

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
January 23, 2023 – 7 pm

1. Call to Order

Chair Breazeale called the meeting to order at 7:00 pm.

2. Roll Call

Present: Commissioners Anderson, Blodgett, Breazeale, Finnegan, Halverson, Steinfeld, Swanson and Council Liaison Halverson.

Absent: none

Staff in attendance: Heidi Honey, City Administrator

3. Approve Agenda

(Steinfeld motion, second to approve the agenda as amended to insert Election of Vice Chair and change order of 5.1 and 5.2; all ayes.) Motion passed.

4. Approval of Minutes

4.1. Regular Meeting of September 26, 2022

(Anderson motion, Steinfeld second to approve the minutes; all ayes.) Motion passed.

5. Election of Vice Chair

Steinfeld offered to serve as Vice Chair.

(Anderson motion, Finnegan second to elect Joe Steinfeld as Vice Chair; all ayes.) Motion passed.

6. Old Business

6.1. MN Shoreland Rules and City Code Task Force

Background, Process, and Summary

Swanson reviewed their written update in the packet regarding their work and process and stated at request of council, the task force was developed and have been working over a year. Their goal is to evaluate and compare the current city zoning code with the 1996 code (last to be approved by DNR) and DNR model ordinance which sets shoreland regulations. Before the '96 code was established, the city engaged in negotiations with the DNR and was granted three areas of flexibility from the DNR regulations and in return the city agreed to seven areas of greater restriction in its code than DNR regulations. The task force's job is to review these and compare the 1996 code, the 2017 code and the DNR model ordinance. The '96 code reflected these agreed upon items. The task force hopes to submit summaries to Planning Commission, identify areas to be addressed and seek direction on them. In the midst of that, they plan to consult with Administrator Honey, the zoning administrator, city attorney, and city engineer as needed and also seek clarification from the DNR hydrologist. They will come to the Planning Commission with recommendations, get commissioner input on those and move forward as required with the DNR and seek initial clarification from the DNR before drafting code language for a public hearing. They plan to report to Planning once per month with the flexibility areas and more restrictive areas that were agreed to and submit a report of where they stand with regards to each of those areas.

Nell Mathews stated they tried to organize it so it is easiest for Planning and Council to understand, which is why they created the 7 Factors Chart for reference which is a preliminary summary. Breazeale stated last year they addressed ADUs and tonight they will address the Water Oriented Accessory Structures. (WOAS). Mathews stated they plan to follow the format of a monthly report as was done in May and September for Planning and also a December report to council.

Mathews reviewed packet materials. She stated that the city has a history of using volunteers because of its limited resources and small number of city staff who do not have extra time. Staff implements council decisions. Mathews described her experience in the city serving 10 yrs on city council, as liaison to Park and Planning Commissions, and serving on Planning. She has done pro bono work for the city including drafting policies and procedures, understands how governmental entities are supposed to work, and the nuances of the city having few homes like with an HOA but with all of the obligations required for cities because it is funded by taxpayers. She stated that Council's responsibility is to ensure the health, safety and welfare of residents by setting policy and acting as liaison to the public. They ensure the city is fulfilling its duties and acting lawfully and determine that expenses are a wise use of tax dollars. Council decides on budgetary, infrastructure, and governance – decision making. Mathews explained the city charter and that in the 1970s the uniform code of city government was passed so small cities all operated the same way. Some things in the charter are no longer applicable. Mathews stated the city lots were platted in 1800s and the city was established in 1920, has always regulated itself very carefully and adopted its first land use regulations in 1945 to protect property values. She explained that residential real estate (property taxes) funds city expenses. Lafayette Club preexisted establishment of the city and in late '80s the Club and St. Martin's Church were to operate in the city under a conditional use permit because the land is zoned residential. Mathews said the city was initially a wooded peninsula with lots of all different shapes and sizes making it difficult to regulate and requiring customized rules.

She discussed the city's Comprehensive Plan, which is the vision, identifies what the city is today, sets goals, and how to develop in the future, and reviewed highlighted excerpts in the packet that emphasize the city's intent in land use. The city has always been thoughtful about development and protective of the lake. Prior to the Comp Plan, the city had a land use plan. The Planning Commission is responsible for the Comp Plan and updates it every 10 years. The Planning Commission makes sure the land use regulations carry out the vision of the Comp Plan. Mathews discussed individual property owner's rights to build on their property and the city's right to control development in accord with the city's vision set out in the Comp Plan (variance requests). Planning is a land use advisory body to City council and, for land use requests, they provide recommendations as to why to relax rules. City is unique being surrounded by water on three sides, considered entirely shoreland, must follow rules of LMCD, DNR, and Minnehaha Creek Watershed District. LMCD regulates below Ordinary High Water Level, DNR regulates impact on water quality and MCWD cares about shoreline development and erosion control impacts on water quality. Minnetonka Beach is 4.225 miles of shoreline. All rules apply to all Minnetonka Beach properties because DNR considers it all shoreland (within 1000 ft of the lake). Mathews went on to say the goals of the entities are consistent with the city's Comp Plan. The DNR Model Ordinance is a helpful tool to make sure the city's zoning code is clear and compliant with DNR rules and flexibility granted. She then discussed importance of green space, and that the city represented to the DNR that the city has a lot of green space including city parks, the Lafayette Club, and yards which filters and reduces run off to the lake.

Swanson then reviewed the chronology of development document in the packet. The city organized itself and adopted zoning code in 1945, and lake cabins were converted to year-round homes. In 1950s, the city established minimum 1 acre lot size. In 1969, the state passed the shoreline management act and the DNR developed shoreland standards in 1969-1989. All communities were asked to get their codes in line with the shoreland rules resulting in city discussions with the DNR in 1992 and final approval of the code in 1996. The code was updated various times, but not approved by the DNR. During an application review for

an ADU, the DNR discovered that they had not approved city code updates. The task force was formed, and they have updated code regarding ADUs. Swanson reviewed the three flexibility areas: setback flexibility for WOAS, building height increased from 25 ft to 40 ft, hardcover increased from 25% to 30%; and areas of greater restriction: minimum one acre lot size, minimum lot width of 150 ft, greater setback from the OHWL, no boathouses, no ADUS, no septic systems, and no density credits for PUDs.

Swanson then summarized the status of current unapproved city code:

- Minimum lot size 1 acre
- Minimum lot width was reduced from 150 ft to 100 ft, no DNR approval
- Lakeside building setback measurement changed from AMBS to AMLS with possible movement toward to the lake
- Boat houses are still not permitted
- Detached ADUS were allowed in 2017 code but it has been amended and approved by DNR and again no longer allows detached ADUS.
- Septic systems are not allowed
- No other PUD has been developed since 1989

Additionally, current code does not comply with flexibility granted because it allows hardcover credits and removed limitations for WOAS. They have been examining all three codes. She went on to say the DNR model ordinance is the regulation that the city is obligated to be compliant with.

Water Oriented Accessory Structures (WOAS) - (flexibility granted)

Currently there are small lockers and irrigation pump houses in the city. DNR defines WOAS as “a small above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios and detached decks. Boathouses and boat storage structures given the meaning under MN Statutes, Sec. 394.27 Subd. 7 are not a water-oriented accessory structure.” DNR rules further limit them to one per residential lot, 10 ft height, 250 sq. ft. area, and minimum setback of 10 ft. from OHWL.

In 1992, the city represented to the DNR that in return for a relaxation of the required setback for WOAS of 10 ft from the lake, the city would limit the one allowed WOAS further in size. The city represented the one allowed WOAS would be a Lock Box and promised the following inducement for the flexibility grant: “Lock Boxes – The city does not allow boathouses but wishes to permit a property owner to erect and maintain a single storage structure for the sole purpose storing water-related equipment. Such a structure would be set back ten (10) feet from the ordinary high water level (OHWL) unless, at the discretion of the city, a lesser distance would be necessary to avoid excavation at the site.”

The 1996 DNR approved city code defined WOAS as “a small, above ground building or other improvement, except stairways, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonable needs to be located closer to public waters than the normal building setback line.” Elsewhere in the code it stated a WOAS “of not more than four (4) feet in height and with a footprint of not more than twenty (20) sq ft, may be approved by the city without a variance upon the granting of a building permit.”

The 2017 Zoning Code does not correctly limit WOAS, and the setback is not specifically addressed.

Breazeale summarized the flexibility is to allow a WOAS to be placed closer to the lake if needed to avoid excavation but it needs to be limited in size and area. Current code allows accessory structures but not within the setback. Commissioners discussed going back to what was agreed upon. They also talked about

asking to allow a second WOAS if it is a pump house. In 1992 and 1996, the city chose to allow a Lock Box, not pump house.

The task force recommended:

1. Return to the 1996 code, limiting WOAS to a single, small structure (Lock Box) and returning to the size, area and setback limitations that the city agreed to.
2. Ask for a pump house to be added to definition of WOAS.

Additional Considerations the task force recommended:

3. Zoning code should more clearly state that only stairways, steps and landings needed to access lakeshore from a steep slope or bluff, retaining walls necessary to prevent erosion, and docks are allowed close to or at the lake shore. City code should more clearly state that installation of these structures or facilities as well as the one allowed WOAS requires a permit and certificate of shoreland compliance.
4. Related issue – Zoning code should be clarified regarding distinctions between/limitations of water oriented accessory structures and lake accessory uses, their number, and required setbacks from the OHWL. Inclusions and exclusions from the definitions of each should be specified. Lake accessory uses within the lakehore setback should have clear differentiation be made between temporary/movable and permanent/affixed lake success structures/uses.

Commissioners discussed the necessity of pump houses with newer technology. There are many pump houses in the city. Commissioner discussion was that it is an easy solution to use the current DNR definition which includes pump houses and go back to the 1996 code language for restrictions of four ft height limit, 20 sq ft area limit, one WOAS per lot, setback from lake 10 ft or less if needed due to topography. Breazeale clarified to use DNR model ordinance, strike portions that do not apply because they would not fit in the smaller size which results in: equipment storage and pump houses. Also go back to previously approved restrictions in height, area, setback to get the code compliant with the DNR. Commissioners supported this. Breazeale stated next step would be to draft amendments that could be ultimately presented to DNR 30 days prior to a public hearing, followed by a public hearing. Blodgett recommended allowing larger WOAS. Commissioners stated the intention was to limit the size. Mathews stated they are looking for direction from Planning so they can go back and work on it and then ask for clarification. Commissioners discussed the small size and most residents wouldn't like anything larger.

(Steinfeld motion, Anderson second to recommend to the task force that the city return to the status of 1996 code and limit WOAS to a single structure of a size no larger than 20 sq ft in area, and 48 in height and with a 10 ft setback that would allow the city to authorize a smaller setback in the event it was necessary to avoid excavation. Also that the definition of the structure would be limited to the structure as a storage and/or a lawn irrigation pump house.; all ayes.) Motion passed.

Swanson stated there are the additional recommendations listed as items #3 and #4 which need clarification. Swanson recommended they keep a running list of items needing clarification and they come back with all of them after they are done with these discrete items. Mathews asked for feedback if they agree that there needs to be clarifications regarding distinctions between/limitations of water-oriented accessory structures permanent/affixed and lake accessory uses temporary/movable. Mathews stated if they agree to this, they can roll that into any draft language. If they don't agree and want the task force to bring it back, they want to know that. Breazeale asked if it was a DNR compliance issue. He then acknowledged that as the task force reviews the code, they will see things that the task force or Planning Commission have been frustrated about in the current code and they will keep a record of those, but the project is about compliance. Mathews stated the definition in the current code for lake accessory uses include temporary items and affixed items. Since it is permanently affixed items that are at the shoreline,

they are worried that will cause some confusion where something will not be allowed as a WOAS but will be allowed as a lake accessory use. Mathews asked if they would prefer this be addressed when they do the definitions section. Breazeale stated they need additional information. He requested that the task force show the definition and relevant section of each for 1996 code, DNR model ordinance and the current code side by side, for decision making to be much easier.

6.2. Chair on DNR Compliance Process

Breazeale stated the task force is going through a lot of details and process. He wanted to summarize the work plan at a higher level so he worked with them over the past couple of weeks. He took the three areas of flexibility and seven restrictions and sat with Mathews and summarized the issues. Breazeale reviewed his high-level summary stating there are four main points the city code is not in compliance and then added additionally the task force can find other areas in the code where it is not part of the 3/7 factor list but the code is not in compliance with the model ordinance.

Breazeale then reviewed the key dates for the project:

January 2022 – Planning Commission voted on priorities - city code in compliance with DNR #2 on list.

March 14, 2022 – Council confirmed finish tree ordinance #1, city code in compliance with DNR #2.

May 23, 2022 – ADU issue determined as first noncompliance issue due to moratorium.

August 15, 2022 – Tree ordinance adopted.

September 12, 2022 – ADU amendment approved by Council and DNR.

September 26, 2022 – Task force update to Planning including the task force intends to base its recommendations on the approved 1996 code, integrating updated language from the DNR Model Ordinance and our current code as appropriate.

Breazeale stated he did not realize the task force intends to redline the 1996 code, not the 2017 code. This means editing the 1996 code. He did not understand the implication of what they wanted to do. He then reviewed the ADU process, and the task force recommended process in his summary. Breazeale discussed the DNR letter dated 10/17/2022 which states that the DNR expects the city will amend its current land use regulation ordinance to be consistent with ordinance language approved by the DNR in 1996 and that they will complete this by December 2023. Breazeale stated he understands the process they used to update the ADU code by amending the 2017 code, but he does not think a complete code rewrite can be done in the next 10 meetings because they are unfamiliar with the 1996 code. He stated he understands they want to get back to the model ordinance structure which is a very worthy goal, but he doesn't see how commissioners can understand and edit the 1996 code by the end of the year in a way residents and council can understand. He suggested editing the current code for the five non-compliance factors. The 2017 and 1996 codes are structured completely differently. Steinfeld asked if they are only concerned about certain aspects of the code not the whole code. Swanson stated in subsequent discussions with the DNR they thought it would be difficult to amend the 2017 code and suggested going back to the 1996 code. Swanson stated part of the reason the current code is so large is because it has multiple things that are not applicable to the city. There are many districts laid out with different rules, but the entire city falls under those districts. Steinfeld stated if code is overly complex, why not go back to 1996 and then bring in the 2017 updates that are applicable. Breazeale stated they were asked by the DNR to get the code into compliance by the end of the year. He also stated that the current code is unnecessarily complex but reorganizing and simplifying, a code rewrite, it is a different process than getting into compliance. It takes a long time. In 2017 it took at least a year and a half.

Mathews stated Anderson would be familiar with the 1996 code. In the 1996 code, zoning was Sections 201 – 234 and they were reconfigured and reformatted into the 2017 code. She gave examples how things were moved around; Section 204 Scope and Authority of the '96 code was moved into four different areas and two chapters of the 2017 code. Section 206 Zoning Districts was moved into 11 different parts and three chapters in the 2017 code. She said when trying to figure out how to make the 2017 code compliant

with the DNR rules, it is an overwhelming task because they have to look in many different areas. The five discrete areas move out into many areas of code. Substandard lots get into a number of different areas. The ADU update only took four months for Planning, but it took the task force much longer to find all of the sections of code affected by ADU regulations to ensure the 2017 code was compliant for this issue.

Breazeale stated if they adopt a new code, they need to look at everything from scratch. He agrees that what the task force wants to do needs to be done but he thinks a code rewrite should be done on their schedule. He suggested amending the 2017 code for the discrete factors for compliance by the December 2023 deadline and then work on the other sections later. Mathews stated 1996 code section 207 Lot Width has been moved into 16 different parts and three chapters of the 2017 code. She stated to fix all of the parts for the discrete factors in the 2017 code is an overwhelming task. Swanson stated she would not do that. Anderson asked if they can do the compliance areas first. Mathews explained that the Planning Commission directs what is done but its task force has spent since July 2021 reviewing this and evaluating the code, and has determined that the easiest, fastest way to get into compliance is updating the 1996 code. She added the zoning administrator thought it would be complicated to update the 2017 code and costly if he did it. Breazeale asked how long a code rewrite would take. He reviewed the timeline and noted if they start writing the code in September he wondered how long it would take to go through all of the reviews and approvals. Mathews stated the 2017 code rewrite challenges were the different formula and that new language was presented for review without conversations about those sections ahead of time. The task force is recommending the approach of discussing the discrete areas with Planning, get direction, and understand what Planning is looking for before drafting language. This is fairly easy with the WOAS to update 1996 because the update is already captured, and they modernize the language or add DNR model ordinance required language. She thinks that process will take less time. Breazeale discussed using the ADU process for WOAS where the definition would be updated in 2017 code and a paragraph would be written in the building use section or other applicable section. Mathews stated that in the 2017 code that update would be in many different locations because it is not covered anywhere, and they would have to find all of the areas it would need to be added in the 2017 code. Breazeale understands there are a number of edits but he has now realized the scope has changed from getting the 2017 code into compliance into writing a new code and he doesn't see how that is more simple because they need to look at everything. Mathews stated they are operating with what the DNR has approved and they think it is simpler to update that than work with code the DNR has not approved. Breazeale discussed the deadline and asked if they can explain the situation to the DNR that the code is so far from the model code and the city wants to get it into compliance and meet their deadline. He suggested making the updates to get into compliance and allow the city to set up a project and get the entire code updated on our timeline. He expressed concerns about the timeline. Breazeale stated state statute says the city has one year to come into compliance and if it doesn't, the DNR could write it and charge the city for it. He wants to get it into compliance as quick as possible, and then he is 100% in agreement with cleaning it up, reducing the length of it, getting it structured better. He thinks the DNR would understand that if the city could get the key points updated as quickly as possible. Mathews stated that the task force does not see how it can get the 2017 code in compliance without missing something in and in an efficient manner in the time frame and it is not a good use of their time. Breazeale appreciates their work. Mathews stated they have tried to figure out a way to fix the 2017 code to be in compliance with the DNR but with the different organizational style, challenges in code with the overlay districts, and a myriad of other challenges, they don't think it is a very efficient use of their time. Anderson asked if the 2017 code references changes to the flexibility and restricted issues that are in the 1996 code. Mathews stated the 1996 code reflects the flexibility granted and the promises made. Mathews does not think the 2017 code writer was aware of the agreement with the DNR. Breazeale stated if they had been aware of that, they would have followed the DNR model ordinance, and they would not have this situation today. Breazeale again expressed concerns about the deadline for these compliance issues. He stated it took four months to do ADUs and four months to do WOAS and they have a number of other items. He asked Mathews how long it would take to review and

adopt a new code. Mathews stated the 1996 DNR approved code would be fairly simple to update and track, especially once Planning has discussed the bigger issue areas and they understand why some of the language being proposed is in there. Breazeale asked again how long it would take. Mathews stated this is not a full code rewrite. Honey asked if 1996 code is used would they include all of the things added into the 2017 code as part of the process. Mathews stated that the submittal to the DNR would include capturing 2017 items such as tree preservation. Steinfeld asked if they would be taking 2017 sections and adding them to 1996 and stated they need to preserve what was changed. Mathews added that is the process but they would not add items that violate the original promises. Breazeale stated it is not that simple because the task force wants to streamline it from 288 pages, and address issues they have with the current code. Mathews suggested they may be talking about the same thing and explained that the 1996 code would be redlined to include 2017 modernization, the tree ordinance and other things that brought the city up to date and would not be objectionable to the DNR. She added that they are doing the global areas first so they will know if the language is appropriate after clarification with the DNR. Breazeale asked if they use this process with 1996 code redlined and 2017 added, how many things will Planning have to address in evaluating the entire code. Mathews stated it would just be what is in the model ordinance. Other things like telecommunications and wind energy are not in the DNR model ordinance so they would not look at that. The DNR regulates sign placement so the task force would need to look at the 2017 sign language and make sure it does not violate the DNR model ordinance. They would need to do that if they updated the 2017 code too. Eventually they would submit the entire code to the DNR for review. Breazeale stated he had it in his mind they needed to get in compliance with the main issues but there are more issues than that. He asked if the city got in compliance on the key things, would it be appropriate to submit it and say the city is going to clean it up over the next two years and have them review it pointing out the key issues that are corrected. Swanson stated it is not as simple as correcting those key issues. Anderson stated they would only have to look at the things that the DNR is affected by. Mathews explained that the city is all shoreland but the code does not have finishing standards in the shoreland district which suggests finishing standards are not subject to shoreland regulations, which is incorrect. There is confusion on application of the code. The shoreland district primarily deals with stormwater runoff and grading and filling but the lakeshore and side setbacks are really important and to correct the 2017 code they would either need to add duplicative language or try something else that is unduly complex to fix that because everything was moved around so much. It isn't as easy as it sounds and that is why they have struggled with it. When asked how long it would take to redline the 1996 code, Mathews stated they would go through all of the items with direction from the Planning Commission, allow two meetings for the more complicated areas and be finished with that by September. They would draft language which won't take long with this approach of drafting as they go along. They would hope to report to DNR in March, they understand the city has limited resources, and as long as the city is moving forward the DNR will have confidence that the city is trying to come into compliance. Breazeale wants to follow the ADU process but Mathews does not think they can do that without missing things. The task force would like the process to be as easy as possible. Breazeale stated that this is beyond the original scope. Mathews stated that the task force has no intention or desire to exceed the scope of work but as they looked at the code and the number of areas they are out of compliance, and how they impact other areas in the code, that's why they made the recommendation to update the 1996 code and do the best job they can. They will address areas where there are mistakes or clarification needed but they are not looking to do extra work. Steinfeld asked if the only change is adding the city approved 2017 code to the 1996 code and make it compliant, how will it affect the public because 2017 were already approved by the city. He understands Breazeale's concern but also understands the task force's concerns. The public would only be concerned with the changes required by the DNR. Breazeale stated there will be a lot of changes. Anderson asked how many other changes would they need to make. The task force would have to go through the entire 2017 code. Bridget Wortman asked if it causes problems with the DNR if the city updates the 2017 code since they have not reviewed or approved the 2017 code. Mathews stated they would have to have it all approved.

Breazeale suggested dealing with the controversial items in the 2017 code and then go back and do the 1996 code because it would take care of it quickly. They could debate the difficult stuff using the 2017 code because people understand it. He recognized that making a simple change affects other areas of the code but those could be dealt with later. He doesn't want to delay on everything and not meet the deadline. Mathews agreed but they do not want to revisit the code over and over. Breazeale discussed amending main issues – 5% credit for pervious pavers, AMLS/AMBS. If it will take longer than a year, isn't it better to take care of these issues right away and then do the reorganization and all of the other issues later. If the language for the 3/7 factors was all laid out with three codes side by side, they could make recommendations on them quickly, present that to council, then go to the DNR and say we are going to amend these big issues but we realized that our code is really cumbersome and not following the model ordinance. It may take 18 months to get that updated. Mathews asked what Breazeale's concern is. Breazeale stated his concern is getting into compliance on as many things and as quickly as possible. He thinks the city and DNR are aligned but if the city can come into compliance on the big issues, it puts the city in a better situation and it can ask for more time. Breazeale stated there will be at least 50 things they will need to discuss for a new code. Mathews stated that the task force would not be able to review and amend the 2017 code for compliance and fix all of the multiple places in the time frame. Breazeale discussed if you strike 5% hardcover credit, you would not have to make any additional changes. Lot width is in one section. Other things are a bigger discussion, but AMBS or AMLS is not a compliance issue, just something Planning would like to change. Side setbacks is more discussion, but Breazeale had recommendations. Wortman inquired if the city could do an addendum as a temporary update. Mathews stated these are land use regulations and the city would have to provide actual amendment language and land use amendment process would have to be followed. Mathews stated the task force has provided their recommendation for the best process to accomplish compliance with the DNR because of complexities and challenges with the current code and for the 20 years prior to its adoption the code was approved by the DNR and followed the DNR model. The task force has determined that the 2017 code is unmanageable to work with and the best way to get the benefits out of the 2017 code is to take those good things out and put them into the 1996 code with updated DNR model ordinance language. She looks at this as a code amendment from the DNR perspective. Breazeale stated if they were starting with a blank document they would start with the DNR model ordinance, add the 1996 code and the 2017 code. Mathews agreed.

Breazeale then brought up other ideas: the task force takes good parts out of the 2017 code and adds them to the 1996 code with updated DNR model ordinance language and the zoning administrator updates the 2017 code until the task force is done updating the entire code which may be needed to be in compliance. Mathews stated the most ideal situation would be if they worked together and the zoning administrator did all of the drafting and the task force identified all of the areas that need to be brought to the Planning Commission, but they may not have resources. Breazeale stated that the task force feels strongly that they are doing it in the right way in their view and starting over with the 1996 code, which makes a lot of sense to him. He is looking for quick compliance with the current code because he thinks their process will take 18 to 24 months. He stated an idea is to have the task force do exactly what they want to do and in the meantime have the zoning administrator present the discrete things and they can make amendments and move in the right direction. They could explain to the DNR that they are going to make some quick amendments, but they want to do it right and are going back to the 1996 code which will take 18 to 24 months. Mathews stated if the city has the resources to hire an outside consultant and the people who have the expertise to manage the process, then that would be the ideal way to go. She added that what happened with the last code rewrite was that they did not have anyone knowledgeable about the zoning code who could work regularly with the outside consultant to do the pushback or consulting with the DNR on specific items. Those protective measures were not in place for the city. She went on to say the planning commissioners are very knowledgeable, they pay attention, they care, they are thoughtful about their approach, and if they want to take this on with the zoning administrator, then they should and

they should ask the city for necessary resources to come into compliance. She does not see any reason keeping the task force busy working on a zoning code rewrite when someone else is working on different zoning code rewrite because there could be crossed wires and things missed. Breazeale stated he is looking for options other than delivering something to the DNR in two years. He is suggesting they do exactly that using the talent of the task force but make some moves to amend the code on these specific points in the next three months and show progress in getting in compliance. Breazeale then summarized the options presented:

1. Redline the 1996 code, add sections from 2017 code, and add compliance items from DNR model ordinance. Mathews stated they are trying to get that done by the year end but did not know how long it would take.
2. Amend the current 2017 code and have DNR review - like (ADU) process. DNR asked the city to amend its code with '96 language but he is not sure what that means.

He was trying to suggest that the task force do Option 1 which is the right, longer term fix, and work with the zoning administrator and Planning to do Option 2 to get some amendments done. He acknowledged Mathews point that there are minor things that will have to be dealt with in the code which the task force will be addressing on a longer time frame. Breazeale stated council asked Planning to get the code in compliance with the DNR. The task force is recommending going back to the 1996 code and edit it. The other option is to follow the ADU process and amend the 2017 code for the other noncompliance factors.

3. Breazeale added Option 3 of amending the 2017 code quickly on the other noncompliance factors to show the city is trying to be compliant while they consider the longer-term option.

Steinfeld stated the DNR will have to review the entire code anyway because they have not approved the 2017 code, and if the changes are the redlined 1996 code, it will be less pages and easier for the DNR to review, they will look at the discrete pages and modernized language, and theoretically the public will not be affected by the changes. He added that it is not ideal but it seems the task force can get it done this year. Breazeale does not think it will get done this year. Mathews stated the process is dependent on the planning commission and if they want additional time or extra public hearings, and they have no control over that. They hope to be done by year end. Breazeale stated based on his prior experience, he is guessing it is 100 hours of Planning commission time to look at a full code rewrite. Steinfeld stated that by bringing in the 2017 code, Planning would not have to deliberate those items because 2017 is already approved by the city and would not have to be approved again. He added that the 2017 code is already approved, the 1996 code is the base and the discrete changes would be redlined.

Breazeale asked commissioners if they had additional options and then asked them which option they think is most practical.

Anderson - option 1

Blodgett option 1 - most simple

Breazeale - option 3 – to get some compliance issues taken care of quickly

Finnegan - option 1 – if the city is showing a good faith effort to get into compliance, the DNR will likely agree to that. It seems to be the right thing to do because the 2017 code is not simplified and it seems like it is better for the city to have a more simple code. She added that a hybrid would be a lot more work because they would have to go to the DNR multiple times and eventually have the whole code reviewed.

Steinfeld - option 1

Swanson - option 1

Breazeale said he feels this is a change in scope so he will go to the February 13 council meeting and tell them about the conversation. He stated he wanted the task force to be there to answer questions.

7. Reports

- 7.1. Chair Report – Honey to add Breazeale’s presentation to the meeting packet.
- 7.2. Commissioner Reports – Swanson discussed the 2023 calendar. March 20, April 24, move the May 22 meeting to May 15, June 26 (Steinfeld may miss), July 24, August 28, September 25, October 23, November 27, December 18. They will finalize dates at the February meeting.
- 7.3. Council Liaison Halverson –December 12 City Council meeting. Treasurer Zinn updated council on the utility rate study to determine how to pay for the new water treatment plant and they continue to try for funding but it is important to support the plan. Council approved a contract for Stantec to begin engineering and design for the new plant.
- 7.4. Building Permit Report – received and filed

8. ADJOURNMENT

(Blodgett motion, Anderson second, to adjourn; all ayes.) Motion passed.

Chair Breazeale adjourned the meeting at 10:00 p.m.

PUBLIC IN ATTENDANCE – The following individuals were in attendance: Fred Koehler, Bridget Wortman and Task Force Member Nell Mathews

Minutes respectfully submitted by City Administrator Heidi Honey

Heidi Honey, City Administrator