

Monday, February 12, 2024 6:00 PM
CITY OF MINNETONKA BEACH
REGULAR CITY COUNCIL MEETING MINUTES

Roll Call: Mayor Joe Pagano; Council Members: Tracey Breazeale, Chris Dovolis, Jennifer Halverson, and Jason Mohr, and Treasurer Chris Zinn. Absent: none

Staff Present: City Administrator Heidi Honey, City Clerk Jane Burgess, and Public Works Superintendent Jason Hilgers

Guests: Officer Lyrek of the Orono Police Department; Bonnie Schweiger of Abdo Solutions; Laura Paine, Vice Chair Park Commission; Heidi Whitaker, President Civic Committee; Jeff Breazeale, Chair Planning Commission

1. **Call to Order Mayor Pagano called the meeting to order at 6:00 pm.**
2. **Pledge of Allegiance** – Led by Clerk Burgess
3. **Approve Agenda**

Halverson motion, Breazeale second to approve the February 12, 2024 agenda. All ayes, the motion carried.

4. Approve Minutes

4.1. Regular Meeting of January 8, 2024

Halverson stated that on the bottom of page 2 there is a typo to correct which Burgess will do.

Halverson motion Breazeale second to approve the Minutes as amended from the January 8, 2024 regular City Council meeting. All ayes, the motion carried.

5. Police Report – Officer Lyrek Orono Police Department

Officer Lyrek reported that January was a quiet month with only two medical calls in the City and a DWI arrest off Woodbridge Rd. Officers also located a juvenile runaway from Maple Grove. Breazeale asked if there has been an uptick in crime in general. Lyrek stated that one incident in Medina matched similar incidents occurring throughout the metro area, but overall, she stated that it has been fairly quiet in the areas surrounding Minnetonka Beach.

6. 2023 Audit – Bonnie Schweiger, Abdo Solutions

Schweiger presented the final report of the City's 2023 Financial Audit. She stated that overall, the audit was very smooth and clean with no significant issues. Internal controls worked as they should and there were no issues with legal compliance. She explained the Opinion Letters stating that the independent auditors report shows an adverse opinion due to the small size of the City, and the requirement by the state to use cash basis accounting and the fact that the City is small. This has been the case for a very long time and is not a concern.

Schweiger reported on financial trends and stated that the General Fund, the main operating fund, was up 10%. \$170,000 in receipts were collected more than budgeted as a public safety grant came in right at the end of the year, but it will be spent in 2024. Grant funds came in and interest income was up over what was budgeted. Disbursements were \$60,000 under budget. The 2023 General Fund Budget to Actual showed a \$237,608 balance higher than budgeted which she added is a healthy increase in the fund balance and added that some of that balance will be spent in 2024. She added that the CIP balance is up in 2023 due to deferred projects that will be done this year. Operating receipts plus a portion of property taxes were up in 2023 as well and pay for operating costs. When reviewing the Water Fund for cash balances she stated that a bond was issued and placed in an investment account waiting to be used for the water treatment plant. Schweiger stated that the Sewer Fund

has a healthy cash balance as it has in each of the last four years. She explained that the Stormwater Fund each year has been building up a reserve for future projects. She reviewed the Reserve Summary and Market Value and Debt Balances noting that there is \$4.5 million in levy supported debt and nearly \$5 million in water revenue supported debt. Abdo will issue their final audit report on the Consent Agenda at a future council meeting.

Zinn asked Schweiger to speak to the efficiency of this year's audit. She stated that in years past there was a lot of work to do to prepare for audits, adding that this audit was the best ever in her 12 years working for the City.

6. State of the City – Mayor Pagano

Mayor Pagano stated that the theme of his State of the City for 2024 is that Minnetonka Beach is a great place to live based on Treasurer Zinn's statement he made to that effect. Topics covered in Mayor Pagano's address as they pertain to the City include:

- * Character – numerous examples of strong character traits of Minnetonka Beach
- * Governance – the City's Organizational Network and Operating Model explaining various committee and commission functions and process for decision-making. He added that City Staff is the Hub and Face of the City administering and providing for the many needs of the community
- * Water Treatment Plant – historical and financial data supporting that the new plant is the continuation of a phased replacement of an aged water delivery system. The water tower and water main replacement timelines were included and State and Federal funding opportunities
- * Finances – 2023 Financial Audit generated another "clean bill of health". Increased property values along with the inflationary costs of the new water treatment plant with no funding to date and increased City, county and school budgets will impact residents
- * 2024 Objectives – examples of positive projects slated or nearing completion from the Zoning Code compliance rewrite to review of the Tree Preservation Ordinance to possible configuration of the Swim Beach docks, five elections in 2024 and defining remaining infrastructure projects

Many photos were included in the address as examples of the topics covered and all in support of *Minnetonka Beach - A Great Place to Live theme*. The LMCC will produce a video of the Mayor's address and it will be available to be viewed on both the LMCC and the City's website.

8. Annual Reports

8.1. Park Commission – Vice Chair Laura Paine in Chair Kim Petersen's absence
Paine presented the 2024 Parks Update which featured Park Commission's accomplishments in 2023, and how they were completed. She stated what Parks has planned for the next five years as they create the new 2025 – 2029 5 Year Plan using the previous one as a template focusing on Guiding Principles. Paine praised City Staff for their hard work and contributions to Parks. She noted a grant opportunity for shoreline rip rap restoration and Petersen and Rezabek will work on that. She stated that Park Commissioners are committed to relationships and to stay informed of policies and opportunities with various agencies and organizations.

Pagano stated that the Park Commission has continued to use models and processes that continue to improve each year. He added that sustainability is very difficult to find anywhere but they have found the formula for sustainability. Paine thanked Pagano for creating that template when he was on the Park Commission that has now been used for four years.

Zinn asked for clarification on the rip rap grant and Honey explained that this grant focuses more on plantings than boulder rip rap.

Breazeale stated that everything continues going along smoothly with the Park Commission and they are tackling new things including the new 5 Year Plan development. As Parks liaison, she has observed their focus going forward for the next five years is less refurbishing, but more on forest restoration, sustainability, and improving the environment.

8.2. Civic Committee – Chair Heidi Whitaker

Pagano stated that the Civic Committee is the fabric that weaves Minnetonka Beach together – grand slams with picnics, Newcomers, a holiday party, fall event, and the Progressive Dinner, which are great ongoing traditions lasting for decades. Whitaker said she renewed her role as president for 2023-2024, along with new officers Vice President Kate Emmel, Secretary Kristin Ainsworth, and returning Treasurer Jennifer Johnson. She praised them and noted that there are 42 members on Civic this year. Whitaker stated that in September they kicked off the new Civic year with 99 residents attending the Progressive Dinner. Unfortunately, the Halloween party was canceled because of cold weather and lack of volunteers. The annual Tea and Toddies party was in December and Breazeales graciously opened their home for the party plus viewing the Vikings game. The February Skating Party almost didn't happen, but Hilgers kept the ice going for 30 adults and kids to enjoy. She is looking forward to Monday Fundays, the Junior Civic beach and Ray Peters cleanup events, and canned food and coat drives led by three Junior Civic co-presidents, Ballard Breazeale, Savannah Pottebaum and Annabelle Whitaker. One of Civic's goals is finding a balance of events that touch all age groups. They are evaluating the fact that there are too many events too close together, so they want to space them out. Progressive Dinner will be once every 18 months so the next one will be spring of 2025 with renewed excitement. This will help volunteer recruitment and prevent burnout. She thanked all the Civic volunteers, and Burgess and Honey for their City communications. She also thanked Hilgers and Gage for their work as well. Mayor and council thanked Whitaker and Civic for all they do for the community.

9. Planning and Zoning

9.1. Zoning Code Amendments – Recommendations Regarding Compliance with DNR Model Ordinance – Jeff Breazeale, Planning Commission Chair

Planning Chair Breazeale reviewed all the proposed amendments and compared them to the DNR Shoreland Model Ordinance to see what was lacking and correct before they submit it for approval. They split the code up into logical chapters and moved shoreland into appropriate sections in the zoning code. He stated that the Planning Commission and Work Group are now 90% finished with their work. He added that all Planning Commissioners, Zoning Administrator Carlson and City Administrator Honey have reviewed the entire project.

J. Breazeale explained the DNR Shoreland Model Ordinance in detail. J. Breazeale pointed out Ordinance Language 3.4.4. Conditional Uses and the language added as review criteria for a CUP in Section 3.4.4(D)(1)(h). He also viewed new Section 6.3.4 which specified private easements prohibited as the City has public easements to City docks. He also reviewed that in SDNR Section 6.43 Lowest Floor Elevation created new Section 6.2.9 to include this as the minimum floor elevation has been 932.5 for decades, which is inches higher than the DNR standard which calculates as 932.1 based on current OHWL. They kept it at 932.5 for minimum floor elevation.

J. Breazeale stated that Planning Commission clarified that watercraft access ramps on properties are not allowed. He stated that City Code allows the zoning administrator to make minor changes in PUD conditional uses so they removed that language so that cannot happen. He added that it all needs to follow the process.

Breazeale noted that the Planning Commission agreed unanimously on every line and every issue. He added that they are a great group and work well together paying close attention to every detail. He stated that they are asking for council approval to submit the draft code to the DNR and public hearing which has the changes discussed in the prior two council meetings including chapter reorganization, moving shoreland into the main code, and the green sections which were additions to the code, if approved, Planning would come back to council and recommend that those be changed in the code.

Pagano and council thanked J. Breazeale and his team for all their work. J. Breazeale said they have the flood plain and wetlands sections to work on to finish this project.

They then began discussions on who makes the decision for a CUP amendment. This was to be discussed in item 10.2, but took place here ahead of that item. Pagano stated that this process needs to be clarified so the Lafayette Club knows who to talk to, the timeline and the process. The Club President told Pagano that there are a number of projects planned for the Club.

Honey stated that in past practice the zoning administrator worked with the CUP holder in anticipation of a project and determined if they needed an amendment or not and how to proceed. It did not go to City Council for discussion.

They discussed projects covered in City Code like the fence at Hole #7. J. Breazeale stated that Planning Commission should review the project after the zoning administrator, not council as the Planning Commission are the experts who know City Code. If council were to review the project request, the wrong decision could be made. This process needs clarification.

Dovolis suggested that if a project would change what residents look at and see then there should be a CUP amendment. He added that there is a clearer, defined code that will determine if a CUP amendment is required. The order should be zoning administrator, Planning Commission then City Council for a decision. At the time the Club fence at Hole #7 came up the code was not clear.

Council discussed if the Club needed to do a repair or replacement would a CUP amendment be required. They discussed that new items or changes should have a CUP amendment and the process to follow.

T. Breazeale recommended that guidance should be given to the zoning administrator with clear direction, and if he has any doubts whatsoever when reviewing a request, he should inform Administrator Honey and it should then go to the Planning Commission for their review. She added that the last thing this community needs is for someone to say that the process should not have been done the way it was when a decision was made. The question becomes what is regulated by the zoning code and what is not.

Halverson stated that council gave the Planning Commission the power to come up with the language for adjusting in a way that they felt confident that it would be run better by the zoning administrator. She suggested that council sees how this goes before making too many changes. She added that this new change passes the mustard test with the residents and that will be revealed at the public hearing and can be discussed. With this additional information council needs to trust that the zoning administrator understands how important it is to council that the proper pathways are followed to reach approval because it falls within the rules or pass it on to the Planning Commission. She added that this is the most efficient use of time and energy which is the goal.

Pagano stated that Zoning Administrator Carlson endorses the new zoning code and is very happy with the work done by the Planning Commission.

Mohr stated that he prefers that a CUP amendment request should go to the Planning Commission because if the request is a big change, it may not be fair to put that on the zoning administrator. Also, since the Club and the church are running businesses, they need an answer as quickly as possible. He noted that perhaps Planning and Council might need to meet more often as they only meet monthly.

J. Breazeale stated that the Club should follow the rules just like residents do. Everyone in the community needs to check with the City before doing projects so it is not onerous for the Club to do so as well.

Pagano asked Club President Doyle to speak, and Doyle stated that he appreciates the discussion around allowing the Club to react to safety concerns in a timely way. They do not want to be unnecessarily hand strung. They do not know when to ask the zoning administrator for approval and they may need a speedy response for timelines and contractors if there is a safety concern for their 850 members.

J. Breazeale stated that they did not change anything in the code, just one sentence for clarity. This has always been the process with the code since 2014 or so. They made no changes in process. If anything deals with zoning code, then it must be reviewed. If it was decided that the CUP amendment should go to the zoning administrator and then to Council and not Planning, then that is counter to the code and the code would need amendment. The process that has always been in place is the CUP amendment goes to the zoning administrator, Planning with a Public Hearing, and then to Council. It is now very clarified now.

Pagano stated that if 3.4.4.J could be approved at the March 11th City Council meeting and Honey added that it would go into effect March 18th and the policy formalized. Until then, the City can follow what is currently in the code, which is that any requests would go to the zoning administrator, and a determination if a CUP amendment is required or not. Then a CUP amendment Land Use application would go to Planning with a Public Hearing.

T. Breazeale stated that the process is being clarified now to hopefully avoid any circumstances in the future where a decision is made but then is appealed due to process leading to the thought that the wrong decision was made.

Council was in agreement that they will continue following the code and process and the proposed language will help to eliminate a grey area for the zoning administrator making a determination if a CUP amendment is needed.

Halverson motion, Breazeale second to approve the Zoning Code amendments with all changes as presented for submission to the DNR and Public Hearing. All ayes, motion carried.

10. New Business

10.1. Ord. No. 146 – Rescinding City Code Section 512(6)(b) regarding MN Building Code Optional Chapters (p.25)

Honey stated that there is a section in the City Code that references Minnesota Building Code Appendix specifically Chapter 1306 which refers to fire suppression systems. The City had adopted this additional chapter of the code, but it was never filed properly so the ordinance never went into effect. This issue came about due to fire suppression discussions for the new water treatment plant, and it was learned that

the suppression chemicals should not be near water. The City's building official, Metro West, recommended removing it as fire suppression chemicals are not allowed in the water treatment plant anyway. It is intended for larger communities with a large commercial base with large buildings. Our buildings are just as safe without requiring this language and Honey is requesting that it be rescinded from the City Code as it is overreaching.

Halverson motion, Breazeale second to approve Ord No. 146 2nd Series- Rescinding City Code Section 512(6)(b) regarding MN building Code Optional Chapters. All ayes, motion carried.

10.2. Affirming the Roles and Defining the Process to Determine the Need for a Conditional Use Permit Amendment

This was discussed earlier under item 10.1. After a lengthy discussion, they determined that the proposed zoning language in Section 3.4.4.J will help clarify when a CUP amendment is necessary.

11. Old Business

11.1. 2107 Hill Road Encroachment Update

Honey provided an update to the information presented at the February council meeting regarding the various items that were installed on City property adjacent to 2107 Hill Road by the previous owner. She worked with the City Attorney on an Encroachment Agreement and when the current property owner received the agreement, they decided that they did not want to keep the items including the deck. The City Attorney is drafting an Indemnification Agreement which the owners verbally have agreed to sign. They want to continue mowing and watering with the irrigation system. They removed the carport and the garden area, and the deck will be removed this summer by Hilgers.

11.2. Coyote Concerns Update

Pagano informed Lafayette Club President Doyle that a resident reported that there may be a den of coyotes living on the Club property near the woodshed. Doyle stated that he can hear them at night, and he will look into this. Pagano stated that residents can contact trappers if they want them removed from their property.

Council Member Mohr stated that the City should take a position and inform residents that the City is not going to remove coyotes. Although Do's and Don'ts were published for what to do if residents encounter a coyote, he stated that council should take a position on coyotes. This messaging should be posted to the City website and included in the Beachcomber and weekly SPLASH! eblast.

Breazeale motion, Halverson second to authorize Council Member Mohr to work with City Staff to draft language to communicate to residents the City's position on coyotes. All ayes, motion carried.

11.3. Rules of Procedure – Dock Committee

Honey stated that it has been mentioned in the past to add a riparian (lakeshore) property owner to the Dock Committee. That person would offer a different perspective and not have a personal interest in topics discussed and recommendations made. It was never officially added to the Rules and Procedures for that committee, and she is looking to do so to make it official.

Halverson motion, Breazeale second to amend the Rules of Procedure for the Dock Committee as presented. All ayes, motion carried.

11.4. Holistic View of Swim beach update

Breazeale stated that the Dock Committee Minutes are in the packet. Dock Committee Chair Jeff Steinke did a great job leading their meeting on February 5, 2024, which was well attended. The committee, along with resident and LMCD Board Member Richie Anderson, is looking at options to possibly move the

Swim Beach docks to improve the view and accessibility of the lake for everyone, and possibly improve the water quality at the beach, but not negatively impact City Dock renters. One layout was presented involving moving the docks south closer to the fire lane. She stated that there are other options, and a work group from the Dock Committee will get together with Richie Anderson to see what they are and what is feasible. The community can then get involved.

Halverson asked for clarification as to why residents who don't want to hire a dock installer company and do their own dock in and out are not allowed to drive on park/city property, but dock installer companies are allowed to.

Hilgers replied that no one should drive in the City parks and property including the dock vendors.

11.5. Water Treatment Plant Update

Pagano stated that last spring, City Council decided to give flexibility for building the annex for PFAS treatment at the new water treatment plant. It was decided to wait to see if the City receives Federal funding for the plant earmarked through Congressman Dean Phillips' office as part of the Appropriations Bill. Speaker Johnson stated that Congress will make their decision by March 8th. He added that as it relates to the State, the City made another pitch to them. Representative Myers is introducing another bill this week on behalf of Minnetonka Beach Discussions have taken place with the health department regarding the standards for PFAS treatment and the City is waiting to hear what the EPA has determined them to be.

Pagano stated that the funding criteria used to determine who is awarded funding include the functionality of current plant and residents have water free of iron and manganese. They also consider the average income in the City compared to rest of the state. At \$248,000 average household income, Minnetonka Beach residents' income is five times higher than other communities. The City only has seven points and there are 687 projects being considered for funding. The City is ranked #687 for water main projects on the Project Priority List (PPL) and #543 out of 687 for the water treatment plant project.

Pagano stated that over the next 60 days, the City must decide, without all the facts, which way to proceed with the water treatment plant project and begin the bidding process. Stantec is looking at mid to late April to put the project out for bid in order to break ground late May. Hilgers confirmed that information. Pagano added that the wait time will expire in April.

12. Finance

12.1. Financial Dashboard – January 2024

Zinn confirmed that the 2023 audit was very successful and reserves are up. He presented the Financial Dashboard noting that \$360,000 in Bond payments were made, both interest and principal, with principal paid once annually, resulting in current new balances down over \$200,000 from where they were. He noted that interest income was huge due to rate hikes in 2023 at \$90,000 and only \$3,000 was budgeted. He anticipates that interest rates should not drop dramatically. It was a quiet month for checks noting that \$84,000 was issued to Stantec for water treatment plant related work.

Breazeale asked what the City is doing with accruing interest and Zinn explained that it is in Reserves and the General Fund. He added that the City is not allowed to pay down principal until call dates.

13. Consent Agenda

1. Consent – 8:45 (p. 51)

- 1.1. Fire Report – January
- 1.2. **Resolution 2024 - 08** Resolution Reestablishing Precincts and Polling Places
- 1.3. **Resolution 2024 – 09** Appointing Election Judges, Designation of Hennepin County as Central Court for

- Processing and Counting of Absentee Ballots, and Establishing an Absentee Ballot Board
- 1.4. **Resolution 2024 – 10** - Resolution For Acceptance Of One-Time Public Safety Aid And Approval Of Usage Of Funds
 - 1.5. **Resolution 2024 – 12** - Consider Appointment of John Whitaker to the Dock Committee
 - 1.6. **Resolution 2024 – 11** – Lafayette Club and Sunday On-Sale Liquor License for Lafayette Club
 - 1.7. Approve Checks: February 2024

Breazeale motion, Halverson second to approve the Consent Agenda. All ayes, motion carried.

14. Open Forum opened and closed at 8:39 pm with no discussion.

15. Staff Reports

15.1. Administrator’s Report

Honey stated that she has been working on the Wellhead Protection Plan and was notified that Robyn, of the MN Rural Association, can work with her in writing the plan. This will save the City \$20-30,000 by not needing Stantec’s help with the plan. She added that the Planning Commission will have many Public Hearings at their February 26th meeting. Three of them are zoning code amendment related, one is a variance request at 3 Crescent Street, and one is the Lafayette Club’s CUP Amendment request for the fence near Hole #7. City Attorney Batty will review the request and provide an opinion letter.

Honey stated that PFAS and PFOA contaminant guidelines have been substantially lowered by the MN Department of Health. Toxicologists determine the level that is acceptable for health, and they lowered the PFOA acceptable level from 35 to .0079. Minnetonka Beach PFOA readings have been 3.2 and 2.7. Lowering the standards makes it harder for cities and systems to comply. She added that she is continuing to work on the class action suit.

15.2. Clerk’s Report

Burgess stated that her memo is in the packet and noted that she has been busy with the City Dock program for 2024. Priority I and II renters from last year have the first right for renewal for this year and those applications are due March 1st. She then will fill remaining docks slips with those on the waiting list if appropriate and those who are lower priority or want a second slip. She expects the 80-slip program to be nearly full again, although only about 73 of the slips are rentable if the nearly four year drought and low lake levels continue.

15.3. Public Works Superintendent’s Report

Hilgers stated that he worked hard to have ice for Civic’s skating party at Ray Peters, battling the warm temperatures. The rink is now closed for the season. He cleaned up the basement, built new shelving for Civic and the City down there. He has spent a great deal of time with the MN Department of Health and Stantec regarding the water treatment plant. Honey added that Hilgers removed the old drinking fountain that is rarely used from the lobby in City Hall and replaced two old ceiling fans in City Hall.

16. Council Reports

16.1. Liaison Reports

Breazeale – She provided the Dock Committee meeting recap earlier and the Park Commission did not meet in February.

Dovolis – no report

Halverson – no report

Mohr – no report

16.2. Mayor’s Report

Pagano presented the new 2024 City Council Administrative Calendar which is color coded. He explained that this one simple document shows items in green which are normal things done every year, and items in yellow are new from council direction from October - January. He added that this calendar is a dynamic document and will be updated appropriately. He spoke to the competency of the commissions, gave kudos to staff and praised Honey for the clean audit. He noted that the almost three-year zoning review process done by the Planning Commission is 90% done and praised Chair Jeff Breazeale for his continued efforts. Pagano stated that nearly an hour was spent at this meeting discussing one point of “process” and how important it is that the process is agreed upon before something begins. The water treatment plant There are 60 more days to wait for information to help council make a decision on the water treatment plant. The City will announce to residents their position on coyotes after Mohr works with staff on this.

17. Adjourn

Dovolis motion, Mohr second to adjourn the meeting. All ayes, the motion carried.

The meeting adjourned at 8:47 pm.

PUBLIC IN ATTENDANCE – Steve Doyle, Jacob Saufley, Heidi Whitaker, Laura Paine, Jeff Breazeale

Respectfully submitted,

Jane Burgess, City Clerk