

**Monday, February 12, 2018 7:00 PM**  
**(5:30 pm Special Meeting Closed Session)**  
**(6:00 – 7:00 pm Attorney Presentations)**  
**CITY OF MINNETONKA BEACH**  
**CITY COUNCIL MEETING MINUTES**

Mayor Taylor called a Special City Council Meeting to order at 5:30 p.m. Mayor Taylor and Council Members Bartel, Kozloski, Lindstrom, Myers and Treasurer Howarth were in attendance. Also in attendance were attorney Justin Templin and City Administrator Griffin. Mr. Templin stated that pursuant to M.S. 13D.05, subd. 3b, the City Council may close the meeting to have a confidential discussion regarding litigation (Mathews/Hacker vs the City of Minnetonka Beach).

**A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to close the meeting under the attorney/client privilege provisions of state statute. With all members voting in favor, the motion carried.**

**A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to adjourn the closed session at 6 p.m. With all members voting in favor, the motion carried.**

**ATTORNEY PRESENTATIONS**

During the work session, the Council listened to presentations from three applicants for City Attorney. The three firms who presented were: Kennedy & Graven; Carson, Clelland, & Schreder; and Rupp, Anderson, Squires & Waldspurger.

**Jeff Carson, John Thames and Joe Murphy – Carson, Clelland, Schreder**

**Andrew Biggerstaff – Kennedy and Graven**

**Jay Squires – Rupp, Anderson, Squires & Waldspurger**

**CITY COUNCIL MEETING – 7 PM**

**Roll Call:** Mayor Mike Taylor; Council Members: Jill Bartel, Paul Kozloski, Jaci Lindstrom and Andrew Myers; Treasurer Steve Howarth.

**Staff Present:** City Administrator Susanne Griffin, City Clerk Heidi Honey, Public Works Superintendent Brian Berent, and City Engineer Darren Amundsen

**Guests:** Police Officer Susan Schultz (for Sgt. Boris), Park Commission Chair Dan Forbes, and Civic Committee Chair Jennifer Halverson, Bob Byers Hennepin County Transportation.

- 1. Mayor Taylor called the meeting to order at 7:04 p.m. Clerk Honey led the Pledge of Allegiance.**
- 2. Approve Agenda for the February 12, 2018 City Council Meeting.**

Lindstrom asked to move the Pedestrian Crossing Update from 7.1.1. Planning Commission Report to Item 8.2. Old Business. She explained that she would like to change the agenda item from a request to install delineators to a discussion and potential adoption of the recommendation of the Hennepin County proposed median project. Bartel objected to the request for a potential adoption because she feels it is a different issue.

**A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to approve the agenda as amended. With all members voting in favor, the motion carried.**

### **3. Approve Minutes –**

3.1. Regular Meeting of January 8, 2018

**A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the January 8, 2018 Regular City Council meeting minutes. With all members voting in favor, the motion carried.**

### **4. Police Report**

4.1. Police Report – January 2018

Officer Schultz reviewed the January activity report which consisted of eleven calls for service including traffic stops, alarms, family disputes, and a couple of medicals. Bartel asked if the Orono Police have been involved the pedestrian crossing discussions. Griffin had informed Deputy Chief Fisher of the Feb. 5th meeting and sent them the materials. They have not made any statements.

Kozloski asked about the Mound Fire response to automatic alerts when 911 is called in the Minnetonka Beach and in Mound. Griffin will follow up with Chief Farniok about automatic start codes and report back to Council.

### **5. Open Forum**

No comments.

### **6. Public Works Superintendent Report – Brian Berent, Superintendent**

6.1. Truck, Box and Trailer Update

Berent stated he has been working on the rink and doing maintenance on vehicles for spring. There was a water leak on Westwood Road. The new truck is ready, the box is being built, and the trailer was picked up today. The old leaf truck is on craigslist for \$4,000 but there has been minimal interest. He will reduce the price and put it on K-Bid if he needs to. He the new timer at the ice rink isn't functioning well when it is cold.

6.2. MN Rural Water Association Annual Conference – March 6 - 9

Berent will earn 16 hours required for his water operator license by attending the conference in St. Cloud.

Council asked Berent about his philosophy on plowing. Berent stated that the PCA would prefer he plow more often and treat the roads less. The City does not have a plow policy. Taylor suggested Berent ask Ben Young about his frequency and timing of plowing and council can discuss a policy in the future to better manage resident expectations. Howarth asked Griffin to check with neighboring cities about their policies.

### **7. Committee/Commission Reports**

7.1. Planning Commission Update on Pedestrian Crossing

Bartel gave an update on the Planning Commission without the Pedestrian Crossing discussion. They discussed the use of the term pedestrian crossing as opposed to safe crossing. They worked on the Comp Plan updates and they are prioritizing issues from the Transportation Study, including the issue of permit parking.

7.2. Park Commission – Dan Forbes, Chair (Annual Report)

A detailed report of the Park Commission activities in 2017 was in the packet. The commissioners focused on tree care, beach care and gardening. They have contracts with a beach cleaning service and a gardener. Commissioner Pagano is working closely on the Comprehensive Plan update. As part of streamlining processes, they have assigned specific commissioners to specific areas of work. In 2018, they will refine the contract to balance beach care parameters within the budget. The commission is also focusing on tree planting and trimming. Forbes stated that the renovation work at Half Moon Park is mainly complete and some final finishing will be done in the spring.

7.3. Civic Committee – Jennifer Halverson, President

Halverson stated that Civic membership dues are due March 1. Honey will put a reminder in the Beachcomber and email blasts. Halverson then reviewed the events of the past year and stated that Robin Gipson created a fantastic Spookywalk. Tea and Toddlers was wonderful, and the skating party had a great turnout. The 2018 events are: Newcomers on April 8 from 3-6 pm and Council and Staff are invited; Progressive Dinner on May 19; the Summer Picnic on July 19; and National Night Out on August 7. Lindstrom offered to be a host for Progressive. Civic also discussed Comp Plan updates and forwarded their input. Kozloski acknowledged their hard work. Lindstrom added that they are the heart of the City.

**8. Old Business**

**8.1. Select and Appoint City Attorney, Authorize Mayor and City Administrator to Negotiate Professional Legal Services Agreement**

Taylor stated that seven applications were reviewed and narrowed to the three applicants who presented earlier tonight. Howarth thought that Kennedy and Graven's experience was extensive but he was taken aback that their representative did not have a lot of experience. He suggested interviewing a different attorney from that firm. Lindstrom agreed on the lack of experience. After further discussion, Council suggested doing reference checks and meeting with the applicants for a second interview. Griffin was directed to follow up with Andrew Biggerstaff to express a concern about his level of experience and discuss backup resources in his office. Griffin, Myers and Taylor will interview the candidates to find the best fit and come back to Council in March.

**8.2. Pedestrian Crossing Update - Discussion and adoption of the Hennepin County recommendation for the crossing**

Taylor requested that Council discuss this first and then residents can provide input. Mary McCarten, Arcola Lane, stated that she didn't know there was going to be a vote. She thinks it is too soon and didn't think they were included in meetings of the topic. Council and Griffin stated that all of the prior meeting agendas were published.

Susan Swanson, Arcola Lane, stated they this is the first opportunity to weigh in on it because they just got back in town but had sent an email about it.

Bartel said the County supplied this proposed design last week and, at that meeting, they agreed to set up stanchions in April. She said since it was not on the agenda, residents did not know they are voting on it. Taylor stated that technically the process they are following is compliant for taking an action and the council needs to decide if that is what they want to do or not. They could also make a change to agenda. Bartel stated she understands that. Griffin confirmed that there is no requirement to hold a public hearing. Taylor stated that if a vote were to come up, council needs to decide if they are comfortable with making that decision or if they want to wait.

Byers stated that Hennepin County is looking for concurrence or city support to move ahead. Council can either (1) state that they are not ready for concurrence but would like the county to do the test and come back for discussion; or (2) say the test needs to be done but we are comfortable with the county moving ahead with the process. Byers then gave a brief overview of the project and stated the design can be tweaked if needed after the test. Byers explained guidelines and state statutes for crosswalks. He stated that this design will aid pedestrians crossing County Rd. 15, decrease traffic speeds and guide drivers properly on the road.

Lilla Gidlow – Arcola Lane. Gidlow stated this is a large undertaking which affects the entire community and is probably for a small portion of its residents. She thought a majority of residents should weigh in before they vote. She expressed concerns for the safety of pedestrians and also for vehicles. She then questioned why the median would be installed if there are not enough people crossing to warrant having signs.

Maxine Dunlap – Arcola Lane. Dunlap thinks that more insight from all residents of the city is needed. People cross in all areas of the city to get to their docks. She also doesn't think it makes sense to allow any child to cross County Rd. 15.

Joann Anderson – Planning Commissioner. At the last Planning meeting, they recommended a request for funds from the Capital Improvement Program to move forward on the design. Her intention by agreeing to the request was not to approve the crossing, but to pay for a design. She thinks it is being pushed through without enough information. She expressed concern about a lack of safety and thinks the test is a good start. She suggested putting the diagram in the Beachcomber to get interest from more residents.

Susan Swanson – Arcola Lane. Swanson expressed concerns about semi-trucks not slowing down if the area is narrower.

Jody Schwendimann – Beach Lane. Schwendimann has been a proponent of a safe crossing for many years. She thinks residents have expressed valid points and concerns. She stated that this was not what she originally wanted over the years but she thinks it is the best solution for now and anticipates future improvements. She explained the need to create aware drivers which would create more safety. The design should also decrease traffic speed. She then explained that a design with a median and a crossing is statistically 32% safer than nothing. She suggested not calling it a safe crossing and call it a median refuge.

Susan Swanson – Arcola Lane. Swanson said nobody has expressed concerns about the 36 households who have to cross County Rd 15 in other locations in the city and is wondering why they are prioritizing the people on Huntington Point. She said it feels like they are being treated as

being more important than everyone else and everyone should be treated equally. She went on to say it is a lot of trouble and expense for very little result safety wise.

Howarth – Howarth wants a safe crossing but does not want this crossing. He said there is detrimental safety of two left turns that are degraded coming in and out of Arcola in this proposal. He also thinks it is unsafe to turn right onto Arcola with this proposal and stated that, according to the National Transportation Board, 53% of crashes occur due to left hand turns. He thinks the city and the county can do a better plan. He does not think they should make a trade off of vehicular safety for pedestrian safety.

Wortman – Lafayette Road. Wortman stated that this design slows traffic which make everyone safer. Medians are drawn where there are currently yellow lines and cars are not supposed to be driving there anyway. She thinks this will unite the community and this is the only viable option.

Jody Schwendimann – Traffic engineers researched the design and, from their perspective, there was nothing less safe about the proposed turns and design.

Kozloski drove the area various times and feels there is no issue with a 90 degree turn at Arcola. It would be the same as other intersections the city. He said the engineers will make sure the median is far enough back to be able to make a safe turn and believes it is safer than the current situation.

Bartel stated that after the discussion at the February 5<sup>th</sup> meeting, she felt good about the delineators being installed so residents can see how it will feel and residents can get used to it. She feels railroaded to vote on this tonight after being told that they would try the delineators in the spring. Myers then read the following motion.

**A motion was made by Council Member Myers that the City Council approve the design that Hennepin County and the subcommittee recommended for the dual median refuge and that Hennepin County proceed with obtaining county board approval for funding and provide a detailed final design when complete, while also installing the delineators to serve on a temporary interim basis not to exceed one month, in order for the community to become accustomed to the changes.**

Lindstrom asked that Myers read the motion again. After reading the motion, Myers stated that he feels the city needs to show support to the county so they know the city wants to move forward so they can get final plans. Lindstrom asked about installing the delineators. Myers said the county would still need to come back with a final design. Byers confirmed that the county would put up the delineators to finalize the design while they work on getting county board approvals and finances set up which will take months to set up. Taylor confirmed with Byers that this is a preliminary design approval because the final design could be different based on findings after using the delineators. Byers agreed.

Lilla Gidlow asked if this is a preliminary approval and there would be a final approval later. Anderson asked if council will vote on a final design in the future. Myers said they would have a final vote and stated that the county needs to see that the city wants to move forward. Anderson said she agreed with that. Byers confirmed with Lindstrom that it will take months for the county to go through their approval process. He also said that the county does not want to go through with it if everyone is still uncomfortable. The interim set up with the delineators will give people a feel for it.

He went on to say that the county will not move forward on the project if the city is not comfortable with it after the delineators are installed, even if the county has invested in some design. Bartel stated that she wanted to be very clear that this is a vote in favor of this crossing, however its adjusted. Kozloski replied that he thinks that is an accurate assumption.

**Lindstrom seconded the motion. Council members voting in favor: Kozloski, Lindstrom and Myers. Those voting against: Bartel. Motion carried.**

**A motion was made by Council Member Myers and seconded by Council Member Kozloski to adopt the Planning Commission’s recommendation that the city engineer complete the design drawing bid as previously submitted (\$3,000 remaining) for the city to obtain bids for the completion of the trails and apply for applicable grants. Council members voting in favor: Kozloski, Lindstrom and Myers. Those voting against: Bartel. Motion carried.**

## **9. New Business**

### **9.1. Mound Fire Services Contract – RFP process for Fire Services Contract**

Taylor gave an update and stated that Kozloski and Myers were working with Mound Fire Chief Pederson and the Mound City Manager to reduce the cost of the contract. After meeting, they had a preliminary indication of a \$15,000 reduction which would need to be approved by the Mound City Council. The Mound Mayor called Taylor and stated that he was not prepared to take it to their council until he gave the other members of the contract (Fire Commission) the opportunity to participate in any decrease to Minnetonka Beach. In the event that those cities chose not to participate, then Mound would revisit going it alone outside of the existing contract. They have set a meeting with the other participating cities to explain the situation. Taylor went on to say that the Mound Mayor was in agreement that there is an issue with the cost and they committed to investigating the costs. He will have final information in March. Council can attend the meetings.

Kozloski stated that at the meeting with the Mound City Manager and Mound Fire Chief Pederson, the City Manager appeared to not think there was anything wrong with the current formula but Chief Pederson did. Kozloski then reviewed their conversation about the formula, land values and his frustration of them not providing a proposal and involving other cities. Bartel suggested letting the Mound Council go through their process. Council discussed the negotiation process. Howarth suggested they tell Mound that the formula is wrong and tell them to work their process and have the city seek other bids. He also said the city wants to continue to negotiate in good faith. Myers offered to contact Excelsior, Wayzata and Long Lake and explore their level of interest and Taylor will reach out to Mound, and Council Members agreed to exploring other options. Bartel expressed concerns about response times with a different fire department.

### **9.2. Authorize Mayor to Negotiate Contract with Stantec for Capital Improvement Program Bonded Projects**

Lindstrom stated that the Utilities Committee submitted comp plan updates. They also discussed the timeline for bonding. Stantec needs to do the engineering for Capital Improvement Program bonded projects. Amundsen explained they need to confirm that all of the projects on the CIP and determine the factors which affect the cost such as the number of meetings, the project schedule, and timeline. Howarth recommended Amundsen provide a letter of understanding and draft proposal for the Utilities and Finance joint meeting and they will forward recommendations to Council. Council then discussed special election timing and requirements.

Amundsen confirmed that the proposals in 11.3 Consent Agenda are hourly not to exceed \$7,000 for the Comprehensive Sewer Plan and \$11,300 for the Surface Water Management Plan.

## 10. Treasurer's Report

10.1. Approve Checks: February 2018

**A motion was made by Council Member Bartel and seconded by Council Member Myers to approve 50 checks numbered 16552 through 16601 in the amount of \$84,466.29 for February 2018 expenses. With all members voting in favor, the motion carried.**

10.2. January 2018 Budget to Actual Report and Prior Year Comparison

Griffin explained that Item 2725 Plant Operation (\$4,675) includes a payment to the water tower historian to apply for the grant which the City received a grant for in 2017. Griffin will do an offsetting journal entry for that. Howarth, Griffin and Bonnie from Abdo will work on that. Two items were miscoded: Item 2726 should have \$15,000 for a water main repair and Item 2737 is zero.

10.3. Outstanding Accounts Receivable

Griffin will send a letter to Chris Bank to follow up on his invoice that is aging 61-90 days.

Kozloski asked about the Mound Fire Report and the number of hours documented for various calls and an alarm cancelled in route that was 34 hours. Myers offered to ask about it. Kozloski also asked if the city gets charged for calls to County Road 15.

Howarth asked for another 90 day reinvestment on a \$133,000 maturity coming due on a treasury bill in 30 days.

**A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to authorize Treasurer Howarth to reinvest the \$133,000 maturity coming due on the treasury bill for another 90 days. With all members voting in favor, the motion carried.**

## 11. Consent Agenda

11.1. Fire Report –January

11.2. **Resolution 2018 – 11** – Club and Sunday On-Sale Liquor License for Lafayette Club

11.3. Stantec proposals for Comprehensive Sewer Plan and Local Surface Water Plan (required updates for Comprehensive Plan)

11.4. Prosecuting Attorney Professional Services Agreement

11.5. Special Event Permit Application – Lake Minnetonka Half Marathon – May 6, 2018

11.6. **Resolution 2018 – 12** – Gambling Exemption Request – Duck's Unlimited – Lafayette Club, April 26, 2018

**A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve the Consent Agenda items. With all members voting in favor, the motion carried.**

## 12. Action Notes and Staff Reports

12.1. Council Meeting Action Notes

The March Planning Commission is on March 19th. Bartel asked someone to attend for her. Lindstrom will check her calendar. Taylor gave an update on the nuisance complaint and stated that Hearts and Hands has agreed to work on the exterior of the home. Donations will cover the costs.

12.2. Clerk's Report – MN Clerks and Finance Officers Annual Conference  
Honey would like to attend the MCFOA Clerk's Conference in March for ongoing continuing education.

12.3. Administrator's Report – Annual Audit Work session prior to the March meeting  
Administrator Griffin stated they can do a one hour work session prior to the March Council meeting to help Council understand the annual audit and fund accounting or they can attend the February 21 Finance Committee meeting.

## **15. Council Reports**

### **15.1. Mayor's Report**

15.2. Liaison Reports (if necessary): Kozloski – Docks and Parks, Bartel – Planning, Lindstrom – Utilities/Civic: Civic meets mApril 11.

**A motion was made by Council Member Myers and seconded by Council Member Lindstrom to adjourn the meeting. With all members voting in favor, the motion carried.**

**The meeting adjourned at 10:46 pm.**

**PUBLIC IN ATTENDANCE** – The following people signed the attendance sheet: Nell Mathews, Joann Anderson, Sue Kozloski, Maxine Dunlap, Lilla Gidlow, Mary McCarten, Betsy Taylor, Bryan Halverson, Susan Swanson, Don Swanson.

**Respectfully submitted,**

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**Heidi Honey, City Clerk**