pass a resolution or ordinance in order to increase transparency for consumers in the community.

9. Bids and Purchases:

A. Bids and Resolution for the Tonka-Woodcroft Improvements Project

Public Works Director Will Manchester gave the staff report.

Wiersum stated this was the city's largest street improvement project it has ever taken on. He reported these improvements were much needed and he anticipated the homeowners would benefit from the new streets. He requested staff speak to the disruptions that would occur over the next two years. Manchester commented these projects can be disruptive due to tree removals, yard impacts as well as impacts to driveways.

Calvert moved, Coakley seconded a motion to award the contract, execute the agreements and adopt Resolution 2022-022. All voted "yes." Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Amira Minnetonka "The Pointe" at 801 Carlson Parkway

Schack moved, Kirk seconded a motion to adopt Resolution 2022-023. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes:

None.

12. Introduction of Ordinances:

A. Ordinance Amending City Code Section 625 Regarding Tobacco Sales

Community Development Director Julie Wischnack gave the staff report.

Schack stated she would like the city to gather community input via *Minnetonka Matters* on this topic. Wischnack commented this could be done.

Kirk questioned what the goal was tonight for the council. Wischnack reported ordinances have been crafted and staff was seeking direction on what should be introduced. Her goal would be to have the council select one ordinance and provide direction on how to proceed.

Kirk explained the city limits the number of liquor licenses within the community. He stated he was curious on how the ban on certain tobacco products has impacted Bloomington. He indicated he had hesitations that all tobacco would be inadvertently impacted by the proposed ordinances. He discussed how chain stores would be impacted versus non-chain tobacco shops with respect to the sunset clause. Wischnack commented on how the ordinance would apply to tobacco exclusive locations and not the 13 gas stations, etc.

Kirk commented he feared the proposed ordinance would unfairly impact tobacco only stores when compared to gas stations and other retail stores that sell tobacco. Wischnack stated the language could be changed to make the regulations the same for all tobacco license holders, versus tobacco exclusive shops.

Further discussion ensued regarding where teen tobacco violations were occurring in Minnetonka.

Kirk commented he did not want the city casting too broad of a net on this ordinance. He asked if the city has a way of distinguishing between cigar sales and vape sales. Wischnack reported this would be difficult and staff would have to look further into the language within the ordinance.

Wilburn questioned if the proposed ordinances would cause any existing business to not be renewed. Wischnack commented no new licenses would be allowed under ordinance 1, but renewals would be allowed. She then discussed the renewal process that would be followed for the different types of businesses in Minnetonka under ordinance 2.

Wiersum commented on how the tobacco exclusive businesses would be impacted by the proposed ordinances. He believed there was an interest in limiting the sales of tobacco. He reported tobacco was a public health concern and the tobacco industry has not ever fully paid for its societal costs. He understood the city had broad authority for granting tobacco licenses. However, at the same time, these exclusive tobacco stores were small businesses and the city could pick a date and put them out of business. He explained the council had to consider if they were reaching or overreaching in the pursuit of public health. He stated if the city were to state there were no renewals, the city would

be putting these businesses out of business. He indicated the council would then have to consider if they were comfortable with taking this action. He stated this was a complex issue because there were other impacts, such as on the tenants leases. He explained he liked the idea of not granting any additional exclusive tobacco licenses but was struggling with how to address the renewals.

Schack stated she agreed with the mayor's comments. She indicated her level of discomfort comes from the city closing down small businesses. She reported she had a hard time closing down the smoke shops, while allowing Walgreens to continue to sell tobacco. She explained she was uncomfortable with eliminating renewals, unless there was a very long sunset. She stated the council would have to make a decision universally that could then be applied to all tobacco license holders.

Calvert commented she was more comfortable with ordinance 2 because it deals with the proximity to schools and was based on conditions versus a specific date. She indicated she hated tobacco because it kills people. She supported the council moving forward with ordinance 2.

Coakley stated she was leaning more towards ordinance 2. She appreciated the language that was included to address the distance tobacco shops had to be from schools.

Kirk indicated he would like to put all tobacco shops out of business and explained his dad died from emphysema. He recommended that whatever ordinance moves forward that it apply to all tobacco stores. He stated he supported the 2000 foot requirement from schools. He explained he would like to see some ability to grandfather in some uses, such as Cigar Jones, noting this business has been in the community for many years.

Wilburn reported she was not comfortable with putting small businesses out of business. She explained she was leaning towards the second ordinance option.

Wiersum thanked staff for their efforts on the tobacco ordinances. He indicated this was an important topic and noted tobacco was a challenging issue for him. He stated a number of years ago the council discussed smoking in city parks. He commented on how he struggled with government reach and overreach. He questioned how far should the city reach into the rights of people to exercise their rights and freedoms. He stated he would like to see a cap set so there were no additional tobacco exclusive shops in Minnetonka. He appreciated the comments from Councilmember Kirk and recommended the ordinance language be amended to ensure all businesses were being treated equally. He stated he was concerned about overreach, as well as fairness.

Wischnack thanked the council for their feedback and stated staff would take these comments and would redraft the ordinance. She then discussed the moratorium that was in place and noted it would end on March 31, 2022.

Wiersum asked if the moratorium could be extended. City Attorney Corrine Heine reported the moratorium could be extended for an additional period not to exceed 18 months. She stated the moratorium could be extended by council vote on a resolution.

Wiersum reported the second ordinance addressed his concerns for the time being and he anticipated the council would be revisiting this ordinance again in the future. He supported the council introducing the second ordinance with the understanding it could be revisited in a year.

Schack commented she could support this approach noting she would like to see some sort of cap on tobacco licenses being set in the future.

Calvert concurred stating ordinance 2 gets to the councils goals.

Kirk reported he still struggled with the statement "exclusive tobacco store". He stated it was not fair to the small business owner if an ordinance was introduced that targets them. He requested the "exclusive tobacco store" language be removed and that this language be amended in order to create greater equality on the treatment of all tobacco license holders.

Calvert thanked Councilmember Kirk for his comments. She suggested the number of licenses be changed to the current number of tobacco licenses and that the reference to "exclusive tobacco store" be stricken from the ordinance. She indicated this would allow for all current license holders to remain and all license holders would then have to comply with the proposed regulations. She noted she would be in support of extending the moratorium.

Wiersum questioned how the council should proceed at this time. Acting City Manager Mike Funk recommended the council table action on this item to the end of the meeting, and at the end of the meeting the council can revisit this matter in order to adopt a resolution extending the tobacco moratorium. Wischnack stated the council would not introduce an ordinance tonight, but rather would reintroduce a revised ordinance at a future meeting based on the feedback the council provided to staff.

Wilburn moved, Calvert seconded a motion to table action on the tobacco sales ordinance to the end of the meeting. All voted "yes." Motion carried.

B. Items Relating to the Lindbergh Center

Acting Assistant City Manager Moranda Dammann and Public Works Director Will Manchester gave the staff report.

Wiersum asked for comments from the public.

Shannon Andreson, 12950 Berkshire Drive, noted she was a member of the Hopkins School Board and explained she supported the proposed name change. She thanked the city for being willing to change both the building and street names.

Wiersum closed the meeting to the public.

Calvert commented she was contacted several times over the last few years regarding this issue. She noted Charles Lindbergh was a famous figure that had amazing accomplishments, who also had problematic views that affected people. She believed it was important to view celebrities with a clear eye and understand they were complex figures that should not always have buildings named after them. She indicated it would be a great day when this street and building were renamed. She applauded the Hopkins School District for pursuing this name change.

Calvert moved, Schack seconded a motion to adopt Resolution 2022-025 and introduce the ordinance.

Kirk explained the high schools used to be named Lindbergh and Eisenhower and when the two merged it became Hopkins High School. He stated growing up he did not know the history of Charles Lindbergh and noted he supported the proposed name changes.

All voted "yes." Motion carried.

13. Public Hearings:

A. Items related to redistricting of ward and precinct boundaries

City Clerk Becky Koosman gave the staff report.

Wiersum opened the public hearing.

There being no further comments from the public, Wiersum closed the public hearing.

Calvert thanked the city clerk and staff for the thorough presentation and for all of their efforts on the redistricting.

Calvert moved, Kirk seconded a motion to hold the public hearing and adopt Ordinance 2022-04 and Resolution 2022-026. All voted "yes." Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

14. Other Business:

A. Concept plan for Minnetonka Woodland Preserve at 2511 and 2615 Plymouth Road

City Planner Loren Gordon gave the staff report.

Paul Robinson, Development Director for Rachel Development, introduced himself to the city council along with the team at Rachel Development. He described the types of projects his company had completed over the past 10 years. He noted he has teamed up with Charles Cudd in the past to construct high end custom homes. He reviewed the project location, which was 9½ acres in size and discussed the natural features on the site. The historical use of the property was described and he commented on how the tree code applies to the site. He indicated the site has 598 ash trees and stated he would like to see more efforts made to save oak trees than ash trees, due to the increasing spread of emerald ash borer. The topography of the site was then reviewed along with the steep slope requirements. He then commented on the proposed site plans and discussed a wildlife overlook or wayside rest that could be placed on the property.

Rick Denman, Charles Cudd, introduced himself to the council and noted he was a homebuilder. He explained this was an A+ location and his targeted home buyers would be empty nesters. He reported this development would be within an association.

Schack questioned if the proposed plan met the city's tree ordinance by discounting the ash trees on the site. Mr. Robinson commented he could make a plan work with the ash, but could make the plan work better without the ash trees.

Kirk asked if the designated pond area was a viable stormwater pond area. Mr. Robinson reported this was the case. He commented trees would have to be removed in order to create a stormwater ponding area.

Calvert requested further information regarding the proposed density for this development. Mr. Robinson reviewed the density on the lot and commented on

the density for the High Croft Meadows project, which has a conservation easement.

Calvert discussed the proposed drive for the development. She questioned if this would be a private or public drive. Mr. Robinson reported this plan was proposing to have a public road to the cul-de-sac and then a private drive from there on. He stated the private drive was being proposed in order to save trees. He commented adjustments could be made.

Wiersum reported Minnetonka was proud of the fact it had 59% tree cover. He understood this was a difficult lot to develop because it was fully wooded. He asked if all of the ash trees would be removed from the property, if staff was convinced this was not a significant tree. Mr. Robinson stated he would likely not remove all of the ash trees, unless they were dead, diseased or dying.

Wiersum stated he believed the point about the ash trees was a valid point.

Calvert noted she watched the planning commission and understood there was question as to the public benefit of the PUD. She questioned what public benefits were identified in other PUD's. Gordon stated the city has only had one or two other single family PUD's that have been considered since the ordinance changed. He reported most of the PUD's were for multi-family developments. He commented this meant the city did not have a lot of experience with single family PUD's.

Calvert commented she had concerns with a private drive stemming from the proposed cul-de-sac. Gordon indicated staff has been discussing the private drive with the applicant and the applicant was told staff does not approve of the private drive. He explained there were concerns with emergency access, along with the maintenance and upkeep of the street.

Kirk asked what project would be comparable to the proposed development. Gordon stated this project would be more similar to High Croft Meadows than Groveland Pond.

Kirk explained he saw the benefit of preserving the woodlands but noted this was impacting the density of the project. He believed the public good for this project can be found in creating a plan that preserves woodlands. He questioned if this would justify a PUD. Gordon reported this has yet to be determined by the city council.

Schack commented on the Cedar Pass area and asked if the proposed development was similar. Gordon indicated this was the case, as the lots would be similar in size along with the homes.

Wiersum stated the Portico neighborhood was built as a conservation oriented neighborhood with common areas. Gordon reported there were similarities in that the developer clustered homes where homes could be placed in order to preserve other areas.

Wiersum opened the meeting to the public.

Emily Anthony, 12610 Bent Tree Road, explained she was speaking on behalf of 92 of her neighbors who have submitted a petition to the city. She discussed how this development has brought the neighborhood together to talk about what was important and what makes Minnetonka such a special place to live. She was of the opinion the current plan does not meet the definition of public good and should not be allowed to move forward as a PUD. She requested an environmental impact analysis be completed to show what this plan would do to the surrounding area. She commented on the city's strategic priorities and reported Minnetonka's focus on community, inclusion and sustainability were extremely important to her neighbors. She argued that the development that has been brought forward was inconsistent with the city's strategic priorities. She had concerns with how the development would impact tree preservation, the ecosystem, other environmental impacts and quality of life. She encouraged the city council to use this opportunity to lead. She commented further on the density of the project noting the development was around .23 units per acre when the surrounding neighborhood was closer to .71 units per acre. She encouraged the council to consider how "public good" was defined. She was of the opinion that \$1.3-\$1.4 million single family homes do not meet the definition of public good. She discussed the petition that was presented to the city and requested the comprehensive independent environmental review be completed before there was a final review of the project. In addition, she requested that the proposal to rezone the property to a PUD be denied due to the lack of public benefit.

Ms. Anthony then spoke on her own behalf and suggested the city be more creative with this land. She encouraged the city to use their imagination and to use this property to connect from Minnetonka Boulevard to Ridgedale and Hilloway Park.

Steve Borowsky, 2630 Crescent Ridge Road, commented he lives within 400 feet of the proposed development. He stated he has been part of the neighborhood group and thanked Emily Anthony for her presentation and leadership regarding this project. He explained destroying trees was harmful to the environment. He indicated the city's strong tree ordinances were something the city was proud of and he encouraged the council to hold to these ordinances. He was of the opinion the trees on this lot were more important than a few more luxury homes. He recommended that the city's arborist speak to emerald ash borer before the developer is allowed to discount these trees. He reported the PUD rezoning was in question because the public benefit was not obvious. He was of the opinion

the developer did not make a strong case for the public benefit within this development. He stated complying with current tree ordinances or preserving trees that were part of a protected area was not a public benefit. He explained he had faith in this process and he encouraged the council to protect the community and environment accordingly.

Wiersum closed the meeting to the public.

Schack thanked the neighbors for making a presentation. She indicated she appreciated the engagement the neighborhood has had with the developer and the fact that the developer was willing to make adjustments to the project. She noted she observed the neighborhood meeting and she appreciated the progress that has been made since that meeting. She stated it was difficult for the council to balance private development rights with the benefit to the greater community. She indicated there was a great tension here in that regard. While she would love to purchase this land for a park, she did not believe this would be possible due to the price of the parcel. She explained this was a difficult piece of land to develop, and the council had to take into consideration if compliance with the tree and steep slope ordinance providing a public good. She indicated she was open to new ideas but did not believe \$1.3 to \$1.4 million dollar houses were creative for this site. She wanted to see something that works on this site but was not convinced the small lots were the best option for this property.

Kirk stated he loved the idea of protecting this area, but noted there were development rights. He reported the idea that this parcel provided views for the neighbors, and therefore the neighbors didn't want it to develop was not fair. He commented when developing a lot like this, the neighbors have to consider what would be allowed within an R-1 development. He requested staff provide the council a picture of what would be allowed as an R-1 development. He was of the opinion the proposed development was too dense and he would like to see more woodlands protected. He recommended that more space be created between the lots in order to allow for new tree growth and to make room for snow removal.

Calvert noted she agreed with both Councilmember Kirk and Councilmember Schack. She thanked staff and the applicant for making adjustments to the plan already. She thanked the neighbors for having a spokesperson and for organizing their thoughts and main concerns with the proposed project. She reported she has a very deep love for trees and she has been searching for creative ways to use the wooded lots that remain in Minnetonka. She indicated viewshed was not a property right, but protecting bald eagles may be another matter. She stated she would like to see this development compared to an R-1 single-family development. She indicated she was concerned with the proposed lot size, but noted the city was in need of single level housing. However, the need was for 2,000 square foot moderate to affordable housing, and not \$1.3 to \$1.4 million homes.

Coakley stated she appreciated the presentations from the developer and the neighbors. She reported both were very informative for her. She agreed she would like to see what an R-1 development would look like in on this lot.

Mr. Robinson clarified that he was proposing to construct one-level homes that were 2,000 square feet in size. He reported that some of these homes would have full basements and some may have partial basements.

Wiersum commented the job of the council was to balance the rights of property owners and the interest of the city with those of existing residents. He reported this was a nice piece of property and it was highly unlikely that it would become a park. He indicated the city does not have funding available for additional open space acquisitions and his anticipation was that this piece of property would end up as single family homes. He explained the city must then consider what type of homes do they want. He was of the opinion the concept plan has some merits, and he encouraged the developer to pursue subsequent ideas as this would add attractiveness to the proposal. He stated having a baseline on what an R-1 development would look like on this property would be helpful because it would provide the council with a baseline. He supported the council having this information because it would provide a starting point to further discuss the public good. He suggested a bit less density and more variety be drawn into the plan. He stated he understood it was difficult to build in Minnetonka, but he valued the ordinances and regulations that were in place noting this assisted in creating strong neighborhoods within the community.

Discussion item and provided feedback.

B. Diversity, Equity and Inclusion

Acting City Manager Mike Funk gave the staff report.

Wiersum stated he put a great deal of thought into the shared vision statement. He provided staff and the council with his proposed revisions to the statement. He explained he struggled with the phrase “root out” and changed this language to read: by acknowledging our biases and by working to eliminate intolerance and racism wherever they exist in our community. He believed this revision was more realistic.

Kirk suggested “acknowledging” be changed to addressing.

Calvert agreed addressing was a more actionable word.

Wiersum supported this change.

Wiersum moved, Calvert seconded a motion to affirm the revised shared vision statement as discussed. All voted "yes." Motion carried.

Coakley commented when the DEI task force was originally formed there was some distrust of staff and the city council. She stated she understood the mayor and councilmember would be removed from the DEI task force. She asked if this was necessary. Funk discussed how the sustainability commission was formed and noted the council would be making decisions on how a DEI commission was formed. He commented on how valuable it was to allow task forces to work separate from councilmember involvement.

Kirk reported the EDAC has a councilmember sitting on that committee. He questioned if the DEI task force could request a councilmember liaison.

Wiersum explained the task force meetings were public meetings. He anticipated the task force would be short lived, as they would be done with their work by June. He reported any councilmember could attend the task force meetings in order to listen.

Calvert discussed her role with the EDAC noting she was not a voting member, but served as a liaison.

Schack thanked the members who were willing to step away from the task force in order to allow this group to continue with its work.

Schack moved, Coakley seconded a motion to reconvene the task face as identified. All voted "yes." Motion carried.

15. Appointments and Reappointments:

None.

12. Introduction of Ordinances:

A. Ordinance Amending City Code Section 625 Regarding Tobacco Sales

City Attorney Corrine Heine reported she has drafted a resolution that would amend Resolution 2021-122, extending the moratorium on tobacco sales to August 31, 2022.

Calvert moved, Wilburn seconded a motion to adopt Resolution 2022-024 extending the existing moratorium on the issuance of new tobacco licenses. All voted "yes." Motion carried.

16. Adjournment

Calvert moved, Kirk seconded a motion to adjourn the meeting at 10:10 p.m. All voted "yes." Motion carried.

Respectfully submitted,

A handwritten signature in cursive script that reads "Becky Koosman".

Becky Koosman
City Clerk