

Monday, February 13, 2017 7:00 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES

Mayor Taylor called the City Council meeting to order at 6:30 p.m. Also in attendance at the meeting was attorney George Hoff, and City Administrator Susanne Griffin. George Hoff stated that Pursuant to M.S. 13D.05, subd. 3b, the City Council may close the meeting to have a confidential discussion regarding Mathews/Hacker vs the City of Minnetonka Beach.

A motion was made by Council Member Kozloski, and seconded by Council Member Lindstrom to close the meeting under the attorney/client privilege provisions of state statute.

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 and Public Works Director Ben Young.

Guests: Police Officer Kyle Russeth, Dennis Klohs, LMCD Representative; Patty Rezabek, Park Commission Vice Chair; Robin Zinn, Civic Committee Chair; Andy Berg and Bonnie Schweiger, Abdo, Eick and Meyers; George Gmach

- 1. Mayor Taylor called the open portion of the meeting to order at 7:09 p.m.**
- 2. Council Member Kozloski led the Pledge of Allegiance.**
- 3. Approve Agenda for the February 13, 2017 City Council Meeting.**

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

4. Approve Minutes

4.1. Regular Council Meeting of January 9, 2017

Council Member Myers referred to page 11 of the minutes and stated he was confused when he voted on the motion which was to adopt Resolution 2017-13 appointing Paul Kozloski to Council. He asked to have it on the record that he initially voted against appointing Council Member Kozloski to Council and he intended to vote against adopting Resolution 2017-13 as well. Council Member Bartel referred to page 7 and asked to add that Mr. Rosenblum was initially told by the zoning administrator that he could take down the tree but then it was discovered the tree was on City right-of-way property. She also noted a typo on page 6 where the word “he” needs to be added. Mayor Taylor requested changing the wording “standard quo” to “status quo” on page 4.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the Regular Council meeting minutes of January 9, 2017 as amended. With all members voting in favor, the motion carried.

5. Police Report –

5.1. Police Report – January Report

Officer Kyle Russeth reported for Sgt. Stensrud. In January, kids were playing ding dong ditch, lights and a sign were taken from St. Martin's Church, there were construction noise issues, an intoxicated person was removed from a residence, and a suicidal person was taken to the hospital. He reminded Council that it is tax season and there have been IRS phone scams. The IRS would never call someone for private information. As part of Orono's cleanup day on April 29, prescription drugs will be collected with no questions asked.

6. Open Forum

Resident Rick Skalla - 3124 Old County Road.

Mr. Skalla addressed a number of concerns, including his belief that (1) there is a lack of leadership by the Mayor and Council, (2) Commissioner Hacker has a conflict of interest and is unable to keep personal and city business separate, and (3) Commissioner Hacker should either recuse himself until his personal issues with the city were completed or resign from the Planning Commission. Mr. Skalla provided an account of his communications with Commissioner Hacker. Mr. Skalla also noted that he had requested that his letter to Commissioner Hacker asking him to resign was not included in the January Council packet as Mr. Skalla had requested. Mr. Skalla asked if the City Council was going to continue to accept Commissioner Hacker's actions as a planning commissioner when he is suing the city. Mr. Skalla also expressed his view that the Council and the Planning Commission are not giving Zoning Administrator Gozola sufficient support.

Mr. Skalla expressed his belief that Mayor Taylor and Council Member Bartel have a conflict of interest due to their personal friendships with Nell Mathews and Max Hacker. He also said he did not think it was appropriate for council members to have private meetings discussing public matters outside of a public meeting. He believes at the December Planning Commission meeting, Council Member Bartel took it upon herself to speak for the City and commented on Mr. Skalla's intentions.

Mr. Skalla stated his belief that Mayor Taylor misrepresented Mr. Skalla in his comments regarding the police contract.

Mr. Skalla then made the following requests to the City and the Council:

- Council Member Bartel and Mayor Taylor recuse themselves from any matter related to the Hacker/Mathews lawsuit because they cannot separate their personal interests from City business and therefore have a conflict of interest.
- Remove Max Hacker from the Planning Commission due to his conflict of interest because of his lawsuit with the City.
- Each council member to go on record and state if they think it is a conflict of interest if a commissioner or council member has a lawsuit with the City.
- Adopt a formal conflict of interest position and statement.
- Adopt a strong description of council liaison duties.
- Remove Council Member Bartel as liaison to any commission.
- Adopt a policy to upload audio recordings of all City meetings and to investigate broadcasting and videotaping all meetings.
- Council Member Bartel to publicly apologize for her gross negligence, slanderous comments and blatant lies about Mr. Skalla's intent.
- Mayor Taylor to publicly apologize for his misrepresentation of the police contract discussions.

Nell Mathews – 2643 Arcola Lane. Ms. Mathews asked Council to consider adding specific litigation details and who will be in attendance to the agenda of closed session meetings. She also raised concerns that the City Attorney might be offering advice relating to her or her husband as they are represented by the City Attorney’s firm of Lindquist & Vennum.

7. Guest Speakers

7.1. Park Commission Report – Vice Chair Patty Rezabek

Vice Chair Rezabek said the Park Commission report is in the packet. The commissioners are being fiscally responsible and working hard on improving the City. She went on to say that Liz Honey did an exceptional job cleaning the swim beach but it is too much work for one person so they decided to hire a cleaning service. The Half Moon Park playground update will be completed early spring. She thanked Council for their support on inventorying, removing and treating EAB affected trees. Park’s long term plan is to maintain, protect and improve the parks. Council Member Myers said they hope to do competitive bidding to be able to plant more trees. Treasurer Howarth pointed out they went over budget on tree trimming in 2016.

7.2. Civic Committee Report – President Robin Zinn

President Zinn reported that their itemized expenses are in the packet along with a list of upcoming events. They added National Night Out on August 2 to the list of the regular annual events. They voted to raise dues to \$50 from \$40 to accommodate their expenses. Council Member Kozloski commended the work they do for the community.

7.3. Dennis Klohs – Update on LMCD Ordinance Changes

LMCD Representative Klohs reported on newly adopted updates to the LMCD ordinance which allow the City to have more flexibility in dock configurations without changes in overall capacity. The updates also organized and clarified sections of the code for ease of use.

8. Treasurer’s Report

8.1. 2016 Financial Audit – Andy Berg and Bonnie Schweiger - Abdo, Eick and Meyers

Treasurer Howarth said Administrator Griffin does a terrific job with the City’s financials. He thought the following items should be reviewed: water rates have not been covering costs, the rate of return on investments is less than one tenth of one percent, establishing a fund for retirement benefits, explore timing of capital projects with the rising interest rate environment, further establish an investment policy, and examine the stipulation in the Capital Asset Financing policy for the eventual replacement of the water tower to allocate funds for that. Research needs to be done to see if that policy was passed by this Council.

Mr. Berg reviewed the Management Letter in the Council packet. He said the internal control deficiency finding is common in small to medium size organizations. The City had an audit which did not identify any deficiencies in internal control that would be considered a material weakness. The City may want to look at higher interest options but it is limited in how it can invest.

Ms. Schweiger reviewed the financial portion of the audit. The general fund as a percentage of the overall fund is 78%, and the City’s policy is 65%. There were no large swings in the actual general funds compared to the budget. General fund receipts and disbursements were consistent with prior years. Although page 9 shows comparisons of receipts and disbursement with surrounding cities, there would need to be many adjustments to compare them accurately. The City should consider water rate increases to cover liabilities. The Sewer fund shows a healthy receipt to disbursement

ratio. Ms. Schweiger explained that the large increase in the sewer utility cash balance on page 13 was due to the Lafayette Club paying a pass through to the City for MET Council Sewer Access fees. The City paid the SAC fees to the MET Council in January 2017. It was appropriately adjusted for in the financial statements. Ms. Schweiger stated there was a formula error on the minimum target balance of the storm water cash balance table. It should be \$3,000 for 2015 and \$2,600 for 2016. New GASB standards will affect the City in the future.

Council Member Bartel suggested the Finance Committee meet to examine the Capital Asset Financing Policy to determine when they were passed and how to proceed.

Council Member Lindstrom discussed having the Utilities Committee meet to determine bonding needs to forward on to the Finance Committee. Council directed staff to put together a Utilities Committee meeting for them to review the capital plan and make a recommendation for Stantec to determine the feasibility of the projects in the 2018 plan.

8.2. Approve checks: February 2017

Treasurer Howarth pointed out that the Blue Cross Blue Shield bill was corrected because they incorrectly set up employee accounts. The lift station repair on Woodbridge was for a burnt out motor and new rails. Council discussed the police contract costs. They also discussed having more than one council member or one council member and the treasurer at contract negotiations. Council directed staff to see which council member can attend a meeting with Mayor Taylor and Chief Farniok on Thursday. Mayor Taylor suggested Chief Farniok attend a future Council meeting to explain options that have not been presented in the past.

Administrator Griffin handed out an Unbilled Costs by Job report and three contract services reports (legal, zoning and engineering). Mayor Taylor discussed costs associated with building permits and possibly requiring escrow accounts. Council expressed potential issues with managing escrow accounts. Council Member Bartel offered to look back at billing to see if there are concerns and try to determine average costs. The Finance Committee could address escrow accounts when they meet. Council discussed the possibility of Sambatek billing residents directly and determined the contract would need to be reviewed.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve 46 checks numbered 15983 through 16028 in the amount of \$77,465.36 for February 2017 expenses. With all members voting in favor, the motion carried.

8.3. 2017 YTD vs. Budget and Prior Year Comparison Report

Treasurer Howarth said - \$44,282 in account code 1120 correlates to the adjustment of MET Council fees that were collected from the Lafayette Club in 2016 and paid out in 2017.

8.4. Outstanding Accounts Receivable Report

The City is working on collecting them and none are over one year old.

9. Consent Agenda

- 9.1. Fire Report – January
- 9.2. Minnesota Pay Equity Implementation Report
- 9.3. **Resolution 2017 – 15** Amending Resolution 2017-07 Council Appointments
- 9.4. **Resolution 2017 – 16** Club and Sunday On-Sale Liquor License for Lafayette Club

- 9.5. **Resolution 2017 – 17** Consider Resolution Accepting Donation of Trees
- 9.6. Wells Fargo Half Marathon Special Event Permit – May 7, 2017

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

10. New Business

10.1. Classification and Compensation Study – George Gmach

Mr. Gmach reported on a compensation study he performed for the City to develop a competitive and compliant pay system for its employees and to comply with state pay equity rules. The City previously used the state job match which is a catalog of jobs and associated points throughout the state. Small cities often try to pick the closest match but it usually is not a perfect match. If the match does not adequately match the job being performed, the city may be out of compliance. Mr. Gmach's study accurately examines the job being performed by parsing it out into all the different responsibilities of the job and assigning points to them.

The baseline in the tables of the report is points. Page 9 of the report showed the jobs and associated points for the jobs. Comparison between cities is difficult because of difference between each community. For top jobs, they try to compare similar size cities. For mid to lower level jobs, cities are competing for the same pool of talent regardless of the size of the city. He noted the last chart of the report on page 5 has the more reliable data because it is the best match among the group of jobs in the area. It shows the City Clerk position at 341 points. He studied local jurisdictions and included some larger cities for market value. This study revealed one position below the range and Council should look at ways to catch up to make it more in line. He went on to explain that the pay structure on page 6 is designed as a step system but it does not need to be used as a step system. Cities can also just use the minimum and maximum ranges. If a city only does incremental increases, such as a 2% cost of living increase every year, the employee will never be able to catch up to the market rate. The maximum pay in the range is the market rate. Most cities set up their pay system for employees to hit the maximum rather quickly, with cities closer to the metro hitting the maximum more quickly and rural areas moving more slowly. For the pay equity report, the state is looking to see that increases in pay correspond with increases in points so women are not paid less than men for jobs with the same points.

Although not all towns around the lake are included in the report, it represents cities which are a good comparison for Minnetonka Beach.

The City used to have step and COLA increases and then they eliminated step increases during the recession. Cities who did not use step increases during the recession experienced turnover because people were not at the market rate. Cities will experience turnover without market based increases. Council discussed ways to catch the City Clerk position up to the pay range. Mr. Gmach said a vast majority of local city employees are reaching retirement age. Treasurer Howarth suggested not just automatically putting the City Clerk at the minimum pay. Council decided to have Mayor Taylor and Administrator Griffin meet to discuss the City Clerk pay disparity and report back to Council at the March meeting with a recommendation. Mr. Gmach will send a key to Administrator Griffin which shows the points per factor from job descriptions. The points can be subjective. Council discussed having a working session to understand how the ranges are established and points are assigned. After they agree on how they want to proceed, the Finance Committee can determine financial implications.

Mr. Gmach said if the pay system is maintained, the study should not have to be re-done very often. By tracking the League's salary survey and percentage increases of surrounding cities, the city should be able to remain at market rate. If there is a change in job responsibilities, Mr. Gmach could re-rate a specific job.

11. Council Meeting Action Notes and Staff Reports

11.1. Council Meeting Action Notes

Mayor Taylor said he will be meeting with police Chief Farniok. Administrator Griffin will follow up to see if there are any updates with the MET Council legislation changes. If there are none, it will be removed from the Action Notes. Public Works Director Young said that the stop sign at Palm Lane and Beach Lane is low but visible. There are no legal height requirements for stop signs. Council decided to assign it to the Planning Commission as part of the Transportation Study. Engineer Amundsen met with Planning Commission Chair Orehek to define the scope of work for the specific issues of signage, parking and traffic calming from the Transportation Study. The Planning Commission will likely see a proposal for these issues at the next meeting and make a recommendation to Council in March.

11.2. Director of Public Works Young –

He will be attending the MN Rural Water Association Conference March 7-9, 2017. He said the skating rink is officially closed. He trimmed trees along Northview. He also had a water main break at a curb stop on Westwood in front of Katie Norman's property. The curb stop is only 6-8 years old. After repairing the break, he packed down the dirt but the soil is frozen and he will have to repair it further in the spring. Katie Norman asked what can be done in the interim to make it look better. Public Works Director Young offered to put mulch down for her. Ms. Norman will contact him if she decides she wants mulch.

11.3. City Clerk's Report

Clerk Honey thanked Council Members Lindstrom and Kozloski for taking the Local Board of Appeal certification training. She plans to attend the Clerks Conference in Welch from March 15-17.

11.4. Administrator's Report

Administrator Griffin pointed out that the public hearing notice for the zoning code updates will be published three times and the notice states there may be a quorum of Council members present.

12. Council Reports

12.1. Mayor's Report – Mayor Taylor

12.2. Liaison Reports-

Council Member Bartel – She reported that the Planning Commission elected officers and Corey Orehek is now Chair and Max Hacker is Vice Chair. Council Member Lindstrom said she was concerned about some statements in the Planning Commission unapproved minutes in the packet regarding the Planning Commission's relationship with Council. The Planning Commission discussed communication issues and holding Council more accountable. Treasurer Howarth explained there were a couple of times Planning was disenfranchised when their recommendations to Council were not approved. He thinks Planning was looking for feedback from Council to educate them on what they missed in the process or why their recommendation was not approved. Council Member Bartel suggested that the previous zoning administrator may have communicated differently back to the Planning Commission when Council did not support their recommendation. Council

discussed that they need to be clear with each commission what their role is and there needs to be good communication and transfer of information between commissions and Council. Council Member Myers suggested defining the authority and role of the commissioners, staff and liaison. Treasurer Howarth asked Council Member Bartel to follow up on some unresolved items in the zoning code amendment such as swapping hardcover and home occupations that should be addressed with the code updates. Council discussed inviting Chair Orehek to the next meeting to discuss concerns about communication and Council accountability.

Council Member Lindstrom – Civic Committee raised dues to \$50. The skating party was a great success. The Newcomers party is April 9 from 3-6 pm at Jillian Moriarity’s home and Council is invited. The Progressive Dinner is May 20.

Council Member Myers - Parks will meet April 18. Information from the Fire Commission meeting is in the packet. Because the volunteer department is vital and it saves the community a lot of money, he wants the City help to support them as much as possible. Administrator Griffin said the fire department itself is not a nonprofit but the organization that supports the fish fry is a registered nonprofit. Now that the City is aware of the non-profit status, the fire department is eligible to sell tickets in the City without a solicitor’s permit.

Council Member Kozloski – no report

Treasurer Howarth – Treasurer Howarth attended the LMCC meeting. They are exploring a cable franchise with Frontier which would compete with Mediacom. He also said the City has \$1,600 in grant money available for audio/visual aids. Administrator Griffin has met with several of their vendors to discuss a/v needs and she will report the on the vendors and costs at the next meeting.

Nell Mathews, 2943 Arcola Lane, asked to speak. She thanked Council and staff for everything they do and all they put up with in their roles serving the City. She went to say that she and Mr. Hacker do not expect special treatment because of working and personal relationships with council members and they also do not expect to be treated unfairly because of their difference in philosophical approaches with the City.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to adjourn the meeting at 10:34 pm. With all members voting in favor, the motion carried.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Lee Goehring, Rick Skalla, Kyle Russeth, Nell Mathews, Patty Rezabek, Sue Kozloski, Betsy Taylor, Robin Zinn, and Max Hacker.

Respectfully submitted,

Heidi Honey, City Clerk