

**Minutes  
Minnetonka City Council  
Monday, June 26, 2023**

**1. Call to Order**

Mayor Brad Wiersum called the meeting to order at 6:30 p.m.

**2. Pledge of Allegiance**

All joined in the Pledge of Allegiance.

**3. Roll Call**

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

Council Member Kissy Coakley was excused.

**4. Approval of Agenda**

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

**5. Approval of Minutes:**

**A. June 5, 2023 regular meeting minutes**

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

**B. June 12, 2023 study session minutes**

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

**6. Special Matters:**

**A. Tour de Tonka**

Tim Litfin reported the 18<sup>th</sup> Annual Tour de Tonka would be held on Saturday, August 5. He noted Ron Kamps would be honored this year. He thanked his sponsors for making this event possible year after year. He reviewed the communities riders that would be traveling through for this years event and thanked the city for their continued support.

Wiersum thanked Mr. Litfin for his efforts and for putting on this wonderful event in the community.

**B. Recognition for the retirement of Steve Malecha**

Wiersum recognized Streets Field Supervisor Steve Malecha for his 32 years of dedicated service to the City of Minnetonka and wished him a long and healthy retirement. A round of applause was offered by all in attendance and Wiersum presented Mr. Malecha with a plaque on behalf of the city.

Streets Field Supervisor Steve Malecha thanked the city council and mayor for their tremendous support over the years.

**7. Reports from City Manager & Council Members**

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

Calvert stated she was proud of retiree Steve Malecha and thanked him for his tremendous efforts on behalf of the city.

Calvert thanked staff for all of their efforts on Summer Fest.

Calvert noted the master plan open house for Purgatory Park was very well attended. She appreciated the great showing of civic pride in the community.

Calvert wished everyone Happy Pride Month.

Schaeppi explained he attended Summer Fest with his family and thanked staff for all of their efforts.

Wiersum agreed Summer Fest was tremendous again this year and he appreciated how the city was able to celebrate all summer holidays at this one celebration.

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

**9. Bids and Purchases: None.**

**10. Consent Agenda – Items Requiring a Majority Vote:**

Calvert asked to pull Item 10.D for further discussion.

Schaeppi asked to pull Item 10.H for further discussion.

Wiersum discussed the cannabis legislation and noted there was still work to be done at the state level. He explained the League of Minnesota Cities was doing great work to address this topic.

**A. Resolution authorizing Performance Measurement Reporting program**

Kirk moved, Wilburn seconded a motion to adopt Resolution 2023-036. All voted "yes." Motion carried.

**B. Resolution approving an interim use permit for the temporary sale of fireworks at Westwind Plaza at 4795 County Road 101**

Kirk moved, Wilburn seconded a motion to adopt Resolution 2023-037. All voted "yes." Motion carried.

**C. Conditional use permit for an accessory structure in excess of 1,000 square feet and 12 feet in height at 4600 Shady Oak Road**

Kirk moved, Wilburn seconded a motion to adopt Resolution 2023-038. All voted "yes." Motion carried.

**D. Conditional use permit for a detached accessory dwelling unit at 1505 Traymore Road**

This item was pulled for further discussion.

**E. Professional services agreement - Community Facilities Study**

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

**F. Conditional use permit for an accessory structure in excess of 1,000 square feet and 12 feet in height at 2507 Sherwood Hills Road**

Kirk moved, Wilburn seconded a motion to adopt Resolution 2023-040. All voted "yes." Motion carried.

**G. Ordinance repealing Ordinance No. 2023-01, related to THC edibles**

Kirk moved, Wilburn seconded a motion to adopt Ordinance 2023-06. All voted "yes." Motion carried.

**H. Resolution requesting funding from the 2024 State of Minnesota capital budget**

This item was pulled for further discussion.

**D. Conditional use permit for a detached accessory dwelling unit at 1505 Traymore Road**

Calvert explained she had questions regarding this request because it was a unique ADU. She stated generally speaking, ADU's in the city have been attached. Community Development Director Julie Wischnack reported the city approved language that allows ADU's detached a year and a half ago.

Calvert indicated ADU's were typically occupied by a family member. She noted this ADU would be rented out to a non-family member. She inquired what the unintended consequences would be from this set up. Wischnack explained this was not the first time an owner has moved into a detached ADU. She noted City Code requires the owner to live on site which assists with monitoring or overseeing the property.

Kirk commented on how ADU's were providing an integrated and affordable housing option in Minnetonka neighborhoods.

Calvert moved, Kirk seconded a motion to adopt Resolution 2023-039. All voted "yes." Motion carried.

**H. Resolution requesting funding from the 2024 State of Minnesota capital budget**

Schaeppi stated he understood the Marsh and Opus Parks were two huge and exciting projects in Minnetonka. However, he noted he could not support this Resolution. He reported the city does not have a budget for the Opus park project and therefore a good faith request could not be made of the state. He indicated the same goes for the Marsh given the fact the city was studying this site and what it could be. He was of the opinion a yes vote for this resolution was a departure from the culture of caution set by prior city councils. He understood the city had great ideas that were well intended, but he could not support the funding request at this time.

Wilburn asked that staff speak to the conversation she had earlier today regarding the bonding request. City Manager Mike Funk explained the timing for this was hard noting the state was asking that requests for 2024 be made by July 16, 2023. He explained the city had two studies that were underway for the Marsh. He indicated the city was trying to be forward thinking in order to be financially able to utilize other resources beyond taxpayer dollars. He commented further on how the city was trying to position itself to take on the Marsh and Opus projects. It was noted if the city did not make a request in 2024, the state bonding

dollar request would have to wait until 2026. He stated there was no risk to the city when asking for this funding.

Kirk reported he has been involved in several of the bonding grants and noted they were expensive to plan for. He indicated the architectural fees could be \$800,000 to \$900,000 and schematics could be 30% of that. He believed it was better for the city to know if they had a foothold in the bonding process before making a higher level of investment.

Wiersum stated Minnetonka has been a city that prides itself on self-sufficiency. He noted the city has a AAA bond rating and was slow to go to the state for bonding money. He explained he spoke with Representative Acomb about state bonding funds and he was encouraged to have the city pursue these dollars because they were available for worthy projects. He stated he respected the comments from Councilmember Schaeppi, but noted he would be supporting the bonding request opportunity moving forward.

Calvert moved, Kirk seconded a motion to adopt Resolution 2023-041. Kirk, Schack, Wilburn, Calvert and Wiersum voted "yes." Schaeppi voted "no". Motion carried.

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

**12. Introduction of Ordinances:**

**A. Ordinance relating to release of impounded animals**

Captain Jason Tait gave the staff report.

Calvert asked if social media was another venue that could be added to the ordinance. Captain Tait reported there were some concerns about using the police department's social media account for lost dogs.

Kirk supported the proposed approach for how to manage lost animals in the community.

Wilburn moved, Kirk seconded a motion to introduce the ordinance. All voted "yes." Motion carried.

**13. Public Hearings:**

**A. Ordinance regarding renewal of cable television franchise with Comcast of Minnesota, Inc.**

IT Manager Patty Latham gave the staff report.

Wiersum opened the public hearing.

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

Calvert moved, Kirk seconded a motion to hold the public hearing and adopt Ordinance 2023-07. All voted "yes." Motion carried.

Wiersum recessed the city council meeting.  
Wiersum reconvened the city council meeting.

#### **14. Other Business:**

##### **A. Items concerning Marsh Run II redevelopment, a multi-family residential development by Doran, at 11816 Wayzata Boulevard**

City Planner Loren Gordon and Community Development Director Julie Wischnack gave the staff report.

Calvert asked how many units per acre were included in this project. Gordon stated this project would have 61 units per acre.

Calvert questioned if the trees would remain in the dog exercise area. Gordon reported this was the case.

Calvert inquired what the winter salting plans were for the trail around the pond. Gordon explained the city required a salting plan with every project and this information would prescribe the salt used on parking surfaces and trails. He noted this would be a follow up item with the building permits.

Wiersum requested further information on the differences between PID and PUD. Gordon summarized the differences between the PID and PUD zoning districts.

Tony Kuechle, Doran Companies, discussed the changes that were made with the building and how he would be addressing the pet concerns. He reviewed the rules and regulations when it came to pets. He stated on average 20% of his residents have pets. He commented further on how he was planning to hold an association wide meeting to discuss pets. He reviewed the amenities that would be provided within the pet exercise area and reiterated that all of the trees would remain in this area, except for one. He commented further on the building elevations, noting the building size had been reduced. He reviewed photos of the proposed building with the city council and thanked the council for considering his request.

Wilburn asked how parking would work for this complex. Mr. Kuechle reported parking would be assigned at the time units were rented. He noted there was an additional monthly charge for parking stalls.

Wilburn questioned if the building would have bike storage. Mr. Kuechle indicated the entire perimeter or the underground parking bike storage attached to the wall. In addition, the building had a bike room.

Kirk commented on how there was a need for short term visitor parking. He inquired how this complex would regulate short term guests who have become tenants in the building. Mr. Kuechle discussed how short term parking was regulated and monitored. He stated short term parking guests could not remain within the lot for more than 48 hours or more than three times in one week.

Kirk asked why the amenity deck was facing the highway. Mr. Kuechle reported this had to do with sun exposure and noted some of the first units to sell within his buildings overlooked the amenity deck. He reported these units were very desirable to renters. He indicated this building would have views of the amenity deck along with views of the pond, which would meet the varying needs of his renters.

Calvert stated she believed the building was more interesting with the eyebrows that were on the south side of the building.

Wiersum indicated the number of units would remain the same, even though the size of the building was being reduced. He suspected this meant some units would go from one to two-bedrooms. He asked if the number of overall residents in the building would be reduced. Mr. Kuechle anticipated this would occur. He explained his suburban projects average 1.4 to 1.6 people per unit.

Schack questioned if Doran Companies would be developing and holding this property. Mr. Kuechle reported this would be the process he would follow.

Wiersum opened the meeting for public comment.

Sarah Maloney, 705 Fairfield Circle, explained she lived within the Gables of Westridge neighborhood and has served on the board of directors for the past 10 years. She was of the opinion the density of this project was too high. She believed her neighborhood has already absorbed too much with the Birke. She discussed how the trails in the neighborhood allowed residents to share the space. She feared how the additional residents and pets from the proposed apartment complex would overwhelm her existing neighborhood. She indicated her neighbors felt the same way. She reported traffic in her neighborhood has already increased tremendously and this project would compound this concern. She encouraged the city to find another spot for a building of this size. She noted

her quality of life has decreased since the Birke was constructed and anticipated there would be another decrease if this project were to be approved. She asked that the council not move this project forward.

Pam Lewis, 980 Fairfield Court, expressed frustration with this project and hoped the council would hear the concerns being voiced by the neighbors. She stated the proposed density would adversely impact her neighborhood. She explained she appreciated some of the changes that were made to the building, but noted having space for the dogs within this complex should not be considered monumental. She was of the opinion this building was too huge to be adjacent to existing residential homes. She asked the city to build infrastructure in order to address the traffic concerns that will be created if this building were approved. She stated it has been a joy of her life to live in her townhome in this secluded neighborhood, but stated this joy will be taken away if this project is approved. She noted she was considering moving because the beauty and nature that was in her neighborhood would be removed. She encouraged the council to consider why this neighborhood was different and to not move forward with this project.

Wiersum closed the meeting for public comment.

Schaeppi thanked everyone in the room, from the developer to the neighbors, for bringing their comments forward to the council. He stated he appreciated the fact the developer was willing to hold public meetings and change their plans for this building. He also appreciated the emotions and frustrations that have been expressed by the neighbors. He indicated this project could be so different. He believed this entire development process could be different if the leadership within the city had standardized metrics for the various zoning districts in the city. He indicated this was his last year on the city council and it was his hope that the city council and staff would do something. He explained he did not like the frustration level that was being created by this project. He stated other cities were doing things differently and they were leading. He recommended the council reconsider how to control development locally. He understood the city was close to being closed for business for private development. He stated he heard the frustrations of the neighbors, but indicated he would be supporting this project with the understanding the private market was doing what they have been told, and they were offering affordable units.

Calvert indicated she was familiar with this neighborhood and she understood it was quiet. She explained she was sympathetic to the concerns of the neighbors and thanked them for being engaged with the city. She thanked staff and the developer for being willing to work to make this project better. She reported there was very little undeveloped property left in Minnetonka. She commented further on how she supports the preservation of trees and nature. She explained if the city were to build out, the city would be covering nature. She discussed how this project would be built on the existing building foot print, which would assist with



preserving nature. She understood this project would put pressure on the neighborhood, but she believed there was a lot of good in the proposed project. She reiterated that view shed was not a right. She stated she wanted Minnetonka to be a welcoming place for new residents. She noted she appreciated the affordable units that would be included in this project, along with the architectural interest that had been included in this building. She supported the eyebrows remaining. She encouraged the neighbors and developer to continue having conversations. She indicated she would be supporting this project.

Kirk asked what was being referenced when the neighbors say the city is asking for greater density. Wischnack explained she attended the neighborhood meeting where it was referenced the city wants this. She heard the developer saying the region was growing and there was a need for housing throughout the region. She reported there was a desire for density in areas like Ridgedale, Opus and other commercial centers.

Kirk commented out of the context of development the council looks at the fabric of the city to see how projects can fit. He apologized for the lengthy process that has to be followed for both developers and neighbors. However, through this process the development changes. He understood the townhomes did not support the apartments. He was of the opinion this was the right place for apartments, given its proximity to the highway and stated he would be supporting this project. He recommended the eyebrows remain on the southside of the building because it made the building more interesting. He recommended this development become a part of a greater HOA.

Schack explained she appreciated all of the comments from the neighbors and developer. She indicated she has read through a lot of emails from residents the past few days. She was of the opinion the dog area and the changes that would be made to the west side of the building would have a meaningful impact. She supported the eyebrows remaining on the building.

Wilburn stated she supported the city looking at zoning to better understand what changes could be made. She noted she was on the EENR and climate change was a concern for her. She understood how building up instead of building out was better for the environment, and also understood there was a regional need for more housing, especially affordable housing. She explained the more housing opportunities the city can have the better living situations that can be created for Minnetonka residents. She appreciated how the pet waste situation was being addressed.

Wiersum reported one of the challenges with a project like this was, if this project was not built, what may be built. He anticipated an office building would not be constructed, but rather another high density housing project would be brought forward. He appreciated the fact that this project was being brought forward by a

developer the city has worked with before and who was willing to work with the city and the neighbors. He believed this project has improved meaningfully based on the input of the neighbors. He explained the city council would not be able to change pet owner behavior, but rather pet owning residents have to be more considerate. He noted there was a housing shortage in the Twin Cities which meant the city needs more places for people to live. He indicated he appreciated the work Doran Companies has done in working Frasier to adults with disabilities into their buildings. He stated this has tremendous value to him because he has adult children with severe disabilities. He commented on how the state was allocating \$1 billion on housing and not a dime was being set aside for people with disabilities. He appreciated how this project would assist with providing housing for people with disabilities. He indicated he would be offering his support for this project.

Kirk moved, Calvert seconded a motion to adopt Ordinance 2023-08 and Resolution 2023-042. All voted "yes." Motion carried.

**B. Items concerning Marsh Run II redevelopment, a multi-family residential development by Doran, at 11816 Wayzata Boulevard**

City Planner Loren Gordon and Community Development Director Julie Wischnack gave the staff report.

Kirk moved, Calvert seconded a motion to adopt Resolution 2023-043. All voted "yes." Motion carried.

**C. Accept the 2022 Annual Comprehensive Financial Report and related audit reports**

City Manager Mike Funk gave the staff report and introduced Aaron Dahl with KDV to the city council.

Aaron Dahl, KDV, reviewed the 2022 annual comprehensive financial reports with the council and reported the city received a clean or unmodified opinion. He commented on the general fund budget to actual results noting revenues and expenditures for the previous year. He reviewed the balances of the enterprise funds and commended the city for its strong financial position.

Wiersum questioned where the money comes from when the enterprise funds have a loss. Mr. Dahl stated rates may have to be adjusted or transfers could be completed from other funds.

Wiersum indicated the environmental fund was taking a hit and asked why this has occurred. Finance Director Darin Nelson explained this has occurred due to changes in the recycling market.

Calvert moved, Kirk seconded a motion to accept the 2022 audit reports.

Wiersum reported he was very proud of the city's financial position and for having a AAA bond rating, because this saved taxpayer money.

All voted "yes." Motion carried.

**D. Items concerning Walser Kia at 15700 and 15724 Wayzata Boulevard**

City Planner Loren Gordon gave the staff report.

Kirk asked if an expansion variance was required on the parking storage to the north. He stated the issue was with the volume of cars being stored. Gordon reported this was correct.

Kirk questioned if the proposed wetland variances would require mitigation. Gordon explained if the city were moving towards approval, mitigation would be further pursued.

Kirk indicated a wetland has locked in a developable property. He inquired if there was anything that exists that allows access to those parcels that were inaccessible due to a wetland. Gordon reported this has some impacts to the areas based on the method of construction. He stated another method would be to create a bridge structure and not have an impact on the wetlands.

Schaeppi thanked staff for the high level detail included within the staff report. He noted he lived to the north of this property and the most prevalent building was the BMW structure. He requested further information on what could go onto this site. Gordon indicated staff has tried to explore this further with the applicants, but right now they were committed to this plan. He reviewed the variances that were being requested and noted the applicant would have to shrink down the parking and building size, while also using a bridge to connect to the back lot.

Schaeppi stated he was stuck on the parking variance and wetland impacts. He questioned which one was the bigger consideration. Gordon stated variances always have to have a reasonableness satisfied and with this project, staff does not believe it was reasonable to create a new building and have so many requests. He was of the opinion the design and layout of this project could be changed to address the variances and wetland impacts.

Wiersum asked if there were size limitations on structured parking. Gordon reported the city does not limit interior parking within structured parking. He noted the city would review and consider the setbacks and height of the structured parking.

Wiersum invited the applicant forward at this time.

David Phillips, architect for Walser Real Estate, provided the council with a presentation on the proposed Kia dealership. It was noted the site currently has a vacant shopping center. He reported it was his understanding the billboard would be torn down. He indicated the dealership building would be very high quality. He stated he has been working with city staff for the past year on this project. He explained all floodplain elevation requirements were being met with this project. He commented the site would have rainwater collection for use in the car wash. He discussed how the new project compared to the current site and stated he believed the car dealership would be a good use. He provided further comment on the practical difficulty with the property and how he was proposing to connect the site. He reviewed the landscaping plan and described how the proposed development would impact the site. He noted this new franchise would create 40 to 50 new high paying jobs and explained Walser has been a Minnesota business for over 65 years.

Schaeppi requested further information on access and if a bridge could be used. Mr. Phillips stated the difficulty with a bridge are with the contours that would be needed to get over the wetland. He indicated the bridge would have to be supported and this would change the land underneath. He was of the opinion narrowing the driveway to 22 feet with the retaining wall, there was less impact to the site. In addition, he noted the bridge would be a significant expense.

Kirk asked if the lot could meet the city's car storage requirements. Mr. Phillips stated he would not have a viable car dealership with only 70 vehicles. He reported he needed up to 40+ parking spaces just for employees and guests and would need additional parking spaces for vehicles being serviced.

Kirk requested further comment from staff regarding the city's parking standards. Gordon indicated the city's new auto dealer ordinance came about in 2008. He reported this ordinance recognized what the PID district was, which is an area along I-394, where the city requires a high level of investment. He commented further on the formula that was created after conversations with the car dealerships, which was one space for 200 square feet of indoor area.

Wilburn inquired if the developer had considered putting cars inside the building. Mr. Phillips stated he did not have enough site to construct a viable building that would house all the vehicles. He indicated a ramp could be constructed on the upland area to the north but a connection would still be needed.

Wilburn questioned if the site could have two buildings. Gordon stated this was a possibility. Community Development Director Julie Wischnack explained the BMW dealership has 511 vehicles inside.

Wiersum opened the meeting for public comments.

Jeff Kobleck, 351 Towns Road, reported he looked at all of the dealerships along I-394. He noted the rendition from Walser does not show the visual he sees eight months of the year, when the leaves are off the trees. He believed the city failed the adjacent residents when it comes to the BMW building because the site was not properly screened. He stated the wetland has been impacted greatly by the BMW dealership. He then read an article about how runoff from impervious surfaces can impact wetlands. He asked that the city deny this request in order to protect this valuable wetland.

Wiersum closed the meeting for public comments.

Kirk indicated he would not be supporting this project moving forward. He wished there was a solution that would work, but he explained the list of variances was too long for him to support this project.

Schaeppi commented he was conflicted when it came to this project. He stated if this project were not to move forward then what would. He indicated he this was a great looking dealership that looks very nice from the street. He understood the city did not have a lot of options and he feared how the wetlands would be impacted by this project. He hoped there could be some sort of solution with a waiver or contingency in order to continue conversations with the applicant.

Schack agreed it seems there were too many variances with this project. However, if changes were made, she could see this project moving forward. She understood this project could not move forward without any variances, but she could consider it more seriously if there were not so many significant variances. She stated she would not be offering her support to the project at this time.

Calvert agreed with her fellow councilmembers. She indicated this was an attractive building and the proposed use was appropriate. She explained the building design was reasonable and she appreciated the fact the site would have water reclamation on site. However, she was concerned with the proposed site design and parking numbers. She noted at this time she would not be able to support this project.

Wilburn indicated there was a tension between the site and the request. She was uncertain if a ramp would be a better option as she anticipated the neighbors would not want to look at this. She feared the request had too many variances as proposed and for this reason she would not be offering her support.

Wiersum reported this request reminded him of a request that was before the city 20 years ago where a resident wanted to build a home on a 4,000 square foot lot

on Lake Minnetonka that required nine variances. His comment was that this resident had a lousy lot in a great location. He was of the opinion Walser had a lot that was in a great location but the requirements for a successful car dealership would not work on this site. He believed the requirements for new car dealerships would work for this lot.

Mr. Phillips requested the council table action on this item to allow him to discuss this project further.

Wischnack explained if the council were to table action on this item a waiver would be required from the applicant.

Kirk moved, Calvert seconded a motion to table action on this item to allow the applicant to reconsider this project with a parking structure and fewer wetland variances. All voted "yes." Motion carried.

## **15. Appointments and Reappointments:**

### **A. Sustainability commission young adults reappointments**

Wiersum gave the staff report.

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

### **B. Resolution Designating an Alternate Commissioner to the Bassett Creek Watershed Management Commission**

Wiersum gave the staff report.

Calvert moved, Kirk seconded a motion to adopt Resolution 2023-044. All voted "yes." Motion carried.

## **16. Adjournment**

Kirk moved, Calvert seconded a motion to adjourn the meeting at 10:25 p.m. All voted "yes." Motion carried.

Respectfully submitted,

A handwritten signature in black ink that reads "Becky Koosman". The signature is written in a cursive, flowing style.

Becky Koosman  
City Clerk