

**Minutes  
Minnetonka City Council  
Monday, February 24, 2020**

**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 Brian Kirk, Rebecca Schack, Susan Carter, Deb Calvert, Bradley Schaeppi, Kissy Coakley and Brad Wiersum were present.

**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. January 27, 2020 regular city council meeting**

Kirk requested a change to the minutes under Item 14.C in the fourth paragraph stating his comment referred to the Shady Oak Station and the control the city would have over the development and not an LRT station. He requested his comment read as follows: He also asked if there had been a similar evaluation of the AUAR being proposed for OPUS that would help guide the development for the Shady Oak Station in collaboration with Hopkins. Wischnack stated extensive evaluations were done with the Shady Oak Development strategy in conjunction with Hopkins.

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

**6. Special Matters:**

**A. 2020 Empty Bowls Event Proclamation**

Kirk read a proclamation in full for the record regarding the 2020 Empty Bowls Event which would be held on Tuesday, March 10, 2020.

**B. Recognition of former EDAC member Jacob Johnson**

Wiersum read a proclamation in full for the record recognizing EDAC member Jacob Johnson and thanked Mr. Johnson for his years of dedicated service to the City of Minnetonka.

**C. Recognition of former EDAC member Jerry Knickerbocker**

Wiersum read a proclamation in full for the record recognizing EDAC member Jerry Knickerbocker and thanked Mr. Knickerbocker for his years of dedicated service to the City of Minnetonka. He presented Mr. Knickerbocker with a plaque and a round of applause was offered by all in attendance.

Jerry Knickerbocker thanked the council for this acknowledgement. He explained he has lived in Minnetonka for the past 45 years and he has appreciated the opportunity to serve in this community.

**D. Presentation of 2020 Reflections Award**

Wiersum presented the 2020 Reflections Award to Florence Bogle for her outstanding contributions to the City of Minnetonka. He explained Ms. Bogle was nominated for this award by her daughters. He noted for more than 20 years Ms. Bogle has served as director of the ICA food shelf and helped feed the community through Meals on Wheels.

Beth Bogle, Florence Bogle's daughter, stated it has been really rewarding to go through the application process for this award. She explained her sister knew about the nomination process and stated it was a great honor for her mother to be recognized. A round of applause was offered by all in attendance.

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

City Manager GERALYN BARONE reported on upcoming city events and council meetings. She explained the Presidential Primary would be held on Tuesday, March 3.

Calvert stated she attended the Police Explorers Pancake Breakfast. She indicated this was a great community event. She noted she also attended the Fire Fighters Banquet.

Carter commented every year Golden Valley, Hopkins and Minnetonka host the Caring Youth Awards, which was an opportunity to recognize youth who were making big contributions in their community. She stated she was proud to have attended this event.

Schaeppi reported on Thursday, February 13 he attended an event sponsored by the Center for Energy and the Environment that addressed building codes and legislation for commercial building codes. He stated he was proud of the fact Minnetonka had four representatives in attendance at this event.

Wiersum explained he attended the Fire Fighters Banquet as well and noted this was a great event. He thanked all of the volunteers that worked to make Minnetonka a better community. He stated he was proud of the youth in this community. He reported he recently testified at the capitol alongside Representative Patty Acomb for a bill that would assist cities in completing a climate action plan.

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

Cynthia Jung, 18505 Spring Crest Drive, encouraged the Minnetonka City Council to look at tenant protection policies and ordinances.

Patty Sinykin, 4200 Powderhorn Circle, Empty Bowls representative, invited the public to attend the Empty Bowls event being sponsored by the ICA Food Shelf and Resource West. She reported the event would be held on Tuesday, March 10 from 11:00 a.m. to 7:00 p.m. at the Hopkins Center for the Arts. She thanked the City of Minnetonka and the Minnetonka City Council for their tremendous support over the past 22 years.

**9. Bids and Purchases: None**

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

Calvert requested Item 10.A. be pulled for further discussion.

**B. Items concerning LEGACY OAKS 5<sup>TH</sup> ADDITION:**

- 1) **A minor amendment to the existing master development plan;**
- 2) **Final site and building plans; and**
- 3) **Final plat**

Schack moved, Kirk seconded a motion to adopt Resolution 2020-016 and Resolution 2020- 017 approving the proposal. All voted “yes.” Motion carried.

**C. Resolution approving a conditional use permit for an existing accessory apartment at 18508 Ridgewood Road**

Schack moved, Kirk seconded a motion to adopt Resolution 2020-018 approving the request. All voted "yes." Motion carried.

**D. Resolution approving support to preserve local franchising authority in light of the threats from the Federal Communications Commission**

Schack moved, Kirk seconded a motion to adopt Resolution 2020-019. All voted "yes." Motion carried.

**A. Items concerning STRANDBERG EAST AND WEST at 14616 Woodhaven Road:**

- 1) Preliminary plat, with a wetland buffer variance; and**
- 2) A floodplain alteration permit for the construction of a new home**

Calvert asked why this variance had been placed on the consent agenda. City Planner Loren Gordon discussed the variance request in detail with the council and explained the variance was for the wetland buffer area for a portion of the driveway. City Manager Geralyn Barone reported this item was reviewed by the planning commission. She explained no one testified against the request and the planning commission offered unanimous support. For this reason, staff put the item on the consent agenda.

Schaeppi appreciated the fact this request was being further discussed. He commented on the proposed subdivision and stated he had concerns regarding the plat. He commented on the location of the existing house and noted the proposed lot to the east was a ravine with steep slopes. He indicated the subdivision would only work so long as five retaining walls were put in place, numerous trees were removed, and the driveway ran over a 100 year floodplain. He questioned why all of these other impacts were not being considered along with the variance given the fact the site was not fully conforming. He explained one neighbor had emailed the council expressing concern about the request.

Schack asked if the property owner could remove all of the trees and move the driveway without requiring a variance and then come back to the city to receive approval of the subdivision request. Gordon stated this item was less about the subdivision because the trees on the property were being managed consistent with the ordinance. He indicated the driveway issue was about what exists, and with or without the subdivision the driveway was still adjacent to the wetlands. He reported the subdivision process actually creates a buffer for the wetland. Community Development Director Wischnack reported there was a two year waiting period which meant the property owner could remove all of the trees and then could come back with the subdivision request in two years.

Calvert thanked staff for the clarification. She indicated she was satisfied with responses received from staff and could support the variance.

Kirk noted a floodplain alteration was being made on this property as well. He commented on the planning commission's role in this request. He indicated this was a rather straightforward request and for this reason he would be offering his support.

Schaeppi stated he came to a different conclusion regarding this matter. He explained the council would have to take into consideration if Minnetonka residents supported more subdivisions that had large retaining walls and excessive tree loss. He was of the opinion there wasn't general support for these highly engineered sites.

Calvert moved, Schack seconded a motion to adopt Resolution 2020-014 and Resolution 2020-015. Kirk, Schack, Carter, Calvert, Coakley and Wiersum voted "yes." Schaeppi voted "no". Motion carried.

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

**12. Introduction of Ordinances:**

**A. Ordinance amending the zoning ordinance and subdivision ordinances relating to appeals**

City Planner Loren Gordon gave the staff report.

Carter questioned if it had been a problem for the city to have no statute of limitations for appeals. City Attorney Corrine Heine reported there was a court decision that was made in the last three months that caused her to suggest a change should be made to city ordinance. This recommendation would provide the city with definition, certainty and a reasonable time period, which would be a 60 day time period. City Manager Geralyn Barone explained once this new language was in place, an appeal would have to be brought to the city in 60 days. It was noted the appeal would take longer than 60 days for the matter to be resolved in district court. Further discussion ensued regarding the 60 day challenge period.

Kirk asked if projects could continue to move forward even if a grievance was brought to the city. Heine reported projects could move forward if the proper permits were in place. However, the developer would have to understand there would be some level of uncertainty if an appeal were brought forward.

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

### 13. Public Hearings:

#### A. 2020 Community Development Block Grant Funds

Community Development Director Wischnack gave the staff report.

Coakley asked who receives interest from the loans that are given to homeowners that are interested in rehabilitating their home. Wischnack reported there was no interest on these types of loans. She explained these loans are deferred which meant if a homeowners stays in the home over a certain period of time the loan was forgiven. However, if a homeowner were to move out of the home before the time period ended, the loan would have to be repaid.

Coakley questioned how homeowners find out about the different type of loans. Wischnack stated the most common way residents find out about these loans was on the city's website or by calling the city. She reported there were certain income requirements residents had to meet to qualify for the loans.

Kirk inquired how quickly these funds were depleted and asked what was the most common use for these funds. Wischnack indicated the funds have never been depleted. She stated the city has to spend a certain amount of funds each year in order to receive additional funding in the next calendar year. She explained HVAC units, roofs, frozen water lines, sewer backups and windows were the most common requests for these funds.

Kirk asked if the 80% AMI was a requirement the city had to follow. Wischnack explained the people who receive these dollars were at about 54% AMI, but noted federal law allowed receivers to go up to 80% AMI.

Wiersum questioned how many people per year received loans. He asked if there were people who apply for loans and to not receive funds. Wischnack stated the city completes six to nine loans each year. She reported the city has a waiting list with approximately 70 residents on it. She commented a nuisance abatement was another option available to residents that needed a major home improvement.

Wiersum opened the public hearing.

Wiersum closed the public hearing.

Calvert moved, Kirk seconded a motion to hold the public hearing and adopt Resolution 2020-020. All voted "yes." Motion carried.

**14. Other Business:****A. Items concerning Shady Oak Road Redevelopment:**

- 1) Master Development Plan,**
- 2) Site and Building Plan review,**
- 3) Preliminary Plat,**
- 4) Detachment/Annexation and associated actions with the parcel:**
  - Comprehensive guide plan amendment, and**
  - Rezoning**
- 5) Detachment/Annexation of the parcel located at 11524 Excelsior Boulevard**

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

Schack stated this was a unique project. She questioned what the market rent rates were for recently completed apartment complexes. Wischnack stated she would have to investigate this further.

Schack asked if the owner of the Subway property has to participate in this process. Wischnack explained the city has informed the property owner about the project and when two cities agree to an annexation, the owner doesn't have a say in the action. She reported the difference in taxation would be discussed with the property owner.

Kirk commented on the building size and understood the building had to get bigger in order to work. Gordon stated this was the case. He indicated three stories has been the acceptable height which meant the building had to be expanded to the south for a larger footprint and increased unit count.

Kirk discussed the history of this project and reported the neighbors wanted a lower density development on this site, such as townhomes. He requested information from staff on why townhomes were eliminated from consideration. Wischnack explained there were four proposals for this site and none had a

townhome element. She stated financially townhomes were not a viable option given the site cleanup that was required.

Kirk questioned how much of the building size increase was due to the fact the city acquired the Main Street property. Wischnack stated there was not one answer to this question. She reported having this acquisition did increase the size of the building from 49 units to 75. She indicated there was a direct relationship, but this acquisition was not the only factor.

Kirk asked what would happen if the city tore the building down and left the lot empty. Wischnack indicated the city would be giving up millions of dollars due to the expense that was spent to purchase and cleanup the site. She reported the building would have to remain in place if the city wanted to use TIF.

Schaeppi inquired if the exterior surfaces being approved were within the December 2, 2019 architectural plans. Gordon stated this was the case. He indicated the applicant would have to comply with the building materials within this plan.

Coakley questioned why the proposed building would not have any three bedroom units. Wischnack deferred this question to the developer.

Carter asked if the council held a concept review of the 75 unit building. Gordon explained a concept plan for the current proposal was not completed due to the fact a concept plan was completed in June of 2019 for the 67 unit building. He reported the current proposal was similar in terms of the footprint and was less impactful in some cases.

Carter expressed concern with the fact this building would not have three bedroom units given the fact the density of the building has increased. She anticipated a one or two bedroom unit would not accommodate a family.

Mike Waldo, Ron Clark Construction, thanked the council for their consideration. He stated over the past four years the biggest concern with the 49 unit project was access onto Oak Drive Lane. He explained conversations were held with the property owner to the south and these proved to be unfruitful. He stated the 49 unit project was put on hold and therefore missed the 2017 tax credits. He discussed how the project evolved over the coming years, which included further conversations with the property owner to the south. He stated obtaining access to the south was a huge victory for this project. He reported with 67 units at 100% affordability the size of the building increased because the units were designed for families.

He explained the 67 unit project was not awarded any tax credits in 2019, which led him back to the drawing board. He commented he was led to create a mixed



income project. He stated three bedroom units were difficult to rent and because of this were left out of the project. He discussed how the proposed project would provide valuable units to the community. He believed that the plan before the council was improved in many ways over the previous versions and still made the economics work. He understood the building may be too big in some people's opinions, but he encouraged the council to keep in mind how traffic along Shady Oak Road has changed over the past four years. He commented further on the positives of bringing this mixed income project to the City of Minnetonka.

Kirk discussed how the mass of the building had decreased from the 2019 plan. Mr. Waldo reviewed the size of the 49 unit and 67 unit buildings. He discussed how the buildings had shifted on the lot and explained the proposed building was 10,000 square feet smaller than the 67 unit building. He commented on how close this property was to Shady Oak Road.

Kirk requested further information regarding parking. Mr. Waldo believed the site had adequate parking and explained one stall per bedroom was being provided with seven additional proof of parking stalls.

Kirk asked if the developer had spoken with the adjacent property owner regarding the driveway alignment. Mr. Waldo reported he had spoken to the adjacent property owner regarding this matter along with addressing site line concerns. He explained he would continue to work with him as this project moves forward.

Coakley encouraged the developer to be considerate of his future tenants. She stated those individuals looking for affordable housing may not have perfect credit but still needed access to housing. Mr. Waldo stated this was an important point. He reported the market rate units would be more restrictive but indicated the affordable units would have some level of flexibility.

Coakley requested further information regarding the affordability of these units. Mr. Waldo reviewed the 2019 qualifying income for 60% AMI that would be used for the 23 affordable units.

Wischnack reviewed the rents that were charged at The Overlook stating one bedroom apartments were \$1,500 per month and \$1,850 for a two bedroom unit.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

Schack stated she was disappointed to see an affordable building could not work on this site. However, she was pleased a unique apartment product was being offered. She commented she supported the proposed density given the fact the

building would be located along Shady Oak Road. She thanked the developer for being patient and for working with the city on this project.

Calvert indicated this project was like an old friend that keeps revisiting the council. She stated she too was disappointed the project was no longer 100% affordable. She understood this project had a push and pull nature. She was pleased this was a mixed income building. She explained she supported the design of the building and commented on how the traffic from this project would be different from the commercial uses. She thanked Ron Clark Construction for working with the city and neighbors on this development. She stated she would trust the market and the type of units that were being offered. She reported she was generally in favor of the proposed project.

Kirk thanked Ron Clark Construction and Mike Waldo for his work on this project. He explained he did not support the original project with 49 units when it came before the Planning Commission. He believed that the current project with 75 units was better. The reason for that was because the buffers and setbacks had been improved, along with site access. In addition, he appreciated the fact that the playground had been moved. He stated financially, this development made sense for the city. He thanked staff for all of their hard work on this project. He indicated he supported moving this project forward as it was the best option for the site.

Schaeppi thanked the developer for working in good faith with the neighborhood and for being willing to make changes. He thanked staff for working tirelessly on this development. He commented the finishes and architecture of this building was very well done. He appreciated the vertical and horizontal elements that would be used. He stated he liked the fact this project would have mixed rate units. However, supported the council having further discussion on how to get more three bedroom affordable units into the community for families. He noted he supported the three story height of the building given the fact it was adjacent to a highway. He thanked the resident who spoke regarding this project and encouraged the developer to continue working with him regarding light wash and buffering concerns.

Wiersum stated when this property was purchased the recommendation was not unanimous. He indicated the city laid out a good argument of why it was in the city's best interests to purchase this site. He explained this project has been around for a long time and Ron Clark Construction has been patiently working with the city to bring forward a high quality project. He thanked Mike Waldo for working diligently with the property owner to the south to purchase more property because this addressed the access concerns on the site. He understood the mass of this building was a concern but noted the location had been improved, along with the screening and architecture. He believed that once this building was complete it would be something the city would be very proud of. He stated

this would be a high quality building that would be in a great location. He explained he supported approving the project and thanked the developer for being patient throughout this entire process.

Kirk thanked the neighbors for providing feedback and working with the city and the developer on this project.

Kirk moved, Schack seconded a motion to adopt Ordinance 2020-02 and Resolution 2020-021 and Resolution 2020-022 approving the request and adopted Resolution 2020-026. All voted "yes." Motion carried.

**B. Items Concerning Shady Oak Crossings located at 4312 Shady Oak Road:**

- 1) Resolution approving an amended and restated contract for private development between the Economic Development Authority in and for the City of Minnetonka, the City of Minnetonka, and Shady Oak Crossing LLC;**
- 2) Resolution approving a tax increment financing plan for the Shady Oak Crossing Tax Increment Financing District and a modified development program for Development District No. 1; and**
- 3) Resolution supporting an application for a grant from the Metropolitan Council's Local Housing Incentive Account Program under the Tax Base Revitalization Account (TBRA)**

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

Wiersum opened the public hearing.

Chris Bernard, 4295 Oak Drive Lane, stated he lived directly across from the proposed development. He indicated he was trying to be a responsible property owner and was concerned about his property value. He anticipated none of the councilmembers would be happy to have a 75 unit apartment complex directly across from their front door. He commented he appreciated the strides that had been made on the project and expressed concern with how traffic would impact his neighborhood. He recommended the traffic from this site not be routed onto Oak Drive Lane. He suggested this be further investigated by staff and the developer. He indicated he appreciated the annexation of the property from Hopkins. He stated he was pleased the project would be 70% market rate and 30% affordable. He believed the architecture of the building had been improved which would enhance the curb appeal. He thanked the developer for working

with him to address his concerns regarding a buffer. He encouraged the council to consider how this project will impact the neighbors when voting for this project.

Wiersum closed the public hearing.

Calvert moved, Schack seconded a motion to adopt Resolution 2020-023, Resolution 2020-024 and Resolution 2020-025. All voted "yes." Motion carried.

**15. Appointments and Reappointments:**

**A. Appointment of Advisors for the 2020 Local Board of Appeal and Equalization**

City Manager Geralyn Barone gave the staff report.

Wiersum moved, Calvert seconded a motion to approve the appointment of the advisors. All voted "yes." Motion carried.

**16. Adjournment**

Kirk moved, Calvert seconded a motion to adjourn the meeting at 9:50 p.m. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman  
City Clerk

