

**Monday, February 13, 2023 6:00 PM**  
**CITY OF MINNETONKA BEACH**  
**CITY COUNCIL MEETING MINUTES**

**Roll Call:** Mayor Joe Pagano; Council Members: Tracey Breazeale, Chris Dovolis, Jennifer Halverson, and Treasurer Chris Zinn. Absent: Vibhu Sharma

**Staff Present:** City Administrator Heidi Honey and City Clerk Jane Burgess

**Guests:** Orono Police Chief Correy Farniok, Park Commission Chair Kim Petersen, and Civic Committee Chair Heidi Whitaker

**1. Mayor Pagano called the meeting to order at 6:00 p.m.**

**2. Clerk Burgess led the Pledge of Allegiance**

**3. Approve Agenda**

**Halverson motion, Breazeale second to approve the agenda. All ayes, the motion carried.**

**4. Approve Minutes –**

4.1. Regular Meeting of January 9, 2023

**Breazeale motion, Halverson second to approve the Regular Meeting Minutes of January 9, 2023. All ayes, the motion carried.**

**5. Guests**

5.1. Orono Police Chief Correy Farniok

Chief Farniok welcomed the new mayor and city council members, and invited them to contact him with any questions and concerns they may have. He presented the January 2023 police report stating that it was not a very active month in Minnetonka Beach. There was a motor vehicle assist call and a few other minor incidences. A potentially dangerous dog call occurred when a resident's dog bit a visiting child in the face which required a few stitches. Farniok stated that overall officers are stopping more cars now for expired tabs as these stops sometimes lead to drug possession and other violation arrests. He added that there is an uptick in robberies in the west metro stemming from unlocked vehicles in driveways, where also homes are entered using the garage door opener from the vehicle. Theft of vehicles is increasing again as well in the western suburbs. He advised that valuables, garage openers, and keys be removed from vehicles both in garages and parked outside.

Breazeale asked Chief Farniok if officers regularly patrol the City's somewhat secluded Ray Peters Park, and requested extra patrolling there. She stated that she has heard reports of suspicious activity in the warming house. Farniok agreed to have officers do so, and explained an app they use to receive patrolling requests or other calls when they are generated.

Mayor Pagano asked Farniok if there are any issues in the surrounding communities. Farniok stated that people are coming out to the western suburbs from other places for theft, burglaries, and to steal vehicles. They often abandon stolen vehicles driven to this area and then steal cars in this area. He added that new cameras on Hwy 12 are useful tools to locate vehicles as officers can scan a license plate and alert police of stolen vehicles in the area.

**6. Annual Reports**

6.1. Park Commission – Chair Kim Petersen

Park Commission Chair Petersen presented the 2023 Annual Report entitled, *Staying the Course*. She stated that 2023 is the 4<sup>th</sup> year of the original Five-Year Plan of the Park Commission as they continue to execute their mission statement. Report takeaways include:

- Effective, efficient and sustainable processes are in place thanks to Joe Pagano

- Protection of Minnetonka Beach's historic character and charm
- Collaboration is the core of how Parks operates
- City continues to fund (CIP) high value projects

Petersen summarized the administrative and operational calendars the commission follows throughout the year that align with the City's operating cycle. During the winter months, the commission evaluates what worked and what did not in the previous year, and together with council and residents, determine projects for the coming year. She highlighted projects recently completed including nurturing newly planted trees and gardens, shoreline restoration, Swim Beach and Ray Peters Park projects, existing garden maintenance, and themed window boxes and planters in various places in the City. She added that trees throughout the City are maintained to ensure a healthy tree canopy.

Petersen listed the numerous sign, bench, and picnic table refurbishment projects completed throughout the City by resident volunteers in 2022. She credited council member and former Park Commission Dovolis, for executing the badly needed Welcome Sign replacement project. Planned projects for 2023 include swim beach paver work, new vintage-look, composite benches at the Swim Beach, rip rap work at City Dock 2 and possibly Docks 5-7A due to severe erosion on Crystal Bay, cleanup and other projects with Junior Civic, and future restoration of shoreline and other areas with native plantings, including pollinators in support of the Mayor's Monarch Pledge.

Petersen explained the updated collaboration and communication plan Parks has with Public Works Superintendent Hilgers going forward in many areas especially Hard Asset Inspections. Swim Beach grooming will occur five days weekly with the help of Public Works seasonal employee Kohlton Beck. Hilgers will oversee the Swim Beach Docks installation and removal process to keep the area safe for residents. Public Works will maintain the warming house and library, City Hall grounds, and Ray Peters Park. They will mulch and water the newly planted trees as well, and trim and remove City trees. She also summarized Parks collaboration and communication with residents for volunteer City projects, and their relationship with City Staff to accomplish necessary implementation of the Commission's programs.

Petersen identified possible risks this year including the potential for a third year drought, continued erosion of Crystal Bay shoreline, vandalism leading to repair of City property, wildlife damage to trees, shrubs, and plantings, invasive species and forest health. Petersen concluded her presentation by thanking council for their support and she providing council members with copies of the Monarch Pledge for their review.

Halverson asked if Park Commission has a new gardening company yet, and Petersen stated that they are working on it. Burgess included messaging about this search in the WEEKLY SPLASH! eblast as well.

Pagano thanked Petersen for stepping up to be Park Commission chair, and for her presentation. He added that it showed how many details the Park Commission, like other committees and commissions, balance with a lot of work and organization.

#### 6.2. Civic Committee – 2022/2023 President Heidi Whitaker

Civic Committee President Whitaker presented the 2022 Annual Report for the 44 member Civic Committee. She and her family have been residents for 16.5 years, and she's been a Civic member for 15 years, currently serving as president for a second time. She listed the names of those presently serving in leadership roles including Grabek, Emmel, Johnson, Breazeale, Rezabek, Anderson, Haag, Burgess, and Junior Civic President Madry Breazeale. Whitaker stated that Civic plans and organizes seven events each year for residents, including the Progressive Dinner, attended by 98 residents in 2022, Spooky Walk/Halloween party, Tea & Toddies, the Skating Party, Newcomers' Party, Monday Fundays, Summer Picnic, and National Night Out events. She thanked Jeff and Tracey Breazeale for hosting both the Progressive Dinner, and the Tea & Toddies Open House last December. She explained that these events are funded by resident dues, and the 2023 dues letter was recently mailed to each home. Whitaker stated Civic oversees Junior Civic, led by President Madry Breazeale, which is comprised of resident young people who sign up for fun and meaningful volunteer and service projects in the City including park and beach cleanups, canned food drives, and leaf raking for elderly residents.

Whitaker stated that Civic's goal this year is inclusivity and partnership amongst members. She stated that half of their membership has been on Civic for 10+ years, and they have busy lives at this time, making it difficult to engage as they once were able to. The other half of membership is comprised of many who are new to Civic, new to the community, or have young children. Civic's goal is to have tenured members partner with newer members to engage more fully and become more active. Host and co-host partnerships are in place now with meetings and events being hosted by a tenured member, and co-hosted by a newer member who can learn the ropes from the tenured member. This increases the confidence level for passing the torch to newer members who hopefully will take the lead in the near future.

Whitaker thanked council members and Mayor Pagano for working tirelessly for this great community. She added that Minnetonka Beach is a special place, filled with parks, trails and a beach. She stated that Civic works hard to create activities that are interesting, fun and meaningful for a broad spectrum from the youngest children to the most senior seniors.

Pagano stated that the roster of events that Civic has planned is second to none in the lake area community, and asked Whitaker how council can help them. Whitaker stated that she will ask Civic members that question, but added that that council has great representation and a strong partnership with Civic from Breazeale and Halverson who provide council updates.

## 7. Open Forum

No discussion.

## 8. Finance

### 8.1. 2022 Audit – Senior Manager Bonnie Schwieger, Abdo

In her 8th year working for the City of Minnetonka Beach, Schwieger presented the City's 2022 Financial Statement Audit Report. She stated that the report is not finalized yet as she is waiting for any possible state PERA updates. The main goal of Abdo's Audit Report is to issue an Opinion Letter on the City's financial statement, as required by state statute, regarding their annual audit. Schwieger stated that Abdo issued a clean opinion with no instances of non-compliance and only one internal control which is preparation of financial statements. Abdo provides this service for the City, so this is an internal control item to be aware of. Other highlights of the report Schwieger stated are:

- The City has a very healthy General Fund Cash Balance of \$1,167,543 or 81.5% in equity balance and reserves to cover the operating budget. The Minimum Fund Balance Policy requirement is 65%.
- The General Fund Budget to Actual for 2022 disbursements was fairly close to budget. City Receipts were \$130,000 over Actual budget of \$1,077,076 due to high building permit revenue. Tax revenue increased as well and the overall Net Change in Cash Fund Balances was \$174,063.
- Under the General Fund Disbursements by Type category, Legal costs and Other decreased in 2022 from 2021 and 2020. Zinn added that under General Government it appears that costs are declining. Schwieger agreed stating that in 2021 and 2020 there were expenses relating to City Hall projects, but not so in 2022. He stated that costs at City Hall will not continue to trend down, although he noted that Honey and Burgess are monitoring expenses well, especially zoning/engineering and legal expenses.
- At the end of 2022 there was about a \$200,000 Cash Fund Balance in the Capital Project Fund.
- Water Fund shows cash flows from Operations and Cash Balances and determines how much over are operating costs and debt payments not being covered by receipts. The Water Fund is the City's operating revenue, and also capital expenses and debt relating to water. The City has not had enough receipts coming in to cover these categories. The water rate increase has gone into effect, based on the utility rate study, and will help cover those expenses and close this gap. Abdo recommends and the City meets the Minimum Target Balance following year debt service plus 50% of Operating Costs.
- Sewer Fund shows that operating costs and receipts have been fairly close the last few years. Also, Federal Grant ARPA funds were used for City sewer repairs.
- Stormwater Fund does not show a lot of activity on an annual basis.

- Reserve summary shows how the City is broken apart from a finance perspective with six different funds each having their own purpose, responsibility, and reserve requirement. The City has a total of 93% Reserve to Budget so the City's funds are fairly healthy, but the increased water revenue going forward will help.
- Debt Capacity shows how much debt can the City issue and shows the bonds that are applied to that debt. This is the total debt the City has at the end of 2022 of \$4,700,000, and the 2022 Legal Debt Margin is \$7,411,932. Zinn clarified that bonds that are paid by water should not necessarily be included in the report. He added that future bonds issued for the water treatment plant will be paid with water revenue. Zinn stated that Ehler's said that the City will still maintain its AAA rating when additional bonds totaling \$6 million are issued for the new water treatment plant.
- Debt Service Future Payments: Shows bond payments, principal and interest, over the next ten years.

Breazeale asked for clarity and recommendations on Schwieger's earlier comment that the City's financial statements are prepared by Abdo. Schwieger stated that the City carefully reviews their financial statements. She added that when Honey reviewed them, she needed to make corrected journal entries that were not done correctly prior to her becoming City Administrator. Zinn said that Honey has done a great job with City accounting, and he also appreciates the consistency of working with Schwieger and the improvements she has made over the last eight years.

Pagano credited Honey and Zinn for the amount of financial detail they provided Schwieger for the audit. He also thanked Schwieger for her thorough work performed for the City and pertinent details provided.

#### 8.2. Financial Dashboard – January 2023

Treasurer Zinn presented his January Financial Dashboard. He stated that he contacted Bridgewater Bank to secure better interest rates as the City was at only .1% for a long time. They offered a 1.5% rate, earning \$1,000 for that phone call request. Zinn also updated interest rates to 4.18% in the City's 4M fund, and the Ehlers rate to 3.8%. He hopes to secure a 4% rate when City CD's are reinvested.

Zinn stated that this year compared to the prior year the City has more cash, and the restricted funds are gone now. He stated that The City pays debt service twice annually making a February 1<sup>st</sup> principal and interest payment in the amount of \$310,000. Due August 1<sup>st</sup> is an \$80,000 interest payment.

Zinn reviewed AP in his Financial Dashboard.

### 9. Old Business

#### 9.1.1. Shoreland Rules and DNR Code Compliance Task Force – Planning Commission Chair Jeff Breazeale

Chair Breazeale presented an update to council stating that in January of 2022, the Planning Commission voted on a project priority list. In March of 2022, council reprioritized the projects with completing the Tree Preservation Ordinance as number one, and getting City Code in compliance with DNR regulations as priority number two. He stated that he asked the DNR Code Compliance Task Force to attend this meeting, noting that they are a very talented group who obtained approval of the ADU Ordinance Amendments by council in September of 2022, and have been working with the DNR on code compliance issues and bringing the 2017 code into compliance with the DNR regulations. Some members worked on an additional task force on the creation of the Tree Preservation Ordinance approved by council in August of 2022.

Chair Breazeale stated that the Planning Commission did not meet in November and December in 2022 as there were no variance requests, and the task force was doing their DNR code compliance research. At the January 2023 Planning Commission meeting, they voted 5 to 1 (except Breazeale) to support a modified direction for the task force to get city code compliant with the DNR. He wanted to present the discussion they had at Planning, and share his concerns and have the task force share their concerns as well.

Chair Breazeale referenced a letter dated October 17, 2022 from the DNR to Minnetonka Beach where they stated they expect the City to amend its current Land Use Regulation ordinance to be consistent with ordinance language approved by the DNR in 1996 as required under Minnesota Statute 103F.221. He added

that the approved 1996 language generally followed an agreement established in a September 17, 1992 letter from the DNR granting three important areas of flexibility as it pertains to shoreland ordinances, and seven important areas of greater restriction pertaining to shoreland regulations, which he is calling the “3/7 Agreement with the DNR.” The number 3 represents: 1) Height of Buildings, 2) Lock Boxes (now called water oriented accessory structure - WOAS), and 3) Hardcover. The number 7 represents: 1) Lot Size, 2) Setbacks from OHWL, 3) Lot Width, 4) No Boathouses Permitted, 5) No Guest Houses Permitted 6) No Septic Systems Permitted, and 7) No Penalty Credit for PUDS. It went on to say that the DNR was advised by the task force during the ADU ordinance amendment process that their goal is to complete its overall shoreland code update work by December 2023.

Chair Breazeale stated that he met with task force member Nell Mathews to discuss the 3/7 Agreement with the DNR. Regarding the 3 Areas of Flexibility granted by the DNR, he stated that they focused on the 30% hardcover with an option to go to 35% with 5% credit for permeable surfaces issue as WOAS and building height were not pertinent at this time. He added that for the 7 Restrictions promised by Minnetonka Beach, they did not focus their discussion on ADU’s as that was completed, Lot Size is not an issue, Lot Width went from 150’ minimum in 1996 to 100’ minimum in 2017 with the DNR Model Ordinance at 75’. He stated that the Lake Setback calculation had changed and the Planning Commission finds the current calculation to be confusing and prefers the 1996 calculation. The task force has identified other potential issues to date in the 3/7 Agreement that need to be cleaned up and they have created a process for doing so. They want to research and evaluate the 3/7 Agreement points, work with the DNR for clarification, and identify areas where Planning Commission’s direction is needed to get into compliance in 8 months.

Chair Breazeale stated that the task force would like to draft code amendments to the 1996 code, not modify the existing the 2017 code. They want to work with Planning to summarize and prioritize any flexibility grant areas, negotiate with the DNR and report back to Planning with DNR parameters. The task force would then finalize proposed code amendment draft language and submit for review to City Attorney and City Planner. Language would then be submitted to the DNR for conditional review with the goal to obtain DNR preliminary amendment approval to the 1996 code. He added that Planning would have public hearings and commission would recommend code draft to city council with council adoption and DNR final approval. He stated that he is concerned about meeting the December DNR deadline. Since the task force is going back to the old code he doesn’t see how the deadline can be met from September to December. He is also concerned about the task force reporting to Planning Commission and then going back to the DNR without council representation. He was comfortable when Susan Enlow was both on council as an elected official, liaison to Planning, and on the task force He stated that he feels council needs to be involved in this process and they are coming in quite late. He feels accountable for this deadline.

Chair Breazeale stated that he would like to discuss with the Planning Commission recommendations on the remaining “3/7 Agreement” points, after comparing the City’s current 2017 code to the 2022 DNR Shoreland Model Ordinance and to the City’s 1996 former (approved) code. He added that his intent is to share his City Code DNR Compliance Project recommendations to Planning Commission at the April and May 2023 meetings for discussion, feedback, and recommendations. He would like to do the same with council in April and May, publish the proposed amendments for review by the public and DNR in May, receive input, modify and obtain provisional approval from the DNR in June and July and approve the amendments in July and August.

Chair Breazeale presented three options discussed in the January Planning Commission meeting: Option A, which is recommended by the Task Force, is for them to go back to the 87 page, 1996 code, and update it with the last 26 years of changes in the old and new code. They feel they do not have time to amend the current code as well. Five Planning Commissioners voted for this option.

Option B is to edit the 231 page, 2017 code as was done with ADUs. The task force feels it is easier to go back to simpler 1996 code.

Option C, favored by Chair Breazeale, is to edit 2017 code for “3/7 agreement” as was done with the ADUs and get DNR approval. Then in 2023-2024 go back to the 1996 code and update with the last 26 years of changes. Or, as an alternative, move to the 2022 DNR Shoreland Model Ordinance. The task force feels they don’t have time to both amend the current code and rewrite the 1996 code.

Chair Breazeale stated that the 2017 city code is clunky and not organized, the DNR Model Ordinance is best, and he likes the 1996 code better than today’s code. There are good improvements that need to occur based on experience and amendments need to be made that matter the most. He stated that he is willing to rewrite the code working with the zoning administrator, and would just need assistance with graphics. He stated that while he supports the task force’s work and intent to simplify/rewrite/reorganize city code, based on a combination of the simpler 1996 code and simpler 2022 DNR Model Ordinance, he feels that this is a two year process and the DNR’s deadline is December 2023.

Chair Breazeale stated that amendments on the main points of non-compliance can be accomplished in 6-9 months. He added that beyond meeting the DNR December deadline, issues should be corrected that impact the lake and community soon, including no permitting projects at 35% hardcover. He concluded by stating that city council needs to provide direction for how best to move forward.

Council member Breazeale stated that she recalls that the biggest issue discovered at a Planning Commission meeting was that the 2017 code rewrites had never been reviewed by the DNR because of issues with ADU’s that came up. That led to finding other items out of DNR compliance, which council wanted to resolve, but there was no interest to do an entire code rewrite at that time. She feels there needs to be discussion about whether the City has the time, resources, and funds to do a code rewrite at this time, and where does that fall in its priority list with other items Planning had on their list.

Honey stated that the priority was to finish the tree ordinance and get ADU code compliance amended quickly due to resident ADU variance requests. This started as an ADU issue, but then the task force realized that there was more. Honey understood that the task force was researching all areas the City was out of compliance and would report back because she did not know what they are.

Chair Breazeale stated that he reviewed the “3/7 Agreement” and feels that he can make recommendations to the Planning Commission and take them to the DNR in June, July or August.

Pagano stated to Chair Breazeale that his activating word was “compliance” with the existing code, and during the process the task force identified items that made the 2017 code seem cumbersome and had parts that didn’t apply and was beyond the scope of compliance. Pagano asked Chair Breazeale if he is proposing to stay within the 2017 code, but continue the work of identifying items requiring amendment. Chair Breazeale stated that he wants work in parallel with the task force and do quick amendments. He stated that he completely agrees with task force’s vision that the city code needs work.

Task Force Chair Susan Swanson stated that she is a Planning Commissioner and a 40+ year Minnetonka Beach resident. She stated that Option C was suggested by Chair Breazeale, deliberated by the Planning Commission, and voted 5-1 against that Option and in favor of Option A. She stated that she was surprised by his presentation which was added to the meeting packet today as she did not expect it. She said that it is optimistic to assume that the DNR will be satisfied by a few simple amendments to the 2017 code, which they never approved it in its entirety, and they will not piecemeal the process. Swanson added that the DNR suggested that the task force rewrite the 1996 code, and they support this as so much of the 2017 code is out of compliance. If looking up a topic, one must find all the places that refer to that topic as it permeates the entire code.

Task Force member Mathews stated that Minnetonka Beach is all shoreland as all homes are within 1000 feet of the lake. She added that the DNR said that any land use regulation that regulates shoreland must be in compliance with the DNR shoreland rules. That meant not just the areas that the task force has identified as egregiously violated in the 2017 code, but every zoning code section that regulates any land in the City must be reviewed for assurance that there is compliance with the shoreland rules. The City represented that it

would adopt and enforce greater/more restrictive standards than the DNR minimum standards in the following areas: 1) Greater Minimum Lot Size Requirement 2) Greater Lot Width Requirement and 3) Greater lakeside Building Setback. Mathews explained the Greater Lakeside Building Setback issues from their chart. She then listed the remaining four factors 4) No boathouses permitted 5) No ADUs 6) No septic systems permitted and 7) No density credits PUDs.

Mathews stated that the 1996 DNR approved code is very similar to the DNR Model Ordinance. She added that the task force has considered how they can fix the 2017 code most efficiently, which is how the task force determined and informed Planning and council that it would be a lot harder to do amendments to the 2017 code.

Chair Breazeale stated that he would do the code amendments in parallel with the task force. Mathews stated that the DNR has a very specific process for shoreland code amendments. Someone, such as a city planner, drafts a proposed amendment and that is submitted to the DNR for conditional approval. Then it goes to the Planning Commission for a public hearing. Then Planning makes a code amendment recommendation which goes to the DNR for approval. There would be another public hearing and then on to council. That amendment would then go back to the DNR for final approval.

Mathews asked how the DNR would receive that if Chair Breazeale personally amends the code, and she asked how the Planning Commission would get involved with those amendments.

Chair Breazeale stated that his recommendations would go to the Planning Commission and then to council. Mathews stated that the DNR expects that the entire zoning code would be updated and in compliance. She concluded that everyone wants the same thing in making the DNR happy by coming into compliance with the shoreland rules, but the issue is what kind of timing and what kind of process.

Chair Breazeale asked what the task force's timing is on updating the 1996 code. Mathews answered by stating that the task force is dependent in part on the Planning Commission and council's schedule. She stated that the City could just go back to the 1996 code, and the DNR would approve that except there are many things in that code that don't make sense for Minnetonka Beach anymore. She added that up until 2017, the 1996 code had been modified in a very thoughtful manner. Most of the modifications were protective of the lake, changes in law, and modernized the code. From 1996 – 2016 the code was in line with shoreland rules.

Swanson said that in regards to timing, the task force plans to address building height issues and finalize the WOAS at the February Planning Commission meeting. At the March/April meetings they would address hardcover, and May/June meetings they would address lot width and lot size.

T. Breazeale asked if the task force's timeline and topics involve potential tradeoffs with the DNR. Swanson stated they would get into flexibility discussions with the DNR later in the process. They are speaking with the DNR on Wednesday for clarification on items.

Zinn asked if there are repercussions if the City doesn't meet the DNR deadlines. Swanson stated that she thinks if the task force keeps the DNR in the loop then they may give them leeway on time. Mathews stated that the task force has been very clear to the DNR that they have limited resources to get all this done and they understand and want them to succeed. She added that the DNR offered planning assistance and help with drafting.

Council member Breazeale asked given that the City's 2017 code was not approved by DNR, and the City wants to be compliant with the DNR and have an understandable code, what would be an option for the City to update the code currently being used to make decisions for out of compliance issues, and show the DNR that the City is not allowing non-compliance, while the City revises the code to become compliant. She added that it makes sense to stop allowing items that the task force has identified as not compliant.

Mathews answered Breazeale's question by stating that there was a variance request for an ADU that triggered this whole process. The DNR said the City promised to not allow them. The DNR wanted a variance denial, an ADU moratorium put in place, and the City brought code into compliance for ADUs.

Chair Breazeale stated that he believes that the DNR Model Ordinance does not allow for permeable pavers at 5% credit. He suggested that the 5% credit be eliminated at the next Planning Commission meeting so the DNR sees the City's effort.

Pagano asked for council discussion from everyone or if council needs more information. He would like council to give direction to the task force and Planning Commission tonight.

Zinn stated that if the task force can work on a parallel path with Chair Breazeale how would that hurt. He also added that he feels that it would be acceptable with the DNR to receive the complete package later.

Dovolis said he is getting caught up on this issue as he is new to council. He is concerned that the DNR said that the City needs to make changes and there are only 10 months left to do a total re-write. He supports rewriting the entire code using the DNR model, and questioned why our code has to be so long and complicated. He is hoping the City can get a draft to the DNR by the deadline. He stated as long as they are not forcing the task force to do two things at once, and they can address major compliance issues with parallel projects between Chair Breazeale and the task force, he is supportive of that. He concluded by stating that the City needs to keep the DNR happy, and discussions need to continue.

Council member Breazeale stated that she agrees that the code is difficult to understand and cumbersome at 231 pages. It is difficult for the zoning administrator, planning commission and council to make decisions. She added that while rewriting the code is different from the original plan, she thinks it is a good idea. When she looks through summaries presented, she would like to know the areas of code most egregiously out of compliance. She is in favor of tackling noncompliance areas that most impact the watershed. WOAS's are not a big deal to her as there are not a lot of them in the City. She suggested fast tracking hardcover and did not think WOAS's and building height were urgent and could be part of the full rewrite. She added that whether Chair Breazeale or the task force does it, the priority is to get the current code being used to approve projects updated, especially for those without variance requests, and then go down a thorough process.

Halverson stated that council is spot on and she supports dealing with the hardcover issue now because there is constant building going on in the City. She supports council liaison involvement with the DNR and representation, so council knows what is discussed. She added that it appears that the task force all agree on everything, but Swanson assured her that they have differing opinions. Halverson stated that it should be conveyed to the DNR how much the City wants to become compliant as soon as possible. The City should fix non-compliant issues right away and then do the rewrite after other problematic issues are identified. It then can be done better.

Pagano stated that one missing piece is that the City never met with DNR to see what issues they have with the existing code, although Petrik's letter identified some. He added that the DNR has referenced state statute and a three step process in their letters to the City. One step is the City submits any new amendment or new code to them, and they will indicate what is out of compliance. The third step is that the City has a year to comply. He said the "3/7's" could be dealt with, submitting the 2017 code and take care of things known to be out of compliance and wait for their response. He added that it sounds like the City can address the most critical items from the 2017 code that Council Member Breazeale just addressed, and then find out from the DNR what else is wrong and then deal with those issues.

Breazeale stated she would like to fully understand what the DNR wants, and asked why the City has not given them the 2017 code to review. Mathews stated that the DNR would direct the City to bring the code into compliance first. Swanson stated that the DNR would not want 231 pages dumped on them. Breazeale asked if the DNR prefers code amendments knowing that the City will come back with a full rewrite in 8-12 months, or should the City give them the full code that the City believe is in compliance, with identified amendments outlined. Swanson thought that council member Breazeale would be on the Zoom call with the



DNR Wednesday so she can ask her questions, but she cannot attend. Honey and Halverson will be attending the meeting and will ask those questions to the DNR.

Chair Breazeale stated that he supports the “3/7’s” and suggested that Honey ask the DNR on the call to identify the glaring items to be addressed immediately. They discussed the possible issues including hardcover, lot width, AMLS vs AMBS, WOAS, and any minor issues as well. He added that she should state that the code is long and cumbersome and add that the City is concerned about the timeline and 10 month deadline for completion as well.

Swanson stated that they will attend the DNR call, and attend the February Planning meeting to present the information they have already gathered. Chair Breazeale stated that even though the Planning Commission voted to not do Option C he would be willing to work on code amendments for the short term, not changing what they are doing. He added that council needs to decide if they want the Planning Commission to proceed with the course they are recommending, or go with Option C which allows the task force to do what they want to do, and Chair Breazeale would work on some amendments that would then go to one or two Planning Commission meetings for a vote.

Mathews stated that the task force is uncomfortable submitting the unapproved 2017 code to the DNR that is full of non-compliance errors with the shoreland code when the DNR already told the City to bring the code into compliance first since the City-approved amendments since 19963. She added that if the City submits amendments to an unapproved code to the DNR, then the task force feels that it will appear that the City is suggesting that there are no other errors in city code. Secondly, Mathews stated that the task force has a good relationship with the DNR, and now if amendments are presented and the City expects the DNR to point out all the issues of non-compliance that this won’t sit well with the DNR. She added that the task force initially tried to simply amend the 2017 code, but after four months of work they feel that this is unduly inefficient. She confirmed that it was acceptable with the DNR at that time to simply amend the ADU ordinance only.

Breazeale and Zinn requested that on the DNR Zoom call it be asked if the City could amend a couple of other items for now as was done with the ADU ordinance. It should be conveyed that the City is still on the path to cleaning up the code and become compliant. This would ensure that the City would follow those approved amendments immediately upon their approval and be compliant. This would allow more time for the big rewrite Zinn added. Breazeale stated she supports the task force’s well laid out plan of getting through the entire 1996 code while bringing in the 2017 code as well and basing it on the DNR Model.

Pagano said they have gone as far as they can go with this discussion tonight. They are directing Honey to follow the instructions given for questions to ask on the DNR call. They will close the topic with no formal action. Pagano stated that in March council can make a motion to give Planning Commission more definitive direction pending further information.

Breazeale, Mayor Pagano and council members thanked everyone for their work. They stated that they feel the end product will be so much better because of all their work.

Mayor Pagano stated that the biggest takeaway with this issue is that in looking forward for future projects like this there should be very clear and specific direction given by council before a lot of work is complete. A benchmark of goals and objectives should be clearly identified.

## **10. Consent**

- 10.1. Police Report – January
- 10.2. Fire Report – January
- 10.3. Pay Equity Report
- 10.4. Resolution 2023-09 – Appointment of Bridget Wortman to Planning Commission
- 10.5. Resolution 2023-08 – Approving Lafayette Club Liquor License
- 10.6. Council Meeting Action Notes
- 10.7. Approve Checks: February 2023

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

## **11. Staff Reports**

### **11.1 Administrator's Report**

Administrator Honey stated she planned the Assessor's Pre-Board meeting at 5:30 pm ahead of the March 13, 2023 council meeting which will begin at approximately 6:30 pm. She updated the water treatment plant costs on the project priority list, and worked with Ehler's on messaging to put out to residents about it, project costs, and costs to residents. She asked Stantec to provide her with 2023 monthly billing estimated costs for engineering costs for the water treatment plant. Honey met with Representative Andrew Myers to place the Minnetonka Beach water treatment plant on the House bonding bill. She stated that she updated City Dock 11 site survey so it is now accurate with the LMCD license. She met with the Hennepin County foresters to discuss transitioning from the City's current tree inventory program to utilizing the County's free, user friendly, App based inventory program. She added that the City received final reimbursement for the Hennepin County Healthy Tree Canopy Grant, receiving the full amount which was \$500 more than the net amount the City spent due to City matching. Honey and Burgess met with Metro Sales regarding document scanning and storage and the City needs to plan for this expense in the future because document retrieval and electronic storage is necessary. At this time, City Staff has no technology in place to search for documents. Metro Sale's product presented wasn't appropriate for the City and is expensive.

### **11.2. Clerk's Report –**

Clerk Burgess reported on some out of the ordinary work she completed including the 2023 Resident Directory project and mailing including the City Meeting and Event Calendar, 2023 Animal License application and 2023 Civic Committee Dues form. She noted that staff redesigned the masthead of the Beachcomber newsletter beginning with the January issue, updating the design working with Mayor Pagano. She added that with a new year there is new information, so she has been updating the City website. Weekly SPLASH! eblasts are sent out to 353 subscribers on Thursdays. Staff has had many meetings with Mayor Pagano as part of the learning curve with new elected officials. She stated she launched the 2023 City Dock program sending out the applications to the previous slip holders from last year and are due March 3<sup>rd</sup>. Then she will work down the priority and waiting lists to accommodate dock requests and fill the slips requested. She concluded that this is the most exciting time of the year thinking ahead for boating season.

### **11.3. Public Works Superintendent Report**

Honey reported that Hilgers painted a big portion of the inside of City Hall between snowstorms. He also worked with staff to hang many items on the walls. He has had ongoing issues at the water treatment plant including issues with Pump 1 which is the City's main pump. He is having valve problems with a lot of leaking requiring a great deal of plumbing work. Hilgers hopes the plant makes it until a new plant is built two years from now.

Mayor Pagano added that Hilgers worked hard to expedite the swim beach dock removal and installation with the new vendor conducting this work.

## **12. Council Reports**

### **12.1. Mayor's Report**

Mayor Pagano reported updates on the new water treatment plant, including that he asked Jaci Lindstrom to take the lead in working with legislators and at the capitol to secure possible funding for the plant. He stated that a recent article in the Laker Pioneer about the plant project was very informative for readers. Representative Myers added Minnetonka Beach to a House bonding bill which the Laker Pioneer reported as well. Pagano added that he and staff are creating a communications plan to residents to execute in February and March. Information on the new water treatment plant will be on the City's website, and he will be drafting a letter to residents before they receive their first quarter utility bill in early April as those on Minnetonka Beach water will see an added \$150 water treatment plant fee. He stated that he is attending a breakfast meeting hosted by Representative Phillips where issues in the surrounding area are discussed.

Pagano stated that he and Honey will be attending the annual West Metro Drug Task Force appreciation lunch.

12.2 Liaison Reports

Breazeale – Breazeale stated that both the Park Commission and Civic Committee are both doing a wonderful job in the City.

Dovolis – No

Halverson – Halverson reported that Joe Steinfeld was elected vice chair of the Planning Commission, and Bridget Wortman is joining the Planning Commission.

Sharma - absent

**13. Adjourn**

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

The meeting adjourned at 8:41pm

PUBLIC IN ATTENDANCE – Nell Mathews, Susan Swanson, Jeff Breazeale, Joe Steinfeld, Bonnie Schwieger, Kim Petersen

**Respectfully submitted,**

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**Jane Burgess, City Clerk**