

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, MARCH 22, 2010**

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

**4. APPROVAL OF AGENDA**

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

**5. APPROVAL OF MINUTES: March 8, 2010 regular meeting**

Greves moved, Allendorf seconded a motion to approve the minutes of the March 8, 2010 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:**

**A. Recognition of 2010 Citizen Academy graduates**

Schneider and Greves presented the certificates.

Graduates are Jacqueline Beaudoin, Ted Beaudoin, JoAnn Bennett, Larry Bruckner, Barb Calvano, John Cheleen, Mary Cheleen, Maryna Chowhan, Paul Delau, Amy DeWitt, Peter DeWitt, Lee Erhard, Gerald Erickson, Ruth Erickson, Ed Friedman, Marge Friedman, Jane Goset, Barbara Hannah, Tim Hartzell, John Hoekstra, Kim Hovey, Mary Klein, Cynthia Lesmann, Mary Macanek, Chuck Meyer, Stephen Nau, Chris Olson, Betty Owen, Henry Owen, Gerry Petersen, Deborah Renshaw, Reid Shaw, Erin Steinmetz, Mary Stelzer, Jeffrey Stokfisz, Jason Wahlman, Kristi Wahlman, Cliff Wexler, Gloria Wexler, John S. White, Stacy Whitson, Marie Wollenburg, George Youngvorst, Lori Youngvorst and Charlie Yunker.

**B. Retirement recognition of Pat Kehr**

Schneider read the recognition.

Kehr thanked the council, management, staff and residents for their support over the years.

**7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS**

City Manager John Gunyou reported on the schedule for upcoming council meetings.

Schneider said he was in Washington DC the previous week attending the National League of Cities Congressional Conference. Attendance was down, but there was good dialogue with the state's congressional representatives. He said most of the sessions focused on jobs and job creation. Schneider serves on the economic development policy committee and there was a joint meeting with the transportation committee. Transportation Secretary Ray LaHood attended the meeting.

**8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA**

No one appeared.

**9. BIDS AND PURCHASES: None**

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

**A. Claims for council authorization – March 22, 2010**

Allendorf moved, Wagner seconded a motion to approve the March 22, 2010 claims which includes electronic fund transfers (EFTs) numbered 1206 through 1213 and checks numbered 226119 through 226392, totaling \$1,470,579.83. All voted "yes." Motion carried.

**11. Items requiring Five Votes: None.**

**12. INTRODUCTION OF ORDINANCES:**

**A. Ordinance amending the zoning code regarding correctional facilities**

City Attorney Desyl Peterson gave the staff report.

Hiller asked what differences the change would provide to address issues that come up. Peterson said currently the facility could not be expanded because it is a non conforming use and the ordinance prohibits a non conforming use from expanding without a variance. The hope is that the

facility owners will come in with a PUD so the city would have a better understanding on what is going on with the property. This would allow the creation of an ordinance unique to the PUD and would give everybody an understanding of what the expectations are. She said staff felt it would be better to have something that provides a plan for the facility.

Hiller asked for clarification on the industrial designation. Peterson said the industrial designation was the most appropriate for the type of use with the intensity of the use.

Ellingson noted Peterson's report indicated that there was a request from Hennepin County related to zoning. He asked if the county was interested in making changes to the facility. Peterson said she was not sure the reason the county made the request. The city received a request for a zoning compliance letter from the county. Community Development Director Julie Wischnack said the zoning compliance letter request was related to a grant the county was applying for.

Schneider said it made sense to have a PUD that identifies what is being done with the property and if there was an expansion plan. Because the PUD was in the city's and county's best interest, he asked if fees could be waived. Peterson said the city typically has not waived fees but could do so if the council decided to do that. Greves said she was in favor of looking into waiving the fees.

Allendorf said back when the home school was looking to expand, the neighbors were not supportive of the expansion. A group was established that included staff from the city and the Hopkins School District. The group was informed about what was going on at the facility. He asked if the group was no longer in existence. Peterson said she was not aware that the group was ongoing. Allendorf said it would be worth having a discussion with the home school to see if they would be willing to resurrect the group.

Hiller asked if the item was approved, if the expectation was for the home school to apply for a PUD before any future development. Peterson said the home school would be required to come in for a PUD for any additional development. Schneider said the PUD could happen in advance of any redevelopment. To qualify for grants or for funding issues, the home school might need to demonstrate they were in compliance with the zoning. Peterson said that it was likely the facility would not expand but might contract given the current direction of the corrections system.

Wiersum moved, Greves seconded a motion to introduce the ordinance and refer it to the planning commission. All voted "yes." Motion carried.

**13. PUBLIC HEARINGS:**

- A. Items concerning the Williston Center at 14509 Minnetonka Drive**
- 1) Use of the Community Investment Fund to finance renovation**
  - 2) Resolution approving the conditional use permit, site and building plan review, and variance**

Recreation Services Director Dave Johnson gave the staff report.

Schneider opened the hearing at 7:12 p.m. No one spoke.

Schneider closed the hearing at 7:13 p.m.

City Planner Loren Gordon gave the report on the planning aspects of the project

John Kretsch, 2805 McKenzie Point Road, said he currently takes his brother to the Williston Center. His brother is recovering from a car accident and uses a walker to get into the building. It is difficult to enter the building. The new plan would help those who are swimming but because there would be two sets of doors to the family locker room, there likely would be issue with the doors when helping his brother. He said staff has indicated a handicap push button would be installed and that would be helpful. Currently his brother also uses the plastic chairs located around the swimming pool and Kretsch has talked to Johnson about including the chairs with the new plan. Johnson said he and Kretsch met to discuss the issues. He said there would be one entrance because under ADA code, there cannot be a separate entrance for ADA purposes. The access point would lead into the locker room or to the family changing areas. The distance would be a little further than the current alignment. He said the plastic chairs around the pool would continue to be available. Staff would work with the Kretsch's to make sure the seating arrangements work.

Hiller asked if the doors would include the standard handicap automatic opening functionality. Johnson confirmed that they would.

Wiersum asked if the width of the passageways would be sufficient for wheelchairs and walkers. Johnson said the entire project would be ADA accessible. The main corridor leading to the fitness areas would be wide enough to accommodate those who use wheelchairs and walkers.

Greves asked if the plan included painting or upgrading the ceiling. Her understanding was that painting or upgrading the ceiling could be prepared as a bid alternative. Johnson said the ceiling in the tennis area would be included as an alternate bid. If the improvement was not included as part of this project, it could be done in the future if it would be

more cost effective. He said the ceiling above the basketball court would be painted and covered. The rest of the metal structure above the tennis court would be painted as well.

Hiller moved, Wiersum seconded a motion to:

- 1) Adopt Resolution No. 2010-028 approving use of the Community Investment Fund to finance renovations to the Williston Center.
- 2) Adopt Resolution No. 2010-029 which approves a conditional use permit and site and building plan review for an expansion of the fitness and recreation center located at 14509 Minnetonka Drive, with the following variance:
  - Parking lot setback variance from 20 feet to 10 feet from the north property line

Approval is based on the following findings:

- a. The proposal meets the required conditional use permit standards.
- b. The proposal meets all ordinance and standards for site and building plan review.
- c. The proposal meets the required standards for a variance, because:
  - (1) UNDUE HARDSHIP: There is an undue hardship due to the conditions of the site. The location of the existing building and parking lot and the steep slope on the east side of the property present a hardship in expanding the parking lot to provide the required number of parking stalls and to meet parking demands.
  - (2) UNIQUE CIRCUMSTANCE: The location of the existing building and parking lot, the steep slope, and existing vegetation and buffering are circumstances that are not common to every property.
  - (3) INTENT OF THE ORDINANCE: The setback variance would meet the intent of the ordinance to provide adequate separation between properties. The proposed parking lot would be adjacent to the parking lot on the property to the north. The variance would still provide 40 feet of green space and landscaping between the two parking lots. Furthermore the parking lot would be located 100 feet from the building to the north.
  - (4) NEIGHBORHOOD CHARACTER: The parking lot would not adversely impact the character of the neighborhood. A significant distance would remain to the parking lot and building on the property to the north. Furthermore, the parking lot would be visually

buffered from by the rain garden plantings and existing berm and landscaping.

Approval is subject to the following conditions:

a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:

- Site plan date-stamped February 26, 2010
- Grading plan date-stamped February 19, 2010
- Building elevations date-stamped February 19, 2010

b. Prior to issuance of a building permit:

(1) Submit the following items for staff review and approval:

(a) Submit electronic PDF copy and two full size final site, grading, drainage, utility and erosion control plans. The grading and drainage plans must incorporate bioswales and rain gardens along the north and west sides of the parking lot. Pervious surfaces may also be incorporated to meet the requirements of the city's water resources management plan.

(b) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.

(b) A landscaping and tree mitigation plan. The plan must meet minimum landscaping and mitigation requirements as outlined in the ordinance. However, at the sole discretion of natural resources staff, mitigation may be decreased based on any of the following: the health of trees removed; the ability to appropriately install trees and other shrubbery given existing vegetation and/or topography.

(d) An illumination plan.

(2) This resolution must be recorded with Hennepin County.

(3) Submit all required administration and engineering fees.

(4) All required hook-up fees must be paid.

(5) Submit a SWPPP.

(6) Install a temporary rock driveway, erosion control, tree and wetland protection fencing for staff

inspection. These items must be maintained throughout the course of construction.

- (7) Permits may be required from other outside agencies including, but not limited to Hennepin County, the Minnehaha Creek Watershed District, and the MPCA. It is the applicant's responsibility to obtain any necessary permits.
- c. Once site and grading work is completed, an electronic CAD file or certified as built drawings in micro station or DXF and PDF format must be submitted to the city.
- d. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
- e. The property owner is responsible for replacing any required landscaping that dies.
- f. Construction must begin by December 31, 2011 unless the planning commission grants a time extension.
- g. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- h. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
- i. The applicant must agree to these conditions in writing.

c

#### 14. OTHER BUSINESS:

- A. **Items regarding the issuance of liquor licenses**
- 1) **Amendment to liquor license policy**
  - 2) **Amendment to liquor license ordinance**

Wischnack gave the staff report.

Greves said she was in favor of capping the number of licenses. The current density of off sale licenses was enough and there were several key issues that fall under the umbrella of density that were important to address. Controlling density of liquor stores was one measure that could prevent minors from accessing alcohol. A revised policy including a cap would help ensure the city's environment and image was not diminished. Controlling the density of liquor stores takes public safety into consideration by making an effort to enhance safety in the city. She said she by no means agrees that government should get involved in peoples'

lives all the time but when it comes to alcohol, there was a difference. Increased access to liquor has an impact on public health. She said there was compelling data showing that the heavy and hazardous drinkers are the ones most accommodated in their drinking habits with increased access to liquor. Even invoking a personal responsibility argument the group that needs the most protection is minors. Research shows that high levels of alcohol outlets enable youth to access alcohol through commercial outlets, through their families, and through social networks. Research also shows that there is a greater chance that minors will be successful purchasing alcohol if a greater density of liquor outlets exists in the particular area. This suggests the city should be concerned about the potential for liquor stores cutting corners with increased competition. She said there were many ways to look at the data showing the number of liquor store violations in the city has been low. To conclude the city does not have a problem with sales to minors overlooks that the compliance checks occur once a year and business owners often have a rough idea on when the checks might take place.

Greves said it was also flawed to think that because the city has a number of niche type specialty liquor stores that somehow a classier perception equates to fewer problems. She noted that the most recent sale to minor violation occurred at a niche store that participated in the city's best practices program. She said the police department does a great job but there is no way that the city's liquor stores can be policed every day. Working with Tonka Cares she has spent a lot of time dealing with the issue of underage drinking. While the majority of students in the city are making positive choices, there is a good percentage still making bad choices with drinking. Given that underage drinking is a leading cause of death among young people and is associated with drug use, risky sexual encounters, violence, and traffic accidents, controlling access to underage drinkers is critically important. She noted the city adopted a social host ordinance with the intent of controlling access to minors and even though that is a very different issue, she said the proposed policy amendment was another level of intervention for that part of the population.

She said at the last meeting, the applicant for Crazy Johnny's Liquor spoke to the notion that residents are not concerned about liquor licensing in the city. She spoke with hundreds of residents while door knocking last summer and fall. There were numerous residents who said they were unhappy with the proximity of a particular type of business to residential areas or to other businesses. She also heard a number of comments about liquor stores. Because the city has control over the number of liquor stores and because people have expressed concern about issues related to alcohol, she said the city probably does need a more enlightened policy. Liquor stores also can play a part of the perception about a city. People often characterize a city by the type of establishments that

predominate and catch the eye. She said Minnetonka has many wonderful features but increasing the number of liquor stores would have the potential to alter people's perceptions about the quality of the city and deter other businesses from locating near liquor stores.

Greves said comments have been made about the Ridgedale area being a regional area with thousands of people driving through each day. She agreed with that assessment but said the area was a gateway to the city. Adding liquor stores in the area could give the perception that there were liquor stores on every corner of the city. She said the data that was examined at the recent study session looked at a number of things like crime near liquor stores, damage to property, and assaults. The conclusion was that even with the number of liquor stores increasing, crime was going down for the most part. She said there were other issues to consider including unreported abuse, unreported sexual assaults, and unreported domestic violence that are highly correlated with alcohol consumption. Drunk driving is another issue. A recent Star Tribune article indicated drunk drivers are getting off the hook because of overcrowded prisons, limited budgets and a growing culture of forgiveness that she said matches a societal misperception about drinking being a normal and acceptable activity with inevitable consequences. She said it was significant that there is not a day that goes by that alcohol is not mentioned in the local media.

She said there is a statistically significant relationship between the density of liquor availability and drunken driving, sexual assaults, underage drinking, health problems and economic decline regardless of socioeconomic status and demographic background. Minnetonka is not immune from those issues. Drunken driving costs the country around \$186 billion a year. The small changes to the city's policies would be cheap in comparison at the front end with the costs of the consequences at the back end. She said at the study session she mentioned she supported capping the number of licenses and that the exceptions that were discussed were too broad. Since that time she has come to think that having the exceptions in the policy was a good thing because flexibility was needed to avoid unintended consequences. She said when the council reviews future applications she would have a hard time invoking the exceptions unless an applicant makes a compelling case demonstrating a community benefit or need.

Hiller said he supported most of what Greves said. Another of his concerns was not waiting until problems exist before instituting a cap. He said he did have some concerns with the proposed exceptions because it was essential to give businesses a clear understanding about what the city would allow. He said the provisions capping the number of licenses at 12 and the niche markets were logical. He did have a concern about the

provision that a proposed location for a liquor store being consistent with the concept of village centers because as he went through the comprehensive plan he had a difficulty justifying approval of a license based on the descriptions. This would likely be confusing to businesses as well. The provision that the proposed store be supported by the larger markets was also a concern. Driving down I394 numerous liquor stores can be seen and he didn't necessarily believe there was enough available space to allow more in the area. He said when the council discussed the provision related to enhancing redevelopment he envisioned the opening up of new areas like the Minnetonka Mills and Opus rather than a simple enhancement. He said he would like the provisions to be more focused and clearer.

Allendorf said he would like Police Chief Mark Raquet to address the comment that liquor store owners know when a compliance check would be held. Raquet said prior to his becoming chief, the practice in the department was to send out a letter to the license holders notifying a compliance check would occur within a month. This is not an uncommon practice and the department adopted the idea from the city of Plymouth. He said the notification process has changed to some degree. The department sent out a notice alerting license holders that the check will occur during a particular quarter of the year. Allendorf asked if Raquet thought that the license holders know when the check would occur and therefore act differently than they normally would. Raquet said it's likely the liquor stores do not pay attention to the notice because if that was the case there would be no failures. Raquet said there have been recent changes to the program and it was likely liquor stores would be notified a check would occur sometime during the year. The department is also looking at doing more than one compliance check during the year. He noted compliance checks are not mandated by state law unlike tobacco compliance checks.

Allendorf said if he as a councilmember was going to tell businesses that they could not locate in the city, he wanted to have a good factual reason to do so. He said Wischnack did a good job outlining what the facts are in Minnetonka regarding public safety, arrests and purchases by minors. He was unconvinced the city should let anything but the market determine what businesses should be allowed to come into the city. That is not to say that he wants lots of liquor stores in the city but rather he wants the market to work for all retail stores. He said the rationale included in the proposed policy states that the increase in the number of liquor outlets increases the access to liquor and that would be difficult for anyone to argue against. A second rationale for the policy was that an increase in the number of stores would contribute to public safety concerns. He said the data presented at the study session did not indicate that there would be public safety issues if another store came into the city. A third rationale

for the policy was that more liquor stores detract from the desired image of the city. He said at the study session two out of the seven council members raised that issue but he has not heard the concern from residents. He was concerned that the rationale for the policy was based upon the obvious fact that another store would increase access and two items stating an opinion rather than something backed by facts. He said he was concerned with any policy that tends to tell legal businesses that the city does not want them to locate in the city.

Wiersum said he supported the policy proposal as written. The policy moves the city in the right direction by limiting the number of liquor stores and gets to the question of what type of city Minnetonka should be. He said one more or one less liquor store would not solve the problems Greves brought up. But the city has the right to control the number of liquor stores and he thought the city had plenty of liquor stores already. If he were to change the policy his preference would be to cap the number at ten because that would be consistent with the state statute requirements for first class cities. He said he liked the aspect of the policy that would give the council some flexibility for niche stores. He thought it was ironic that cities like Edina, Eden Prairie, and Lakeville that have municipal liquor stores typically are quite politically conservative and have residents who don't want too much government in their lives. Those cities like what the low number of stores say about the city as well as the revenue that offsets taxes. He was not suggesting Minnetonka open up a municipal liquor store but limiting the number of liquor stores was something the council has the authority to do and the number and density of stores in a city does have a perceptual impact about how people feel about a city. He said he was proud of being a resident of Minnetonka but he would be even more proud if there were fewer liquor stores.

Wagner said he respected the other council member's passion for the subject. He said he was struggling with looking at the number of stores historically in the city. Since 1997 there have been around 10 liquor stores in the city. What has changed has been the rise in stores that have unique concepts. Those types of stores make the city a place that residents want to continue living in and neighboring residents want to shop in and visit. He said he had concerns with putting a cap in place because it would make the existing licenses more valuable. He would be much more strongly opposed to the proposed policy if it only put in place a hard cap and did not include the other provisions. The council has a requirement to keep the city relevant and the unique concept stores did that. He said some of the policy's provisions might not be as clear as they need to be for new businesses.

Ellingson said he was reluctant to support a cap during the study session discussion. He would feel more comfortable that if a cap was imposed,

that it be meaningful. He said the proposed exceptions in the policy were too broad and that any business applying for a liquor license could find a way to qualify under one of the exceptions.

Schneider said he shared many of Allendorf and Wagner's thoughts about the issue. He does not think the city needs a whole bunch of liquor stores but he does think that it was important that when the city imposes regulations that it does so based on a valid purpose such as the safety and well being and welfare of the community and residents. He said he has not seen anything that demonstrates there was a direct correlation between increasing risk or sales to minors and the number of liquor stores. If there had been something such as an increase in the number of stores failing the compliance checks with more sales to minors, or a trend toward increased usage then he would agree something should be done. He said he could not support the general concept of the proposed policy but he thought staff did an artful job at putting together a document that all the council could likely live with. The proposed policy was a workable solution that provided the council discretion in approving a license and the flexibility to adapt to trends and new concepts.

Wagner suggested rewording the provision that stated the liquor business "enhances redevelopment of an area desired by the council" to the business was a "part of a redevelopment project in a village or regional center." He also suggested deleting the provision that stated the business "is supported by the larger market served in one of the city's regional centers." Finally he suggested changing the provision stating the business "is consistent with the concept of village centers identified in the comprehensive plan" to the business "serves an un-served village center."

Allendorf said he was uncomfortable with the current proposed language related to the village centers. He thought Wagner's suggestion was an improvement. He also agreed with Wagner's suggestion to delete the language related to redevelopment in an area because it created a big loophole.

Greves suggested changing the provision stating a business "offers a specialty service, or is a small, complementary part of a new business, that would add positively to the experience of living and working in the city" to the business "offers a 'unique' specialty service, or is a small complementary part of a new business, that would add positively to the experience of living and working in the city." She said a lot of things could qualify as "specialty" but to her that meant a wine shop. Inserting the word "unique" would give the council more direction about what the specialty service was. She agreed with Wagner's comment that the term "enhances" was too a broad term and she suggested changing the provision to read the business "enhances by improving, upgrading, and increasing the

usage of an area; providing continuity with surrounding uses; or by supporting economic development goals.” She said she could support deleting the provision stating the business “is supported by the larger market served in one of the city’s regional centers.” Another change she suggested was using the word “goal” rather than “concept” in the policy. She suggested changing the language in Wagner’s suggested change from “serves” un-served village centers” to “supports the goals of un-served village centers.”

Wiersum said he preferred using the word “distinctive” rather than “unique.” He supported Allendorf’s suggested change for the provision for the regional centers. He said the council had to be realistic about the proposed policy because it would not stop the debate that occurs when somebody applied for a license. But he said the suggested changes would provide greater clarity for potential licensees.

Schneider agreed that to say the policy would stop debate would mean the council was not doing its job. The council always has to be open to looking at proposed changes and listening to an applicant’s argument.

Grace Sheely, 14325 Grenier Road, said that her area of the city has one liquor store and the city was not serviced by all 12 stores because the stores tend to cluster together. She said she thought there needed to be language included in the policy about how far apart the stores should be. She suggested tying the number of stores with the city’s population number. The city is going to continue to grow and the number might need to be changed to accommodate more people in the city. She said she did not want a liquor store located near the high schools.

Larry Bruckner, 5225 Clear Spring Drive, applauded the council members who wanted to limit the number of liquor stores in the city. He said he viewed liquor stores as a form of drug store. The idea that everybody has to be close to a store doesn’t make an impression on him. He said the total number of liquor stores in the city affects family life. He grew up next to a dry city and there was a high quality of family life. He went to a dry college and hearing stories from his kids about the amount of drinking appalls him. One drink impairs a person’s ability to drive so he disagrees with making alcohol more available. He said the values of the city call for people to do what is best for families and children and he supported reducing the number of liquor stores in the city.

Wiersum said Sheely’s comments about tying the number of stores to the population number agrees with his comments about patterning the city’s policy after the state statute for first class cities.

Hiller moved, Wiersum seconded a motion to: adopt Resolution No. 2010-030 approving the changes to Council Policy No. 6.1 with only provisions “a” and “b” and amending provision “a” to read “offers a distinctive specialty service or is a small complimentary part of a new business that would add positively to the experience of living and working in the city or...” and provision “b” to read “part of a redevelopment project in a village or regional center.”

Greves said that the language related to redevelopment in a village or regional center was very broad and could be clarified by defining what would be meant by enhancements such as adding “by upgrading an area and supporting economic development goals.”

Greves moved to amend Hiller’s motion to add language to item “b” stating “is part of redevelopment in a village or regional center that upgrades an area and supports economic development goals.” There was no second to the motion. Motion failed.

Ellingson said it might be appropriate to include language that a proposed store had to be located in an area that was currently not served by an existing liquor store. He said the Glen Lake area was the most prominent redevelopment area in the city that the council has spent the most time on, and there was already a liquor store in the area that was losing money. He said Wagner raised a good point that if there was part of the city that was un-served by a liquor store it might be appropriate to make an exception to the cap. If an area is already served by an existing store, it would not be necessary to make an exception to the cap. Schneider said Wagner’s suggestion was found in provision “d” of the policy and that was not part of Hiller’s motion. Wagner said he would be happy to make the motion to amend Hiller’s motion if there was council support. Peterson said she heard Ellingson’s comments as amending Hiller’s motion to change provision “b” of the policy to say “...part of a redevelopment project in a village or regional center that is not currently served.” Ellingson confirmed that was correct.

Ellingson moved, Greves seconded a motion to amend Hiller’s motion to modify provision “b” to state “...part of a redevelopment project in a village or regional center that is not currently served.” Ellingson, Allendorf, Greves, Wiersum, and Hiller voted “yes.” Wagner and Schneider voted “no.” Motion carried.

Schneider asked if there was support to add provisions “c” or “d” of the proposed policy. Wagner said the reason he voted against the last amendment was that if, for example, there was no redevelopment going on in the Glen Lake area and the liquor store in the area went out of business,

and a new proposed store came forward, then approving the store in Glen Lake would not be consistent with the city's policy.

Wagner moved, Allendorf seconded a motion to add amended provision "c" to the policy to state that the business was "located in a village center which is not currently served."

Ellingson noted most of the village centers already are served by a liquor store. He questioned what would be accomplished by Wagner's amendment. Wagner said the purpose would be to address a situation where a store goes out of business in a village center and a proposed store goes into another area of the city. With a cap on the number of stores, it would mean approving another liquor store in that village center would go against the policy. Schneider said the key word was "un-served" and it would be up to the council to decide what that meant. Ellingson said he wasn't necessarily disagreeing with Wagner's amendment but all the exceptions were undermining the cap. He was originally opposed to having a cap but if there was one it should be a meaningful cap that was an objective, numerical guide to an applicant.

Wiersum said one of the things that might make the issue less confusing would be to list out the village centers. But with light rail coming in, the concept of village centers will change. He said the policy would be workable even without provision "d." He agreed with Ellingson that the more exceptions, the more meaningless the policy would become.

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

Wagner called the question to Hiller's original motion. Ellingson, Greves, Wiersum, and Hiller voted "yes." Wagner, Allendorf, and Schneider voted "no." Motion carried.

Wagner moved to introduce the ordinance. All voted "yes." Motion carried.

**15. APPOINTMENTS and REAPPOINTMENTS:**

**A. Appointment of advisors for the 2010 Local Board of Appeal and Equalization**

Schneider moved, Wiersum seconded a motion to appoint Larry Kriedberg, Herb Bacal, Linda Hegland, and Gregg Roeglin as advisors for the 2010 Minnetonka Local Board of Appeal and Equalization.

All voted "yes." Motion carried.

**16. ADJOURNMENT**

Wiersum moved, Greves seconded a motion to adjourn the meeting at 8:39 p.m.  
All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk