

**Minutes
Minnetonka City Council
Monday, November 23, 2020**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:32 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

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

4. Approval of Agenda

Calvert moved, Kirk seconded a motion to accept the agenda with addenda to Item 14.A and moving Item 14.C to before Item 13. All voted "yes." Motion carried.

5. Approval of Minutes:

A. October 26, 2020 regular meeting

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

B. November 13, 2020 special meeting

Calvert moved, Schack seconded a motion to accept the minutes, as presented. 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 reported the National League of Cities Summit was held virtually this year. She explained COVID, environmental concerns, elections and racial equity issues were the main topics of discussion.

Schaeppi requested staff provide the council with an update on how the city had been impacted by the governor's recent orders. Barone discussed how city facilities and staff members have been impacted by the governors most recent executive orders. She reported the city's goal was to keep as many employees working as possible without having to furlough.

Wiersum stated a number of councilmembers received emails from residents regarding mask wearing. He explained the state of Minnesota has a mask mandate and therefore Minnetonka would be following this order. He encouraged all residents to honor this mandate given the rising number of COVID cases in the state.

Wiersum commented the city council has had lengthy meetings as of late. He noted he would be working to make the meetings more efficient going forward. He encouraged residents and councilmembers to keep their comments concise.

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

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

Carter stated she would like to pull Item 10.B for further discussion.

A. Shady Oak Road and Shady Oak SWLRT Station Stormwater Agreement

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

C. 2021 fee schedules for consulting engineering services

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

D. Affordable Housing Trust Fund Ordinance

Schack moved, Calvert moved, seconded a motion to adopt Ordinance 2020-22 to create a permanent affordable housing trust fund. Calvert, Schaeppi, Kirk, Schack, Carter and Wiersum voted "yes." Coakley "abstained". Motion carried.

B. Building Inspection Services for the Cities of Deephaven, Greenwood, and Woodland

Carter asked how inspection work got prioritized between the cities. Community Development Director Wischnack explained no preferential treatment was given to Minnetonka residents versus, Deephaven, Greenwood and Woodland residents. She explained the city had considered dropping the contract in years past because of the high workload, but noted work loads have leveled off.

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

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances: None

14. Other Business:

C. TIF Management Report

Community Development Director Julie Wischnack and Stacie Kvilvang with Ehlers & Associates gave the staff report.

Coakley questioned what the pros and cons were of using TIF funding. Wischnack discussed how TIF funding benefited the city and described how Minnetonka has carefully approved tax increment financing for developments. She explained she appreciated the high level transparency Minnetonka had with its TIF funding. She was of the opinion Minnetonka has managed TIF well over the years.

Schaeppi asked if TIF would be used in the future for anything other than affordable housing. Wischnack explained the city has completed both affordable and market rate projects with TIF funding. She reported the city would continue to pursue projects that meet its housing goals. She commented on the value of the city investing in affordable housing noting the affordability aspect outlasts the term of the TIF district.

Calvert indicated this was a complex issue. She thanked staff for the thorough report on TIF.

Wiersum explained TIF was a valuable tool, and he was proud of how the City of Minnetonka utilized TIF. He indicated the city council would have to continue to be prudent when considering future TIF requests.

Received the report. No formal action required.

13. Public Hearings:

A. On-sale wine and on-sale 3.2 percent malt beverage liquor licenses for Ametrine Inc., dba People's Organic Coffee and Wine Café, 12934 Minnetonka Boulevard

Community Development Director Julie Wischnack gave the staff report.

Wiersum opened the public hearing.

Michael Swafford stated he had no further comments at this time. Mr. Swafford thanked the council for their consideration of his request.

Calvert moved, Schack seconded a motion to open the public hearing and continue to December 21, 2020. All voted "yes." Motion carried.

B. On-sale intoxicating liquor license for Cedar Hills Ribs, Inc., 11032 Cedar Lake Road

Community Development Director Julie Wischnack gave the staff report.

Wiersum opened the public hearing.

Ali Mishkee introduced himself to the council. He discussed how he planned on running the Cedar Hills Ribs restaurant. It was his hope to have 40 employees working from this restaurant after all restrictions are lifted. He thanked the council for considering his liquor license request.

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

Schack moved, Kirk seconded a motion to continue the public hearing from October 26, 2020, and grant the license. All voted "yes." Motion carried.

14. Other Business: (Continued)

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.

Schaepfi questioned if this was approved, if the applicant would be entitled to have a driveway onto Lake Street Extension. Gordon reported whenever staff met with a developer, staff provided advice on how to go about a project. He explained the city could not make the rezoning conditional. Therefore, staff can recommend where access to the site should be located.

Schaeppi stated his main concern was that a precedent could be set to spot zoning in the R-1 zoning districts. He reported he would not be comfortable approving this rezoning unless the driveway was located on the Lake street Extension. Gordon commented unless there was a broader application for a subdivision with a twinhome, this would be the only opportunity the council would have to review this issue. Otherwise, staff would work at their level to ensure this would happen.

Kirk stated he understood the council could not orient the site and the proposed plans were speculative. He questioned if staff has an opinion that the applicant was intending to develop the site, or if their goal was to rezone the property to increase the value of the land. Gordon indicated this was not a great question for him to answer because staff did not evaluate land value when considering the proposal. He noted the proposed request did meet the city's reasons to rezone the property.

Kirk questioned how the rezoning fit into the overall planning strategy of city staff for transitional corner lots. Gordon discussed the proximity of this lot with the smaller neighborhood that fronts on the cul-de-sac. He indicated the cul-de-sac street works better as a twinhome area and noted this was a corner lot that served as a transition from the busier Lake Street Extension. He explained not all neighborhoods have logical transition points and noted this corner lot could serve as a changing point.

Wiersum asked if the lots to the north were twinhomes with zero lot lines. Gordon reported this was the case.

Wiersum explained the drawings from the applicant show a duplex style building that could be built. He inquired if the property owner could build a home that looks like the home pictured as a single family home. Gordon commented this would be allowed in the R-1 zoning district so long as all setback requirements were being met.

Wiersum questioned if this property were rezoned to R-2 the property owner could build a duplex or could choose to divide the lot and make two twinhomes. He asked if the twinhome option would have to come to the city council for review and approval. Gordon stated a duplex could be built without further consideration. He noted the developer could sell one half of the duplex and this would require the council to approve a subdivision to create a new lot.

Wiersum opened the meeting to public comment.

Alaun Pederson thanked the council for allowing him to speak. He indicated this was important topic for every person that lives on this street. He explained no one knows what would be built on this lot once it was rezoned. He reviewed

several photos with the council and reported a driveway could work onto Lake Street Extension. He reported this property does not feel connected to the properties to the north and was much more visible to the properties to the south. He commented on how the proposed twinhome would impact the people living on his street, noting one neighbor had already put their home up for sale. He feared the proposed twinhome would have a negative cascading impact on the surrounding neighborhood. He feared the developer was in Minnetonka for a quick cash grab and did not care about the community, those living on the street, or the neighborhood.

Wiersum closed the meeting to public comment.

Gordon reported the applicant was not on the call for the meeting.

Kirk asked if it would be fair for the council to table action on this item given the fact the applicant was not in attendance and because the applicant had already waived the 60 day rule. Gordon stated the council could proceed in this manner.

Wiersum indicated the council has spent a great deal of time on this matter. He questioned how the council wanted to proceed.

Calvert stated it was hard to speculate why the applicant was not on the call. She supported this item being tabled because the matter was somewhat controversial.

Schack commented she was concerned with the amount of attention this relatively small issue was getting. She feared this would set a bad precedent. She indicated the council was not being efficient in addressing this request. She anticipated this property could support an 8,000 square foot home and the developer was proposing to build a 6,500 square foot duplex. She explained she would like to vote to approve the proposed rezoning. However, if there was not full council support, perhaps the council should table action on the item to allow the applicant to speak.

Schaeppi wished the applicant was in attendance to address the comments and questions from the council. He stated he would be able to support a twinhome on this property and if the driveway could be located on the frontage road. He indicated he did not have faith in the images from the internet.

Kirk commented a rezoning request could come with a development request. He stated the council requested this from the developer at the last meeting. He noted the developer has not provided the council with any additional information to change his mind. He stated he saw no compelling reason to change the zoning for this lot.

Calvert indicated subdivisions were harder than they should be. She explained she agreed with much of what Councilmember Schack stated. She thanked staff for the amount of work that went into this request. She stated she would like to understand what changed in Councilmember Kirk's mind between his recommendation while on the planning commission and his opinion of the request now.

Kirk stated he did not like the idea of rezoning a property without having a construction plan in place. He noted the council made this request from the developer. He explained the rough clip art and rough driveway connecting to Shady Oak Road was not enough for him.

Calvert commented one year ago the planning commission supported the rezoning without project construction plans.

Kirk agreed this was the case. He explained the way he viewed the project has changed over the past year.

Schack stated her discomfort increases with the thinking the only way the city will rezone a property is if the developer spends a great deal of money on a project that may or may not be approved. She reported twinhomes were a good fit for this lot. She encouraged the council to consider their harsh comments and how this would impact future developers from coming into the City of Minnetonka.

Carter commented she was not inclined to rezone this property unless there was a potential courtship coming with a developer. She understood she did not have full control over the development, but stated she would not support rezoning the property just for the sake of rezoning the property without further understanding from the developer.

Schaeppi commented the applicant owns the property and explained he may not be the developer. He stated because of the lack of information from the applicant, this item should not move forward.

Wiersum asked if the council was ready to make a motion. Gordon reported if the council was going to move to deny the Ordinance that this was to be based on findings and that staff be directed to draft these findings. City Attorney Corrine Heine stated if the council were to act on the motion to deny the Ordinance, State law requires the council to state reasons for denial for the record. She reported the applicant would be provided with a written statement of the reasons for the denial.

Schaeppi moved, Kirk seconded a motion to deny the request for rezoning, based on the fact the property was more aligned with the adjacent R-1 zoned

properties and that the neighborhood would be impacted by moving an R-1 lot to R-2 into an R-1 neighborhood.

Wiersum stated he believed the rezoning to R-2 was reasonable and logical. He indicated this rezoning would provide for housing diversity in logical places. He explained R-2 zoning was located to the north.

Calvert thanked staff for their efforts on this rezoning request. She indicated the city cannot compel the applicant to provide the city with a legally binding plan for the property. She reiterated that viewshed was not a right in this community. She stated she was committed to doing what was best for the city and not only certain members of the community. For this reason, she explained she would not be supporting the motion on the floor.

Coakley commented when she drove to this neighborhood, she believed the proposed lot was oriented towards R-1 and should not be rezoned.

Carter stated she would be leaning into the R-1 zoning consistency. She discussed staff's recommendation but believed this was more of an R-1 community than an R-2 community.

Wiersum asked if staff had enough reasons or findings for denial of the request. Heine reported staff had sufficient reasons and explained staff would be required to come back at the next meeting with a Resolution stating these reasons.

Schaeppi, Kirk, Coakley, and Carter voted "yes." Schack, Calvert, and Wiersum voted "no." Motion carried.

B. Conditional use permit for a licensed residential care facility at 12701 Lake Street Extension

City Planner Loren Gordon gave the staff report.

Schaeppi requested further information regarding the tree impact. Gordon explained the review for the conditional use permit (CUP) for the 6 to 12 resident care facility took on some other review criteria for site plan building review. He reported the language in the Resolution addresses the council's discussion regarding the tree impacts and the level of discomfort.

Barry Stock, the applicant, thanked the council for their time and consideration. He noted he believed he had met the minimum standards for approval of a CUP within city code. He indicated city staff and the planning commission also offered their support for his request. He stated he respected the council's decision and would be moving forward with an alternative development scenario. He hoped the council would find it refreshing that he was willing to agree to disagree. He

encouraged the council to revise city code in order to remove the ambiguity and gray areas that presently exist with regard to the issuance of a CUP for residential care facilities in the R-1 zoning district.

Kirk thanked staff for their hard work on this item. He noted he was prepared to support the Resolution.

Calvert thanked staff for their efforts. She indicated she applauded the work that the applicant does and understood these types of facilities belonged in the community. She appreciated the fact that the applicant was willing to come back with an alternate plan.

Wiersum commented he agreed with the sentiments expressed. He appreciated the nature of the work provided by the proposed facility. He stated he understood the importance of having group homes in the community. He indicated his only concern was with the size of the proposed structure. He thanked the applicant for being willing to come back to the city with another option for the site.

Kirk moved, Calvert seconded a motion to adopt Resolution 2020-097 denying the conditional use permit. Calvert, Kirk, Carter, and Wiersum voted "yes." Schack, Schaeppi, and Coakley voted "no." Motion carried.

D. Resolution for the Ridgemount Avenue Improvements Project

Public Works Director Will Manchester gave the staff report.

Schaeppi stated he was pleased to see this project moving forward. He appreciated the traffic calming measures that would be put in place for safety purposes. He commented on the pedestrian counts from this fall noting these numbers may be off given the fact students were completing school in a hybrid model this fall. He questioned why there was no traffic calming measures at Pine View Lane to the north. Manchester explained this was something staff could investigate further.

Wiersum reported Minnetonka does not assess for city streets. He asked how much Plymouth residents would be assessed for this project. Manchester stated he did not have the numbers in front of him but noted he would report back to the council with these numbers. He estimated the number would be somewhere between \$5,000 and \$10,000.

Wiersum stated there was a value of living in Minnetonka because the city provided city streets without further assessments. He thanked staff for getting back to him with this information.

Schack questioned if there would be full access closure at any point during this project. Manchester stated access would be open to local residents and emergency services at all times.

Schack explained this was a great project for the cities of Minnetonka and Plymouth. She commented she was proud of the collaborative work between Plymouth and Minnetonka.

Calvert agreed stating she appreciated the joint work on a project of this magnitude between Plymouth and Minnetonka.

Wiersum explained he appreciated the traffic calming measures, crosswalks and the work that was being done to address pedestrian safety through this project. He stated he strongly supported this project.

Schack moved, Calvert seconded a motion to adopt Resolution 2020-098. All voted "yes." Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Kirk seconded a motion to adjourn the meeting at 9:22 p.m. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
City Clerk