

City of Minnetonka Beach
REGULAR CITY COUNCIL MEETING
Monday, January 4, 2010
MINUTES

Roll Call

Mayor Joann Anderson, Council Members: Jill Bartel, Michelle Kroll, Linn Ferguson, and Treasurer Dennis Fischer. Absent: Mike Taylor.

1. Call to Order

Mayor Joann Anderson called the meeting to order at 7:02 p.m.

2. Approve Agenda

2.1 Council Meeting Action Notes

No comments were made regarding the action notes.

Council Member Bartel requested Mayor's Report Item 12.1.1. Crossing County 15 Resident Survey Update-Staff Recommendation on Mailing and Date be moved up on the agenda to Old Business.

(Bartel motion, Kroll second to approve the agenda with requested amendment; all present aye).

3. Approve Minutes

3.1. Regular Meeting of December 14, 2009

Mayor Anderson directed one change in the minutes; page one, 2.1. Council Meeting Action Notes, third line, the word "and" changed to "since". The sentence now reads: Mayor Anderson said it has been put on hold until January when Council Member Taylor will be in attendance *since* he was in charge of getting the survey prepared. **(Bartel motion, Ferguson second to approve the minutes as amended; all present aye).**

4. Open Forum

Tom Schriefer, 2548 Lafayette Rd., said that since the fire lane has been closed with a chain at Swimming Beach Park, it looks like a partial path has been made for access to the lake (where the walking path is located). He is concerned that people will think it is a new access for them to use. Public Works Director Ben Young said he has seen it and thinks it may have been from a resident who was using it a couple of days, but it doesn't show signs of being travelled since then. The person is to be called if he is seen using this as an access again. Council directed staff to put notification in the Beachcomber that using motorized vehicles in parks is not allowed and the police will be called.

5. Police Report

5.1 Police Report

No December police report was included in the packet as it wasn't received before the meeting. Chief Correy Farniok was in attendance to explain more about the boundaries that could be decided in the policing by district approach the police department will be going to in 2010. He said the Police Commission meeting will be held on Wednesday morning and will make a decision on the boundaries at that time. Right now there are two concepts, but the boundaries may change. He distributed two maps showing three districts, with the boundary options in color. Minnetonka Beach would be in the South District in both options, but one option showed the South District stretching farther north than the other. He said there would always be a car in each district, but when a call comes, they would send the closest car available to answer the call. By not having contract officers for a specific community (as was done in the past with Spring Park) they can now go wherever they are needed. From 3 a.m. to 7 a.m. there would only be two districts instead of three. The police want input from all involved communities at the Police Commission meeting. He said while they are down two officers right now, they have switched to 12 hour shifts so cities have not lost any of their police services.

6. Consent Agenda

- 6.1. Fire Report – December – No report received yet.
 - 6.2. Resolution 2010 – 01 Appoint 1st Natl. Bank of the Lakes as Off. Depository 2010
 - 6.3. Resolution 2010 – 02 Designate The Pioneer as the Official Newspaper for 2010
 - 6.4. Resolution 2010 – 03 Weight Restriction Exemptions
 - 6.5. Resolution 2010 – 04 Approve Employee Floating Holiday
 - 6.6. Resolution 2010 – 05 2010 Council Meeting Dates
 - 6.7. Resolution 2010 – 06 Annual Appointments
 - 6.8. Resolution 2010 – 07 Appoint LMCC Representative (Leonard MacKinnon)
 - 6.9. Resolution 2010 – 08 Set 2010 Board of Review Date
 - 6.10. Resolution 2010 – 09 Approve 2010 Staff Wages (as approved in 2010 budget)
 - 6.11. Resolution 2010 – 10 Extend Electronic Proprietary Database Cond. Use Agree.
 - 6.12. Resolution 2010 – 11 No- Fault Sewer Back Up Insurance Coverage
- (Ferguson motion, Bartel second to amend Resolution 2010-06 Annual Appointments to have both Council Members Krroll and Ferguson oversee City Insurance and to approve items 6.2 through 6.12; all present aye).**

7. Treasurer's Report

Administrator Susanne Griffin reported the first approval of checks Council would make would be 12 checks to close out 2009. The second approval would be for bills received to date for 2010. She noted because of the early meeting date there will be additional bills received and she requested staff be authorized to process January bills received between now and Jan. 15th so the City will not get behind in payments. Two council members will need to come in and sign the additional checks. Council will receive the list of the second batch of January checks for final approval at their February meeting.

7.1 Approve Checks

(Bartel motion, Krroll second to approve the final 12 checks for 2009, checks 12032-12043, in the total amount of \$6,193.36; all present aye).

(Kroll motion, Bartel second to approve 13 January checks prepared through 1/4/2010, checks 12044-12056, in the amount of \$158,882.16; all present aye).
Administrator Griffin said these checks include a bond payment of \$112,006 and the Metropolitan Council \$40,000 loan repayment.

(Bartel motion, Ferguson second to authorize staff to process and pay additional bills received through January 15, 2010; all present aye).

7.2. 2009 Final Budget Report

Administrator Griffin reported the year ended with a budget overrun of \$46,467, mostly due to legal fees. The difficulty in showing the general fund budget figures and the reserves using Quick Books was discussed. Administrator Griffin will talk to the auditors and layout a better way to reflect the budget and bring back in February. Resident Linda Mason was in attendance and said as an accountant she knows it is difficult to use Quick Books for budgets because of its limitations and this it is not designed for fund accounting.

8. Planning and Zoning

8.1. Discussion on Accessory Dwelling Units for future Council Action

Council received Planning and Zoning Administrator Dick Krier's letter/report regarding Accessory Dwelling Units which is part of the Comprehensive Plan implementation. The Planning Commission is recommending the ordinance change based on Comprehensive Plan strategies in order to increase density which is being driven by the Metropolitan Council, and to allow residents to have relatives, caregivers and domestic help reside in accessory dwelling units. The requested action would be for Council to discuss the Accessory Units ordinance recommended by the Planning Commission. It was being introduced at this meeting for discussion purposes and no formal action would be taken at this time.

Planning and Zoning Administrator Krier reported the Planning Commission has been looking at accessory dwelling units, known as "granny flats", which could be housing for related individuals in the same family, generally for a relative either in the principal unit or a separate detached unit. The present ordinance allows four unrelated individuals to live together in a house. The new ordinance would allow a separate detached unit. The Planning Commission felt it would be appropriate to allow a separate home office detached accessory unit. Standards would be applied so the unit's orientation minimizes the effect on the neighbor, the floor area cannot exceed 40% of the first floor of the primary home, only one accessory unit would be allowed on the lot, it must have the same architectural style, windows and siding as the primary home, and with minor exceptions, the accessory unit cannot exceed ½ the height of the primary home. The size limitations are so the accessory dwelling would not become the dominant structure on the lot. The accessory unit has to be within the buildable area of the lot (not in the setbacks). The existing non-conforming accessory dwelling units, offices and guest cottages would be made conforming.

Mayor Anderson asked about the current ordinance regarding vacancy of a non-conforming accessory dwelling for a period of one year requiring discontinuance of its use. City Planner Krier said with the proposed ordinance a resident would not have to prove that a non-conforming accessory dwelling unit has had someone living in it. Kroll asked if people that have previously come in and asked for plumbing to a garage unit would these now be made conforming and allowed as a dwelling unit. City Planner Krier said they would not because the two mentioned had garages that are not in the buildable area of the lots.

Council Member Ferguson asked about the definition of a caregiver which stated that person must be licensed by the State of Minnesota. He pointed out that not all caregivers are licensed. He said Activities of Daily Living Providers are caregivers but may not be licensed by the state. He noted in terms of medical delivery it is controlled by the state, but a caregiver can have a much broader scope. Others were concerned, too, about requiring a caregiver to be licensed by the state and wanted the licensing requirement changed. Ferguson will supply a list of Activities of Daily Living Provider types to City Planner Krier.

The current ordinance only allows people living in Minnetonka Beach to have an in-home business and it that will remain the same. Ferguson said he thinks it is opening up to have a business as an accessory use unit. Kroll said she thinks it will cause enforcement issues. Bartel commented she thinks the rationale was from residents working out of their homes, but wanting to work in a separate building on their properties.

Council received a letter from Planning Commissioner Ann Brilley which stated she feels that enforcement will be very difficult. She thinks it could change the landscape of our city with additional units on lots, it would be very easy to begin charging rent for accessory units without the city's knowledge, and she is concerned about variance requests being made. She is also concerned that this change is not one that our residents are requesting.

This meeting was the first for Council discussions and Planning and Zoning Administrator Krier is to bring back the proposed ordinance in March.

8.2. Code Violations Appeals

Council received a letter report dated January 4, 2010 regarding Notice of Violation Appeals from Planning and Zoning Administrator Krier. They also received copies of three letters sent to homeowners who were in violation regarding storage on their properties and copies of Appeal of Notice letters from two of the three property owners. In addition, Council received copies of three Beachcomber articles that ran in 2009 notifying residents about what and where items can and cannot be stored on their properties.

Planning and Zoning Administrator Krier noted at Council's request in the fall of 2009 he started a concentrated effort to have homeowners remove property that was in violation

of city ordinances. City Planner Krier said he is recommending time extensions for the abatement of the accessory use or nuisance violations because snow on the ground would make it difficult to remove some of the items.

The property owner of 3010 Westwood Rd., was in attendance and he said the extended time frame to September 1, 2010 to remove their boat was acceptable to him. He said they don't consider the boat to be an "abandoned boat". They are trying to get rid of it and if they don't find someone to take the boat by July 1st he will start deconstruction of the wooden boat. He hopes he can get it taken apart by Sept. 1st, but hopes the Planning and Zoning Administrator can have discretion to extend the time if he is working on the boat deconstruction and is not finished. It was noted that Council would not want to see an extension beyond November 1st. Dock sections located in the front setback of this property need to be removed by June 1, 2010.

The property owner of 3028 Northview Rd. was in attendance and said her adult daughter is storing a boat and trailer on her property. She appreciates an extension to June 1, 2010 and they will have it removed. Once the boat is in the water it would not be brought back to her driveway.

A third property owner at 3136 Brooks Lane has a junk or abandoned boat on a trailer in the front setback. Although he has not sent in an Appeal of Notice letter, it is being recommended that this property owner also be given an extension to September 1, 2010 to remove the violation. **(Kroll motion, Bartel second to extend the Notice of Violation from 10 days to June 1, 2010 for a boat and trailer in the side setback at 3028 Northview Road and dock sections in the front setback at 3010 Westwood Rd., also extensions to September 1, 2010 for a junk or abandoned boat and trailer in the front setback at 3136 Brooks Lane and a junk or abandoned boat and trailer at 3010 Westwood Rd. with an extension at the discretion of City Planner Krier from September 1st (but not beyond November 1, 2010) if deconstruction of the boat isn't complete; all present aye).**

9. Old Business

The following item was moved up from Mayor's Report Item 12.1.

9.1. Crossing of County Rd. 15 Resident Survey Update – Staff Recommendation on Mailing and Date

Council received a red-lined updated survey questionnaire. Mayor Anderson recommended holding off discussion until Council Member Taylor would be in attendance as he had been working on the survey. She said Taylor had not received any further comments for changes on the survey and so the survey was put on the agenda for an update of how and when it would be mailed. Council Members Kroll and Bartel both wanted to discuss the survey this evening. Kroll said there has been momentum with a pedestrian bridge and money spent without citizen input. She said residents are deserving of facts and they should be heard and should be making the decision.

Mayor Anderson gave some of the history regarding a pedestrian bridge which has been in the Comprehensive Plan since 2003 and it has been discussed. She said Three Rivers Park District (TRPD) made her aware of stimulus money being available for projects and the City has applied for funding with Council approval. To get input from residents, holding focus groups was discussed early on. Later a survey questionnaire was planned instead in order to find out what residents want.

Alan Carlson spoke regarding the minutes from a previous meeting and said he thought they were dismissive of a couple of the Council members. He said he has seen a draft of the survey questionnaire and feels it was one of the most biased surveys he has seen, and a far more even handed survey is needed. He commented the pedestrian bridge had been a great idea at one time, but because of the trail the situation that has changed and now other people could travel to the other side of the city (from the trail). He said a couple hundred people per day (coming from the trail) would destroy the peace. He said it only would take one or two journalists writing about the area and people would be coming across. He noted it is a balancing issue; you have children needing to cross the highway safely and the unknown amount of people coming across from outside the city to the Huntington Point side. Kroll thanked him for his comments and said they were many of the feelings and thoughts she has.

Another survey questionnaire was handed out by Council Member Bartel that included some differences from the red-lined option. Mayor Anderson pointed out there were not many differences in the two surveys. Council then spent a considerable amount of time going through the survey and making numerous changes, additions, corrections and deletions.

The estimates of how many people would come across County Rd. 15 from the trail were discussed. It was noted that trying to estimate the amount of non-resident people that would be coming from the trail would be difficult, but TRPD does have a known estimate of 259,000 users of the entire trail corridor in the first year of operation. Council decided to use that number rather than trying to estimate the number of non-residents who would come from the trail to the Huntington Point side.

Two visual site plans of the proposed alternatives for crossing County Rd. 15; a tunnel, and a painted crosswalk with raised median will be included with the survey. Each will have a written description, costs, and funding options. The survey will be mailed to residents when completed.

Kroll wanted in the narrative being sent with the survey that the tunnel is below the water table, but the water table would not have an affect on the tunnel. Additionally to be included is that Hennepin County has said the tunnel would be the preferred option for safety reasons.

(Kroll motion, Bartel second to approve the County Rd. 15 Crossing 2010 Resident Survey that was presented tonight by Council member Bartel and edited by Council at this meeting; all present aye).

10. New Business

There were no new business items.

11. Staff Reports

11.1. Director of Public Works

Director of Public Works Ben Young reported:

- The alarm systems have been installed on the lift stations so sewer/water back up insurance can be purchased. Residents need to be notified in the Beachcomber about the alarms.
- He has been plowing snow and dumping sand.
- The purchase of the snow bucket for the Bobcat makes a big difference in the amount of time required for removing snow.

11.2. Clerk's Report

City Clerk Marilyn Regnier reported:

She will be taking a vacation and won't be at the February meeting.

11.3. Administrator's Report

City Administrator Susanne Griffin reported:

Inside city hall will receive a fresh coat of paint by Ben Young during the winter.

12. Council Reports

Planning and Zoning Director Krier said regarding enforcement for moving the dock parts along County 15, Hennepin County is going to contact the homeowners since they are on the County road right-of-way on the lakeside. Dock parts and canvas items have been left too close to the road.

12.1. Mayor's Report

Council received a copy of the mayor's letter to Peter Bell, Chairman of the Metropolitan Council regarding unfunded mandates and seeking a reduction or forgiving of the \$40,000 Comprehensive Plan loan. She noted the required Comprehensive Plan update cost \$500 per household in this small city.

12.1.1. Crossing County 15 Resident Survey Update-Staff Recommendation on Mailing and Date

This item was moved to Old Business.

Mayor Anderson also reported that January 25th is the mediation date on the Norman water damage case. Mediation has been ordered by the courts. The League of Minnesota Cities Insurance Trust is handling the case and the city will sit in via conference call by the Mayor. She asked Council Member Ferguson to attend the mediation session and Administrator Griffin will give him the particulars of time and location. Mayor Anderson will not be here for the February meeting and Mayor Pro Tem Mike Taylor will run the

meeting. She will be here for the March 3rd trial date for the Gillum vs. Goodman boundary dispute, and she will be here for the March Council meeting.

12.2. Liaison Reports

Council Member Bartel reported the Planning Commission discussed the accessory units ordinance and the upcoming agenda will include solar access.

Council Member Kroll said she has received calls about the skating rink. The rink/park is being heavily used by non-residents. Use of the hockey rink by older non-resident kids leaves our kids not being able to use the area. There was discussion on whether the city could have the Public Park posted “parking by permit only”, or maybe not plow the parking lot which would make it hard for people to park in the area. Staff will contact City Attorney Wally Hilke for suggestions and answers to the problem. Also, there is evidence of drinking and drug usage again. Kroll will contact the police to have them step up patrol in the area. It was also noted the warming house is being trashed. The Park Commission will discuss the problem. Administrator Griffin will put an article in the Beachcomber about the drug usage and trashing of the warming house and ask that residents call the police if they notice any suspicious activity at the rink area.

13. Adjournment

(Ferguson motion, Bartel second to adjourn the meeting at 11:15 p.m.; all ayes).

Public Present:

Ann Brilley, Alan Carlson, Dennis Klohs, Linda Mason and Fred Koehler.

Note: The above list may not be a complete list as not everyone signs in.

Staff Present:

City Administrator Susanne Griffin, Public Works Director Ben Young, City Clerk Marilyn Regnier, and Planning & Zoning Administrator Dick Krier. Minutes recorded by City Clerk Regnier.