

**Minutes
Minnetonka City Council
Monday, August 14, 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, Deb Calvert, Bradley Schaeppi, Kissy Coakley, Brian Kirk, Rebecca Schack, Kimberly Wilburn and Brad Wiersum were present.

4. Approval of Agenda

Calvert moved, Kirk seconded a motion to accept the agenda with addenda to Items 10.C and 12.C. All voted "yes." Motion carried.

5. Approval of Minutes:

A. July 24, 2023 study session minutes

Calvert moved, Kirk seconded a motion to accept the minutes. Calvert, Schaeppi, Coakley, Schack, Wilburn and Wiersum voted "yes." Kirk "abstained". Motion carried.

B. July 31, 2023 regular meeting minutes

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

6. Special Matters:

A. Acceptance of CenterPoint Energy Community Safety Grant Award

City Manager Mike Funk and Assistant Fire Chief Aaron Morris gave the staff report.

Aaron Abrahamson, CenterPoint Energy, presented the city council with a Community Safety Grant award in the amount of \$2,025, which will be used for an advanced RAE multi-gas detector.

Wiersum thanked CenterPoint Energy for their great partnership with the City of Minnetonka and the Minnetonka Fire Department.

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

7. Reports from City Manager & Council Members

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

Schack thanked all of the residents of Minnetonka that participated in Night to Unite.

Calvert explained she attended the City County Credit Union grand opening.

Calvert reported she attended an open house for the Goodwill in Minnetonka. She thanked this organization for all of the great work they do in the community.

Schaeppi thanked the Minnetonka Police Department for responding to a shoplifting call in the Ridgedale area. He understood theft was a growing concern and he appreciated the department's investments and efforts to address this concern.

Schaeppi commented on how an intersection in his neighborhood was improved and stated he was excited to see this project come together as it would improve safety for the children in his neighborhood.

Kirk thanked the lone buckthorn puller at Shady Oak Lake. He provided further comment on the invasive weeds that were overtaking Shady Oak Lake.

Wiersum noted he attended Night to Unite and he had a great night with Police Chief Boerboom.

Wiersum explained he attended the open house for the Goodwill along with Councilmember Calvert. He appreciated the job training and other positive green services the Goodwill provided to the community.

Wiersum reported today he attended a public safety meeting on juvenile crime in Golden Valley with City Manager Funk.

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

9. Bids and Purchases: None.

10. Consent Agenda – Items Requiring a Majority Vote:**A. Atlas 14 Floodplain Map and Floodplain District ordinance update**

Kirk moved, Coakley seconded a motion to adopt Ordinance 2023-11 and Resolution 2023-055. All voted “yes.” Motion carried.

B. Authorization of a three-year agreement for professional auditing services with BerganKDV

Kirk moved, Coakley seconded a motion to authorize execution of three-year audit services agreement. All voted “yes.” Motion carried.

C. DWI Traffic Safety Grant agreement

This item was moved to Item 11.A.

11. Consent Agenda – Items requiring Five Votes:**A. DWI Traffic Safety Grant Agreement**

Calvert moved, Kirk seconded a motion to adopt Resolution 2023-053. All voted “yes.” Motion carried.

12. Introduction of Ordinances:**A. Ordinance establishing Diversity, Equity and Inclusion Commission**

Senior DEI Coordinator Jayce Alexander gave the staff report.

Calvert asked if there was a differentiation between young adults and students. Alexander reported there was no differentiation.

Coakley commented she spoke with City Manager Funk about this ordinance. She recommended a city council liaison be appointed to this commission and recommended the council further consider the skill sets for the members of this commission, given the fact the city has a low number of minorities in the community.

Schaepfi discussed the power and duties of this commission and stated he would like to have more clarity regarding this matter. Alexander explained he would work to have clear action steps for the group.

Kirk suggested the terms for the commission members be reconsidered. He noted the city's other boards and commissions have two year terms and not three year terms.

Schack appreciated the vision for this group and she looked forward to seeing this group up and running.

Wiersum thanked staff for recommending an educator serve on the DEI Commission.

Schaeppi stated he would like to learn more about the makeup of the DEI Commission.

Wiersum agreed stating diversity is about a lot of things, not just about one aspect of society. He commented on the members of the community that served on the Diversity Task Force.

Wilburn explained there was an intersectionality for some members of the community who cover more than one group or subset.

Calvert commented this group has been years in the making and she appreciated all of the progress staff has made for this commission.

City Manager Funk thanked Councilmember Wilburn for her comment and noted the DEI Commission would have nine members at large and two student members. He explained the city would work to make the composition diverse. He commented on how this commission would work to bring recommendations forward for the city council based on the groups work plan.

Coakley asked why a liaison was approved for the EDAC. Funk stated he did not understand the history of this group. Community Development Director Julie Wischnack explained a liaison was approved for the EDAC due to the complexity of tax increment financing.

Coakley stated she believed DEI issues were also complex and she would like to see a council liaison appointed to this commission. She indicated she would be willing to serve as the council liaison to the DEI Commission.

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

B. Ordinance rezoning the property at 18393 Covington Road from R-1, low-density residential, to R-4 medium-density residential

City Planner Loren Gordon gave the staff report.

Kirk explained he worked for the YMCA. He noted he used to be the executive director of the Ridgedale YMCA where he worked to keep kids active after school. He commented further on how important it was to keep kids active, engaged and happy after school.

Schack moved, Wilburn seconded a motion to introduce the ordinance and approve or modify the notification area. All voted "yes." Motion carried.

C. Ordinance related to use of cannabis in public spaces

City Attorney Corrine Heine gave the staff report.

Calvert stated this has been a big topic for cities. She questioned what the consequences would be of having a more extended time period for public feedback. Heine reported the city can enact this ordinance at any point in time. She explained the only concern would be if a lot of people started smoking throughout the community and the city were to receive complaints, there would be no ordinance in place to address this concern.

Kirk anticipated this ordinance would have a broader impact than just on the park board. He inquired if other boards and commissions should review this ordinance and provide feedback. Heine stated this would be a matter of council discretion.

Calvert asked if those living in rental housing would have an inequity should this ordinance be adopted. She indicated she also supported more than one committee/commission reviewing this ordinance.

Kirk questioned how close this ordinance mirrors the tobacco and alcohol ordinances. He supported there being parallels between these ordinances. Heine reported with respect to the smoking of tobacco the 50 foot distance from playgrounds that is identified was identical to the existing ordinance. She commented on the prohibition of smoking in the park as a whole, the ordinance would be different. She noted alcohol was not allowed in parks without a permit. She indicated the difference for marijuana is that the smoke is intoxicating for others.

Wiersum explained the council has identified matters they were interested in before this ordinance comes back for further consideration. He agreed this was not just a park board issue and stated a town hall meeting may be warranted for this issue. He understood that neighboring communities have put legislation in place more quickly than Minnetonka. However, he wanted the proper path for this city in place before taking action.

Schack stated her instinct was that introducing an ordinance at this time was premature. She wanted the city council to be informed and educated. She feared the city was guessing at this time and she was uncomfortable with moving forward. She recommended if the city were to move forward, she wanted this ordinance to mirror the current alcohol and tobacco ordinances. She supported public engagement and a town hall meeting happening prior to this ordinance moves forward.

Schaeppi explained Minnesota's legislature was an outlier when it comes to how it addressed public use. He noted three out of 23 states allow this. He reported the Minnesota legislature has created a situation that was frustrating and this situation was not created by the Minnetonka City Council. He discussed how other communities were addressing this matter. He reported he had no reservation moving forward with this. He indicated tenants could have up to two pounds of marijuana, which could be baked into products, or tenants could opt to use edibles. The only thing tenants could not do, was smoke the product because children may be present or live next door. He understood the community would be making tough decisions regarding the use of these products, but reiterated that there were a number of ways to use these products besides smoking. He stated he was not concerned with the consequences of this ordinance and noted he was in favor of more restrictions versus less restrictions.

Coakley anticipated there would be unintended consequences for people living in apartments, minorities and lower income families who can't smoke in apartments. She reported people were already smoking in city parks and this was illegal. She worried about the unintended consequences once the city started putting more policies and ordinances in place. She wanted the city to be mindful of how the city polices this issue. She feared how these products would be marketed towards children, but she did not want the city to rush into these regulations, rather the city should think through this and request more public conversation.

Wilburn commented she had some of the same concerns as Councilmember Coakley and noted historically there has been a disproportionate criminalization of minorities when it comes to marijuana. She indicated she could support the ordinance being introduced at this time. She stated she would like to better understand how neighboring cities were regulating this topic along with information from the police department on how this topic will impact their workload. She recommended approval of this ordinance be pushed back further than September 6.

Kirk stated he agreed with Councilmember Wilburn's comments and noted September 6 was too soon.

Calvert reported she did not want to unnecessarily drag this item out. However, this was an important and complicated issue. She agreed with Councilmember

Schaeppi that a lot of ambiguity was left up to the city. She supported action on this being pushed back from September 6. She supported the park board weighing in on this topic. She noted she wanted to learn more about what neighboring communities were doing to address this topic. It was her hope the city could be consistent with the region.

Wiersum commented he supported the introduction of this ordinance. He wanted to send a message to the public that this was an important topic to the city. He explained he wanted the city to pursue more public engagement. He agreed with Councilmember Schaeppi that the state legislature did the city no favors by passing the law they passed. He was of the opinion the state law was not ready for prime time, which meant the state created problems for cities, along with other unintended consequences. He believed the city council should take their time reviewing this ordinance in order to build consistency. He commented on how the city addressed public smoking in the past and stated the council may have to revisit this matter in order to remain consistent.

Heine thanked the council for their feedback. She explained she heard the council would like additional information on how this compares to the treatment of other substances, impacts to the police department, information on what other states and cities are doing along with feedback from other commissions. She indicated the council was also interested in having more public engagement. She explained this could be done through a public hearing or a town hall meeting.

Wiersum stated he could support the city holding a town hall meeting. The council was in agreement.

Wilburn moved, Kirk seconded a motion to introduce the ordinance and provide direction to city staff. All voted "yes." Motion carried.

13. Public Hearings: None.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

14. Other Business:

A. Concept Plan for Roers Companies, 152-unit apartment at 1000 Parkers Lake Road

City Planner Loren Gordon gave the staff report.

Wiersum invited the applicant to come forward at this time.

Nick Asta, Roers Companies, introduced himself to the council and thanked them for considering this concept plan. He commented on how his company has focused on both market rate and affordable housing projects in the suburban area. He reported he has been chasing this project in Minnetonka for quite some time and he believed this was a growth area in the community. He commented further on the proposed structure and requested feedback from the council.

Wilburn asked what the affordability level would be for these units. Mr. Asta reported 5% of the affordable units would be at 50% AMI and another 5% would be at 60% AMI.

Wiersum explained he supported changing the location of the pool and encouraged the developer to consider a rooftop deck with a pool. Mr. Asta stated this would be a challenging given the framing of the building.

Kirk questioned if the property had enough surface parking. Mr. Asta reviewed the location of the guest parking, noting it would not be surface parking, but rather would be underground.

Schaeppi asked where the walk out units would be located. Mr. Asta indicated he has not gotten this far in the planning process. He reported this may be difficult with the two levels of structured parking.

Wiersum commented on the parking concerns that have arisen at the Birke apartments in Minnetonka. He encouraged the developer to make the guest parking very obvious.

Schack stated she believed this was a good concept plan. She supported this project moving forward, noting this was a good place for high density residential. She encouraged the developer to incorporate some sustainability efforts and to address the city's parking concerns.

Calvert agreed with much of Councilmember Schack's comments. She believed this project had merit and should move forward. She explained she would remain open minded regarding the pool location. She appreciated how Councilmember Kirk spoke to the importance of visitor parking. She thanked the developer for taking into consideration tree preservation. She encouraged the developer to consider sustainability measures.

Wilburn believed this project had merit and urged the developer to pursue sustainability measures.

Kirk agreed this project had merit and noted he would like to see 20% affordability within this project.

Coakley indicated she believed this project had merit and encouraged the developer to pursue 30% AMI for at least one of the affordable units.

Schaeppi commented he believed this project was a great start and had merit. He reported he knew this area well and noted this was an ideal space for multi family so long as the parking issues were addressed. He urged the developer to be a nice neighbor and to not put too many lights on the exterior of the structure.

Wiersum stated this project has merit and believed this was a great location for the proposed multi family housing. He understood this building would be more visible than the adjacent structures, but he was of the opinion the adjacent roadways could manage the additional traffic. He explained the surrounding amenities would make this an attractive location for additional rental units. He noted he could support additional density if this meant there would be more affordability.

B. Items concerning RIDGEWOOD PONDS, an 11-lot subdivision, at 18116 Ridgewood Road, and adjacent, unaddressed parcel

City Planner Loren Gordon gave the staff report.

Wilburn asked if there was concern with the private drive and access for emergency vehicles to the proposed subdivision. Gordon explained the development review team spoke with both the fire and police department and there were no concerns with access along the private driveway.

Kirk indicated he reviewed this plan online and he missed the fact that the developer went to 11 lots. He questioned when this change occurred. Gordon reported this occurred after the July 6 planning commission meeting and the original request was recommended for denial. He stated this was unusual, but developers can opt to change plans between the planning commission and city council meeting.

Kirk inquired if there was proper notification to the neighbors regarding the new plans. Gordon indicated the neighbors were notified of the change.

Further discussion ensued regarding the private drive. It was noted this subdivision would have a homeowners association in place that will take care of the driveways of the private lots and the driveways off of the public street.

Kirk asked if the city would take care of the snow storage within the cul-de-sac or would this be the HOA. Gordon explained the parking spaces along the public road need to be maintained by the HOA. Public Works Director Will Manchester indicated the city was set up to remove snow, if too much was piled on the outside of the cul-de-sac.

Wiersum questioned if the proposed 11 lot plan would require a number of homes to have sprinklers. Gordon noted the three homes would have to be sprinkled because they exceed the distance from a city roadway.

Tim Witton provided the council with a presentation on the 11-lot subdivision speaking further to the advantages. He explained these units were designed for empty nesters with one level living. He indicated the project was now less than three units per acre. He commented on the benefit of having an HOA for this subdivision. He reviewed the plans for a perspective wildlife overlook that would have a bench and wood chip trail connection.

Mike Waldo, 7500 West 78th Street, introduced himself to the council and thanked them for their consideration. He stated he was hoping this plan would show the project was less dense and the villas would have zero impact on the wetlands. He believed the overlook area would be a great amenity for the neighborhood. He spoke to the elevation of the roadway and noted there would be no impact.

Wiersum reported the city heard a lot from the adjacent neighbors regarding their concerns with the 13-lot subdivision. He indicated this would be the first opportunity for residents to speak to the 11-lot plan.

Wiersum opened the meeting for public comments.

Jay Jensen, 4209 Lindsey Lane, thanked staff for the thorough report and thanked Ron Clark for revising their site plan. He requested the construction management be considered by the developer so as not to impact the existing neighbors. He suggested no construction related parking be allowed on Lindsey Lane or Kylie Court. In addition, he had concerns regarding access. He requested the city keep the old curb cut on Ridgewood Road open during construction to be used as an additional access point. Lastly, he asked that the developer be required to keep the streets free of debris during construction.

John Coleman, 18317 Kylie Court, stated from the beginning of this project the neighbors understood this property would be developed. He appreciated the fact the neighbors have had a say over the past nine months. He commented on how the flood plain has been adjusted and explained this was why a buffer was so important. He thanked Ron Clark for reducing the density and recommended the developer continue to consider how to remediate the headlight pollution. He expressed concern with the fact there would be 26 homes on a single road with no other outlet. He stated he appreciated the changes that have been made to the plans.

Wiersum closed the meeting for public comments.

Calvert questioned if this subdivision would be meeting the city's tree conservation ordinance. Gordon reported this was the case. He explained there were more trees on the site than the tree inventory shows.

Kirk stated he supported the changes made to these plans and was glad the subdivision had been reduced to 11 lots. He did not believe the buffer was necessary noting there was light bleed between different streets as they intersect in all neighborhoods. He was glad the development would have one level villas, even though the price point was quite high. He stated he could support this project.

Calvert commented she was conflicted with density sometimes and she was glad this project was reduced from 13 lots to 11 lots. She thanked Ron Clark for adjusting the plans and for meeting the tree ordinance. She hoped the HOA could be mindful of salt on the roadways and driveways. While she believed Ron Clark would construct beautiful homes, she was concerned with the price point for these villas.

Schaeppi stated he lived on the north part of town by Legacy Oaks. He believed the finished project was great and he appreciated the comments from the neighbors. He supported additional language being included in the developer's agreement to address the no construction parking on Lindsey Lane and Kylie Court. He explained he did not love xenon headlights and would support additional buffering, but this would require support from the entire city council. He thanked staff and the developer for all of their hard work on this project.

Schack commended the neighbors and developer for getting to this point. She indicated the proposed level of density does not make her uncomfortable. She stated she would be supporting this project.

Wilburn indicated she would also support not having construction parking on Lindsey Lane and Kylie Court. She questioned if the developer would support the vegetative buffering to address the headlight concerns. She explained if this could be done, this would make the neighbors happy.

Wiersum appreciated the fact the density of this project had been reduced to 11 lots. He believed the mass and scale of this development was the best option for this neighborhood. He stated he appreciated how these units would fit in with the adjacent neighborhoods and noted the market was setting the price for these units. He suggested the buffering be a shared cost between the two neighborhoods. He explained he would be able to support this project with 11 units.

Kirk recommended the motion include language that speaks to no construction parking on Kylie Court or Lindsey Lane and that the buffering costs be split between the two neighborhoods. Community Development Director Julie Wischnack explained it would be difficult to enforce no construction traffic along Lindsey Lane. She suggested this matter be addressed in the construction management plan. She reported staff would agree to removing the old curb cut at the end of construction. She indicated the contractor would be responsible for managing debris on all streets going to and from the construction site and therefore staff did not want to limit this to Lindsey Lane and Kylie Court.

Kirk questioned how the council should address the buffer. Wischnack reported in the past the city has not required a buffer between two single family neighborhoods.

Kirk stated he supported shared cost buffering at the end of the new street which would buffer Lindsey Lane.

Wiersum indicated he would be comfortable with this. The council was in agreement.

Calvert moved, Kirk seconded a motion to adopt Ordinance 2023-12 and Resolution 2023-054 as amended per the council's discussion. All voted "yes." Motion carried.

15. Appointments and Reappointments: None.

16. Adjournment

Kirk moved, Wilburn seconded a motion to adjourn the meeting at 10:14 p.m. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
City Clerk