

**Minutes
Minnetonka City Council
Monday, January 9, 2023**

1. Call to Order

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

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Calvert moved, Schack seconded a motion to accept the agenda with addenda to Items 14.A, 14.C, and 14.D. All voted "yes." Motion carried.

5. Approval of Minutes:

A. December 19, 2022 regular meeting minutes

Calvert explained she spoke with staff regarding a change to the minutes on page 2.

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

6. Special Matters:

A. Strategic Profile quarter four/end of year report

City Manager Mike Funk gave the staff report.

Calvert commented she was excited to learn the city was holding monthly meetings with the communities EMS provider in order to address response times. She thanked staff for all of their efforts on the quarter four/end of the year strategic profile report.

Calvert moved, Kirk seconded a motion to accept the report.

Wiersum stated he appreciated all of the council's and staff's disciplined efforts on the strategic profile.

All voted "yes." Motion carried.

7. Reports from City Manager & Council Members

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

Calvert stated she was walking in Big Willow Park last night and she appreciated the fact the trails have been maintained.

Coakley encouraged residents to clean up after their pets throughout the winter months on the city's trails.

Schaeppi wished everyone a Happy New Year. He thanked the city's public works department for all of their efforts during the recent snow event.

Schaeppi announced that he would not be running for reelection this year. He stated it has been an honor for him to serve and noted it has been a great experience for him. He encouraged the residents of Minnetonka to consider running for local government. He explained he was available for any questions residents may have about running for local government.

Wiersum wished everyone a Happy New Year and thanked all of his fellow councilmembers for their service to the community.

8. Citizens Wishing to Discuss Matters not on the Agenda:

John Mirocha, 5423 Maple Ridge Court, updated the council on the Friends of Minnetonka Parks work for 2022 and discussed the organizations plans for 2023. He reviewed the total number of events and volunteer hours the group worked in 2021 and 2022. He discussed how the group would continue to strengthen communication, coordination and collaboration through their park stewardship monthly meetings.

Wiersum thanked the Friends of Minnetonka Parks for all of their efforts on behalf of the community.

9. Bids and Purchases: None.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Designation of official newspaper for 2023

Schack moved, Wilburn seconded a motion to designate Sun Sailor as the official newspaper. All voted "yes." Motion carried.

B. Resolution amending and replacing the existing conditional use permit for the cemetery use of the properties at 3228 and 3300 Woodlawn Avenue

Schack moved, Wilburn seconded a motion to adopt Resolution 2023-001. All voted "yes." Motion carried.

C. Resolution approving agreement with the Minnesota Department of Transportation

Schack moved, Wilburn seconded a motion to adopt Resolution 2023-002. All voted "yes." Motion carried.

D. Resolution for the 2023 Ridgedale Tower Rehabilitation Project

Schack moved, Wilburn seconded a motion to adopt Resolution 2023-003. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes: None.

12. Introduction of Ordinances: None.

13. Public Hearings: None.

14. Other Business:

A. Ordinance establishing licensing requirements for the sale or disposal of edible products containing tetrahydrocannabinol (THC)

Community Development Director Julie Wischnack gave the staff report.

Wilburn requested further information regarding packaging restrictions. Wischnack commented on the requirements the city would have in place regarding THC gummy packaging. City Attorney Corrine Heine discussed how the city would address the flavors of gummies. She reported the council could always revisit the ordinance if issues had to be addressed in the next six or nine months.

Schaeppi stated this ordinance also addresses THC infused beverages. Wischnack reported this was correct.

Schaeppi inquired if THC products could be picked up at Target any other store that offers pick-up services. Heine explained a person to person interaction was required for the sale of THC products.

Schaeppi asked how much the city would be charging and questioned if the amount was adequate. Heine reported the amount charged for these licenses was supposed to represent a reasonable estimate of the cost to administer and enforce the ordinance. She explained an exception could be made due to the nature of this product, but noted she would have to investigate this further.

Schaeppi stated he had young children. He inquired if there would be a prohibition of certain language when advertising these products. Wischnack indicated there were some regulations in the current ordinance that addresses where, but not the terms used when advertising THC products.

Calvert commented she did not have any questions at this time. She stated she anticipated the legislature would be revisiting this topic in the upcoming session.

Wiersum reported Edina, Maple Grove and Plymouth all had moratoriums in place regarding the sale of THC products. He explained he was concerned about the evidence that was piling up on these products. He questioned if the ordinance would not be effective until July 1, 2023, could a moratorium on THC product sales be put in place through June 30, 2023. He indicated he was becoming more and more uncomfortable with the sale of these products. He questioned if restrictions could be implemented that would not allow the sale of these products in Minnetonka. He commented on a discussion he had with a resident in Minnetonka who was concerned about the easy access to THC products in the city and how this was impacting his son. He reported these products were impacting lives negatively. While he understood prohibition did not make sense, but he wanted to ensure the products were not being sold to kids. He explained he supported tying the cost of THC licenses to liquor licenses given the fact it will cost the city a great deal of money to enforce this new ordinance. He stated he would be attending a Tonka Cares meeting tomorrow where intoxicating products would be discussed. He inquired if the city wanted to be this easy to purvey products that hurt kids.

Schack stated she supported the proposed ordinance and she supported the sale of THC products in Minnetonka. She reported the city just approved 80 liquor licenses in the city without a second thought. While she didn't want to diminish the impact THC products could have on kids, she also didn't want to overly restrict the sale of THC products. She stated THC was such a nuance issue and marijuana has been the scapegoat in society for many years. She believed it was the responsibility of parents to keep these products out of the hands of children. She questioned why the community did not look at alcohol sales in the same manner, given its destructive power for some individuals. She

anticipated residents would go outside the community if Minnetonka were to ban sales. She thanked staff for all of their work on the ordinance and noted she would be offering her support.

Kirk explained he had much of the same thoughts as Councilmember Schack. He agreed marijuana got caught up in the war on drugs, which has disproportionately affected one population more than others. He believed this ordinance was moving the city in the right direction. He anticipated if the legislature did take further action to address the sale of THC products then the city would have an ordinance in place that could be amended. He supported the sale of THC products being treated similar to the sale of alcohol.

Calvert explained she strongly relied on data and she hoped that the legislature would clarify numerous things regarding the sale of THC products in the upcoming legislative session. She hoped the legislature was following local, state and national data. She stated she would appreciate the city having an ordinance in place at this time and understood this ordinance could be amended if the state were to pass legislation this year. She agreed it was the responsibility of parents to keep these products out of the hands of children.

Coakley reported she supported the ordinance, but she did have many of the same questions that were raised by Councilmember Schaeppi. She indicated she had a 14 year old daughter and noted she was seeing the THC products in local stores. She wished the city could regulate where THC products were located in stores to keep them off of front counters. She supported THC products being located behind glass to ensure these products were not being stolen by kids. Heine advised the ordinance does include language that addresses the storage of THC items, noting they had to be stored behind a counter or other area that was not freely accessible to the public.

Coakley commented in other cities she has seen THC products sitting right on the checkout counters. Heine reported this ordinance prevents the ready access of THC products to those under the age of 21.

Schaeppi indicated the THC situation was a mess that had been created by the state legislature. He read a quote from an attorney that works to address the sale of THC products. He stated all of the talk that this was a clarification, was a lie. He explained the city was dealing with this issue because a handful of elected leaders put this matter forward in an omnibus bill. He stated he was frustrated with how all cities now had to work through the issues that were created by the state's leaders. He reported he supported small businesses in the community and the rights of adults who choose to use THC products. He commented on how statistics were going up, proving there was a problem with how THC was impacting children. He hoped the state legislature would be able to address this concern, but he feared they did not care. He further discussed how he was

conflicted by this ordinance and hoped the state would properly address this issue in their upcoming session. He recommended people with THC licenses pay a premium given how much time and effort it would take the city to enforce the ordinance and that no drive up sales be allowed.

City Manager Mike Funk reported there may be comments from the public on this topic.

Wiersum opened the meeting for public comments.

Tom Madden, business owner in Minnetonka, reported he has read the ordinance. He explained he supported the proposed ordinance. He indicated he has two children and he has talked to them about these products. He stated these products were not allowed in his home or his stores. He agreed the sale, access and use of THC products was a big parenting issue.

TJ Stalzer, 14525 Minnesota 7, explained he was a small business owner. He reported his business focused on massage therapy and the sale of THC products for therapeutic reasons. He stated he sold very small amounts of THC products and charging an exorbitant fee for the THC license would be a hindrance to his business. He commented further on how Governor Walz would be working to legalize marijuana in the coming year.

Wiersum closed the meeting for public comments.

Wiersum commented he believed the THC ordinance would move the city in the right direction. He explained he would appreciate having a moratorium on the sale of THC products in place until the ordinance was in effect due to how unregulated THC products were at this time. He reported he was struggling with the fact he did not believe society would improve by having more intoxicants for sale in the community. He supported the state having good laws in place to address the sale of THC products.

Schaeppi asked if the city attorney would be willing to enforce this ordinance against drive up sales, or would additional language be required to address this concern. Heine advised the existing language addresses this concern.

Wiersum thanked the council for all of their comments and discussion regarding this ordinance.

Schack moved, Kirk seconded a motion to adopt Ordinance 2023-01. All voted "yes." Motion carried.

B. Resolution designating a new acting mayor and alternate acting mayor

City Manager Mike Funk gave the staff report.

Wiersum recommended Councilmember Coakley serve as the acting mayor and Councilmember Schaeppi serve as the alternate acting mayor for 2023.

Schack moved, Coakley seconded a motion to adopt Resolution 2023-004. All voted "yes." Motion carried.

C. Concept plan for Saville Flats, generally located in the southeast corner of the Excelsior Boulevard/County Road 101 intersection

City Planner Loren Gordon gave the staff report.

Curt Fretham, Lake West Development representative, introduced himself to the council. He provided the council with further information regarding the proposed condominium flats and noted the surrounding uses. He explained the northern portion of the lot would have to be rezoned to medium density to accommodate the condos and the southern portion of the lot would have four single family homes. He commented on the neighborhood meeting that was held and noted the concerns that were voiced centered around tree loss and traffic. He discussed how stormwater would be treated onsite and noted a traffic study would be completed for the project area. He described why he was requesting a change in use, which he believed was necessary to revitalize this corner in Minnetonka. He requested council consider how they see this property and how they would like to see it redeveloped in the future. He provided further comment on the proposed elevations for the Saville Flats and thanked the council for their time.

Wiersum stated he understood single level living housing products were in demand in Minnetonka. He requested further information regarding the design and layout of the condo units.

Rob Hull, architect for Lake West Development, discussed how the units would be laid out noting the first level would have eight units, the second level would have eight units and the third floor would have four units. He explained there would be a variety of one and two bedroom units and all units would be handicap accessible.

Schack stated this area of Minnetonka was transitional and she believed it made sense to have increased density. She understood this was a problem traffic area due to the school. She believed the condo flats were an attractive concept. She explained she would want more information regarding the tree and traffic impacts for the proposed project.

Calvert indicated she read the minutes from the planning commission meeting. She agreed this project made a great deal of sense for these parcels. However, she was concerned with the traffic in the area. She reported she would have to be convinced of the public benefit for this project if it were a PUD. She explained she appreciated the proposed architecture and design of the building. She suggested the developer consider flipping the building and the parking lot in order to reduce the impact on the adjacent neighbors. She encouraged the developer to consider what energy efficiency measures could be incorporated into this project. In addition, she requested the number of units be reconsidered.

Coakley stated her main concern was with traffic. She appreciated the fact the developer would be completing a traffic study. She questioned why the developer had not considered smaller units for families, given the need in the community.

Mr. Fretham discussed how he had considered the traffic patterns in the area. He stated an empty nester product would have differing traffic patterns than those of families with school aged children, which he believed would be a better fit for the area.

Kirk asked which properties would be included in the project. Mr. Fretham reviewed the properties that would be included in the proposed development.

Wilburn questioned if the condos would be age restricted. Mr. Fretham reported the units would be designed for empty nesters, but noted a single parent with a child could also live in these units. He explained the units would only be one or two bedrooms in size, which would not provide enough space for most families.

Wilburn requested further information regarding the affordability levels of the affordable units. Mr. Fretham stated two of the units would be affordable. Gordon explained these two units would be at 60% AMI.

Kirk commented he appreciated the fact a traffic study would be completed in order to better understand how this development would impact Spring Lane. He stated he was not as concerned how this development would impact the intersection at Excelsior Boulevard and County Road 101. He was of the opinion the homes on these properties have reached their useful life and the properties were in need of redevelopment. He commented on how this redevelopment would lead to a change in land use density. He encouraged the planning commission to further consider the level of density within this project, along with the tree loss. He recommended staff look into how tree loss was considered within the Solbakken development. He explained he would like to see a proper tree buffer remain in place on this property. He reported he appreciated the proposed architecture and design for the condos, but suggested the density be further reviewed.

Schaeppi stated he believed the city council should have a deeper conversation regarding medium density and what properties should be zoned medium density. He explained he appreciated the investment the developer was willing to make in the community. He stated he appreciated the step down in density within this project and how the condos would be located on the corner. He encouraged the developer to consider saving more trees or offer more tree plantings in order to break up the massing of the building. He thanked the applicant for their efforts and noted he believed this project would be an improvement over what was currently on the properties.

Wiersum commented on how traffic was always a concern for medium density projects. He stated the challenge for this development was not the traffic that would be added, but rather was with the traffic that was already there. He understood certain times of the day were very uncomfortable traffic-wise. He looked forward to learning from the traffic study what the surrounding intersections rated today and how they would be impacted by the proposed development. He explained he appreciated the architecture of the proposed condo building and understood single-level living was desirable in Minnetonka. He believed this was not a bad corridor for medium density housing. He was of the opinion this project had merit and the product made sense. He indicated the challenges for the project included setbacks, buffers, and how the developer would minimize the project impact on the surrounding properties.

Wiersum opened the meeting for public comments.

David Larson, 5330 Tracy Lynn Terrace, explained he lived just south of the proposed development. He stated he sees this parcel of land part of his neighborhood. He supported this land having single family homes. He reported he was concerned with how the proposed development would add more traffic to the neighborhood. He stated there were lots of children that played outside in his neighborhood and he wanted to see them protected. He recommended the council keep the zoning as is and that additional density not be added to these properties.

Alan Au, 5320 Spring Lane, commented on the traffic in his neighborhood and the number of children that play outside. He explained there were also students that walked down Spring Lane to school. He noted Spring Lane was a rather narrow street, which was a concern for him, if there was additional traffic added. He discussed how a high density project on this corner would add more traffic, crime and parking concerns to the neighborhood.

Wiersum closed the meeting for public comments.

Calvert commented on the parking lot and driveway design. She encouraged the developer to reduce the amount of hardscape. She suggested the driveway be shorter and the parking lot be smaller.

Wiersum thanked the council and public for their comments.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

D. Acquisition of The Marsh located at 15000 & 15280 Minnetonka Boulevard

Kirk recused himself from discussing this item.

City Manager Mike Funk, Recreation Services Director Kelly O'Dea and Community Development Director Julie Wischnack gave the staff report.

Schaeppi asked what staff knew about the viability of rehabbing the building. He inquired if the building would last another 10 or 15 years. Wischnack reported a fair amount of searching within the property has been conducted and lists have been created. She understood the roof needed to be replaced, but noted the building was structurally intact. She anticipated the boilers would have to be replaced within the next 10 to 15 years. O'Dea indicated the pool was in very good condition.

Schaeppi questioned if a budget had been created to update and maintain this facility. Funk explained the purchase price for this property was \$4,275,000 and staff was recommending \$2 million be dedicated to operations for the next two years. He commented further on how staff was considering how programming between the Marsh and the community center would align in the future and how this would impact budgets going forward. He stated only soft costs were expected to be spent in the next six months. He commented further on how the \$2 million would assist with addressing the operational costs for up to two years.

Wiersum discussed how the city of Minnetonka could not consider this purchase without having solid finances and a AAA bond rating in place.

Wiersum opened the meeting for public comments.

Leonard Dayton, 4833 Sparrow Road, explained he grew up in Deephaven and returned to Minnetonka to raise his family. He indicated he has been a resident of Minnetonka for the past 60 years. He stated his family has utilized the Marsh for a variety of reasons over the years. He noted the warm pool therapy at the Marsh was one of the only options in the metro area. He appreciated how the Marsh

was senior friendly. He explained he was concerned with how this property would operate going forward and how private development could change the Marsh.

Laura Toper, 5608 Papineau, stated she has been a member of the Marsh longer than she has been a resident of Minnetonka. She explained she moved to Minnetonka because of the Marsh. She thanked the council and staff for all of their hard work on this topic. She reported she joined the Marsh after an injury. She encouraged the city to consider purchasing the Marsh because this property was a pillar in the community and meets the strategic goals and objectives of the city council. She appreciated the community focus within the Marsh and urged the council to move forward with the purchase.

Barbara Sterling, 7333 Gallagher Drive in Edina, explained she has worked in the city of Minnetonka for the past nine years at the spa within the Marsh. She agreed the Marsh was a pillar in the community that brought both people and jobs to Minnetonka. She encouraged the city council to purchase this property, noting she would like to continue serving her clients in the community.

Jane Welch, 4700 Wedgewood Drive, thanked the mayor for meeting with her and for walking through the Marsh property with her. In addition, she thanked City Manager Funk for speaking with her. She explained she would like to keep the Marsh open to the public and noted this property would be able to support itself. She urged the council to support the purchase of this property.

Margaret Meyer, 11460 Fairfield Road West, thanked the council for considering the purchase of this property. She discussed how the Marsh has created a sense of family for her. She believed the YMCA did not properly run this facility and she appreciated the fact the Marsh could be revitalized for the community.

Wiersum closed the meeting for public comments.

Schack stated she has lost sleep about making this decision. She explained she carried animosity towards the YMCA and the position they have put the city in. She understood the city had the opportunity to slow this process down and she appreciated the fact the Marsh was willing to offer a discounted price to the city. She indicated she wanted to see the Marsh a tremendous success in the community that serves all Minnetonka residents. She stated she would be offering her support for the purchase.

Calvert reported when she found out the Marsh was for sale she was quite concerned. She indicated this was not an easy decision for the council to make because of the risk involved. She stated there were so many things for the council to consider with respect to staffing, services, programming and fee structures for the Marsh. However, with the risk of purchasing this property, there was also an opportunity. She discussed how the pool space within the Marsh

would meet a growing need in the community. She commented further on how the Marsh would meet the strategic goals and objectives for the city. She thanked staff for all of their efforts to bring this item before the council and reported she would be supporting the purchase of the Marsh.

Wilburn stated she agreed with much of what had been said. She explained she appreciated the reduced purchase price from the YMCA. She believed this property offered the city a great opportunity and noted she would be supporting the purchase of the Marsh.

Schaeppi commented on the history of this property and noted his family has visited the Y for swimming lessons. He indicated he supported a hurry up process if staff could gather all of the necessary information. He reported he would like to see an estimated proforma for the Marsh going forward, along with an appraisal of the property. He stated he would support approving the purchase of the Marsh with the contingency a closing should occur by February 13, 2023.

Coakley explained the council has been discussing renovations at the community center and how there was a need for more space. She reported the Marsh would meet a great need in the community and she trusted the city to move forward with this purchase.

Wiersum stated he believed the city would be in a better place if the council approved the purchase of the Marsh. He appreciated the sense of health, community and the connections residents were making on this property. He explained he was uncertain what the future of the Marsh would hold, but he believed the membership needed to be broadened. He supported the city council learning as much as they can as quickly as they can with respect to the Marsh. He was of the opinion the community would be better with the Marsh than without it. For this reason, he would be supporting the purchase.

Calvert moved, Coakley seconded a motion to adopt Resolution 2023-005, Resolution 2023-006 and Resolution 2023-007. All voted "yes." Motion carried. (Councilmember Kirk was recused from the vote).

Wilburn moved, Calvert seconded a motion to amend the CIPs including the change memorandum. All voted "yes." Motion carried. (Councilmember Kirk was recused from the vote).

15. Appointments and Reappointments: None.

16. Adjournment

Calvert moved, Schack seconded a motion to adjourn the meeting at 10:53 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman

Becky Koosman
City Clerk