

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, MARCH 23, 2009**

1. CALL TO ORDER.

Mayor Schneider called the meeting to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL

Councilmembers Dick Allendorf, Amber Greves, Brad Wiersum, Bob Ellingson, Tony Wagner, James Hiller, and Terry Schneider were present.

4. APPROVAL OF AGENDA

City Manager John Gunyou noted addenda to items 9A, 13A and 14B.

Wiersum moved, Greves seconded a motion to accept the agenda with the addenda. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES: None

6. SPECIAL MATTERS:

A. Recognition of 2009 Citizen Academy graduates

Schneider and Wiersum presented the certificates.

This year's graduates are Gail Anderson, Ginger Anthony, Patricia Baker, Dwight Baumgardner, Lorraine Baumgardner, Benita Bjorgo, Karen Bjorgo, Lu Bjornoy, Jon Brusven, JoAnn Budd, Travis Bunch, Allan Callander, Carol Colloton, John Connelly, Joey Connelly, Bob Cronk, Anne Deardorff, Dan Fitzgerald, Patty Fitzgerald, Robert Gausman, Robert Henderson, Jody Johnson, Judy McClellan, Patty Norquist, Josh Powell, Jon Richie, Mimi Seetapun, Grace Sheely, David Skora and Stacey Vokrot-Mello.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS

Gunyou reported on the schedule for upcoming council meetings. He also noted an article in the Lakeshore Weekly included information about the city's proposed transportation improvement district legislation. The bill did not pass out of a House committee, in which it was recently considered. The article included information about other cities' efforts to pay for road

improvements. Gunyou said there was some confusion raised by the article and said Minnetonka's proposal was strictly a business improvement district limited to the Opus Office Park, and would not have affected any residential properties in that area or the city. Schneider added Minnetonka has a long time policy of not special assessing for street repairs or reconstruction and there are no plans to change that.

Hiller stated that recent EDA meetings have been televised but upcoming meetings are not scheduled to be televised. He asked if future EDA meetings could be televised. Gunyou said the decision was up to the council. Typically meetings are televised when there are items on the agenda of broader interest. More routine meetings have not been televised. Hiller said he would like the council to discuss the issue. Schneider said there is joint council/EDA meeting scheduled to discuss the future direction of the EDA. He suggested that might be a good time to address Hiller's issue.

Schneider suggested the community commission might benefit in attending the joint EDA/council meeting on March 30 that will include demographic information. He also reported that he and Greves attended the National League of Cities conference in Washington DC. Most of the sessions were on the current economic situation and the impact on city budgets.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

No one appeared.

9. BIDS AND PURCHASES:

A. Quotes for Williston Center Kid's Corner renovation

Gunyou said after the bids were received, the low bidder indicated they had made a calculation error. This affected the staff recommendation.

Recreation Services Director Dave Johnson said there was a quote change late in the day. The change made Braun Built Corporation the low bidder for both packages. Schneider asked if since the same contractor was the low bidder for both packages, there was an opportunity for a discount. Johnson said he would check to see if savings could be achieved by using one contractor.

Greves thanked staff for the work in putting together the Kid's Corner program. Johnson said through the first two weeks of registration, the program is already half full.

Greves moved, Allendorf seconded a motion to award the contract for package #1 to Braun Built Corporation for restroom and plumbing improvements; and for package #2 to Braun Built Corporation for the renovation of space to accommodate the new "Kid's Corner" summer childcare program. All voted "yes." Motion carried.

B. Dominic Drive easement acquisition

Gunyou gave the staff report.

Allendorf noted that the staff report indicated there were negotiated agreements with 50 out of the 51 parcels. He asked if there were any anticipated issues with the remaining parcel. City Engineer Lee Gustafson said the reason there is one remaining property is that the property owner hired an attorney before the city submitted an offer. It is expected an agreement will be reached with the property owner.

Allendorf moved, Wiersum seconded a motion to authorize purchase agreements for the five properties in the amounts noted below and in a form acceptable to the city attorney:

1.	4728 Dominick Drive	\$ 51,000
2.	12401 Pioneer Road	\$ 60,000
3.	5023 Dominick Spur	\$ 32,000
4.	5031 Dominick Spur	\$ 27,000
5.	5049 Diane Drive	\$ 39,100

All voted "yes." Motion carried.

10. CONSENT AGENDA (Items Requiring a Majority Vote):

A. Claims for council authorization – March 9, 2009

Allendorf moved, Wagner seconded a motion to approve the March 9, 2009 claims which includes checks numbered 218577 through 218917, totaling \$509,132.16. All voted "yes." Motion carried.

B. 2009 general liability insurance and workers' compensation renewals

Allendorf moved, Wagner seconded a motion to renew the city's insurance policies through LMCIT for package policies with the following options:

- \$25,000/\$150,000 deductible for the package policies
- 100% Open Meeting law coverage
- No waiver of statutory limits

and to authorize renewal of the LMCIT workers' compensation policy with managed care and a \$10,000 deductible.

All voted "yes." Motion carried.

C. Order for tobacco violation for Tobacco General Inc.

Allendorf moved, Wagner seconded a motion to approve issuing the enclosed Finding of Fact, Conclusion, and Order for Tobacco General Inc. All voted "yes." Motion carried.

D. Time extension for filing of the ENCORE PARK final plat, a 3-lot subdivision at 11501 K-Tel Drive

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

E. Time extension for the GAGNERS 2ND ADDITION preliminary plat

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

11. Items requiring Five Votes: None

12. INTRODUCTION OF ORDINANCES: None

13. PUBLIC HEARINGS:

A. On-sale liquor licenses for Romano's Macaroni Grill, 11390 Wayzata Boulevard

Schneider opened the hearing at 6:55 p.m. No one spoke.

Wiersum moved, Wagner seconded a motion to continue the hearing to April 20, 2009. All voted "yes." Motion carried.

B. Items concerning Glen Lake redevelopment

Community Development Director Julie Wischnack gave the staff report.

Allendorf asked City Attorney Desyl Peterson to elaborate on what a "right to negotiate" is. Peterson said the right to negotiate is the right to have conversations with the property owners for the potential acquisition of the property. Allendorf said at the EDA meeting there was a discussion about putting in a right of purchase at a certain price. He asked why that was not included in the recommendation. Wischnack said there were unsuccessful negotiations with the developer to try to obtain a first right of refusal. There were complications on the developer's end including multiple partners owning the property. Peterson said the issue is that there are third parties who have bought into the property. The parties bought at a time when the redevelopment contract said there was no right to purchase the Kinsel Point property. The city has no leverage over the third parties. She said the financial consultants have indicated there is a sufficient financial incentive for the developer to go forward with the Kinsel Point project because a significant amount of the TIF proceeds that the developer would get come from the Kinsel Point property. If the Legislature approves an extension of the TIF district, the tax increment amount would be around \$3 million. If the extension is not approved the amount would be around \$1.5 million.

Allendorf said EDA members seemed to indicate they wanted the Gold Nugget open by May 31. There is a 30 day cure period in the contract that would mean the restaurant has to be open by June 30. He asked how the contract could be written so that May 31 is the real date the restaurant has to be open. Wischnack said the EDA concern was that they did not want to make the date too restrictive as long as there was progress being made on the restaurant. Peterson said the EDA did include a provision that if the May 31 deadline is missed, the penalty period defaults back to January.

Hiller questioned the urgency of the item and if the discussion should continue given that the minutes from the EDA meeting were not available and EDA President St. Peter advocated recommending not approving the item. Hiller said the council should have information about the EDA discussion. Schneider said he did not attend the EDA meeting but was at the previous meeting when the item was discussed in detail. At that meeting it was agreed to meet again to look at the final wording of the contract. The EDA recommended forwarding the item to the council. While the minutes may be beneficial to enlighten the council on St. Peter's position, the committee voted to recommend approval.

Peterson explained St. Peter's concern was the issue about the right of first refusal that Allendorf raised. She said as St. Peter listened to the staff explanation about the financial incentive and the issue of the third party investors, his concern was addressed.

Wiersum said at the EDA meeting he agreed with St. Peter's concern about whether there was sufficient teeth in the contract to compel the developer to deliver. As the concerns were discussed, Wiersum said the EDA concurred there was sufficient incentive to compel compliance. Wiersum said St. Peter acknowledged he was not aware of the third party issue and had he been aware he would have not raised the issue. Wiersum said the item was covered thoroughly at the EDA meeting and decisions were not made based on a lack of time. Due diligence was done and agreement reached on the recommendation forwarded to the council.

Hiller said he heard concerns from residents about the liquor licenses. The current estimate is for the Gold Nugget to have 75 percent food sales and 25 percent alcohol sales. At the previous EDA meeting there were references to the "Gold Nugget Restaurant and Tavern" raising the concern about the liquor licenses. The seating chart shows 110 restaurant seats and 105 bar seats. He asked if that ratio will achieve the 75 percent food sales to 25 percent alcohol sales. Wischnack explained that "Gold Nugget Tavern and Grill" is the official business name. She said the question about bar versus restaurant seating area would be best answered by the owner. Hiller said he also would like to see the 10 p.m. closing times extended.

Hiller said the September 24, 2008 side agreement related to opening the Gold Nugget and the TIF included a penalty of withholding the TIF if the restaurant did not remain open. Hiller asked if the TIF related penalty remained in the contract. Steve Bubul, Kennedy and Graven, said that provision remains in the agreement.

Hiller said the contract contains a section that specifies the city is getting 20 percent of the TIF on the senior section. There is a \$75,000 fee designated for affordable housing. He asked for more information about the fee. Bubul said the provision only applies for one alternative financing for the phase two project. That situation would involve the TIF note being assigned as part of HUD financing. In that particular scenario, the EDA would get the 20 percent upfront to pay for some of the city's costs, and 75 percent would go to help pay for some of the affordability. Hiller asked if the 75 percent represented the full value of the affordable units. Bubul

said it was not the full value of the affordable units. Wischnack said the 75 percent comes from the savings of issuance costs if the city were to issue the debt.

Hiller said another section of the contract includes language about agreeing to work diligently to extend the TIF for another seven years. He asked what would happen to the agreement if the extension is not approved. Bubul said the tax increment would stay at its current duration. Wischnack said it would also result in less money for the developer as there would not be enough increment to pay him back for already expended redevelopment costs. Gunyou noted that he and Wischnack met with the chair of the Senate Tax Committee who indicated he would support the TIF extension. Gunyou also said that the extension has not been an issue in the House.

Hiller asked why it was imperative to get the extension. Schneider said the developer would lose \$1.5 million if the extension is not approved. Hiller said he had not seen the pros and cons of extending or not extending the TIF. Mark Ruff, the city's financial consultant, said the proceeds of the tax increment would benefit both the city and the developer. The city had an obligation to provide public improvements to the site and the anticipation was that the tax increment would be used over time not only to repay the developer for his investment in the site, but also repay the city. Extending the district would give a greater opportunity to the city to recover its investment in the site. Ruff said tax increment districts have specific timelines and only a small amount of tax increment has been received for the first several years of the district because the development developed more slowly. The justification for the extension is to stay within the confines of the expectation of a shorter tax increment district but still get what is due from the anticipated development.

Hiller asked what the urgency was to enter into the agreement. He said his understanding was that since so much negotiation has gone on already, there will be something in place if St. Therese ultimately decides not to proceed. This would allow the city to show there is an agreement in place to other potential interested organizations. Gunyou said in a perfect world everything would be in front of the council at the same time, but in today's environment that would be very unusual. Responsible developers are having difficulty financing even solid projects that were possible a year ago. He said St. Therese's decision to ask for a temporary delay came at the last moment. Staff felt it was prudent and appropriate to go ahead with the components that the EDA and council have

already extensively reviewed. He emphasized that moving ahead now would not prejudice future council decisions. The city would be no worse off than it would be if the council waited. Conversely, the city could be potentially better off by acting now, because the agreement would provide some leverage with St. Therese or another developer.

Hiller asked if there was any indication another organization was interested. Gunyou said it would be more appropriate to ask that question of the developer. He explained that the agreement would not change any of the developer's obligations. The developer is still obligated to meet all the terms until St. Therese or somebody else steps in, then they would have to agree to all the terms as well. He said there was no downside to acting now, but there was a potential upside.

Hiller said residents have indicated to him that St. Therese is a good organization. His concern is that another organization would come in and the city would be obligated to allow that developer in because of the agreement. Gunyou explained again that a subsequent developer would have to accept the same terms, and that the council would still have to approve the contract once a final decision was made about St. Therese or another developer.

Hiller said different organizations have different business models. Some may be able to give the city the full 30 years, the standard St. Peter said he wanted to achieve. He said it is possible the 30 years would be reduced depending on the organization. Gunyou said the council would need to approve any changes in the terms at the time a specific developer was named. He noted another advantage of moving ahead would be avoiding the need to start the entire lengthy process over again. More importantly, it would send a message to the development community that the city was ready to move ahead with the project.

Hiller asked what the penalty would be if the required number of affordable units is not met. Bubul said the default is the same as other defaults related to phase two. The EDA could withhold the tax increment payments on the note that is secured by the tax increment.

Hiller asked if there was any recourse if the city does not like the cost of services. Wischnack said the point of the provision was to get at the rent component and not to get at the cost of services. Staff asked for the documentation so the full cost of the housing model is understood. Hiller noted there is no mechanism for the city

to observe if the nonaffordable units are receiving a lower services fee than the affordable units. Wischnack said that is the challenge with assisted living affordability. She said by unbundling the services the city will better understand the rental component.

Hiller asked where the specific public improvements are listed in the public improvements section of the contract. Bubul said the detail schedule was removed because the improvements have already been constructed. He said it was mostly streetscaping. Hiller asked what was included in the \$500,000. Finance Director Merrill King said the funds were spent on sidewalks, pavers, street lighting, and landscaping.

Hiller said Gunyou sent him an email that included an itemized list of expenses that had been incurred, part of that were to be paid by the TIF. The list included \$260,000 for the Woodhill parking. He asked if the item was included in the list for reimbursement. Gunyou asked Hiller if the information came from an email he sent a year ago. Hiller confirmed it was. King explained that a portion would be reimbursed.

Hiller said under the original approval the agreement was that \$1 million out of the \$5 million in TIF was dedicated to public improvements. He said it seemed logical that there would be a list of the public improvement items paid for by the TIF. Wischnack said that information was provided to the council when it previously considered and approved the public improvements. Detailed information was provided about the streetscaping budget concerning how and when the improvements were going to occur. As is the practice, updated budget information will be provided when approval for the plaza redevelopment is considered by the council.

Hiller said in past TIF agreements typically the city as a tax collector takes five percent off the top for administration purposes. He noted the provision was not included in the proposed contract and would add up to around \$450,000 worth of revenue. Bubul said the pledge of tax increment to reimburse the pay as you go notes is always 95 percent of the increment. Therefore, that provision is included by definition. If the note is issued directly to whoever buys phase two, the amount would be reduced to 80 percent and the EDA would receive 20 percent.

Hiller asked what the net cash difference would be if no project occurred versus the current version of the plan. Wischnack said the EDA discussed the question of what would happen if no project is

done. Not having a senior housing project on the site would greatly impact the amount of TIF available to the city and the developer. This would impact the city because the city receives a portion of the TIF flow to be reimbursed for the amount already expended. Ruff said the anticipated amount of tax increment has changed as the development has changed, but what has not changed are the estimated costs of the development. He said over 90 percent of the costs have already been incurred by the developer and the city. The costs include \$4 million for the developer to be paid back by TIF, \$1 million for the Alano relocation. Ruff said at no time was it anticipated that 100 percent of the money would be reimbursed. At the beginning of the project it was anticipated there would be around \$4.5 million in TIF without inflation. With the current TIF district duration, and assuming the Kinsel development will be built in 2011, the TIF would decrease to around \$2.3 million. If St. Therese does not happen but Kinsel happens, the amount would drop to \$1.75 million. If the district is extended and St. Therese and Kinsel happen, on a present value basis the TIF would be around \$3.5 million. Ruff said the real estate market has caused a significant drop in the tax increment. The developer will bear the brunt of the vast majority of the drop.

Hiller said the public improvements were at the bottom of the list for payment. Ruff indicated that was not true. Gunyou explained that only the Alano relocation was at the bottom of the list. Ruff said the \$500,000 repayment to the city for streetscaping and other public improvements was high up on the list. Only the second \$500,000 for the Alano relocation is toward the bottom of the list, as has always been the case.

Hiller said the issue was that it is difficult to explain to residents what is going on. He asked where he could find a list of the public improvements and what tax impact the improvements would have. Would the EDA fund increase or decrease? Wischnack said she could provide Hiller with the list of all the improvements in the Glen Lake area. This list was the same one that was previously provided to the council during the streetscaping project review and approval. She said TIF is never easy to explain because of its technicalities. It depends on the values within the project that will indicate what the city is paid back for its investment.

Hiller said the city should be able to show the taxpayers a range of estimated costs under different scenarios. Gunyou responded it was not appropriate to suggest that the taxpayers were exposed on the project. He emphasized that there is no risk to the taxpayer. The funds that have been used have come from the development

account, not from property taxes. It has been assumed from the beginning that a portion of these funds would be reimbursed, and that a portion might not be reimbursed. Throughout the project, the council has made informed decisions about the public improvements in the park and the streetscaping.

Hiller agreed the city has no involvement for the cost of the developer's buildings or whether or not a profit is made. His point was that money from the EDA fund was used that is to be reimbursed by the TIF package. The city will pay for the public improvements or the TIF will pay for it.

Schneider said there will be a range of reimbursements that the city will get back depending on the scenarios that play out going forward and the actions the council takes. It was understood there would never be 100 percent reimbursement. The city will be reimbursed a higher rate if everything works out. The council has been provided the best and worst case scenario about how much will be reimbursed out of the development account. That is why it is important to position the project to be as successful as possible. He said he doesn't expect to be able to explain today exactly what the outcome will be five years from now.

Hiller said he supports business development, but to be asked to make a decision without a range of expenses, gets to what he said when the item was sent to the EDA. He challenged the EDA to come back with an explanation of the costs and the benefits. He said he has not seen that information.

Wagner said part of the approval request included street crossings on Woodhill. He asked if this should be included in the redevelopment agreement. Wischnack said the provision will be added to the site plan conditions of the development and paid for by the developer outside of the redevelopment contract.

Wiersum said if nothing gets built on the grocery store site or Kinsel, it would mean the least amount of TIF and would put the city's funds for the public improvements in the greatest jeopardy. By moving forward, the likelihood of the greatest jeopardy to the development fund decreases. Moving nothing forward increases the jeopardy. Ruff confirmed that was correct.

Schneider opened the hearing at 8:04 p.m.

Jane Guyn, 4838 Woodridge Court, said her family does as much shopping as possible in the Glen Lake area. She has closely

followed the planning process over the years and supports the current proposal. The proposal will continue the revitalization of the area and bring jobs and visitors. She encouraged people not to delay the project.

Louise Davis, 14501 Atrium Way, said when she and her husband first saw the developer's plans, they thought it was wonderful and continue to want the project go through. She said if some council members do not understand the project numbers, they have the responsibility to other council members and to the public to become educated about the issues before the meeting. As for the issuance of the liquor license, she said there should not be concern about public drunkenness because the restaurant owners should be aware of the Dramshop Act.

Ivan Fox, 6008 Pinewood Lane, said it does not make sense to have a contract for a specific party when the party is unable to sign the agreement. If St. Therese proceeds and wants changes to the agreement it would give the city manager the ability to make the changes without input from residents, the EDA, planning commission, or the council. Schneider said that was a misstatement, and asked Fox to limit his testimony to the facts and not to his opinion. Changes to the agreement would need to come back to the council. Fox expressed concerns about the affordable housing provisions because St. Therese does not accept Medicare or Medicaid patients.

Schneider said if a different senior housing developer replaces St. Therese and agrees with everything that's been negotiated, the council would take action to insert that developer into the agreement. Peterson confirmed that was correct. Schneider said if the developer wanted to change the number of affordable units, the agreement would need to be renegotiated. Peterson confirmed that was correct as well. Schneider said the service portion of the assisted living would be a challenge but that was understood throughout. There is a way to manage that process with the rent component.

Curtis Hall said when he moved into the area four years ago the area was unattractive. He praised the developer for investing in the area. The empty lot does not look good and for the benefit of the neighbors it would be appreciated moving forward on the project.

Gary Jeub, 4864 Gaywood Drive, said his family has lived in the area long enough to see all the changes. It is important to move ahead. The street improvements have added to the walkability of

the area and the village feel. He said the development is a very positive thing for Glen Lake.

Anne Malm Hossfeld, 14616 Glendale Street, asked for further information about what would move forward and the public comment process if the council approved the agreement. She also asked if staff could identify and discuss a negative scenario that might occur if the contract was approved. She inquired what landscaping obligations exist and who would be responsible for paying for construction of a temporary trail.

Wischnack said the item was before the council because staff wanted direction and parameters by which development could happen. If St. Therese does not come back to the table, other developers would have an understanding about the parameters and what the council expects. She said the contract has been reviewed in detail by the EDA.

Bubul explained that the contract is with the original master developer. That entity remains the developer until the EDA and council approve an assignment for parts of the project to a subsequent developer. He said this is a standard procedure in multi-phased development projects. The original use for this phase was owner occupied condominiums. He said some of the changes being made have evolved out of a particular expected new subdeveloper, but there are changes to other aspects of the contract including the construction schedule that will prevent defaults.

Gunyou said there have always been two aspects of the project. One has been the land use design and planning part. The other involves the development contract. St. Therese has gone through the planning commission process, but if St. Therese were to come back with that proposal, the agreement would still have to come back to the council for action. Any changes to the development would require the agreement go back to the EDA for another review. He explained again that in today's market to have a development agreement that specifies the city's expectation for potential development is a major marketing advantage for the city. He reiterated that staff does not see any negative to approving the agreement because the city is not committing to anything other than the deal already in place with the current developer. As for the trail, staff has decided to put down wood chips because it is easier to maintain and easier for people to use. He said it was appropriate for the city to pay for the trail because the developer would not realize any benefit at this point. The cost would be around \$16,000

to install the trail, which would come out of the park dedication fees the developer is paying.

Grace Sheely, 14325 Grenier Road, would like an opportunity for public input when the name of the senior housing developer is inserted into the contract. Schneider said it is typical in a master development agreement to have the right to sub-sell part of the agreement. It is unusual to have all the final developers in the original agreement. There would be a public hearing process when the senior housing developer comes forward.

Sheely said she had objections about senior housing getting TIF money and was disappointed by the planning review process. Normally when the review is done there is a discussion about the unique circumstances for every variance. She said there are not any unique circumstances in this case and justification for each variance should be specified. She is concerned about the senior housing trucks that can be used as billboards. She said the project is not coordinated with the Glen Lake development because the building has been turned around. She encouraged further discussion about the affordable housing and mid-range units. She questioned if there is a real penalty if the Gold Nugget does not get built on time. She recommended moving forward but said the process has been rushed. She asked if residents could assist with work on the trail. Gunyou said anyone who was interested in helping out on the trail should contact the city's parks and trails manager. He clarified that the \$16,000 cost was based on if a contractor did the work. The plan is for city crews to do the work.

Mark Mathison, 14017 Brandbury Walk, said after an extensive public process, the community is coming together on the project. He said he supported the process moving forward. He said the community is celebrating all the progress being made on a quality development that has kept the character and feel of the neighborhood while enhancing what was there.

Barry Bonoff, 5352 Mayview Road, said he would like the project to go forward and is appreciative of the developer for the persistence in pushing ahead in the bad economy.

Tammy Rosenthal, 5800 Lake Rose Circle, said she feels she is paying for sidewalks with nowhere to walk to. She would like to see the developers challenged to be creative with the buildings and create places that would bring people to the city. She works as a garden designer and said \$16,000 is a steep cost for putting wood chips on a path. Schneider reiterated that the figure was a

proposed cost from a contractor but because city crews would do the work, it would not cost \$16,000.

Michael Gallo, owner of the Snap Fitness, said his business needs the traffic the Gold Nugget will bring to the area. He welcomes the new residences that will be across the street even though the plans have changed since the original proposal.

Schneider closed the hearing at 9:01 p.m.

Schneider called a recess at 9:01 p.m. He called the meeting back to order at 9:12 p.m.

Hiller said at an earlier meeting he asked Wischnack to research if the city ends up with more affordable housing when seniors sell their homes. Wischnack said she had not found definitive documentation. Hiller said studies have demonstrated that getting seniors to move out of their homes doesn't necessary bring in housing that young people can afford. There will be 40-60 jobs at the senior housing. Hiller said the employees probably will not be able to afford to live in the city.

Hiller said back in September when the EDA's HRA levy was being discussed, he advocated for an \$800,000 levy because the village developments would not happen without the city's participation. He voted against the \$100,000 HRA levy because he asked for a plan for what was going to be done with the money but the approach was to come up with the money in order to develop the plan. In reading the council packet information he said he could not fully understand what the city was getting in return for the money spent. There was no information about the costs of not having housing for young families versus having senior housing. Also the list of public improvements was not included. There was no explanation about why the affordable housing was being cut in half. Hiller said the big problem with the Glen Lake project was that what is being done could not be clearly explained to residents. There is no deadline facing the city on the project, so the proposal should be used to demonstrate to residents what the city will be doing on more complex future development projects. Because he could not explain to residents what they will be getting and what they will be paying, he could not support the project.

Schneider said to expect detailed answers to a list of questions the night of the meeting as opposed to getting the detailed information from staff prior to the meeting was unfair. To expect that detailed of a discussion while policy decisions were being made was a

disservice to the process. Schneider said he did the necessary work to understand the implications of the various scenarios prior to the meeting. He has tracked the project process to understand what the city is getting and can explain the project in principle to residents. If a resident needs more detail, he refers them to staff because it isn't a council person's role to monitor every single dollar the project generates or does not generate.

Wagner said when the item was sent to the EDA he researched the history of the project. The item was tabled at the February EDA meeting to get more questions answered. He met with staff, counsel and with the financial analyst to get answers to other questions. He said that was the way he got comfortable that he understood the project. The reason he originally voted for the project was that there was significant blight on the south side of Excelsior Boulevard and the council wanted to revitalize the business district in Glen Lake. The only way to meet the goal was through density. He said while it is still desirable to have condos, they will not be built any time in the near future. The condos have been replaced with senior housing. The EDA recently received a study that indicated the city has an extremely low housing turnover rate that results in a high median age of residents. Another goal of the project was to increase affordable housing in the city and while he still would like single family affordable housing, there is a need to provide alternatives for seniors as well. Looking at the original goals, Wagner said the blight conditions, the business district, and affordable housing all were being improved. The project is a local stimulus. There have been three public EDA hearings. The EDA made some significant changes including changing the number of units, reducing the developer's profit to use funds for additional affordability in the future, and adding a trail. He said he supported enabling the development to happen quicker than to wait for another party to emerge and restarting the process over.

Wiersum said there has been significant due diligence. Delaying the project would likely mean having an empty lot for a longer period of time. Every day that passes where forward progress is not made means the TIF would decline. The question is not what could have occurred if the economy had not changed, but what are the current alternatives? One alternative is to do nothing and lose TIF dollars and perhaps not get the Gold Nugget. The other alternative is to move the project forward through an open public process, and help the existing businesses.

Allendorf said he was being asked to make a policy decision about the beautification of one of the city's major nodes. The decision is

being made without knowing all the answers to all the questions. He said listening to the discussion about the different scenarios related to the TIF benefits, he determined no one could answer some of the questions because no one knows what the condo market will be in the future. Not knowing the answers to the detailed questions does not hold him back from making the policy decision. As for what has been negotiated in the contract, he said he did not know how the city would benefit in having a right of first negotiation. In the past he has said the city should come up with a model for affordable housing that states what the city is willing to accept that includes the number of affordable units, the size range, and an architectural footprint. The model should then be shared with the development community to let them know what can be built in the community. In a way, that is what is being done with this contract. He said the process moves the project forward, gives the developer an advantage to find somebody for the property, and is a positive for the city in getting the property developed sooner.

Greves agreed the contract moves the project forward and helps meet the city's goals. The area is a great location for a senior housing facility. The additional jobs are also a positive. She agreed with Allendorf's concern about the right of purchase provision. She said the EDA's discussions were thorough and complete and disagreed with the concerns raised about the process moving too fast. Staff cannot be expected to answer at the meeting every detailed question on information going back several years. She said as an at-large council member she thought it was important to look at the community's support for moving ahead.

Ellingson said he has been impressed by the process. Residents are excited about the senior housing facility. He was disappointed the council was not approving St. Therese at the meeting. He said he didn't think the penalty provision for the Gold Nugget restaurant was necessary. A lot of the finance issues are beyond anyone's control due to the economy. There's no penalty for missed deadlines for the other parts of the contract. He said the option to purchase the property on the lake is a good idea. Also, the city needs to be flexible because of the difficult economic times. He said the redevelopment agreement might be too restrictive by referring specifically to senior assisted living housing. His objection all along has been putting such a large development in a natural secluded lake like Glen Lake.

Hiller said he had no question that staff, the consultants, and the council have taken the time to understand and evaluate the project.

His concern is the council has a responsibility to the taxpayer to show they know what they are doing.

Schneider said the project has come a long way and that a lot of the changes are beyond the city's control. He said the city is extremely fortunate to have a developer willing to stick with the project through the challenging times. The agreement has a lot of upside given the current climate. By having it in place the different agencies, financing people, potential developers, buyers and renters will likely feel more comfortable in knowing what they will get. He said the council has done its homework, made some good policy decisions and has given the developer good direction. The market for senior housing is very good. The right of first refusal seemed logical until one looks closely at the complexity of the issue. He said he took a tour of the Gold Nugget and was impressed by the amount of work and money already put in. The re-creation of the ambience and feel of the former restaurant will impress people. He agreed the penalty provision is not necessary but would not change the agreement.

Allendorf moved, Wagner seconded a motion to:

Adopt Resolution No. 2009-018 approving the GLEN HAVEN SHOPPING CENTER preliminary and final plat, received on January 7, 2009, subject to the following conditions:

- a. Compliance with all preliminary plat conditions, including the specific conditions for release of the plat; and
- b. Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

Allendorf, Greves, Wiersum, Ellingson, Wagner, and Schneider voted "yes." Hiller voted "no." Motion carried.

Allendorf moved, Wagner seconded a motion to:

Adopt Resolution No. 2009-019 approving an Amended and Restated Contract for Private Redevelopment between the City of Minnetonka, the Economic Development Authority in and for the City of Minnetonka, and Glen Lake Redevelopment LLC with the addendum.

Allendorf, Greves, Wiersum, Wagner, and Schneider voted "yes." Ellingson and Hiller voted "no." Motion carried.

Allendorf moved, Wagner seconded a motion to:

Grant the licenses with the following conditions for the outdoor patio conditions:

- a. The patio area must be located in a controlled or cordoned enclosure, with no interruption, and access only through the principal structure. All regulations set in Resolution 2006-004 must be adhered to.
- b. No audio or loudspeaker system may be used.
- c. The hours of operation shall be concurrent with business hours of the restaurant.

All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. **Conditional use permit for installation of a drive-up window at 17601 State Highway 7**

Gordon gave the staff report.

Greves asked for clarification about the setback from Highway 7. Gordon said there is about fifty feet from the drive aisle and the curb edge of Highway 7.

Schneider said he agreed with the addition of landscaping by the drive aisle but it appeared the landscaping would be on MNDOT right of way. Gordon said there is a slight edge where a small hedge row could be placed without encroaching into the right of way.

Wagner asked about the normal maximum hard cover surface allowed for the type of structure. Gordon said there is 79 percent hard cover and the structure is allowed 85 percent.

Hiller moved, Wiersum seconded a motion to adopt Resolution No. 2009-020 approving a conditional use permit for a drive-up window, with the following variances: Parking Setback: The zoning ordinance requires a minimum setback of 20 feet from right of way for a drive aisle. The proposed drive-up aisle is 3 feet from the right of way. All voted "yes." Motion carried.

B. **Items concerning a two lot subdivision at 18200 Old Excelsior Boulevard**

The item was pulled at the request of the applicant.

C. **Annual transit Memorandum of Understanding with the Metropolitan Council**

Community Development Supervisor Elise Durbin gave the staff report.

John Levin from Metro Transit said it has been a good year for transit. Ridership in the region and the city has been up significantly over the past year. There have also been improvements in reliability and on time performance. He said it is a financially challenging time for transit. The region faces a \$68 million deficit for transit operations for the upcoming biennium mostly due to the drop in motor vehicle sale tax receipts. Metro Transit hopes to address the deficit without any service reductions or fare increases. He said there have been improvements in service over the past year including the core all day all week service on I394. Route 664 has been extended to the Minnetonka Heights area. Route 612 was reinstated with the receipt of federal grant funds through the Job Access Reverse Commute Program. The service was previously cut in 2005. He said the route has not been performing very well with only 15-20 rides per day which isn't enough to sustain the route. It is expected when the grant funds run out in September, the route will not be continued. He said the dial a ride service has been a big success over the past year.

Allendorf asked how the dial a ride service works. Gerri Sutton from the Metropolitan Council said a passenger calls the service a few days in advance. If there is space available for the request the trip is scheduled as close as possible to the requested time. There is a \$3 fare. Levin said if a person wants to take the same trip the same time every day or week they can arrange a standing order.

Levin said one of the elements the organization is looking forward to later this year is the opening of the Marquette Street and Second Street double width bus lanes and major improvements to the customer amenities. Another improvement being looked at is a restructuring of the regional dial a ride with the benefit of a better coordination of trips across the county. Levin said the Met Council adopted the 2030 Transportation Policy Plan. The plan includes the Southwest Corridor LRT and a wide variety of improvements to local and express bus services when funding becomes available.

Wagner said the previous plan had tier one and tier two corridors for light rail and the Southwest Corridor was in tier two. He said the committee strongly advocated removing the tier structure and slotting Southwest Corridor after the Central Corridor. He asked for an update. Levin said the tier structure has been removed. There are different levels with the first level including transitways under

development or close to implementation. The Southwest Corridor is included in this level and is perceived as the next in line after the Central Corridor.

Levin reported there has been significant headway on the I394/County Road 73 park and ride. The project is not quite finished but improvements have been made to the façade.

Wiersum asked what level of service would have enabled retaining route 612. Levin said to meet the minimum threshold for passengers per in service hour would have required 50 riders on a weekday and more than 70 riders on a Saturday.

Ellingson asked if the bus used on route 612 was a small bus as opposed to a regular sized bus. Levin said a 30 foot bus was used. Ellingson asked if the service was discontinued if there would be no service from downtown to the Glen Lake area. Levin said there is rush hour bus service via route 664 and dial a ride service will continue. Ellingson said his concern is one of the goals for the village area is to have transit oriented development. Levin agreed that Ellingson's concern and said with future developments perhaps route 612 could be reestablished.

Schneider inquired about the possibility of having a small circulator going to various locations in the area. He asked how cost effective that option would be. Levin said the size of the vehicle has an impact on the cost but a significant portion of the cost of transit service is the labor. He said hourly service is generally considered necessary. To have less frequent service makes it difficult for most people to use because they can't rely on taking a trip when they want to take a trip. Dial a ride is advocated for a broad area because people can get to and from where they are traveling without the intermediate stops. Schneider said going forward he would like a discussion about working through the costs to make the small circulator option available to residents. Wagner noted the EDA work plan includes discussing the transit issues.

Ellingson asked what the cost was for route 612. Levin said it was a \$150,000 grant for the demonstration period.

Durbin said staff is recommending studying additional transit providers. The analysis would be due back to the council by December 2009. Schneider said part of the analysis should include the overall economics of how a true opt out would work. Durbin said that information would be included in the study similar to what was

included in the 2002 study. Wagner said he would like the study to include an analysis about connecting neighborhood nodes.

15. APPOINTMENTS and REAPPOINTMENTS:

A. Appointment of advisors for the 2009 Local Board of Appeal and Equalization

Wagner moved, Greves seconded a motion to appoint Mr. Kriedberg, Mr. Bacal, Mr. Lees, Mr. Nagel, Ms. Hart, and Mr. Shields as advisors for the 2009 Minnetonka Local Board of Appeal and Equalization. All voted "yes." Motion carried.

16. ADJOURNMENT

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 10:33 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk