

**Minutes
Minnetonka City Council
Monday, Dec. 17, 2018**

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 Patty Acomb, Mike Happe, Rebecca Schack, Deb Calvert, Tim Bergstedt, Bob Ellingson, and Brad Wiersum were present.

4. Approval of Agenda

Acomb moved, Schack seconded a motion to accept the amended agenda with addenda to Items 14A, 14C, 14D, and 14E; adding a new Item 6B and renumbering the existing Item 6B as 6C; pulling Item 10H; and, moving Item 10I to 11C. All voted "yes." Motion carried.

5. Approval of Minutes: None

6. Special Matters:

A. Recognize Brian Wagstrom as Minnesota Public Works Association Director of the Year

City Manager Geralyn Barone was pleased and excited for Public Works Director Brian Wagstrom to receive this high honor.

Richard McCoy, Public Works Director/City Engineer of Robbinsdale, spoke as Vice Chair of the Awards Committee of the American Public Works Association (Minnesota Chapter). Mr. McCoy read the recognition and presented the award.

Wagstrom thanked the Awards Committee, current and past councils, and the public work's employees for their skill and hard work.

The council added the award was well deserved, Minnetonka was on the cutting edge in regard to public works, and that Wagstrom was a delight to work with.

B. Recognize Retirement of Bob Hill

Wiersum read the recognition and presented the award.

C. Recognition of City Councilmember Patty Acomb

Wiersum read the recognition.

Acomb expressed her gratefulness to the residents for their trust in her. She was thankful to staff for their dedication, hard work, and help. She also thanked the council for its support.

Barone thanked council member Acomb on behalf of staff. Barone noted that Acomb was thorough, asked the hard questions, respected staff, and represented the constituents well.

7. Reports from City Manager & Council Members

Barone reported on upcoming city events and council meetings.

Assistant City Manager Perry Vetter reported that the city staff had completed the final session with the introductory cohort of the Government Alliance on Race and Equity.

Calvert was honored to replace Acomb on the National League of Cities Energy, Environment & Natural Resources Federal Advocacy Committee

Wiersum congratulated Acomb on her election victory. The council was losing a good member, but the state was gaining a good representative. Wiersum also wanted to recognize former President George H.W. Bush, who had passed, for signing the Americans with Disabilities Act.

8. Citizens Wishing to Discuss Matters not on the Agenda

Brian Golob, 2740 Mayflower Avenue, Hopkins, volunteer for the Minnetonka Climate Initiative, thanked the council for its service. He shared his concern over global warming and the group's objectives. Mr. Golob asked the council to consider committing resources to develop a climate action plan and to establish an environmental sustainability commission.

Skylar Seeds, Vice President of Minnetonka High School Earth Club, asked the council for its support.

Lauren Marty, Vice President of Minnetonka High School Earth Club, shared that according to the United Nations Climate Change report there were only 12 years remaining until climate change becomes irreversible. She hoped the council would take action.

Linda Langin, 14401 Atrium Way Apartment 126, volunteer for the Minnetonka Climate Initiative, was proud of the students and their work. Ms. Langin thanked Acomb and Wagstrom for their work in environmental protection.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Twelve-month time extension of conditional use permit approval for a telecommunications tower at 4525 Williston Road

Ellingson moved, Schack seconded a motion to approve the twelve-month extension. All voted “yes.” Motion carried.

B. Resolution establishing polling places for the 2019 Municipal Primary and Municipal General Election

Ellingson moved, Schack seconded a motion to adopt resolution 2018-153 establishing polling places for the 2019 elections. All voted “yes.” Motion carried.

C. Extension of Republic Services recycling contract

Ellingson moved, Schack seconded a motion to approve the three- year contract extension with Republic Services, beginning Jan. 1, 2019. All voted “yes.” Motion carried.

D. Public Works Joint Powers Mutual Aid Agreement

Ellingson moved, Schack seconded a motion to approve Resolution 2018-162 authorizing the Public Works Joint Powers Mutual Aid Agreement. All voted “yes.” Motion carried.

E. Resolution delegating authority for electronic fund transfers

Ellingson moved, Schack seconded a motion to adopt Resolution 2018-154 delegating to the finance director the authority to make electronic fund transfers. All voted “yes.” Motion carried.

F. Ordinance authorizing the sale of city property adjacent to 2430 Winter Circle

Ellingson moved, Schack seconded a motion to adopt Ordinance 2018-19 authorizing the sale of a portion of city-owned property adjacent to 2430 Winter Circle. All voted "yes." Motion carried.

G. Twelve-month time extension of site and building plan and conditional use permit approval for Bauer's Custom Hitches at 13118 Excelsior Boulevard

Ellingson moved, Schack seconded a motion to approve the twelve-month time extension. All voted "yes." Motion carried.

H. Resolution approving providing park credits for RIDGEDALE CENTER TENTH ADDITION

This item was removed from the agenda at the request of the applicant.

11. Consent Agenda – Items requiring Five Votes:

A. Resolution accepting gifts, donations and sponsorships given to the city during 2018

Ellingson moved, Calvert seconded a motion to adopt Resolution 2018-155 accepting gifts, donations and sponsorships made to the city in 2018. All voted "yes." Motion carried.

B. Applications for renewed precious metal and secondhand dealer licenses for 2019

Ellingson moved, Calvert seconded a motion to approve all of the renewals listed for the 2019 calendar year. All voted "yes." Motion carried.

C. Resolution approving the preliminary plat of DORN ESTATES, a two-lot residential subdivision with a variance, at 5524 Nantucket Rd.

Bergstedt pulled the item from the Consent Agenda to discuss. He noted that there had been an addition to the home in 2000, but staff had agreed that the lot could still be divided. The owners could subdivide the property without variances with an irregular lot line; however, staff desired clear cut lot lines. Bergstedt agreed with staff's recommendation to approve the variance. He disagreed with waiving the McMansion policy.

City Planner Loren Gordon gave the staff report and explained how staff came to its recommendation.

Calvert asked about protection of the bluff. Gordon explained the sloped on the backside of the property were not bluffs; regardless, a conservation easement was not needed.

Katie and David Dorn, the applicants, thanked the council for its service and explained that they had always planned on dividing the existing property into two, single-family lots and were attempting to formalize those plans. The applicants asked the council to support staff's recommendation.

Bergstedt asked staff what restrictions keeping the McMansion policy would place on future property owners. Gordon answered the policy, if applicable, would apply by looking at all the lots along the street and would require the home to be similar to other homes. Bergstedt reiterated that he was most comfortable with keeping the McMansion policy in place.

Acomb mentioned that more information especially visuals would be helpful. Wiersum suggested voting or tabling the item. After the council continued discussing the proposal it requested the applicant choose between a vote or tabling the proposal to a future council meeting. The applicants responded that they felt put on the spot. The council discussed how to move forward.

Bergstedt said as the Ward 4 representative he felt it was his duty to address neighborhood concerns.

Calvert expressed a concern with the Dorn's building across the lot line.

Wiersum said the most expedient thing to do would be to table the item and the applicant agreed.

Bergstedt moved, Calvert seconded a motion to table Item 10.I. Resolution approving the preliminary plat of DORN ESTATES, a two-lot residential subdivision with a variance, at 5524 Nantucket Road. All voted "yes." Motion carried.

12. Introduction of Ordinances: None

13. Public Hearings:

- A. Resolution denying the vacation of a portion of a public drainage and utility easement at 323 Bellwether Path**

City Engineer Will Manchester gave the staff report.

Wiersum opened the public hearing at 7:50 p.m.

Mike Roebuck, President Ron Clark Construction, understood staff's desire to not set a precedent, but asked to point out the unique characteristics of the property.

Wiersum closed the public hearing at 7:54 p.m.

Acomb asked if it was legal to build a deck within an easement. Manchester replied that constructed improvements were not allowed within drainage and utility easements.

Bergstedt noted that the final plat approved in 2014 allowed additional front yard setbacks and decreased easements. He agreed that this would set an unwanted precedent.

Calvert moved, Schack seconded a motion to adopt Resolution 2018-163 denying the vacation of a portion of the drainage and utility easement. All voted "yes." Motion carried.

B. Resolution amending and replacing Resolution No. 2004-072 for a conditional use permit for a special education school in the industrial district at 11140 Bren Road West for Intermediate School District (ISD) 287

Gordon gave the staff report.

Happe asked what percentage of the students enrolled were part of Minnetonka's three school districts. Gordon noted that the applicant could answer that question during its remarks.

Schack asked about the process and repercussions to reimplement the school resource officer if the city deemed it necessary. Community Development Director Julie Wischnack described the relationship between the school and the police department and what negotiations would take place. If the school decided not to comply then it would be deemed out of compliance with its Conditional Use Permit.

Wiersum opened the public hearing at 8:05 p.m.

Sandy Lewandowski, Superintendent Intermediate District 287, answered Council member Happe's question responding that there were 12-member

school districts with four major school sites. Approximately three-elevenths of the students were from Minnetonka's three school districts, but that number varied.

Wiersum closed the public hearing at 8:08 p.m.

Acomb thanked Chief of Police Scott Boerboom for working with Ms. Lewandowski in order to create a new, working agreement. The only downside was the loss of good interaction between police officers and students.

Happe wanted to better understand the situation. He said part of the original agreement was for funding for two safety resource officers paid for by the school, but this request eliminated both officers and the funding. Happe was concerned that there would still be public safety needs at the school, but the cost would be born by Minnetonka residents.

Wischnack read from the 2004 resolution stating that the school and the police would work together to come to an agreement. Barone further explained that the resolution did not specify how the school would be staffed.

Chief Boerboom commented that since 2004 the working agreement had changed several times based on the current needs of the school. Recently the school had employed changes to handle more issues internally and Chief Boerboom did not want the police to be a barrier while the school continued to make changes. He, reluctantly, thought this was the best solution. Patrol would respond only when there was a need.

Happe was unhappy with the cost transfer from the school to the city and was interested in testing this agreement for one year. Barone said that essentially this was a test. Chief Boerboom reported that the police had an excellent relationship with 287 and would monitor the situation monthly. If there was a drain on resources then it would be revisited.

Calvert noted that most of the patients at United Health were not residents, but if the police were needed, they responded. However, she felt strongly that there was a lost opportunity for positive interaction between students and police.

City Attorney Corrine Heine requested the district representative to indicate on the record that it agrees with the conditions set forth in the resolution.

Schack recommended support of Chief Boerboom's decision especially knowing that it would be closely monitored.

Bergstedt noted that the councils' concerns were alleviated because there was a condition of approval that allowed the city to require a Safety Resource Officer if service calls became challenging.

Wiersum applauded 287's efforts to innovate to deal with the population it served. He suggested seeing how it worked because of the flexibility to change it.

Lewandowski thanked the council for its comments and acknowledgement of the unique role it played. She welcomed the council to visit the site and indicated that the district would agree with the resolution as stated.

Calvert moved, Schack seconded a motion to adopt Resolution 2018-156 amending and replacing Resolution No. 2004-072 for a conditional use permit for a special education school at 11140 Bren Road West. All voted "yes." Motion carried.

14. Other Business:

A. Items concerning VILLAS OF GLEN LAKE at 5517 and 5525 Eden Prairie Road:

- 1) Ordinance rezoning the property from B-1 and R-1 to R-3; and
- 2) Resolution approving preliminary and final plats, with variances

Gordon gave the staff report.

Acomb talked about the Glen Lake Neighborhood Study guiding principles which highlighted having a sidewalk on the east side of Eden Prairie Road. She understood the challenges, but was hopeful the council would add an easement for a future sidewalk.

Bergstedt commented the current design was much better and was also in favor of an easement on the east side for a future sidewalk.

Blaine Waters, Vice President Quest Development, thought the project was consistent with the vision for Glen Lake and that the type of housing was a good addition to the area.

Grace Sheely, 14325 Grenier Road, thought the city and the developer had done a great job working together and she was supportive. Ms. Sheely asked if the group home on neighboring property would be in line with these homes, relative to setback from the roadway.

Gordon answered that the group home was generally in line with the three lots on the east side of the driveway.

Wiersum thanked the developer for his indulgence. He was excited about the plan and thought it had dramatically improved.

Acomb moved, Ellingson seconded a motion to adopt Ordinance 2018-20 rezoning the properties at 5517 and 5525 Eden Prairie Road to R-3, low or medium density residential district . All voted "yes." Motion carried.

Acomb moved, Ellingson seconded a motion to adopt Resolution 2018-157 approving the preliminary and final plats, with variances, of VILLAS OF GLEN LAKE at 5517 and 5525 Eden Prairie Road. All voted "yes." Motion carried.

B. Resolution approving a comprehensive guide plan amendment from commercial to mixed use at 14317 Excelsior Blvd.

Gordon gave the staff report.

Wiersum asked if the recommendation came from staff because of the Metropolitan Council and comprehensive plan circumstances or came from the developer. Gordon answered that the comprehensive plan amendment was staff driven because of the time of year and because the Metropolitan Council was not reviewing plans for six months.

Grace Sheely, 14325 Grenier Road, asked if the amendment changed the density or height restrictions. She expressed concern over shifting traffic to small, residential roads.

Gordon explained that the comprehensive plan did not prescribe standards for height and setbacks.

Bergstedt believed this was very straightforward and that he was in favor.

Bergstedt moved, Calvert seconded a motion to adopt Resolution 2018-159 approving a comprehensive guide plan amendment from commercial to mixed use at 14317 Excelsior Blvd. All voted "yes." Motion carried.

Wiersum called recess at 8:50 p.m. He called the meeting back to order at 9:00 p.m.

- C. **Items concerning Marsh Run redevelopment, a multi-family residential development by Doran, at 11650 and 11706 Wayzata Blvd.:**
- 1) **Ordinance rezoning the property from PID, Planned I-394 District, to PUD, Planned Unit Development and adopting the master development plan; Site and building plan review, with variances; Preliminary and final plats of MARSH RUN; and Comprehensive guide plan amendment from service commercial to mixed use**
 - 2) **Resolution approving the contract for private development with the Economic Development Authority in and for the City of Minnetonka, Minnesota and Marsh Development, LLC**

Gordon gave the staff report related to land use matters.

Wischnack continued the staff report concerning financing.

Acomb asked if there were height limitations in a Planned Industrial Development. Gordon answered that height was relational to setback.

Anne Behrendt, COO Doran Companies, talked about the 175-unit Class A mixed income project. She highlighted the major changes that had been made. She touched on parking, traffic, green building, sustainable design features, height and setbacks, and the affordability component.

Tony Kuechle, President of Development Doran Companies, talked about density, parking per unit, the landscaping plan, and the many changes that had been made to address neighbors' concerns.

Wiersum asked if there had been parking complaints at comparable developments. Gordon answered that out of three, the Carlson had some complaints that had been heard but not observed concerning vehicles coming and going out front.

Ellingson asked where visitors would park. Kuechle replied that visitor parking would be in the garage.

Acomb asked if there was room for more parking stalls. Kuechle answered affirmatively and discussed a couple of options for increasing parking.

Bergstedt asked how the short-term parking would be monitored. Kuechle explained the plan had not been finalized, but the short-term parking would be signed for different lengths of times.

Wiersum asked about parking per unit. Kuechle explained the best way to regulate parking was to charge per stall.

Calvert asked if there had been conversations with neighboring businesses about overflow parking. Behrendt answered that the Carpenters have significant parking that could be used in the evenings if needed.

John Ferrier, Vice President of Architecture CSM Corporation, supported the development and talked about the vision for the neighborhood to be a walkable, livable, and accessible community. Doran's proposed project fulfilled this vision.

Christine Wihlm, Resident of Gables of West Ridge, shared that his biggest concern continued to be the size and density of the project.

Sam Handler, 783 Fairfield Circle, Hopkins, believed the photos in Doran's proposal did not accurately show the relationship between buildings. Mr. Handler presented a chart on size of apartment complexes in Minnetonka and expressed concern that this building would set a precedent.

Amy Denzen, 956 Fairfield Court, Hopkins, represented her community in opposition to the proposed project. She believed that a 175-unit apartment building was not compatible with the community and that there were three major hurdles including density, parking, and traffic. She suggested that 80 to 110 units was more appropriate.

Jim Nekich, 958 Fairfield Court, Hopkins, discussed safety, cost, and quality of life.

Barbara Fermon, 11484 Fairfield Road W Unit 201, Hopkins, believed that an increase in density was inevitable. But for the health and community, the 20% affordable housing was needed. Minnetonka needed people working and living there so she supported the project.

LouAnn Carpenter, St. Louis Park, spoke as one of the families with an ownership interest in the property. She talked about her positive experience when an apartment building was built in her neighborhood.

Bob Uhlhorn, 907 Fairfield Way, Hopkins, discussed traffic, location of bus stops, and access for emergency vehicles.

Pam Lewis, 980 Fairfield Court, Hopkins, said that the neighborhood was not against change or affordable housing, but was against this density in their neighborhood. Ms. Lewis showed pictures of narrow neighborhood streets and expressed concern that the streets would become turnarounds for vehicles.

Wiersum ended public comment and brought the discussion back to the council. He asked staff to provide instruction on how to move forward procedurally. Barone suggested the council have a general discussion on the project and financing.

Acomb asked if a condition of approval could be added requiring the developer to report back to the council concerning parking. Gordon answered yes; however, the options at that point would be somewhat limited because some of the options would need to be completed at time of construction.

Happe stated that from a land use perspective he was supportive. The site needed developing and the developer had made changes requested by the neighborhood and council.

Acomb noted that the affordable housing component had peaked her interest from the beginning, but she did not want the development to negatively impact the neighbor's lives. She appreciated the changes that had been made by the developer including the storm water treatment, the change to the entrance, the increased buffer to the north, and the increased setbacks on the east and west. For those reasons, she was supportive of the project.

Schack thought the site was appropriate for residential and would likely be an apartment building. She was supportive of the Comprehensive Plan amendment, the finance package, the design and layout, the developer, and the affordability component. She believed that the workforce deserved the dignity of a nice building. However, she struggled with mass and traffic.

Calvert shared that she was very conflicted. She thought the structure was beautiful taken by itself, but the mass and density were a problem. She was also concerned with parking and traffic.

Bergstedt agreed with both sides. He said that affordable housing would not drive his decision, but would be part of his decision. His biggest concern was parking and expressed a need for No Parking signs on Fairfield Road.

Ellingson felt conflicted and agreed with all the previous comments. He did commend the developer for listening to the neighbors and council.

Wiersum thought the building was attractive, but councils should not be in the business of design. The building was big, but the issue was more complex because of affordability. He expressed a desire to see the building a bit smaller, but explained that it was difficult to compare it to other buildings that were built 20 years ago because of rising costs. Because of economics there would be more scale, more density, and more mass. Wiersum believed the developer had done a good job mitigating the neighborhood's concerns. He expressed support for the affordable housing, but talked about the cost. The city would be contributing approximately \$381 per month per unit, but the developer was putting in a comparable amount. The challenging question was that the city needed affordable housing, but how to pay for it. Wiersum leaned towards supporting the project and thought the benefits outweighed the negative.

Barone commented that it was appropriate to start with the financing motion and that all the motions would require four votes.

Acomb moved, Bergstedt seconded a motion to adopt Resolution 2018-158 approving the contract for private development with the Economic Development Authority in and for the City of Minnetonka, Minnesota and Marsh Development, LLC; contingent upon council approval of the items related to rezoning, site and building plan review, preliminary and final plat and amendment of the comprehensive guide plan. Acomb, Happe, Schack, Bergstedt, Ellingson, and Wiersum voted "yes." Calvert voted "no." Motion carried.

Acomb moved, Bergstedt seconded a motion to adopt:

- 1) Ordinance 2018-21 rezoning the properties at 11650 and 11706 Wayzata Blvd. from Planned I-394 District to Planned Unit Development and adopting the master development plan.
- 2) Resolution 2018-160 approving final site and building plans for a multi-family residential building at 11650 and 11760 Wayzata Blvd.
- 3) Resolution 2018-161 approving the preliminary and final plats of MARSH RUN at 16500 and 11706 Wayzata Blvd.
- 4) Resolution 2018-164 approving a comprehensive guide plan amendment from commercial to mixed use at 14317 Excelsior Blvd.

Acomb, Happe, Bergstedt, and Wiersum voted "yes." Calvert, Schack and Ellingson voted "no." Motion carried.

Barone suggested amending the agenda to continue Item 14E to the January 7, 2019 City Council meeting so that staff could give an appropriate presentation and Council could have a robust conversation.

Wiersum moved, Bergstedt seconded a motion to continue Item 14.E. 2040 Comprehensive Guide Plan to the January 7, 2019 City Council meeting.

Acomb highlighted the resiliency chapter and thanked staff for its work. She hoped it was the first step in working toward climate change issues.

All voted "yes." Motion carried.

D. At Large Seat B City Council Vacancy

Barone gave the staff report.

Peggy Kvam, 13012 Jane Lane, Hopkins, asked the council to vote to hold a special election in the spring. She noted that Minnetonka had 82% of voters cast ballots in November's midterm election. Voting was near and dear to the resident's hearts and Ms. Kvam wanted citizens to be able to cast a vote for the person to represent them on the council.

David Haeg, 17045 Chiltern Hills Road, acknowledged that this was an issue without an obvious solution. Appointments, non-majority winners, and single digit voter turnout were not signs of a healthy election system. Mr. Haeg supported rank choice voting and described the benefits. He asked the council to take the opportunity to start the conversation of using rank choice voting in Minnetonka.

Calvert moved, Bergstedt seconded a motion to extend the meeting until 12:30 a.m. All voted "yes." Motion carried.

Grace Sheely, 14325 Grenier Road, talked about past elections, believed an appointment gave the incumbent an unfair advantage, and supported having a special election in April. She indicated that Council Member Acomb had not supported mountain biking in Lone Lake Park, that the issue would be important in an election, and that the council should consider a special election.

Acomb clarified that while she was supportive of an environmental look into Lone Lake, she had never stated that she was not supportive of mountain biking in Lone Lake Park. Barone also clarified that there would be a special election. The question was whether it would be held in April or November.

Ellingson voiced support for a special election in April.

Acomb leaned toward a special election in April.

Happe commented that he had received feedback from residents on both sides of the issue. He also expressed disappointment that the turnout was low when he ran in April. He was in favor of an appointment process because it would be followed by a special election in November.

Schack shared that she had been contacted by about 15 residents and all of them except one requested a special election in April. She was in favor of the April special election.

Calvert noted that appointments were sometimes necessary and good. But one way to tell if someone wanted a job was how hard they campaign for it. She leaned toward a special election in April.

Bergstedt commented that he had received a lot of emails that suggested it would be irresponsible to make an appointment; however, he believed it was more complicated than that. Minnetonka had a long history of appointments and elections. His biggest concern was the lack of a primary in a city-wide race and someone winning with potentially 10% of the vote. Bergstedt was in favor of an appointment with a robust, truncated process.

Wiersum shared that a number of things said by residents on both sides of the issue had resonated with him. The charter was Minnetonka's constitution and it gave the council two options. He agreed with a commenter that Minnesotans like to vote; however, the Ward 3 April vote had 13% turn. Even though the power of the incumbency was great, the voters would still have a chance to vote. As the Mayor, Wiersum was interested in having the seat filled sooner and was in favor of a robust appointment process.

Ellingson asked staff if a decision needed to be made tonight. Barone answered that staff was looking for guidance so a decision could be made on January 7 when the vacancy would be declared and staff could be directed to hold a special election or begin the appointment process. She informed the council that under the charter the council has 60 days to make a decision on whether to make an interim appointment and that, if the council doesn't make the decision within 60 days, the mayor has 7 days to make an appointment. If the mayor does not make an appointment, the city clerk must call a special election.

Ellingson asked if the council could vote tonight and if Council Member Acomb could participate in that vote. Heine explained that the council could decide on a process and Acomb could participate; however, it would have to be made official on January 7, and Council Member Acomb would not be on the council at that time. Wiersum commented that a vote taken tonight would not be binding. Barone informed the council that staff would be prepared to go either way at the Jan. 7, 2019 City Council meeting.

E. 2040 Comprehensive Guide Plan

This item was continued to Jan. 7, 2019.

15. Appointments and Reappointments: None

16. Adjournment

Bergstedt moved, Schack seconded a motion to adjourn the meeting at 12:17 a.m. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
Acting City Clerk