

**Minutes
Minnetonka City Council
Monday, October 12, 2020**

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 and Brad Wiersum were present. Susan Carter was excused.

4. Approval of Agenda

Kirk moved, Schack seconded a motion to accept the agenda with addenda to Item 8, Item 14.A and Item 14.B. All voted "yes." Motion carried.

5. Approval of Minutes:

A. September 21, 2020 regular council meeting

Kirk requested a change to the minutes on Page 3 stating his comment should read he requested that care facilities with greater than six residents be discussed at a future study session meeting.

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

6. Special Matters: None

7. Reports from City Manager & Council Members

City Manager Geralyn Barone reported on upcoming city events and council meetings.

Calvert explained she attended an event at Oasis Church, along with Mayor Wiersum and Councilmember Kirk. She noted many clergy members, synagogue members, and law enforcement officers were in attendance at this community and trust building event.

Coakley stated there would be a Minnetonka Good Trouble March for lives stolen by police violence at Purgatory Park on October 17 from 12:00 p.m. to 2:00 p.m.

8. Citizens Wishing to Discuss Matters not on the Agenda

Commissioner Jan Callison addressed the city council and provided an update from Hennepin County. She discussed COVID-19, the civil unrest in Minneapolis and the 2021 budget. She described how many county employees have been working remotely since March 17, noting all essential services have been maintained. The assistance offered to homeless individuals was reviewed. It was noted the county received \$220 million in CARES Act funding. The distribution of these funds was discussed. Commissioner Callison recognized the tragedy of George Floyd's death and commented on the unrest that has occurred in Minneapolis. The county's response to the unrest was discussed in detail. The 2020 election process was reviewed.

Wiersum thanked Commissioner Callison for her dedicated service to the community.

Schaeppi thanked Commissioner Callison for her years of public service. He asked if this presentation would be available to the public, along with the information on how landlords can apply for assistance from the county. Commissioner Callison reported this information was available on the county's website.

Calvert thanked Commissioner Callison for her strong leadership and outstanding service to the city of Minnetonka.

David Haeg thanked the council for their service to the community. He encouraged the council to consider sharing a summary from each council meeting through digital channels to assist in keeping the public informed on the major topics that are discussed. He believed this type of communication would make the city more transparent to the community.

Joel Stone explained he sent an email to City Manager Geralyn Barone and Mayor Wiersum. He indicated he wanted to purchase a backyard hot tub and was hoping to follow the rules. He stated Minnetonka treats hot tubs the same as large in ground custom made swimming pools. He commented this meant many Minnetonka homeowners that owned hot tubs were in violation of city ordinance because a five-foot fence was required, along with 15-foot side yard setbacks and a building permit. He reported he checked with Hopkins, Edina, Plymouth, Deephaven, Wayzata and St. Louis Park so see how they handled hot tubs. He stated none of these cities require a fence or treat a hot tub like a swimming pool. He indicated he visited several homes that have hot tubs in their rear yard and these properties do not have a fence. He encouraged the council

to reconsider city ordinance regarding hot tubs to make them separate from swimming pools. He believed that if hot tubs have a lockable top, a fence was not required.

Wiersum requested staff investigate this matter further and to report back to the city council at a future meeting.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution appointing election judges and absentee ballot board for the Nov. 3, 2020 State General Election

Kirk moved, Calvert seconded a motion to adopt Resolution 2020-084. All voted “yes.” Motion carried.

B. Resolution adopting the 2021 meeting schedule for the Minnetonka City Council

Kirk moved, Calvert seconded a motion to adopt Resolution 2020-085. All voted “yes.” Motion carried.

C. Ordinance authorizing sale of city property adjacent to 1013 Ford Road

Kirk moved, Calvert seconded a motion to adopt Ordinance 2020-18 and approve the purchase agreement. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Ordinance amending city code section 625, relating to tobacco

City Attorney Corrine Heine gave the staff report.

Kirk asked how many tobacco violations Minnetonka has each year and questioned what residents should do if they suspect violations were occurring at a local business. Heine explained the city conducts compliance checks on a yearly basis at all local tobacco establishments. Community Development Director Wischnack reported the city has a handful of violations each year. She encouraged residents that suspect violations were occurring at a local business to contact city staff or the police department.

Wiersum requested further information on how violations were measured over time for tobacco license holders. Heine described how violations were measured in time per city code.

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

B. Ordinance authorizing sale of city property adjacent to 3841 Baker Road

City Attorney Corrine Heine gave the staff report.

Schaepi indicated this was a large lot. He asked if this lot were split, if two legally conforming lots would be formed. Heine stated she believed this would be possible given the size of the lot. She indicated the existing area of the parcel was 47,589 square feet and noted this would be increased after the sale was complete.

Kirk commented on the access rights to a future subdivided parcel. He reported access rights would have to be granted in order to add value to the lot. Heine explained when the property was acquired in 1979 it was acquired for right of way purposes. She reported the state passed legislation regarding the expiration of the covenants on tax-forfeited land in 2014. Therefore, the right of way restriction expired on January 1, 2015. She indicated this meant the land was no longer right of way, but rather was city owned property.

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

13. Public Hearings:

A. Resolution approving vacation of drainage and utility easements within LEGACY OAKS FOURTH ADDITION

City Planner Loren Gordon gave the staff report.

Wiersum opened the public hearing.

With there being no comments, Wiersum closed the public hearing.

Calvert moved, Kirk seconded a motion to hold the public hearing and adopt Resolution 2020-086 All voted "yes." Motion carried.

14. Other Business:**A. Ordinance approving the rezoning of the existing property at 4144 Shady Oak Road from R-1 to R-2**

City Planner Loren Gordon gave the staff report.

Kirk asked which side of the lot would be used for a driveway. Gordon explained he did not have a set of building plans and therefore was uncertain where a driveway would be located.

Schaeppi reported he visited this property and spoke with some of the neighbors. He requested further information on how this neighborhood would be impacted if the R-2 creep continued. Gordon commented this was a question based on speculation. He stated attached housing products were typically located on roadways with higher traffic volumes or near commercial development. He indicated attached housing products are not typically found in predominantly detached single family neighborhoods. He explained there was nothing to preclude this and noted the final decision to rezone this property would be made by the city council.

Calvert indicated she visited the property and spoke with one of the neighbors. She commented on an article she received that addressed how multi-family housing depresses adjacent single-family home value. She requested staff speak to this issue. Gordon reported he could not speak specifically to the article but noted this issue comes up from time to time in Minnetonka. He stated there was not a downward trend for property values that differed from an adjacent property. He commented on how property values in Minnetonka were on the rise, noting different types of properties had different trajectories with respect to their property value increases. Community Development Director Wischnack added that the location of a property greatly relates to the value of the property.

Calvert discussed a concern she heard from a neighbor with respect to the condition of rentals compared to owner occupied units. Gordon explained the city had nuisance ordinances that addressed property maintenance and building condition concerns for rental and owner-occupied units. Wischnack explained the city had received 500 complaints for property maintenance issues this year and the majority of these complaints were not for rental properties. She reported rental properties do not generate more complaints than owner occupied properties.

Calvert indicated the city had R-2 properties on this cul-de-sac. She questioned if the city could require a future duplex to blend in with and be properly screened from the single-family neighborhood. Gordon discussed the provisions in place

to address the R-2 zoning district and explained additional buffering would not be required. He anticipated additional landscaping could be added over time.

Coakley asked if the developer would be constructing affordable units within the multi-family development. Gordon stated this was a good question for the owner and applicant to answer.

Wiersum opened the meeting to public comment.

Jesse Johnson, the applicant, stated due to the cost of the lot and the price of new construction, he indicated that the multi-family development would not produce affordable units. Rather, the new units would be high end or luxury units.

Lynn Melcher, 11910 Lake Street Extension, explained she lived just west of this property. She stated she appreciated the councilmembers that had come out to speak with her. She indicated she was concerned about the loss of trees and visibility of the new development. She stated she would like to see plans for the site from the developer. She wanted to be reassured that the new units would be keeping in line with the character of the neighborhood.

Roman Olshansky, 14545 7th Avenue North in Plymouth, thanked the council for their efforts. He reported he built his homes from scratch and explained the new units would enhance this beautiful neighborhood. He believed the neighbors would like the new executive twin homes.

Alaun Pederson, 11801 Lake St Extension, explained he did not object to having renters as neighbors. He indicated his issue with the property has more to do with character. He stated he looked at homes in Eden Prairie, St. Louis Park and Plymouth. He reported he appreciated the broad appeal and character of the neighborhoods in Minnetonka. He commented this lot was zoned R-1 within the comprehensive plan and he would like this to remain as is. He stated this was a prominent property located on a corner lot that would set the tone for the adjacent neighborhood. He explained he would like the home on this lot to set the proper tone. He discussed the value of the homes in his neighborhood and was of the opinion a duplex would change the look and feel of the neighborhood. He provided further comment on how the quality and integrity of rental units was less and that this impact the value of the adjacent properties. He requested the council not approve the rezoning.

Wiersum closed the meeting to public comment.

Schack stated she did not appreciate the tone or the implication in some of the comments made by the neighbors. She feared there was an undertone or bias regarding renters and multi-family units. She encouraged the council to be

mindful of this bias. She wanted to see the council change the tone and the tenor when considering opportunities to use transitional properties for affordable housing projects. She indicated the council had to get comfortable with expanding its housing stock in order to reach its lofty housing goals. She stated she supported the rezoning.

Calvert explained the questions she raised were brought to her after meeting with a neighbor to the subject property. She understood change was hard and that change was coming into the community. She indicated she spoke with Mr. Peterson this weekend. She commented rental owners were not a concern to her. She reported the developer was proposing to construct a high-end duplex, which should not be a concern for the neighbors. She reported this project would not have an affordability aspect, but would enhance the city's multi-family housing options. She understood density was not a concern to the neighbors. She explained viewshed was not a property right. She explained this was a lovely single-family neighborhood, and indicated this property was not a bad place for R-2 zoning. She stated she did not share the concerns of the neighbors noting rezoning this one property would not change the character of this neighborhood.

Kirk commented he was on the planning commission when this item came before the city. He feared the conversation for this item was being sidetracked by rental versus ownership. He reported the application before the council was to rezone the property to R-2. He indicated one of the main concerns driving his decision was whether or not R-2 fit into the character of the neighborhood. He stated the property to the north was duplexes but noted the properties along Lake Street Extension were all single-family homes. He explained he was split on this request. He expressed concern with rezoning this property without fully understanding how the site will be replatted. Gordon discussed the two paths this property could take. He explained a variance could be requested for the project going forward, noting a subdivision could be requested to split the property into two separate parcels. He indicated this decision as for the owner to make at some point in the future.

Kirk commented the city could not control if the driveways would be placed along Shady Oak Road. Gordon stated this was correct.

Kirk indicated the property value for the vacant lot was \$150,000. He anticipated the value of the property after the multi-family project was built would be two or three times that value. Gordon estimated this to be the case.

Coakley explained she visited the property today, along with the adjacent neighborhood. She commented the homes along Shady Oak Road were single-family in nature, but noted there were also bungalows in close proximity. She

stated she understood why the neighbors wanted this property to remain R-1 and for this reason she recommended the rezoning not be approved.

Schaeppi reported he lived in a duplex with his son. He commented rental versus ownership was not an issue. He explained he did not have an issue with the fact the developer was proposing high end units given the fact this was a smaller development. He stated he was supportive of the rezoning and the incremental density that would be created. He indicated his only concern was with the location of the driveway. He discussed how continuing to approve rezonings for corner lots carries into single-family neighborhoods. He suggested the city discuss what segments of the city were close to commercial streets and were appropriate pockets for R-2. He commented he struggled with the fact the council only had a rezoning to consider, without an actual plan for the property.

Calvert shared the same level of discomfort given the fact the council only had a rezoning to consider and not the entire development. She stated this was an uncomfortable situation. She wanted to understand how the property would be accessed.

Wiersum stated he was concerned with the fact this item would not come back to the city council for further consideration. He indicated the location of the driveway was a concern to him and noted he would like to see the driveway exiting onto the cul-de-sac roadway. He questioned if the council could require the developer to pick a driveway location. Gordon stated the rezoning does not allow the city to dictate driveway location. He commented the best the council could do at this time would be to further engage the applicant.

City Manager Geralyn Barone reported if the council was going to deny the rezoning, the council would have to put together reasons for denial. She explained the other option would be to ask the applicant for a delay in order to request the applicant to bring further information back to the council.

Kirk believed there was a clear conflict between the character of the neighborhood on the Lake Street Extension side of the property versus the Shady Oak Road side. He questioned which neighborhood this property would belong to. Because of the conflict, he stated he would support delaying action on this request until the council could review an application for the development.

Schack asked if the applicant would have to support the delay.

Wiersum stated the applicant could support the delay or risk the rezoning being denied. Gordon reported the applicant has waived and would allow the city full discretion regarding this matter.

Calvert commented she would be very comfortable delaying a decision on this until the council can get more information from the applicant.

Wiersum indicated this lot was an appropriate place to consider R-2 zoning. He appreciated the valid points that had been made. He explained he lived in a twinhome surrounded by a high-quality single-family development. He reported the twinhomes in his neighborhood had not ruined the value of the single-family homes in his neighborhood. He stated property values in Minnetonka do well. He indicated he would support the rezoning if a vote were taken tonight, but he understood the council was lacking information. He believed it would be in the developer's best interest to table action on this item and allow the developer to provide the council with additional information on the proposed development.

Wischnack reported staff could work with the applicant to get more drawings and information regarding the plans for this property but noted the rezoning could not be conditional. She commented further on how this rezoning differed from other subdivisions and redevelopment projects.

Coakley stated if the council cannot set the location of the driveway through a condition for approval, it may be in the council's best interest to vote on the rezoning at this time. Wischnack explained this was true, unless the future developer would like to subdivide the property because this would require additional review from the council.

Kirk commented he would not support the rezoning at this time, but could agree to the rezoning if the developer were to provide the council with additional information. He believed the most logical way to develop this lot would be for the duplex to face Shady Oak Road. He recommended the item be tabled.

Calvert stated she agreed with Councilmember Kirk.

Coakley indicated she would vote no on the rezoning if a vote were taken tonight.

Schaeppi explained he did not support the rezoning at this time.

Kirk moved, Calvert seconded a motion to table action on Ordinance 2020-xx to a future city council meeting. All voted "yes." Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

B. Sustainability Commission Ordinance

Community Development Director Wischnack gave the staff report.

Schaeppi addressed the language at the bottom of the first page and stated he was concerned with the following: in related sustainable areas not addressed by city code or assigned to another advisory group. He requested further information regarding the expectations of this group. Wischnack commented the intention was to have this group looking at a lot of things that are not code related. For example, the energy action plan would be a policy reviewed by the sustainability commission. She noted the work plan for the sustainability commission would be reviewed and approved by the city council each year. Further discussion ensued regarding the items that would and would not be addressed by this commission.

Calvert stated the environment was her thing and she served on a national committee for the environment. She indicated she wanted this ordinance to be a tremendous success. She explained she was excited to have cross pollination between the city's commissions and boards in order to further the city's sustainability efforts. She thanked staff for all of their efforts on this document. She recommended climate change be referenced in both item 1 and item 6.

Wiersum opened the meeting to public comments.

Derek Bertelsen, 13513 Larkin Drive, stated he was 33 years old and grew up in Minnetonka. He reported he has a degree in environmental studies. He thanked the council for their work to create a sustainability commission. He suggested the number of meetings per year and the makeup of the commission be adjusted. He recommended the commission meet 12 times per year and not six times per year. He suggested two seats on the commission be left open for young adults and that the remaining seven seats be open to anyone living in Minnetonka, versus having these seats filled by a park board member or planning commissioner. He encouraged the city to take every effort to get fresh perspectives from the community. He proposed focusing on increasing collaboration between the board members and commissions, and not restricting participation on the sustainability commission.

Wiersum close the meeting to public comments.

Schack thanked staff for their excellent work. She anticipated the sustainability commission would meet more than six times per year. She noted she supported the suggestion to refer to climate change in item 1 and item 6.

Calvert commented she believed climate change was very urgent. She appreciated the work that had been done by the city and its staff. She noted the sustainability commission would meet at least six times, and possibly more. She explained she supported the broadness of the makeup of the commission. She discussed how the work of this commission would transform and optimize the

work of the planning commission and park board. She stated she was happy with the composition, responsibilities and duties that were laid out in the ordinance. She thanked staff for all of their efforts and noted she would be supporting this Ordinance.

Kirk explained he supported the proposed language change by Councilmember Calvert. He believed meeting six times per year was appropriate at this time. He indicated he supported the cross pollination efforts between the sustainability commission and the park board/planning commission. He recommended members from the sustainability commission be recruited for future planning commission or park board vacancies.

Calvert stated she supported Councilmember Kirk's suggestion.

Schaeppi explained he supported the proposed language changes to item 1 and item 6 as proposed by Councilmember Calvert. He stated he appreciated the language included in the sustainability ordinance and the spark that had been created for this group. He thanked the MCI folks and staff for working diligently to bring this matter forward.

Wiersum commented he supported the ordinance. He discussed how the sustainability commission would grow and evolve over time. He stated the approval of this ordinance was an important step.

Kirk moved, Calvert seconded a motion to adopt Ordinance 2020-19 amending the language in item 1 and item 6 as discussed. All voted "yes." Motion carried.

C. Boards and commissions recruitment and appointment process

City Manager Geralyn Barone and Assistant to the City Manager McKaia Ryberg gave the staff report.

Schack stated she has been thinking about this process a great deal. She suggested the councilmembers conduct outreach in the community to gain further interest in the board and commission recruitment process. She indicated this may help get the ball rolling and would provide new ways to introduce these positions to the public. She stated she appreciated the demographic question and the explanation paragraph from the city.

Coakley stated the Minnetonka Collective had a diverse group of people that attended their meetings. She encouraged the city to connect with this group for recruitment purposes. She also supported the city council conducting further recruitment in order to reach people who were not typically at the table.

Calvert supported posting recruitment information at the library, schools and at multi-family housing units. She believed there was some merit in having a circumscribed time for applications, but recommended applications be taken at all times. She questioned if the council supported having a window for the application process. Ryberg explained she reached out to several neighboring cities and found not all have a year-round open application process. She explained that by narrowing down the acceptance period from November through December a proper cycle could be created.

Calvert commented this made a lot of sense. She stated she was so excited this topic was being revisited. She appreciated the strong desire for transparency with respect to commission and board appointments. She explained city charter allows the mayor to make these appointments but noted the council would be assisting with the scoring for the candidates. She encouraged city councilmembers to reach out to the public in order to publicize the opportunities on the city's boards and commissions. She thanked staff for the detailed presentation on the new application.

Kirk thanked staff for the information that was presented. He also thanked the Mayor for being willing to shift some of the control onto the city council and for making this process more transparent. He stated he appreciated the direction this was going and this change would not have been made without the mayor's leadership. He suggested advertising commission and board positions at city sponsored events. He commented on the application and interview process. He believed the process was somewhat overwhelming and should be broken down into smaller chunks. He suggested applicants only be allowed to apply for one or two commission seats.

Schaepfi thanked staff for their efforts. He suggested names be redacted prior to interviews. He stated he supported much of Councilmember Kirk's comments. He commented on the importance of reaching out to the younger generation and encouraged staff to find these individuals where they are on social media. He recommended the city consider holding orientations in order to train newly appointed board and commission members.

Schack stated the council may be put in an awkward position if a discussion was held prior to a list being generated by the mayor. She understood the mayor made the appointments and did not have to take council feedback, but she believed it would be beneficial for the council to have a discussion regarding the appointments. She indicated it was difficult to state how many interviews will be held given the fact the city doesn't know how many applications will be received. She recommended the number of interviews be chosen at a future date after the applications have been submitted.

Calvert agreed with Councilmember Schack and stated she would like the council to have a discussion and consensus regarding recommendations. She stated there was a delicate balance between trying to recruit individuals while attaining diversity. She anticipated some of this diversity would come through in the application process.

Barone reported she spoke with Councilmember Carter regarding this matter. She explained Councilmember Carter believes this was a great start but would like to see active language regarding diversity and instructions for scoring would be helpful.

Coakley suggested a question be phrased to ask if individuals have served on a board previously.

Wiersum stated he worked with staff to put this together and he appreciated staff's ideas and suggestions. He believed this process was moving in the right direction. It was his hope the city would receive a larger and broader pool of applicants in the future. He discussed how difficult it was to select individuals for open board and commission seats.

Reviewed staff recommendations and provided feedback. No formal action required.

D. Consider final version of the updated strategic priorities and key strategies

City Manager GERALYN Barone and Assistant City Manager Mike Funk gave the staff report.

Schack stated she supported the final version of the strategic priorities and key strategies.

Wiersum concurred.

Coakley asked if the police and fire policy would be further discussed by the council. Funk explained these policies would be discussed by the council in the future.

Calvert thanked staff for their efforts on this and stated she supported the rewording of bullet two for the Safe and Healthy Community strategic priority. She suggested bullet three begin with the word collaboratively. Funk stated he would make that change.

Wiersum agreed the rewording of bullet two was well done.

Kirk recommended the language read while mitigating climate change impacts for the Sustainability and Natural Environment strategic priority.

Calvert supported this suggestion. She commended staff on a job well done.

Schaeppi thanked staff for their efforts and stated he appreciated the addition of safe connectivity and walkability throughout the community in the Infrastructure and Asset Management strategic priority.

Wiersum suggested language be included stating new mobility options will also be considered. Funk stated he would add this language.

Wiersum thanked staff for all of their efforts on this document. Barone thanked the council for working with staff through this process.

Reviewed draft document and provided feedback. No formal action required.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

E. Opus Housing Briefing

Community Development Director Wischnack gave the staff report.

Received the briefing. No formal action required.

F. Resolution ordering an Alternative Urban Areawide Analysis (AUAR) for Opus in the City of Minnetonka

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

Kirk questioned how the AUAR balanced the level of green spaces to concrete. He feared this development would not have a lot of natural green spaces. Gordon explained the AUAR was a high level document that looked at green spaces in a broader scale. He reported this was a measurement tool versus a prescription tool for future development.

Kirk discussed how housing in the city would triple through this development. He was pleased that more affordable housing would be available in the city but questioned how development would look in 2025. Wischnack stated this was the reason why the city was completing the AUAR for Opus in order to assist with forecasting the intense development patterns.

Kirk explained he was pleased the city would have a document that would assist the council with managing the higher level of this development.

Schack compared this development to Ridgedale and indicated it would be difficult to get to a high level of specificity for Opus. She was pleased the city would have an AUAR in place to assist with future decision making.

Calvert commented on a certain level she agreed with setting limits to building height, but also didn't want to see a master plan dictated or limited. She stated she had some concerns about having such high density in one area of the city. However, she noted she could support building up if this allowed for more greenspace.

Schaeppi explained he was excited that staff was planning and expecting density within this development. He stated he welcomed density because it meant more affordable housing and efficiency. He looked forward to seeing how this development positively impacted the city's tax base. He understood the council would have to consider traffic implications from this development further.

Wiersum stated the city needs to continue planning. He indicated he looked forward to reviewing the AUAR and how this document will assist the city with planning for the Opus development. He agreed he did not want all of the city's affordable housing in one place, but rather wanted the housing to be diverse.

Schack moved, Kirk seconded a motion to approve Resolution 2020-087. All voted "yes." Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Kirk seconded a motion to adjourn the meeting at 11:34 p.m. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
City Clerk