

**Minutes
Minnetonka City Council
Monday, July 18, 2022**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:28 p.m.

Wiersum reported over the weekend Assistant Fire Chief Jim Flanders passed away unexpectedly. He stated Assistant Fire Chief Flanders served the city well and will be dearly missed. He offered a moment of silence in Jim's memory.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Kissy Coakley, Brian Kirk, Rebecca Schack, Kimberly Wilburn (attending remotely), Deb Calvert (attending remotely), Bradley Schaeppi, and Brad Wiersum were present.

4. Approval of Agenda

Kirk moved, Schack seconded a motion to accept the agenda with addenda to Item 14.A. All voted "yes." Motion carried.

5. Approval of Minutes:

A. June 27, 2022 regular meeting minutes

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

6. Special Matters:

A. Retirement recognition for Captain Shelley Petersen

Wiersum recognized Captain Shelley Petersen for her 30 years of dedicated service to the City of Minnetonka. He presented Captain Petersen with a framed picture of Minnehaha Creek and wished her a long and healthy retirement.

Captain Petersen thanked the council for this recognition. She stated it has been her pleasure serving the City of Minnetonka for the past 30 years. She thanked the Minnetonka Police Department the numerous opportunities she has had over

the past 30 years to serve the community. She encouraged the community to continue to support the police department, Chief Boerboom and the police officers. A round of applause and standing ovation was offered by all in attendance.

B. Tour de Tonka

Tim Litfin provided the council with a presentation on the 17th Annual Tour de Tonka noting the event would be held on Saturday, August 6. He discussed the distances that were available for riders and encouraged residents to consider participating. He thanked all of the sponsors that made this event possible. He reviewed the number of riders that have participated in this event over the past 16 years. He reported the ICA food shelf appreciates all of the generous donations that were made to their organization from Tour de Tonka. He encouraged residents to consider volunteering for the event, noting he needed more than 600 volunteers.

Wiersum thanked Mr. Litfin for all of his efforts on Tour de Tonka. He stated this was a great community event that he was very proud of. He thanked all of the cities that partnered with this event.

7. Reports from City Manager & Council Members

City Manager Mike Funk reported on upcoming city events and council meetings. He sent his deepest condolences to the Flanders family stating Jim would be dearly missed.

Funk updated the council on the new THC legislation that was passed by the state and how the League of Minnesota Cities would be addressing this matter.

Schaeppi stated he was excited to hear from staff that the Groveland flashing light would be installed in time for school to start.

Schaeppi reported on Sunday, October 9 from 1:00 p.m. to 4:00 p.m. there would be a volunteer restoration event at Winter Park.

Schaeppi commented on the THC legislation and stated he looked forward to further conversations on this topic.

Calvert sent her sincerest sympathies to the Jim Flanders family and all those who responded to his medical emergency.

Calvert reported on the meetings she attended with the League of Minnesota Cities and Metro Cities. She noted the LMC was working to address the THC issue.

Calvert thanked all who attended the boards and commissions dinner.

Calvert noted she would be attending the National League of Cities Summer Leadership Conference at the end of July.

Wiersum offered his deepest condolences to the family of Jim Flanders. He stated he understood it was a very sad day in the City of Minnetonka and he appreciated all of the city officials from around the state that offered their condolences.

Wiersum reported he had been talking with other mayors in the metro area and noted the THC issue would have to be further considered by the city. He noted he would be attending a metropolitan legislative meeting on this topic via Zoom with the city manager.

8. Citizens Wishing to Discuss Matters not on the Agenda: None.

9. Bids and Purchases: None.

10. Consent Agenda – Items Requiring a Majority Vote:

Schaepfi requested Item 10.D be pulled from the consent agenda for further discussion.

Calvert requested Item 10.B be pulled from the consent agenda for further discussion.

A. Strategic Profile Quarter Two Report

Schack moved, Kirk seconded a motion to accept the report. All voted “yes.”
Motion carried.

B. Ordinance amending City Code 600.030 and 600.035 relating to liquor licenses

This item was removed for further discussion.

C. Cliff’s Apartments Repayment – Transfer to Affordable Housing Trust Fund

Schack moved, Kirk seconded a motion to adopt Resolution 2022-050. All voted “yes.”
Motion carried.

D. His House Foundation

This item was removed for further discussion.

E. Metropolitan Council Transit Cooperative Agreement

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

F. Conditional use permit for an aggregate of accessory structures in excess of 1,000 square feet at 12015 Glendale Lane

Schack moved, Kirk seconded a motion to adopt Resolution 2022-052. All voted "yes." Motion carried.

G. Conditional use permit for a daycare facility at Grace Apostolic Church at 4215 Fairview Avenue

Schack moved, Kirk seconded a motion to adopt Resolution 2022-053. All voted "yes." Motion carried.

H. Urban Area Security Initiative Grant Agreement

Schack moved, Kirk seconded a motion to adopt Resolution 2022-054. All voted "yes." Motion carried.

I. County Road 101 Retaining Wall Replacement Agreement with Hennepin County

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

J. Agreement for Cullen Smith Property Habitat Restoration Project – Wetland Buffer

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

K. Proposed settlement of class action regarding polychlorinated biphenyl (PCB) contamination

Directed staff not to opt out of, or object to, the proposed settlement.

B. Ordinance amending City Code 600.030 and 600.035 relating to liquor licenses

Calvert stated this ordinance addresses the sale of 3.2% malt liquor in cans. She explained it was her understanding most microbreweries had 4%, 5% and even 6% malt liquor. She questioned if this ordinance would have to be reconsidered. City Attorney Corrine Heine reported this heading was incomplete and a provision was included in the ordinance that relates to the off sale small brewer 3.2% malt liquor along with a parallel provision for off sale small brewer malt liquor.

Kirk moved, Schack seconded a motion to adopt Ordinance 2022-09. All voted "yes." Motion carried.

D. His House Foundation

Schaeppi commented he was in support of Item 10.D. He thanked Councilmember Calvert for bringing this item to the council's attention. He asked if the council would be assisting with messaging for human and social services that are provided by the county. He explained he wanted to be assured the residents of Minnetonka were being protected.

Coakley stated she worked for this program with Ramsey County and a church in Woodbury. She indicated based on her experience with this program, she had concerns about how the program could favor who gets into the affordable housing. While she understood this was a pilot program, she recommended this program remain inclusive.

Calvert explained that Commissioner Chris LaTondresse was aware of the council's concerns. She believed it was incumbent of the council to inform him why the city was willing to embark on this pilot program and to address issues of who gets into the affordable housing.

Kirk stated he sees this program as filling a gap by the county. He believed the proposed pilot program would be an appropriate mechanism for the city to support.

Schack commented this program would be rolled out and evaluated along the way.

Community Development Director Julie Wischnack added that securities were written into the contract which would assist in keeping the program properly established. She reported if problems were found with the program the city did have a way to get out of the pilot program before the two years were up.

Wiersum thanked Councilmember Schaeppi for discussing this item further. He agreed the city did not need duplicative services, nor did the city need to do the work of the county. He appreciated how well the city worked with the county and

he appreciated how Commissioner LaTondresse was working to address affordable housing. He noted he was supported of the proposed pilot program.

Kirk moved, Schack seconded a motion to adopt Resolution 2022-051. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes:

A. Conditional use permit, with a variance to the parking ordinance, for a mosque with child care service and religious studies at 11503 and 11543 K-Tel Drive

Schack commented the city was seeing a lot of parking variances for multi-use properties. She asked if the city should be looking into its parking standards further. Community Development Director Julie Wischnack stated staff was investigating this matter and would be coming to the planning commission with a new parking ordinance in October.

Wiersum appreciated the fact that the city would be looking into this matter further.

Schack moved, Kirk seconded a motion to adopt the Resolution 2022-055. All voted "yes." Motion carried

12. Introduction of Ordinances:

A. Items concerning Amavida, a residential development at 3928 and 3930 Shady Oak Road

City Planner Loren Gordon gave the staff report.

Calvert stated she understood this was a PUD. She requested further information regarding the tree preservation within this proposal. Gordon commented on the tree removal for this project noting the applicant believes they were meeting city ordinance. He explained staff would be taking a closer look at the trees that could be saved.

Kirk indicated he would like the tree preservation and housing type cleared up. He stated he was curious to learn more about the financial feasibility of the project. He explained he was not excited to see single family homes being taken down for a higher density project and wanted to know why this was happening. He commented on how the visibility from Highway 7 was important to him.

Schack reported she was struggling with recognizing the public benefit with tearing down single family homes in order to put in a higher density development.

She understood this development would provide a different type of housing, but noted she was concerned with the environmental concerns within this project.

Schaeppi indicated the council may need to focus on housing product type within each development and how they align with the city's comprehensive plan and housing goals. He explained there was a growing need for one-story and maintenance free housing.

Wiersum stated he read through the staff report and noted PUD's were to provide a public good. He indicated this was a meaningfully different proposal with less land involved and only one of the two single family homes would be preserved. He believed from a market perspective, these types of units were very attractive. While he appreciated the ecological preservation efforts within this development, the challenge for him with this project was the public benefit, given the fact no affordable units were included.

Calvert explained she appreciated all of the comments made by the council.

Kirk moved, Calvert seconded a motion to introduce the ordinance and refer it to the planning commission. All voted "yes." Motion carried.

13. Public Hearings: None.

14. Other Business:

A. Appeal of Massage Establishment license denial for Sunshine Massage, LLC, and its owner, Sasha Harmon

Schack recused herself from this item.

Community Development Director Julie Wischnack gave the staff report. She noted an interpreter was available to translate comments for Ms. Harmon.

Wiersum asked if the council wanted to further discuss this matter or send the matter to an administrative hearing officer. He reported if the matter were sent to an administrative hearing officer the cost would be shared by the city and the appellant.

Kirk stated he was in favor of sending this case to a hearing officer.

Coakley agreed the matter should be sent to a hearing officer.

Calvert explained after her conversation with the city manager she supported this matter going before a hearing officer with the costs being split between the city and the appellant.

Schaeppi commented he supported due process and he appreciated the background check. He indicated he has been a victim of false pleadings and false information and he appreciated the fact that the appellant would have an opportunity to plead her case.

Wiersum stated he supported this matter going to a hearing officer as well. He explained the city council was not a court of law, but he too believed in due process. He reported having a license in the City of Minnetonka was a privilege and not a right. He supported the appellant bearing the full cost of the hearing officer given the fact this was not the city's normal process. He did not believe it was fair for the council to ask the taxpayers to pay the cost for this appeal.

Wischnack requested the interpreter relay this information to the appellant.

Wiersum asked what motion the council should make for this item. City Attorney Corrine Heine recommended the council refer this matter to an independent hearing officer for a recommendation to the council. She noted the council should also state within the motion how the cost for the hearing will be handled.

Kirk inquired if the council should hear from the appellant prior to making this motion.

Bridget Boyle, attorney at Taft Law, explained she was a representative for the applicant. She reported she supported this matter being referred to an administrative law judge due to the difficulty of this decision.

Kirk moved, Coakley seconded a motion to refer this matter to an independent hearing officer for a recommendation to the council with the cost split 50/50 with the appellant.

Wischnack requested the interpreter restate the motion for the appellant.

All voted "yes." Motion carried.

Wischnack requested the interpreter restate the vote for the appellant.

15. Appointments and Reappointments:

A. Resolution designating a Commissioner to the Bassett Creek Watershed Management Commission

City Manager Mike Funk gave the staff report.

Wiersum moved, Schaeppi seconded a motion to adopt the Resolution 2022-056.

Coakley requested further information regarding the candidate being recommended for appointment. Funk reported she was a resident in the community and noted Ms. Yetka was instrumental in reaching out and finding residents interested in serving on the BCWMC.

All voted "yes." Motion carried.

16. Adjournment

Calvert moved, Wilburn seconded a motion to adjourn the meeting at 8:21 pm.
All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
City Clerk