

**Minutes
Minnetonka City Council
Monday, April 6, 2020**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:31 p.m. Due to the COVID-19 pandemic this would be a virtual meeting.

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, Susan Carter and Brad Wiersum were present.

4. Approval of Agenda

Calvert moved, Kirk seconded a motion to accept the agenda with addenda to Item 10.B and moving this item to 11.A. All voted "yes." Motion carried.

5. Approval of Minutes:

A. February 24, 2020 regular council meeting

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

B. March 2, 2020 regular council meeting

Kirk requested a change to the minutes on Page 6, Item 14.B stating he did not abstain on this vote but rather was absent.

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

6. Special Matters:

A. Earth Day Proclamation

Wiersum read a proclamation in full for the record declaring Wednesday, April 22, 2020 to be Earth Day in the City of Minnetonka.

B. Arbor Day Proclamation

Wiersum read a proclamation in full for the record declaring Friday, April 24, 2020 to be Arbor Day in the City of Minnetonka.

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming city events and council meetings. She explained due to the COVID-19 pandemic all city facilities are closed until further notice. It was noted all essential city services will continue to be provided.

Calvert commented she attended the National League of Cities Congressional Conference in March and noted she served on the Energy, Environment and Natural Resources Committee. She stated she was glad to be a part of this organization and be able to visit with congressional delegates.

Schaeppi explained last Saturday he attended a webinar on Local Minnesota Sustainability Commissions.

Schaeppi commented on several emails he received regarding city spending and taxpayer concerns. He noted he discussed these matters with the City Manager.

Coakley stated she also attended the congressional conference in Washington DC. She explained she attended sessions regarding affordable housing and transportation.

Kirk indicated the placemaking workshop was postponed due to COVID-19 and has been rescheduled to a virtual meeting. He stated he would report back to the council on this at a future meeting.

Schack commented she also attended the National League of Cities Congressional Conference and stated this was a great opportunity. She thanked staff for their tremendous efforts to make this virtual meeting possible.

Carter reported she served on the Tonka Cares Consortium. She noted meetings have been postponed but will resume when possible. She took a moment to speak to residents with students and reassured these parents that it was okay if things were not going alright. She encouraged residents to offer themselves grace during this difficult time.

Wiersum stated this was an unprecedented time and he thanked staff for all of their efforts during this crisis. He discussed their tremendous efforts and encouraged Minnetonka residents to stay at home during this challenging time. He explained social distancing efforts were extremely important and indicated

this was a matter of life and death. He stated now was not a time to come together, even to celebrate the upcoming holidays. He feared if people were coming together for celebrations, this meant more people would die. He encouraged residents to be smart and stay apart.

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

9. Bids and Purchases:

A. Bids for the Excelsior Boulevard Trail project (Shady Oak Road to Baker Road) and agreement with Xcel Energy

Park and Trail Planner Carol HejlStone gave the staff report.

Schaeppi asked if the standard for the trail was set by MnDOT or the county. He questioned if the numbers were too low would the city lose the authority to add a light. Hejlstone explained the crossing warrants for a light would be 30 pedestrians per hour. She indicated the city and county have guidance regarding pedestrian crosswalks. Public Works Director Will Manchester commented further on the guidelines the county has in place for pedestrian crossings.

Kirk questioned if clear communication was sent out to the residents living along Excelsior Boulevard given the fact the phases were being flipped. HejlStone explained project updates have been communicated to residents any time a significant change occurred.

Kirk commented on the Bolton & Menk recommendations. He stated portions of Bren Road would be closed and asked if there would be a conflict between the closing of Bren Road and east bound Excelsior Boulevard. HejlStone indicated the construction management staff would be coordinating these efforts and as traffic patterns change, this will be examined closely to minimize the impact on residents.

Kirk explained he had concerns with the path as it meanders off of Excelsior Boulevard to Pioneer Road to the east. He estimated six or seven legacy oaks would be impacted. He encouraged staff to move the trail to the south to avoid damaging the remaining oaks. HejlStone reported these oak trees would not be removed or impacted as part of this project.

Kirk stated he did not support striping or flashing lights on the county road for pedestrian crossings. He indicated he was concerned with the fact drivers would not stop along Excelsior Boulevard for pedestrians in a crosswalk. He feared there would be a false sense of security if a crossing were installed. He recommended safety medians be considered adjacent to the Immaculate Heart neighborhood. HejlStone commented she did hear from neighbors in this area

requesting improvements along Caribou Drive. She noted the grade of the bridge does not leave a lot of reaction time or sight lines and for this reason the city did not want to lure pedestrians into a false sense of security. Rather, staff would be directing pedestrians to a better location to cross the street to get to the north.

Schack moved, Kirk seconded a motion to award the contract, approve the amendment and amend the CIP. All voted "yes." Motion carried.

B. Bids and agreement for the 2020 Twelve Oaks Center Drive/Parkers Lake Road Improvements

Public Works Director Will Manchester gave the staff report.

Schaeppi stated he was excited to see these improvements moving forward for Ward 3. He suggested the city consider installing benches adjacent to the wetlands in this area.

Wiersum commented he used to work in this area and noted the storm sewer improvements were going to greatly benefit this area of Minnetonka.

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

C. Bids for the 2020 Mill & Overlay Project

Public Works Director Will Manchester gave the staff report.

Kirk asked if it was typical for the city to have such a large gap between the low and high bids. Manchester commented this depended upon the bidding climate.

Kirk questioned if the city was confident the proposed contractor would do a decent job on this mill and overlay project. Manchester stated the city has worked with this contractor and was confident in their work product.

Schack stated she was pleased the bids for this project came in lower than the engineers estimate. She anticipated this was due to the current climate given the uncertain times. She was pleased the city did not have to assess for this project and thanked staff their efforts.

Wiersum commented on the bid environment and discussed how the current crisis was impacting local governments. He was pleased the City of Minnetonka was moving forward with this project, as this would assist in keeping the economy moving in the right direction.

Kirk moved, Carter seconded a motion to award the contract. All voted "yes."
Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

- A. Transfer the remaining fund balance from the 2010 Refunding Park Bond fund to the 2016 Park Referendum Bond fund**

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

- B. Interim Use Permit, with setback variance, for a garden market at 17555 Highway 7**

This item was moved to Item 11.A.

- C. Resolution approving a Joint Powers Agreement with the City of Plymouth for the Ridgemount Avenue Improvement Project**

Calvert moved, Schack seconded a motion to adopt Resolution 2020-030. All voted "yes." Motion carried.

- D. Contract correction for the Public Safety Facilities Project**

Calvert moved, Schack seconded a motion to approve the GMP amendment, award construction contracts and assign selected contracts to Kraus Anderson. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

- A. Interim Use Permit, with setback variance, for a garden market at 17555 Highway 7**

Schack moved, Carter seconded a motion to adopt Resolution 2020-031 approving the permit. All voted "yes." Motion carried.

12. Introduction of Ordinances: None

13. Public Hearings:

- A. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for F Y M, LLC., 1700 Plymouth Road**

City Manager Geralyn Barone gave the staff report.

Wiersum opened the public hearing.

Howard Pastor, Pastor Properties, explained he was the owner of the 1700 Plymouth Road property. He indicated he was available for comments or questions.

Kirk moved, Calvert seconded a motion to open the public hearing and continue to May 4, 2020. All voted "yes." Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

B. On-sale intoxicating liquor and Sunday on-sale intoxicating liquor licenses for Gold Nugget Tonka, LLC., dba Gold Nugget Tavern & Grille, 14401 Excelsior Boulevard

City Manager Geralyn Barone gave the staff report.

Wiersum continued the public hearing.

Gary Windschitl, 14401 Excelsior Boulevard, thanked the council for considering his liquor license. He stated he was excited to be a part of the community.

Wiersum closed the public hearing.

Wiersum welcomed Mr. Windschitl to the City of Minnetonka.

Kirk moved, Schack seconded a motion to continue the public hearing from March 2, 2020 and grant the licenses. All voted "yes." Motion carried.

14. Other Business:

A. Resolution approving a conditional use permit for a 12-person licensed residential care facility at 3727 Shady Oak Road

City Planner Loren Gordon gave the staff report.

Kirk asked how the number of occupants was being calculated for the care facility. Gordon discussed how the square footage in the residence was calculated noting 300 square feet was required per resident. He noted this home would have 341 square feet per resident. He commented this applicant was unique because the owner and operator of the facility would live in the home. He reported city code would allow for a resident to live in their home while also

having a conditional use permit on that same home for a care facility. Staff believed this would be beneficial and supported the permit as requested.

Kirk questioned if the permit requirements would change if the owner of the property were to move out of the home and the lower level was rented out. Gordon stated the conditional use permit would have to be revisited if the owners occupancy were to change.

Calvert asked if the 3,400 square feet for the care facility included the lower level. Gordon reported the lower level was not included in this calculation.

Schaeppi inquired how the building code addressed this residential care facility given the large number of bedrooms in the home. Gordon discussed how city code addressed the use of this home as a care facility. He explained life safety was of the utmost importance. This meant the fire safety requirements would be higher for this home.

Schaeppi questioned if the home would have a sprinkler system. Gordon reported building code would require a sprinkler system given the level of occupancy in the home.

Coakley asked how many cars would be on the premises. Gordon discussed the city's parking requirements. He stated the home could have three cars in the garages and no more than four vehicles could be parked on the driveway.

Wiersum inquired if the applicant currently owned the home. Gordon reported the applicant was looking to purchase the property, pending the land use approvals.

Wiersum questioned if the purchase agreement hinged on the occupancy numbers being approved. Gordon deferred this question to the applicant.

Wiersum asked if a commercial kitchen would be required in this home. Gordon reported a commercial kitchen would be required given the number of residents that would be living in the home.

Dr. Gutierrez, 115 University Avenue NE, Apartment #503, in Minneapolis, introduced himself to the council. He stated he has been in practice for the past 16 years and worked with Rhea Fossman, a nurse, who was soon to be his wife. He discussed the growing need for high quality residential care facilities. He thanked the council for considering his request to have 12 residents in the care facility. He noted he has this property under contract and the purchase agreement was contingent upon receiving approval of the conditional use permit.

Coakley asked if this home would have private funding or if it would be funded by the county. Dr. Gutierrez reported the home would be funded by a combination of private and public funds.

Wiersum requested further information regarding the proposed business model and asked who the target audience would be for this care facility. Dr. Gutierrez stated he would be providing assisted living services for those 65 and older. He discussed the services that would be provided to residents with memory loss or dementia. He commented on the benefit of having these type of residents in a residential home with two or three care givers versus a nursing home. He stated there would be a higher level of care and noted there was an increasing need for these services. Further discussion ensued regarding the level of training the care takers would undergo to care for the residents.

Wiersum asked what the age would be of the residents in the care facility. Dr. Gutierrez estimated the age would be 72 to 80 years old.

Schaeppi requested further information on how the care facility would get residents to parks or doctor appointments. Dr. Gutierrez described how residents would be transported through a company vehicle. He reported the residents would not have vehicles parked at the home and only staff members would be allowed to park in the driveway. He discussed the activities that would be planned each week for the residents. He stated any offsite activities would have to be supervised by staff.

Kirk commented on the number of cars that would be allowed on this property and inquired if four was the max. Dr. Gutierrez reported city code would not allow any more than four cars outside of the garage, excluding occasional visitors. He noted he would be living in the facility to allow him to supervise the care provided to the residents.

Calvert questioned how the vehicles would be managed when Dr. Gutierrez was not working at the hospital on the weekends. Dr. Gutierrez stated he understood this would be a concern and that vehicles may have to be jockeyed from time to time. He reiterated that two other home care facilities have been approved in Minnetonka one for 12 residents and the other for 15.

Wiersum opened the meeting to public comments. There were no comments at this time.

Calvert asked if fewer than 12 residents were approved now, could additional residents be considered in the future. Gordon stated city code allows for seven to 12 residents given the size of the home. He reported the applicant was requesting 12. He indicated if the size of the home were to change the number would have to be reconsidered. City Attorney Corrine Heine reported this was a

conditional use permit request and when all conditions for the permit were being met the applicant is entitled to approval. She explained the applicant was meeting the square footage requirements per occupant. She advised if the council wanted to restrict the number of occupants to somewhere between seven and 12 the council would need to determine a condition has not been met and could only be met if the number of occupants was reduced. She reminded the council that all building code requirements would have to be met, along with all state of Minnesota licensing requirements.

Schack understood there was a growing need for this type of facility in Minnetonka. She commented the applicant was meeting the city's requirements and she would be supporting the request.

Kirk indicated the council was being asked to approve a residential care facility and not a home for assisted living and memory care for seniors. Gordon stated the drafted Resolution was for a residential care facility for up to 12 residents. He clarified "care" could mean a number of different things. He explained the applicant was proposing to have assisted living/senior care in the home.

Kirk reported the current drawings show the home would have 10 bedrooms. He indicated the applicant has stated some of these rooms could be double occupied to allow for a spouse. He stated he supported this taking place. He recommended the adverse impacts the residential care facility would have on the neighborhood be recognized by the council. However, he believed the proposed home was properly buffered and was large enough to accommodate residents and visitors. For this reason, he would be supporting the proposed request.

Calvert agreed with everything Kirk and Schack stated. She understood there were concerns with this use and feared parking would become a challenge. She appreciated the comments that were made at the planning commission meeting by a neighbor who was a local firefighter. She was of the opinion the proposed residential care facility would meet a need in the community for some of the most vulnerable residents in Minnetonka. She believed the city needed more facilities like this in the community.

Schaeppi stated he appreciated the information that was provided by the applicant and understood services would be brought to the residents versus the residents being brought offsite. He believed the proposed home was nicely buffered given its size and trees. He was of the opinion the applicant was qualified to operate this type of facility. He indicated he was satisfied with the application.

Wiersum stated he agreed with much of what had been said. He explained Minnetonka needed these types of facilities given the fact the population was aging. He indicated this was a large property with a large house that met the

care facility conditional use permit requirements. He stated he was struggling with the fact Minnetonka allowed facilities with more than six residents to exist within residential neighborhoods. He reported neighboring communities have different requirements for group homes. He understood group homes were necessary in Minnetonka and he appreciated the fact state law regulated group homes with six or fewer residents. However, he stated he did have concerns with facilities that had more than six residents because they had more issues and more cars. He noted the request before the council was for a conditional use permit, which meant the property would be approved for a residential care facility for up to 12 residents for the life of the property. He expressed concern with the fact **that Dr. Gutierrez** may not always own this property and feared how this would impact the use. He supported the city amending its code to be more consistent with neighboring communities and for Minnetonka to not allow group homes of more than six residents outside of commercial areas. He did not believe group homes with 7+ residents belonged in residential areas. At this time, the council did not have grounds to deny the request because city code was being met. Because of these concerns, he would be voting against the request before the council.

Calvert understood the concerns of the Mayor but stated she felt compelled to support the request given the current state of the city code.

Calvert moved, Coakley seconded a motion to adopt Resolution 2020-032 approving the request. Calvert, Schaeppi, Coakley, Kirk, Schack, and Carter voted "yes". Wiersum voted "no". Motion carried.

B. Resolution approving emergency forgivable loans to address the impacts of COVID-19 on small businesses within the City of Minnetonka

Community Development Director Julie Wischnack gave the staff report.

Coakley expressed concern with the fact residents were in need of rent and mortgage assistance. While she understood small businesses were in need at this time, she recommended the city consider creating a program to assist lower income families as well. Wischnack encouraged residents in need of assistance to contact City Hall. She reported ICA was available to provide assistance. She commented further on how the proposed program would benefit the local economy.

Schaeppi thanked the city for taking the initiative to support local businesses. He hoped that businesses that were in need would apply for this assistance. He stated he understood Coakley's concerns and encouraged Minnetonka to consider creating a rent or mortgage assistance program.

Carter commented she supported the forgivable loans for small businesses in the community. She thanked staff for putting this program together so quickly. She also understood there were residents that were struggling and she encouraged Minnetonka to find ways to help to ensure basic things such as food and shelter remained in place.

Calvert complimented staff for creating this program so quickly. She appreciated the sense of urgency to support local businesses. She also understood the importance of food and shelter during this time of crisis and wanted to see those who were vulnerable cared for and supported.

Kirk believed it was important for the city to support local small businesses given the jobs and incomes these businesses create. He understood there was often times a surplus in the HRA levy and noted this surplus may be needed to address housing concerns.

Schack stated as a small business owner she has not been as impacted as strongly as others. She explained her business and housing were tied together. However, she understood some small businesses have been deeply impacted and were concerned about making rent and benefit payments. She anticipated local business owners in Minnetonka needed this assistance and she appreciated staff's efforts on this program.

Coakley noted she has been in contact with the ICA food shelf and understood they had growing needs at this time. She stated these were unprecedented times for the City of Minnetonka. She indicated a number of residents have lost their income, which meant rent and mortgages would go unpaid. She explained her husband would continue working as a mail carrier, but noted she had lost her income as an Uber driver. She anticipated there were many residents in the same situation. She thanked the city for its efforts to support small businesses, but recommended the city also support its residents.

Wiersum stated he appreciated all of the comments the council has made. He indicated these were challenging times for the city and for the nation. He explained council was considering how to best help its people, whether through housing assistance or for its small businesses. He discussed how small businesses provided jobs and spurred the economy. He stated he also understood housing was a fundamental, basic need. He reported the challenge would be where the money was going to come from, in order to help small businesses and residents. He explained the county typically distributed housing funds from the federal government. He understood the city had far more businesses and residents in need than could be helped. He did not want this to paralyze the city from taking action but rather, decisions should be made and the city should look for more resources. He commented on the federal programs that were available to help businesses but noted the city's proposed program would

get money in the hands of local businesses quickly. He stated this was of the utmost importance at this time. He recommended this program move forward and that staff be directed to continue to search for additional funds for housing assistance. Wischnack commented she would be in contact with the council regarding the small business assistance program and appreciated the level of flexibility the council was providing staff.

Kirk suggested staff be prepared to make recommendations on a residential housing assistance program at the council's next meeting. City Manager Geralyn Barone reported staff would report back to the council on this program at their next meeting.

Coakley suggested the council hold a meeting on April 13 to address this matter. Barone reported the council did not have a meeting scheduled for April 13 but staff could address this matter on April 20.

Calvert understood there was a sense of urgency to address housing concerns and thanked staff for working hard to address this matter for the city council.

Calvert moved, Kirk seconded a motion to adopt Resolution 2020-033. All voted "yes." Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

C. Emergency ordinance regarding city manager licensing authority, utility penalties, and temporary compensation and leave policies

City Manager Geralyn Barone gave the staff report.

Wiersum thanked Barone for the thorough report from city staff.

Kirk asked if the EDAC and planning commission would be moving forward with virtual meetings. Community Development Director Julie Wischnack reported both groups do have items to address and virtual meetings were being scheduled.

Carter questioned if the charter commission was still exploring rank choice voting. Barone stated the charter commission's last meeting was postponed. She explained this topic has not been forgotten, but has been put on hold. City Attorney Corrine Heine reported the charter commission had not been issued technology to assist with holding a virtual meeting and therefore this has made it difficult for them to reschedule their meeting. She anticipated this group would not meet for another month or two.

Schaeppi inquired what the timing was for the Xcel PIE program. Wischnack stated Xcel was working on digital presentation of the document that has been drafted. She reported staff would continue to work on this remotely over the coming weeks. She indicated this information would be presented to the council after written feedback was received from Xcel.

Calvert thanked staff for all of their hard work. She understood these were trying times and she believed staff was doing a great job. She encouraged residents to consider participating in the 50th Anniversary of Earth Day.

Schack moved, Calvert seconded a motion to adopt Ordinance 2020-03. All voted "yes." Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Carter moved, Kirk seconded a motion to adjourn the meeting at 10:17 p.m. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
City Clerk

