

**Monday, March 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, Vibhu Sharma and Treasurer Chris Zinn. Absent: none

Staff Present: City Administrator Heidi Honey, City Clerk Jane Burgess and Zoning Administrator Phil Carlson

Guests: Dennis Klohs, Lake Minnetonka Conservation District; Planning Commission Chair Jeff Breazeale

- 1. Mayor Pagano called the meeting to order at 6:00 p.m.**
- 2. Clerk Burgess let the Pledge of Allegiance**
- 3. Approve Agenda for the March 13, 2023 Regular City Council Meeting**

Halverson motion, Sharma second to approve the March 13, 2023 agenda as amended. All ayes, the motion carried.

- 4. Approve Minutes of the February 13, 2023 City Council Meeting**

Halverson motion, Breazeale second to approve the February 13, 2023 City Council meeting minutes. Aye: Breazeale, Dovolis, Halverson. Abstain: Sharma (not at February 13, 2023 meeting). The motion carried.

- 5. Guests**

- 5.1. Dennis Klohs – Lake Minnetonka Conservation District (LMCD) Update

Pagano stated the Klohs has served as the city's LMCD representative for 16 years. Klohs reviewed activities of the LMCD. Lake levels were approximately a foot and a half low last year. There is a level in which docks can be placed out further into the lake than typically allowed. He discussed concerns about the impact of waves on water bodies. Studies continue and regulations may change. An ordinance was passed last year which restricts watercraft to no wake 300 ft from shore. The requirement of no wake 150 ft from shore had not changed since the 1980s when the most boats were only 16 ft on average. Breazeale asked about education and enforcement. She stated many boats ignore no wake areas near the Arcola Bridge. Klohs stated the LMCD has a large education program and media campaign. They will continue to try to get the message out but educating people is really hard. Additional water patrol has been funded from the LMCD donations. They plan on education and patrol, but it is difficult. Klohs then reported that the executive director retired and the LMCD is recruiting for a replacement. There has been interest in people trying to sell things on the lake and use personal watercraft as rentals. There is a lot to enforce. Sharma asked Klohs to bring up the Arcola Bridge area concerns to the water patrol at the next LMCD meeting. Klohs then discussed aquatic invasive species. Funding treatment of them has been challenged and people have concerns about chemical use in the lake. AIS can be controlled but it takes money (\$1 million per year) and chemicals. Treatment needs to happen every year. Government agencies cannot do this, but property owners can pool together to try to treat weeds. The LID is working on this as well. Klohs went on to say there are a million pounds of carp in Halstead bay and there may be bow hunting allowed this summer to help remove some.

- 6. Planning and Zoning**

- 6.1. Shoreland Rules and Code Compliance Amendments – Jeff Breazeale, Planning Commission Chair

Breazeale stated Planning and the Task Force agreed to spend the next 90 days working on amending the code for the big issues and working with the DNR on those amendments, specifically with the 1992 agreement. He reviewed the process and referred to the ADU amendments as the “first package”, the “second package” will be items from the remaining 3/7 agreement after comparing current code to the DNR model ordinance and the 1996 code. Chair will prepare recommendations to Planning with input from task force, Planning reviews and modifies if needed and then presents amendments to Council for their input. Planning Chair and task force seeks condition approval from the DNR on amendment package. The proposed amendments are posted, and a public hearing will be held by Planning. Council would approve amendments and DNR would give final approval. The target date for completion of 3/7 factors is August 2023.

Breazeale added that there will be a “third amendment package” to cover shore impact zones side setbacks and possible limited other amendments for the April Planning meeting.

Breazeale then reviewed the following proposed amendments:

Building Height.

Breazeale discussed building height and recommended using the 1996 definition which is less restrictive than in the 2017 code. He also recommended the 2017 code language for the rule because it has clarification language that is useful.

Breazeale motion, Halverson second, for the City to seek conditional approval from the DNR and follow the code amendment process established by the legislature for the following proposed zoning code amendment: Height of Building as presented on pages 17-18 in today’s presentation which reads:

Definition: Building Height. The vertical distance between the lowest ground level of the building and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

**Rule: Height Requirements
Height Requirements**

(a) In general

The total height of any structure shall not exceed the maximum height limit established for the applicable zoning district unless expressly stated otherwise in this ordinance.

(b) Exceptions

Height limits shall not apply to cupolas, flagpoles, chimneys, spires, flag poles, antennas, rooftop dish antennas, skylights, water towers, heating and ventilation equipment, fire escapes or roof access stairways, mechanical equipment required to operate and maintain a building, parapet walls extending not more than three (3) feet above the limiting height of the building, or similar appurtenances, provided:

- (i) The appurtenance does not interfere with the Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;**
- (ii) The appurtenance does not extend more than five (50 feet above the maximum permitted building height, except as specifically allowed by this ordinance;**
- (iii) The appurtenance is not constructed for the purpose of providing additional floor area in the building; and**
- (iv) The appurtenance complies with any screening requirements that may be required by this ordinance.**

All ayes, motion passes.

Water Oriented Accessory Structures (WOAS). The definition of WOAS in 2017 code does not limit them to a single structure and does not list pump houses. Recommend these changes to the definition. Also recommend adding WOAS rule in the code consistent with the DNR model ordinance.

Halverson motion, Breazeale second for the City to seek conditional approval from the DNR and follow the code amendment process established by the legislature for the following proposed zoning code amendment for Water Oriented Accessory Structures (WOAS) as presented on page 21 in today's presentation with the following changes:

Definition: Edit 2017 Code Definition by adding "simple" between "A" and "small" and adding "Examples of such structures and facilities include equipment storage structures and pump houses"

Rule: Edit 2017 code by adding #7 Water-Oriented Accessory Structures to (ii) Stairways, Lifts and Landings as 7. Water-Oriented Accessory Structure. The structure, if not more than four (4) feet in height and with a footprint of not more than twenty (20) square feet, may be approved by the City without a variance upon the granting of a building permit.

All ayes, motion passes.

Hardcover. Breazeale discussed the flexibility granted to the city in 1996 of 30% hardcover instead of the DNR allowance of 25%. The 2017 zoning code offers credits for use of pervious pavers which increases allowed hardcover to 35%. The DNR does not consider permeable pavers as impervious. He added the city does not have resources to enforce maintenance of surfaces as required in code. T. Breazeale stated boulders and boulder walls are not in the definition of impervious surfaces but currently count as hardcover. There was discussion about boulders and boulder walls being considered in hardcover calculations or not. Phil Carlson stated that the definition includes "similar surfaces" so he would count large boulders and boulder walls as hardcover. Dovolis stated that in the shoreland slope areas, these walls slow runoff to the lake which is a benefit. They may make changes to this in the future when reviewing grading and filling?

Breazeale motion, Dovolis second for the City to seek conditional approval from the DNR and follow the code amendment process established by the legislature for the following proposed zoning code amendment for Hardcover as presented on page 22-23 in today's presentation with the following changes:

Definition: Replace 2017 code definition with DNR model ordinance definition of impervious surface. Impervious Surface. A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete; asphalt; gravel driveways or permeable pavers; and similar surfaces.

Rule: Recommend striking language in 2017 code regarding hardcover credits from section 3.7(f)(8)(c)(vi)(7)(e) on p. 119 as follows:

~~Except as provided below, hardcover shall not exceed thirty percent (30%) of a lot or combination of adjacent lots under one ownership or Planned Unit Development. In calculating hardcover, a twenty-five percent (25%) credit shall be given for hardcover that the City Engineer or Zoning Administrator approves in writing for a particular lot as qualifying for one or more of the following Design and Treatment Best Management Practices ("BMPs"). The total adjustment credit received for the use of items 1 through 4 below may not exceed five percent (5%) of the lot area.~~

- ~~i. Pervious pavers, pervious asphalt or pervious concrete that allows for stormwater infiltration.~~
- ~~ii. Boulder walls that reduce the impact of impervious surface to storm water runoff.~~
- ~~iii. Decks that all free flow of stormwater to pervious surface below the deck.~~

~~iv. Stone or crushed granite surfacing that allows for stormwater infiltration.~~

and striking (5) from Table 3-6 on p. 67. All ayes, motion passes.

There was discussion about pervious/impervious surfaces and rocks, rock walls, and boulders. Some surveys from the past show large boulders as hardcover, sometimes they are not. T.Breazeale stated that some boulder walls help with slowing runoff to the lake or prevent erosion and is beneficial. She added that some people use boulders to build up their properties. Planning will work on grading and filling at a later date and this could be addressed at that time. Carlson recommended a clear definition of deck.

Lot Size and Lot Width. Breazeale recommended going back to promised lot width of 150 ft. Lot size was one acre in 1996 and 2017 code.

Halverson motion, Sharma second to seek conditional approval from the DNR and follow the code amendment process established by the legislature for the following proposed zoning code amendment for Lot Width as presented on page 26 in today’s presentation by changing 100 ft lot width to 150 ft lot width. All ayes, motion passed.

Breazeale stated the current 2017 code is confusing because of references to code applying to various districts. He recommended replacing “Wetland Overlay District” with “Minnetonka Beach”.

Halverson motion, Dovolis second to seek conditional approval from the DNR and follow the code amendment process established by the legislature for the following proposed zoning code amendment for Septic Systems as presented on page 32 in today’s presentation by replacing “Wetland Overlay District” with “Minnetonka Beach”. All ayes, motion passed.

7. Old Business

7.1 Water Treatment Plant Update

Mayor Pagano stated the city is attempting to get funding for the water treatment plant. Of hundreds of applications, 20 were allowed to testify at the House and 26 were allowed to testify at the Senate. Pagano testified at both hearings. Representative Myers and Senator Morrison presented bills requesting funding for Minnetonka Beach. Mayor Pagano had three minutes at each hearing to present. He complimented the team of people who have been working on the applications for funding: State Senator Morrison, State Representative Myers, Former Mayor Lindstrom, City Administrator Honey, Treasurer Zinn, Public Works Superintendent Hilgers, Mayor Pagano and Stantec. The city asked for \$6.6 million for a new water treatment plant and the message presented at the hearings was the sense of urgency to replace the existing plant due to its many documented deficiencies and the burden of \$6.6 million on 230 homes. Council then watched the House testimony video. Summary of Pagano’s testimony in the video: There are three takeaways from today’s testimony: 1. The 65-year-old treatment plant needs immediate replacement; 2. Minnetonka Beach is one failed part away from a water crisis; and 3. Our small town needs state funding to build a new water treatment plant. He went on to say that engineering and health inspections have shown that the water treatment plant has many major components past their expected life and are in need of costly repair or replacement. He added that the state’s 2021 water plant treatment tour viewed Minnetonka Beach’s water treatment plant as the second worst of all inspected plants. The plant is currently operating on the clean water, worker safety fault line. Inflation, interest rates and length of construction time have created a heightened sense of urgency for our project. Pagano stated the same plant that cost \$4.2 million two years ago now costs \$6.6 million, interest rates have risen from 2% to 5%, and the building time to design and construct a new plant is 2.5 years. Pagano then said that Council determined that the best use of tax dollars was to build a modest and functional new plant which will be simple. Priority will be given to the water filtration equipment inside the building. Pagano then reviewed the numbers. Minnetonka Beach has 230 homes and no commercial or industrial tax base. The city budget is \$1.4 million for 2023 and \$300,000 of

that is debt from the recent water tower replacement and water mains. The debt service for the new plant without funding is \$530,000 annually. In their homes, residents will be discussing how to fund the additional \$2,300 in annual water charges over 20 years, which is \$46,000 per household.

Pagano stated next steps are that Representative Myers and Senator Morrison will lobby on behalf of the city and there will be a fall tour of requested projects. He then explained that there is one funding this spring and another this fall. For the House, Minnetonka Beach was not approved, and Mound was preliminarily approved for one third of their \$36 million request but there is additional approval needed. Minnetonka Beach may still be considered this fall. Additionally on March 9th, the city received information from Congressman Dean Phillips office for federal funding and Stantec is reviewing that to see if Minnetonka Beach fits the requirements. The deadline to apply is March 15th. He has 15 projects that he can recommend for further consideration, and they are generally small projects.

8. Finance

8.1 Summary Report of City Finances

Zinn reviewed the monthly expenses. The city has more cash at the end of February 2023 than 2022. He stated CDs are earning 4.4% and 4.6% and will mature soon. Bridgewater Bank agreed to increase the interest rate on the checking account to 1.5%. they will revisit that in the future. Zinn then discussed that the previous approach was to bond this spring but he recommended waiting a bit for the market to recover before bonding for the first half of development for the water treatment plant. The city is beginning to get invoiced for Stantec work on the water treatment plant. The city continues to monitor zoning and engineering project costs. Zinn reviewed expenses and stated the city spends most of its money on a small amount of recurring items so the city doesn't have an opportunity to change much annually with the budget discussions.

9. Consent Agenda

- 9.1. Police Report - February
- 9.2. Fire Report – February
- 9.3. **Resolution 2023– 10** – Gambling Exemption – Ducks Unlimited Event at Lafayette Club (04/27/2023)
- 9.4. **Resolution 2023 –11** - 2023 Dock Applications
- 9.5. **Resolution 2023 – 12** – 2023 Dock Variances
- 9.6. **Resolution 2023 – 13** – Reestablishing Precincts and Polling Places
- 9.7. Ord. No. 137, 2nd Series – Recreational Vehicles and Resolution 2023 – 14 – Authorizing Summary
Publication of Ord. No. 137, 2nd Series
- 9.8. 2023 Financial Audit – Bonnie Schwieger, Abdo Solutions
- 9.9. Council Meeting Action Notes
- 9.10. Approve checks: March 2023

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

10. Open Forum – 7:41pm open and close, no discussion

11. Staff Reports

11.1. Administrator's Report – Honey's detailed report was in the packet. She stated a majority of her time was spent getting everything ready for testifying before the house and senate committees for water treatment plant funding.

11.2. Clerk's Report – Home Sales and Building Permit Logs in Packet

Burgess reported that she also worked on water treatment plant communications. She has spent a lot of time on the city dock program and has processed 52 applications so far and sent out the applications for lower priority docks. She then stated she does a lot of the same work each month including working closely with Park Commission, Parks agendas and packets and their minutes, council minutes and help with meeting

packets, meeting follow-up, required reporting to various state, county, DNR, Met Council, etc. agencies. She drafts the weekly SPLASH! eblast communication, and the Beachcomber newsletter.

11.3. Public Works Superintendent Report – No report

Sharma asked that Hilgers check a large puddle at Woodbridge and Lafayette to make sure the catch basin is not blocked. Burgess will let him know.

12. Council Reports

12.1. Mayor’s Report: Pagano reported that he, Dovolis and Halverson attended newly elected officials training from the League of MN Cities, which was excellent. He then encouraged residents to send letters to the city’s representatives to thank them for advocating for the city.

12.2. Liaison Reports

Dovolis – no report

Halverson – Attended Future Fire Services meetings and will attend other fire meetings in April. She is learning a lot about fire services and equipment.

Breazeale – Park Commission is working on seasonal contracts, looking forward to asset inspections. They are discussing the skate park, the old one had to be retired because it is not safe. They are looking at if it should be replaced. Civic Committee discussed this also. Some members wanted to replace it and other members thought other options should be considered such as pickleball. She suggested that council discuss how they want to direct Parks regarding the use of Ray Peters and take a holistic view of the parks and their amenities for more use by more of the community and year round. She then stated that HCRRA is looking at removing all of the ash trees along the Dakota Rail corridor in the next few years. They will likely be replaced but with small trees. If the city wants larger trees, they would work with HCRRA and could have to pay for them. Civic is collecting annual dues. They are working on their event calendar and finalizing dates. A task force is working on welcoming new residents, communication and inviting them to be active in the community.

There was discussion about adding personal things with residents to the Beachcomber. It gives a small town feel, but there was concern that someone’s event may be missed. People would have to submit their own news. The other reason to have people submit their own news would be that some people may not want news out and it would allow for parents to give permission of their children.

Sharma – He stated he will be able to attend the April council meeting but they will be putting their house on the market after Easter. He wanted to be mindful of his service to the community and will do his best to attend council meetings.

13. Adjourn

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

The meeting adjourned at 7:53 pm.

Members of the Public: Nell Mathews

Respectfully submitted,

Jane Burgess, City Clerk