

**Minutes
Minnetonka City Council
Monday, October 4, 2021**

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

4. Approval of Agenda

Schack moved, Calvert seconded a motion to accept the agenda with addenda to Item 10.D. All voted "yes." Motion carried.

5. Approval of Minutes:

A. September 13, 2021 regular meeting

Calvert explained she discussed a minor change to the minutes with staff regarding the landscaping at the Godard School.

Calvert moved, Carter seconded a motion to approve the minutes, as amended. Calvert, Carter, Kirk, Schack, Schaeppi, and Wiersum voted "yes." Coakley "abstained". Motion carried.

6. Special Matters:

A. National Disability Employment Awareness Month Proclamation

Wiersum read a proclamation in full for the record declaring October to be National Disability Employment Awareness Month in the City of Minnetonka.

7. Reports from City Manager & Council Members

Acting City Manager Julie Wischnack reported on upcoming city events and council meetings.

Police Chief Scott Boerboom provided the Council with an update on burglary and theft statistics in the city and discussed a recent event that occurred within a city park.

Carter discussed the high speed chase that occurred on Hopkins Crossroad where a woman lost her life a year ago. She indicated this was a devastating event. She thanked the police chief for his thorough report and for bringing to light the struggles the community had with increased crime at this time. She explained she supported the council discussing the purchase of cameras in 2021 or 2022 versus waiting until 2024.

Coakley thanked the police chief for his update and noted there has been an uptick in crime throughout the metro area. She discussed the crime that occurred at Lone Lake Park and Purgatory Park and recommended this information be made more available to the public. She questioned what the crime data was for apartment complexes. Police Chief Boerboom explained the majority of thefts from autos occur at multi-family buildings.

Schaeppi thanked Police Chief Boerboom and all of the officers for the great work they are doing in the community. He explained he could support the council discussing further deterrent measures and an amendment to the 2022 budget at a future meeting.

Kirk discussed the patterns that allow criminals to conduct crimes of opportunity, such as unlocked vehicles, purses on seats, garage doors left in vehicles, and valuables left in vehicles.

Kirk requested the council receive quarterly updates for the next year to allow the council to view how crime was trending given the fact the department was down eight officers.

Calvert explained she would ask the League of Minnesota Cities to address the issue of increased crime as well, because this was something the entire state was grappling with.

Wiersum encouraged residents that see something to say something. He encouraged residents to be diligent, to lock their vehicles and to remove valuables if vehicles are left outdoors. He thanked Police Chief Boerboom for his report.

Kirk discussed a tour he completed at the Collin Nature Preserve with the Friends of Minnetonka Parks. He explained the group he toured with dated oak trees and some trees were 200+ years old.

Schaeppi discussed an email that was sent by a Ward 3 resident thanking the public works staff, specifically Mitch and Phil, for their service to the community.

Schaeppi commented on a discussion he had with Bob Resner, a local buckthorn volunteer.

Coakley asked if the noise ordinance would be able to address gas lawn mowers and leaf blowers. Wischnack stated this topic would be addressed by the council at a future council meeting.

Wiersum reported the fire department open house would occur on Tuesday, October 5 from 5:00 p.m. to 8:00 p.m. and would showcase the new fire department. He reported the fireworks that were rained out this summer would be shot off tomorrow night.

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

Bernard Bartfeld, 15520 Oric Avenue, encouraged the city to consider collecting buckthorn throughout the community once it has been removed from public and private property.

9. Bids and Purchases: None.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution in support of Noise Walls along TH-169 and TH-7

Calvert moved, Schack seconded a motion to adopt Resolution 2021-104. All voted “yes.” Motion carried.

B. Resolution concerning no parking in the Opus Area

Calvert moved, Schack seconded a motion to adopt Resolution 2021-105. All voted “yes.” Motion carried.

C. Agreement for Hennepin County Healthy Tree Canopy Grant

Calvert moved, Schack seconded a motion to authorize the approval. All voted “yes.” Motion carried.

D. Resolution opening a portion of Oric Avenue

Calvert moved, Schack seconded a motion to adopt Resolution 2021-106. All voted “yes.” Motion carried.

E. Resolution declaring the official intent to reimburse certain expenditures from the proceeds of bonds to be issued

Calvert moved, Schack seconded a motion to adopt Resolution 2021-107. All voted “yes.” Motion carried.

F. Resolution approving election judges and absentee ballot board for the November 2 General Municipal Election

Calvert moved, Schack seconded a motion to adopt Resolution 2021-108. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:

A. Gas franchise ordinance with CenterPoint Energy Resources Corp.

City Attorney Corrine Heine gave the staff report.

Wiersum opened the public hearing.

There being no comments from the public, Wiersum closed the public hearing.

Kirk moved, Carter seconded a motion to adopt Ordinance 2021-19. All voted “yes.” Motion carried.

B. On-sale intoxicating, Sunday on-sale intoxicating, and off-sale intoxicating liquor licenses to Yayin Gadol, LLC d/b/a Top Ten Liquors at 1641 Plymouth Road

Acting City Manager Julie Wischnack gave the staff report.

Wiersum opened the public hearing.

John Halper, representative for Top Ten Liquors, introduced himself and thanked the council for considering his request.

Kirk moved, Calvert seconded a motion to open the public hearing and continue to November 8, 2021. All voted “yes.” Motion carried.

14. Other Business:

A. Ordinance regarding accessory dwelling units in residential zoning districts

City Planner Loren Gordon gave the staff report.

Schack asked if a corner lot could have another curb cut to access an Accessory Dwelling Unit (ADU). Gordon reported if a lot has 220 feet of frontage the lot could have a second curb cut.

Schack questioned parking would be addressed for ADUs. Gordon noted the parking would be reviewed through the Conditional Use Permit (CUP) process. He explained the city would not encourage more hardcover than was necessary, but parking would have to be considered.

Carter explained the ADU had to be behind the house. She reported this meant the ADU had to be behind the front façade of the original structure. Gordon reported this was the case.

Carter inquired if there were any setbacks in place for how close ADUs could be in backyards. Gordon reported the city was only able to put setbacks that apply to a single property and is not able to stipulate separation from a building on an adjacent property. He commented ADUs would be 25 feet from another structure.

Kirk asked if the Floor Area Ratio (FAR) calculation was considered for a property when an ADU is requested. He indicated he was concerned with overbuilding a site and greenspace. Gordon explained the FAR would be reviewed by staff prior to considering an ADU.

Schaeppi questioned how the city would resolve rental concerns within ADUs. Gordon discussed the homestead living requirements. Acting City Manager Julie Wischnack reported if the city were to find out a property was no longer homesteaded, the CUP allowance could be removed.

Wiersum commented there were plenty of opportunities for residents to break the rules. He questioned how the city would police the matter of whether or not an ADU was being used as a rental. Gordon discussed the process that was followed for attached ADUs and noted the city does not annually review if these properties are homesteaded. He explained the city would have to be alerted of a concern regarding the ownership status for detached ADUs. City Attorney Heine reported the ordinance does not require the property to be homesteaded, but rather requires the owner of the property to reside in one of the two units.

Wiersum indicated detached ADUs would be approved through the CUP process. He asked if variances could be requested. Gordon explained the variance process would be available to this type of zoning use.

Wiersum explained CUPs are attached to properties and not the property owner. He stated this meant any new property owner would have the right to the ADU regardless of their family condition. Gordon indicated an ADU approval would allow for a structure. He did not anticipate the city would have a problem with the real estate aspect of ADUs.

Schack commended the public for participating in this process. She believed the benefits for ADUs would far outweigh and concerns that may arise. She anticipated ADUs would provide new alternatives for families, especially given the price of housing in Minnetonka. She thanked staff for all of their work on this subject and noted she would be supporting the proposed ordinance.

Kirk commented on how the massing of ADUs would impact neighborhoods. He believed the city was heading down the right path and explained he would be supporting this ordinance.

Calvert stated she supported this ordinance moving forward and she was encouraged by the fact the city was reimagining housing in Minnetonka.

Schaeppi explained he enthusiastically supported this ordinance. He thanked staff for all of their efforts on the ordinance language. It was his hope that this ordinance would succeed.

Wiersum discussed how housing inflation has exceeded real wage growth by a dramatic level over the past 10 to 15 years. He explained the proposed ADUs would provide families with new housing options. He believed the ordinance was logical and he appreciated the controls that were in place.

Schack moved, Kirk seconded a motion to adopt Ordinance 2021-20. All voted "yes." Motion carried.

B. Ordinances regarding licensed residential care facilities

City Planner Loren Gordon gave the staff report.

Kirk commented he was quick to support a moratorium on this issue a year ago. He discussed the three most recently approved residential care facilities and questioned if they were measured against the CUP if the outcomes would have changed. Gordon reported the Baker Road property was very large and would have met the size standard, noting there may have been a concern with the rear setback. He explained the Shady Oak Road property would have been similar,

noting the setbacks and numbers were fine. He indicated the Lake Street property would have had concerns with the front yard setbacks.

Carter questioned which strategy was more equitable for applicants or has more clarity for applicants. Gordon stated the CUP uses a lens that is more equitable, than the IUP. He indicated the IUP has review criteria for a license holder. City Attorney Heine commented that IUPs were classically used for properties that were in transition.

Coakley stated she recalled the majority of the concerns raised about residential care facilities had to do with parking and trash. She questioned how the city council could get to the point of moving the number of residents from 12 residents to seven to ten residents. Gordon stated there are facilities in the city that were operating with 12 residents and could continue to operate this way. He indicated the way the city came into this discussion was to address the concerns with operating at this high capacity, which led staff to recommend the number be reduced. Wischnack explained the council could make a recommendation as to the number of residents within a care facility. She indicated staff took cues from the council based on the discussion that was held in March to develop the ordinance that was before the council.

Calvert clarified the whole idea behind the statute for these care facilities was to provide a home for individuals that was not an institutional setting. She commented as the number of people was pushed to the maximum the facility then loses the homelike feel.

Schaeppi questioned when an IUP would be helpful. Acting City Manager Julie Wischnack explained with an IUP there would be a check in point more regularly. She stated with a CUP and there were major changes to the original intent of the care facility, the CUP would have to be reconsidered and approved.

Wiersum explained he would like to move this matter along. He questioned if the council preferred a CUP or IUP. The consensus of the council was to move forward with a CUP process for residential care facilities.

Wiersum questioned if the number of residents within a care facility should remain at 12, be limited to six, or be allowed to range from seven to ten.

Kirk explained staff has put a lot of language in place that would address overcrowding within a residential care facility.

Schack stated it was important to reiterate that the council has no authority or discretion over care facilities with six or fewer residents. She indicated it was important for the city to have diversity in housing and to provide diverse

opportunities for residents. She thanked staff for the enhanced language and noted she supported dropping the number to seven to ten.

Calvert concurred with Councilmember Schack.

Coakley supported leaving the number at 12. She did not believe this would make the care facility feel more institutional, but rather would provide more housing options for those in need.

Carter commented she supported the seven to ten range.

Schaepfi indicated this was a difficult issue for him. He stated despite staff's best efforts there was very little public feedback on this matter. He discussed the neighborhood concerns that were raised previously noting he believed many were legitimate. He explained he wanted to make an informed decision and at this time he was leaning towards keeping the number as is or moving to seven to ten.

Kirk stated some of the comments that have been fielded over the years from residents have to do with the way the homes are remodeled, and how it turns these homes into commercial properties that will not return to residential homes. He indicated there was also concerns with the upkeep of these properties, the number of emergency vehicles that visit these care facilities and the number of smokers onsite. He explained after discussing this for years he would like to see the number of residents range from seven to ten.

Wiersum commented this has been an issue for him for some time. He thanked staff for all of their efforts to clarify issues for him. He explained he believed in group homes and he supported them. He indicated he liked state statute for a number of reasons. He reported he used to favor six because this more closely replicates a typical family. He stated if the city goes along with state law more trust can be built when it comes to residential care facilities. He indicated he was originally thinking he could support more residents in group homes that were located in commercial or higher density residential areas, but in single family neighborhoods they should be limited to six. However, after hearing from staff and his fellow councilmembers he explained he could support seven to ten residents within a care facility in Minnetonka. He reported he has twin daughters that were disabled and required a high level of care. He commented on the number of his visits his daughters received on a daily basis.

Kirk questioned if group homes should be clustered. He discussed how neighborhoods may be impacted if a larger group home (seven to ten) were approved and then several other group homes with six or fewer moved into the same area. He explained if this ordinance were to move forward, he would like to address the parking language and suggested item 2(d) be amended to read:

Exterior parking must be located on a paved area. If designed as a parking lot, the lot must be located behind the rear building line of the facility and must be set back a minimum of 20 feet from all property lines. The city council may waive these locational requirements for areas designed as parking lots based on a unique or important characteristics of the property or surrounding area.

Kirk moved, Schack seconded a motion to adopt Ordinance 2021-21 as discussed with the following language amendment to 2(d): Exterior parking must be located on a paved area. If designed as a parking lot, the lot must be located behind the rear building line of the facility and must be set back a minimum of 20 feet from all property lines. The city council may waive these locational requirements for areas designed as parking lots based on a unique or important characteristics of the property or surrounding area. Calvert, Carter, Kirk, Schack, Schaeppi, and Wiersum voted "yes." Coakley voted "no". Motion carried.

15. Appointments and Reappointments: None

16. Adjournment

Calvert moved, Kirk seconded a motion to adjourn the meeting at 9:15 p.m. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
City Clerk