

Monday, March 12, 2018 7:00 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES

Roll Call: Mayor Mike Taylor; Council Members: Jill Bartel, Paul Kozloski, Jaci Lindstrom, and Andrew Myers; Treasurer Steve Howarth. Absent: none.

Staff Present: City Administrator Susanne Griffin and City Clerk Heidi Honey

Guests: Police Sargent Boris; Bonnie Schweiger, Abdo, Eick and Meyers.

- 1. Mayor Taylor called the meeting to order at 7:02 p.m.**
- 2. Clerk Honey led the Pledge of Allegiance.**
- 3. Approve Agenda for the March 12, 2018 City Council Meeting.**

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

4. Approve Minutes –

4.1. Regular Meeting of February 12, 2018

Bartel gave the following additions and corrections: On page 2, remove the word “design” from the first paragraph because Lindstrom did not specifically say “design”. On page 3 (item 8.2.), remove “potential” and replace “design” with “crossing”. Page 4, replace “do” with “did”. Page 5, add that Howarth also stated that, according to the National Transportation Board, 53% of crashes occur due to left hand turns. On page 5, replace “designs” with “plans” on second paragraph from bottom. On page 6, Bartel stated “I want to be very clear that this is a vote in favor of this crossing, however its adjusted.” followed by Council Member Kozloski’s reply, “I think that is an accurate assumption”.

Griffin asked Bartel if the motion regarding the crossing was accurate. Taylor asked if the motion was an accurate assessment of the discussion that was reflected after the fact that this was going to be a preliminary approval with another vote after the pilots were done. Bartel stated the motion was accurate to the audio. Griffin asked if the motion reflected the conversation that occurred afterwards, that this was a preliminary design and asked if that was what the intention was. Griffin then read the portion the minutes on page five where Taylor confirmed with Byers that this is a preliminary design approval because the final design could be different based on the findings after using delineators. Bartel stated that she understood that conversation but the motion was for the plan. Taylor asked if the motion should have stated preliminary after the discussion and said they did not amend the motion. Bartel stated if they want to change the motion they can, but that was not what the motion was, which was seconded and voted on. Lindstrom then read from the minutes that Myers said the county would come back with a final design. Griffin said if Council is comfortable with the motion in the minutes as it is described, then it is fine but she wanted to bring it up because she understood there was confusion. Bartel then stated the motion was for the plan and there was discussion about the design. Lindstrom wanted to read the changes to the minutes Bartel requested later but she did not want to table the minutes. Bartel stated there has been confusion in the community and she wanted it cleared up. She stated that the vote was for the plan as adjusted when it comes back after the delineators. Council then discussed if there is a

difference between the word designs and the word plan. Bartel stated that there are a lot of people who think if they don't like the design, then they might not have it at all. Kozloski stated that he thought the vote was for the concept with some modifications potentially, based on input and further study by Hennepin County. Bartel stated that was correct, the concept plan. Myers said the dual median design that was provided at the work session was what they voted on, doing that concept and that the county will come back with final specifications. Bartel stated that she just wants everyone to be clear. Kozloski asked if that was what Bartel thought was voted on and she agreed she did. Taylor stated they will vote on a final design. Bartel agreed they will vote on a design but they will not be changing their vote about not having it. She then stated that is where the confusion has been.

A motion was made by Council Member Bartel and seconded by Council Member Myers to approve the February 12, 2018 Regular City Council meeting minutes as amended. With all members voting in favor, the motion carried.

5. Police Report

5.1. Police Report – February 2018

Sgt. Boris reviewed the activity report for February. The welfare check was not an issue. The threat actually happened at work but was reported at home. A bundle of counterfeit \$100 bills were found at Lafayette Club. He reported that during a check at Ray Peters Park, Officer Schultz found several young people leaving the park on foot and no cars were around. Upon entering the warming house, she smelled marijuana. Officer Schultz called in backup but cars may have been parked off site because, within a couple of minutes, they were gone. Sgt. Boris wanted the city to know that officers are also going into the warming house when they patrol the park.

6. Open Forum

Taylor said a resident made a request to put the crossing on tonight's agenda. He thought it would be better to provide advance notice of a meeting to residents and have the appropriate people there, specifically Hennepin County Representative Bob Byers and Orono Police Chief Correy Farniok. The plan is to meet an hour before the April 9th Council meeting. Taylor stated there has been a contention that people were not aware of changes made to the design and they did not have time to fully study it, react to it and raise their concerns and a lot of discussions have taken place. Council discussed the following suggestions:

- A few representatives speak for the larger groups and give the experts an opportunity to comment on them.
- Send concerns prior to the meeting so they are documented, the appropriate people can be prepared to answer the questions, there are no misunderstandings of concerns or responses and the city can get the best product.
- Post responses to concerns on the website so people can review them.
- Come prepared and educated to be able to listen and interact as opposed to learning.
- Allow residents to hear outcome of discussions between Chief Farniok and Bob Byers directly from them, especially regarding signage and turning concerns.
- An article in the Beachcomber requesting resident input with an email address to send it to and a general timeframe. Griffin will collect the responses and send them to Bob Byers and Council.
- Allow residents to express points of view as well as concerns prior to the meeting.
- Comments and concerns sent prior to, during, and at the completion of the delineator test.
- The subcommittee will meet approximately 45 days into the test and update Council then.
- Continue to publish subcommittee meeting dates on the website and in the Beachcomber.

Joann Anderson suggested that a facilitator may help the discussion to stay on track.

Rita Howarth discussed references to a preliminary plan, a preliminary proposal and indications of it being a final deal. She asked why would there be another meeting if it is final. She is looking for clarity on if it is a proposed or final plan.

Lindstrom explained that it is a preliminary approval of the design, the delineators will be put up, and they will take a good look at the whole thing. She then stated that Council voted for Bob Byers to move forward with the approvals he needed with his boards and his funding and that the second motion was for the design, the engineering piece, for the March 30th deadline to get the grant application going.

Kozloski stated it is a final plan and that Bartel agreed earlier that was what the vote was for. They are open to suggestions to improve upon the plan. Lindstrom stated that is not what she thought she had approved.

Lilla Gidlow would like confirmation that the project could be scrapped if the test proves it to not be safe instead of just making changes to it. All of the residents affected by the crossing should participate in the opinion of if it is safe or not safe. She agreed that it should not be up for discussion if they plan to move forward anyway. Gidlow would like a final vote after the test and after they have heard from everyone.

Taylor's understanding was that it was approval of a preliminary design, but Council needs to step back and decide if they want to do this or if they want to modify the plan if there is an issue. If they are saying this is the plan and we are moving forward with the plan, then Gidlow is right that another meeting is not needed. Myers stated the motion was to adopt the concept of a dual median refuge and the county needed approval so they could move forward with their approvals.

Steve Howarth asked if the Council will do a final vote after resident feedback from the test. Kozloski said he thinks they already made that decision.

Susan Swanson and Steve Howarth asked if there has been an assessment of costs. There is no cost to the city for the crossing but the city would be responsible for the cost of connecting paths. Taylor stated those are two separate decisions, one is the crossing itself and the other is what does the city do, if anything, by trails to connect.

Lindstrom thought they were going to put the delineators up and get feedback from residents to see how comfortable they are with it, and there was one more vote. She thinks everyone's input is important, including pedestrian input. Myers said input can be given up until delineators go up. Jillian Moriarty confirmed that the location and type of crossing is approved but details may be changed based on input. Kozloski said that is a fair assessment.

Bob Byers will bring back statistical data on crossings and speed changes. Bartel would also like to see feedback. Moriarty explained the process and research the subcommittee went through in understanding a dual median. The objective is to make it safer for everyone.

Steve Howarth asked if Council is willing to hear citizen input after delineators are up to make a final vote associated with this matter. Howarth said there are concerns with turns off and on Arcola Lane and

the Arcola residents want their input considered after delineators are up and then have a final vote on this matter. Kozloski used the example that they built a prototype and as the final product comes out, it may have some changes. Taylor stated that ultimately the issue is you may decide you don't like it.

Byers stated the County wants to have most people on board to do the project and that it will provide more safety for drivers and pedestrians. He thinks the plan is good but it may change after the delineator test and he welcomes feedback. The County will monitor activity at the intersection. There was discussion about Council making a final vote and Taylor stated that if there is a fatal flaw in the design, Council would want the ability to say they can't move forward with it. They have the right to say the plan does not work.

Tom Seuntjens stated that when an agenda is set, residents decide to attend a meeting or not based on the published agenda. He thought it was unusual in his long history with the city that something so important would pop up that's not on the agenda. He asked the Mayor how he could allow this to happen if he has control over the meeting. He went on to say the Comprehensive Plan says the community is open, kind and transparent. He asked Council to have patience to bring something in the following month because it is not fair to people who have something to say about it. He doesn't know why the motion came up when it wasn't on the agenda and why something so important could be voted upon when it is not on the agenda. He went on to say it is not a kind motion and, if council cannot be open and kind, it will result in a lot of agitation in the community.

The delineator discussion was on the agenda but Taylor did not think they were ready to vote on the crossing. All of the citizen's input has not been heard or the reaction to the dual medians and delineators. Bartel stated this was a big issue and the agenda should not have been allowed to be changed. Kozloski suggested that the discussion should not have been limited to the delineators. Residents stated that they saw the dual medians on February 5 and the perception was that it was rammed through. Moriarty stated that this proposal of the median as shown is the safest option so they need to figure out what to do to modify it if needed or scrap it.

Steve Doyle thought that pre-submitting questions sounds restrictive and he wants some give and take.

Taylor asked Council if a major safety issue is discovered during the test, are they willing to reconsider the vote on the plan. Lindstrom stated she is. Kozloski said county engineers are the safety experts and he would expect that they would work on safety concerns that are brought to their attention. The decision needs to be based on fact and not opinion.

Byers encouraged residents to express concerns to him now as well as after the test. Myers stated that the county will take input up until the final design. Moriarty stated that all concerns are valid and should be heard and the community shouldn't be divisive. She said the subcommittee would like additional members. Gidlow offered to join. Griffin will forward concerns on to Byers, Council and Moriarty.

There was discussion about the delineator test and that delineators may feel different to than a raised median to pedestrians, but they will show the impact on traffic. The design will not be finalized until later this year after the test is completed and decisions are made on necessary changes. Delineators will be up May, June, and July. Construction would begin spring of 2019.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to amend the original motion made on February 12, 2018 to change the delineator test from 30 days to 90 days (starting in May). With all members voting in favor, the motion carried.

Nell Mathews, 2643 Arcola Lane, expressed concern as a taxpayer about how taxes are being spent, who is making decisions, and how decisions are being made. She then discussed her lawsuit and the costs the city has paid defending itself. She asked that the city have the independent contractor reimburse the city for the legal expenses the city has incurred related to the lawsuit.

7. Old Business

7.1. City Attorney Appointment – Recommendation for Ron Batty, Kennedy and Graven Taylor, Myers and Griffin interviewed the three finalists for city attorney and are recommending to appoint Ron Batty. Bartel expressed concern of using less expensive associates who may take more time to do the work instead of Batty doing everything. Batty will do approximately 50% of the work and closely supervise other attorneys who may do other work for the city. He explained that it is more efficient and costs the city less for other attorneys to do research or basic work. They are knowledgeable and they collaborate. Although Batty is not available for most council meetings, he is available during office hours and his proposal would be to have Andrew Biggerstaff attend meetings. Batty would be the primary attorney, Biggerstaff second, and other associates used as needed. Batty assured Council that he would review everything other attorneys work on. Batty can provide a list of attorneys and their specialties but he would be the one to call and he would reach out to those attorneys when he feels they would be the best resource.

A motion was made by Council Member Kozloski and seconded by Council Member Myers to appoint Ron Batty, Kennedy and Graven, as the Minnetonka Beach City Attorney and authorize the Mayor and City Administrator to negotiate and enter into an agreement for legal services. With all members voting in favor, the motion carried.

Batty reevaluates fees on an annual basis but was willing to commit to two years on his fee arrangement.

7.2. Mound Fire Service Contract – Seek proposals from other service providers
Myers stated that he and Kozloski are reaching out to other service providers to determine if they are interested in potentially serving Minnetonka Beach, specifically Excelsior, Wayzata and Long Lake. They want authorization to negotiate preliminary terms with the understanding they would ultimately be approved by Council. Council discussed that the city currently pays \$98,000. Taylor stated that Mound Fire is coming back with a \$15,000 reduction.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to give Kozloski and Myers authority to negotiate terms with other fire service providers to bring back to Council for approval. With all members voting in favor, the motion carried.

Howarth suggested asking about deferred maintenance and equipment replacement costs because the initial price may be good followed by large increases in following years. He also suggested defining parameters for the length of the contract.

Kozloski confirmed that Mound is proposing \$98,000 less \$15,000 (\$83,000) with a separate contract. Chief Pederson will be sending Taylor an updated proposal. Council will review it and decide at the April meeting if they need to ask for an extension.

8. Treasurer's Report

8.1. 2017 Financial Audit – Bonnie Schweiger, Abdo, Eick and Meyers

Ms. Schweiger stated their responsibility is to provide an opinion on the financial statements and they provided a clean and unmodified opinion which is the highest level that can be given. They did not find anything that needed to be adjusted. She commended Administrator Griffin on having all necessary documents ready for them to perform the audit efficiently.

Schweiger explained that the General Fund is for most city expenses. The Debt Service Fund is a restricted fund for outstanding debt including street related debt which will be paid off in 2018 and result in future excess funds of \$50,000. The Capital Project Fund is for capital improvements and is at about 35% of next year's budget. General Fund dollars will be used to help pay for those projects. The Water, Sewer and Stormwater funds each carry its own cash balance and generally those resources are used to maintain that infrastructure. All three are doing well. Water Fund receipts have not been enough to cover disbursements and taxes have covered the difference as was planned initially. The Sewer Fund has been consistent and the Stormwater Fund has a positive balance. The General Fund reserve as a percentage of the overall fund is approximately 87%, and the City's self-imposed policy is a minimum target of 65%. Schweiger recommended that the city use the data to project out future spending for the next five to ten years. She could do a minimal projection for the Water Fund for bond planning. She reviewed general fund receipts and disbursements and stated that what was budgeted for was very close to what actually happened.

Schweiger discussed a handout showing revenues and expenditures by fund. The general fund should balance between revenues and expenditures. Schweiger discussed that the mid-year report was done for Council for their understanding of where different funds are half way through the year. Schweiger suggested it may be more helpful for Council to project forward for long term planning. The mid-year review costs \$750-800 and the City gets the benefit of disbursement review. She could still review QuickBooks files. Council discussed using Banyon Fund Accounting instead of QuickBooks but decided there is no real benefit to switching. Howarth asked that Schweiger and Griffin work on the journal entry for \$25,000 grant funds received late in 2017 for 2018.

Lindstrom suggested a letter of gratitude be sent to Wally Hilke. Griffin will send a letter.

8.2. Approve Checks: March 2018

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve 32 checks numbered 16602 through 16633 in the amount of \$54,110.51 for March 2018 expenses. With all members voting in favor, the motion carried.

8.3. 2018 Budget and Prior Year Comparison report

Howarth noted account #1521 - \$16,000 for a water main repair last month.

8.4. Outstanding Accounts Receivable Report

Steinfeld's builder spoke with Griffin and agreed to pay their invoices but these are additional engineering invoices which were sent after their previous conversation. Griffin will follow up with a letter to all three accounts that are aging 61-90 days.

The Finance Committee met February 21 and did a detailed review of the financial statements presented tonight. They plan to meet with the Utilities Commission on April 3 or 4 regarding bonding and discussed establishing a policy for use of excess funds.

9. Consent Agenda

- 9.1. Fire Report –February
- 9.2. The Garden Gate Gardening Agreement
- 9.3. Park Commission Rules of Procedure
- 9.4. DNR Recreation Grant Application

Engineer Amundsen estimated \$44,330 for access paths for the crossing and the maximum the grant would cover is 50%. Myers stated the probability of the City receiving a DNR grant is 25-33%. The city could apply for a federal grant and Hennepin County sidewalk grant next year because they missed the deadlines. The Park Commission has worked with Hennepin County on grants in the past and there may be a possibility for a grant through them.

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

10. Action Notes and Staff Reports

10.1. Council Meeting Action Notes

Griffin was directed to remove the policy for complaint enforcement because Batty, other attorneys the city has worked with, and attorneys they interviewed did not recommend a specific policy for complaint enforcement.

Bartel thanked Taylor for his work contacting organizations to help repair the Lafayette Rd. property. Taylor stated that Rebuilding Together will begin interior work May 12 or 19 after meeting with the resident to see what he wants and needs to have done. Hearts and Hammers will work on the exterior. It is not a city run project. The volunteer organizations sign agreements directly with the homeowner and do fundraising. Tom Enlow can be contacted for questions.

The Long Range Planning Committee had a final meeting for the Comprehensive Plan update. Members have been asked to review the final document. Met Council tables, maps and brief paragraphs need to be added. Griffin stated that there was a change to the land use plan that was in the old Comp Plan. It listed Large Lot Residential – Riparian and Non-riparian, and also Residential. When Sambatek created the land use map, it was not labeled this way. Griffin asked Zoning Administrator Gozola why it may have been done that way in the past and he didn't know the reason for those differentiations but it may have been an attempt to address affordable housing. Affordable housing is not an issue for the Met Council for Minnetonka Beach. Griffin suggested adjusting the wording to reflect the land use map. She thinks it makes sense to differentiate riparian and non-riparian but she didn't see any rationale for large lot versus residential. A public hearing will be March 19, 2018 at the Planning Commission meeting. Griffin will see if the Met Council sector representative will do the preliminary review without engineering components. Council will review it in April followed by a review by affected jurisdictions.

Bartel asked to change the title “pedestrian crossing” to “median refuge”.

The Lafayette Club letter of agreement was changed to straight salt from the sand and salt mix. The amount was updated to reflect the increased costs for straight salt. The Club can track the use and determine if they need to change the cost in the future. Scott Bremer has the draft letter of agreement.

Berent drafted a snow plow policy. Griffin will review it with him. Council suggested he forward the policy to Utilities for review prior to it going to Council.

Myers asked if there are things that the city can proactively discuss with Berent to manage resident expectations for the spring season. Griffin stated that he received a list of responsibilities which is organized by season.

10.2. Clerk's Report

Honey will be attending the MCFOA Clerk's conference next week.

10.3. Administrator's Report

Griffin had nothing to add.

11. Council Reports

11.1. Mayor's Report: 2328 Lafayette Road, Comprehensive Plan Progress Report, Fire Contract Taylor discussed his updates during the meeting.

11.2. Liaison Reports (if necessary): Kozloski – Docks, Bartel – Planning, Lindstrom – Utilities/Civic, Kozloski – Parks

Kozloski attended his first Park Commission meeting. Betsy Taylor will be talking with Civic to see if they think there is a problem at the warming house and if a combination lock on the door is needed. The discussion was that they may be creating an inconvenience to many residents because of a few people who are causing problems. It may be residents causing the problems.

Bartel thanked Kozloski for attending the Planning Commission meeting next week. Gozola worked on a sign ordinance but Planning did not make a recommendation yet. Griffin confirmed that the ordinance was on the list of open items. Their prioritized list of remaining issues to address was in the packet. They discussed Shoreline Drive. Chair Orehek resigned so they are short two members. Bartel referred to a document that was handed out in January to Planning regarding a process for developing workshops and commissions. She said it would be a good format for creating subcommittees because it encourages a variation of members from all parts of the city.

Nell Mathews expressed concerns that Zoning Administrator Gozola drafted a sign ordinance prior to the list of open issues being prioritized and questioned who is directing him. She also expressed concerns about Specialized Lakeshore Setbacks because the Planning Commission was not interested in pursuing it but it was listed as a low priority in Gozola's Executive Summary. Myers thought Council was going to continue to look at it. Bartel stated that the recommendation from Planning was they did not want to look at it. Lindstrom's recalled that Council would still look at it.

Council discussed that issues not updated with the zoning code update were going to be reviewed. Taylor suggested that if there are items that Planning wants to take off the list, it needs to come back to Council for them to finalize. The list in the packet came from Gozola's report with comments from Planning regarding each item's priority. In April, a prioritized list should come back to Council for them to take action and provide direction to Planning. Griffin will forward Gozola's

email to Council which explains his rationale for working on the sign ordinance. Council asked that Gozola and a member from Planning attend the next Council meeting to review the prioritized list. There was discussion about Planning confirming the list and re-prioritizing the low priority items.

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

The meeting adjourned at 10:15 pm.

PUBLIC IN ATTENDANCE – The following people signed the attendance sheet: Rita Howarth, Lilla Gidlow, Nell Mathews, Sue Kozloski, Steve Doyle, Bob Stretmater, Alice Seuntjens, Tom Seuntjens, Don Swanson, Susan Swanson, Maxine Dunlap, Betsy Taylor, Bob Byers (Hennepin County), Joann Anderson, Jennifer Halverson, Patty Rezabek, Jillian Moriarty, Bonnie Schweiger.

Respectfully submitted,

Heidi Honey, City Clerk