

Monday, April 10, 2017 7:00 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES
LOCAL BOARD OF REVIEW – 6:00 PM (separate agenda/minutes)

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 Sargent Chad Stensrud; Dock Commission Chair Lee Goehring; Planning Commission Acting Chair Jim Haag

1. Mayor Taylor called the meeting to order at 7:25 p.m.

2. Andrew Myers led the Pledge of Allegiance.

3. Approve Agenda for the April 10, 2017 City Council Meeting.

Council Member Kozloski asked to move item 9.6 Resolution 2017-22 Regarding Recusal from Voting for Planning Commissioner to Old Business as item number 11.3. Council Member Myers asked to add two items to item 12. New Business: Item 12.2 Uploading audio of meetings and item 12.3 Council Behavior.

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

4. Approve Minutes –

4.1. Regular Meeting of March 13, 2017

Council Member Bartel asked to more clearly separate the closed meeting and the open meeting in the minutes. She asked to add the word “could” in the second sentence on page 5. She also said to change “she was asked” to “she volunteered” in the Action Notes regarding reviewing zoning issues and fees.

A motion was made by Council Member Lindstrom and seconded by Council Member Myers to approve the March 13, 2017 Regular City Council meeting minutes as amended. With all members voting in favor, the motion carried.

5. Recognize Outgoing Planning Commissioner Carmen Carruthers

Mayor Taylor presented a Certificate of Appreciation to Carmen Carruthers for her service on the Planning Commission.

6. Police Report

6.1. **Police Report – March 2017**

Sgt. Stensrud reviewed the activity report. They issued eight administrative tickets for overweight vehicles in March. There was an assault at Lafayette Club between two women. The prescription

drug take back initiative is at the Orono Public Works facility on April 29 as part of their clean-up day. Sgt Beck will be taking Sgt. Stensrud's place on the evening shift for the summer.

7. Open Forum

7.1. Docks – Chair Lee Goehring

Chair Goehring reported on the March Dock Committee meeting where they discussed the new LMCD rules on dock reconfigurations. They want to limit the reconfigurations to slips that are currently not being used and are requesting that Council allow conversion of some slips at Docks 2, 3, 17-23, and 11 to linear feet to allow reconfigurations and increasing the size of some slips. Administrator Griffin reviewed proposed reconfigurations for those slips. Council discussed if they want to delegate that responsibility to Administrator Griffin and the Dock Committee or have Council approve the changes going forward.

Chair Goehring also reported that they put an article in the Beachcomber informing the community that there may be possible options for reconfigurations.

A motion was made by Council Member Bartel and seconded by Council Member Myers to allow the City Administrator and the Dock Committee to approach the LMCD to make administrative changes to the four dock areas discussed. With all members voting in favor, the motion carried.

7.2. Finance – Chair Steve Howarth

Chair Howarth stated the Finance Committee met March 14th and they familiarized themselves with the following issues: the financial statements from the 2016 audit, the capital asset finance policy, capital water improvements, employee compensation study, need for an investment policy, land use application fees and establishing escrows. From those discussions, they recommended benchmarking with other cities regarding escrows and benchmarking the cost of city government. He also said the Capital Asset Financing Policy established in 2009 requires the treasurer to maintain a designated fund in an amount of \$250,000 for potential replacement of the water tower. The designation has not been made since the policy was established. The current Council can change that designation at any time. The Finance Committee recommended the funds be reflected in the General Fund under a self-designated fund entitled Water Tower Replacement. Council discussed the necessity of having the fund. The Finance Committee will research the amount required by the policy and the necessity of the policy later.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to change the designation to a self-designated fund within the General Fund entitled Water Tower Replacement Fund. With all members voting in favor, the motion carried.

Treasurer Howarth also reported that the committee increased membership to six plus the chair for a total of seven. The committee advertised two openings in the Beachcomber. Davida Suiter and Dr. Paul Sperduto asked to be appointed to the Finance Committee.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to appoint Davida Suiter and Paul Sperduto to the Finance Committee. With all members voting in favor, the motion carried.

Council Member Bartel suggested establishing a policy on using reserves. Administrator Griffin will research when reserves were used in the past and for what purposes. The Finance Committee can examine the findings.

7.3. Planning – Acting Chair Jim Haag

Acting Chair Haag stated the March 20th Public Hearing covered chapters 5 through 8 of the zoning code updates. All resident concerns have been documented and will be reviewed before making a recommendation to Council. The next public hearing is April 24. The commissioners decided to table the traffic calming part of the Transportation Study to focus on safe crossing. They will create a sub-committee for safe crossing to keep the momentum going with the county. Chair Corey Orehek and Commissioner Jennifer Halverson are taking the lead for the sub-committee and are looking for approximately 4-6 residents to serve on the committee. Chair Orehek will oversee the Capital Improvement Program. The Planning Commission requested that their council liaison be present at their meetings and the chair would continue to provide a report to Council after the meetings. Council directed Administrator Griffin to put a request in the Beachcomber for a new planning commissioner.

8. Open Forum

Resident Rick Skalla, 3124 Old County Road, still does not feel all of his issues have been addressed by Council. He recommended that when specific citizen's concerns are going to be discussed at Council meetings, that topic be placed on the agenda so the resident knows to attend the meeting. He warned Council to be cognizant of the words they use because of their effect on the community. He discussed his meeting with Mayor Taylor where they had a good conversation. He recommended that Council consider removing Max Hacker from the Planning Commission because he continues to discuss items related to his lawsuit. He then expressed his concerns about statements made by Council Member Bartel. He felt he was defamed again by her and asked for her resignation. He supports uploading meeting audio recordings to the city website. He then requested that his original address to council be put into the meeting minutes in its entirety in the council packet as he had requested at the last meeting.

Resident Cammy Skalla, 3124 Old County Road, stated that she has listened to all of the meeting audio recordings. She said things that were said were inappropriate and were personally hurtful. She is unhappy about the way this has been handled, the way her family has been talked about and how her husband has been labeled.

Council Member Bartel stated she is not going to resign and there are usually two sides to most issues. Former Mayor Skalla has taken the opportunity over the last few months to tell his version of an issue involving her so now she is telling her side. She then discussed an email sent by former Mayor Skalla to Planning Commissioner Max Hacker asking for his resignation based on Mr. Skalla's perception that Mr. Hacker had a conflict of interest as well as Mr. Skalla's perception that Hacker could not be unbiased. Mr. Skalla did not confer with Planning Commissioners or Council about his request for resignation. She went on to explain that she substituted as liaison at the December 27th Planning Commission meeting where Chair Myers brought up the letter asking for Commissioner Hacker's resignation and because he thought Council should hear their input. Commissioner Hacker was not at the meeting and the subject was not on the agenda. She said she spoke up at the meeting and said, "this is a democracy...we don't ask people to resign when we disagree". She went on to say protecting democracy was very emotional for her and felt the request for resignation was inappropriate. She explained that instead of saying "very emotional" she could have said "very important". The commissioners did not

feel Hacker was a problem, he could recuse himself on discussions related to his lawsuit and did not need to resign. The commissioners have now elected Hacker as Vice Chair of the Planning Commission.

Council Member Bartel has listened to the audio as well and transcribed it nearly verbatim. She went on to say former Mayor Skalla accused her of slander, which she addressed at the March 13 Council meeting, of being too emotional to serve as a liaison, and of harming him by saying his request that she not be a liaison in an email to Mayor Taylor because “she cannot keep her personal and emotional opinions in check” was sexist and offensive. She did not say she was emotional, but said protecting democracy was emotional for her. She went on to say stereotyping anyone as too emotional is offensive. In her 10 and a half years serving on Council, she has not had a resident object to or question her actions, voting or behavior and she has often given her opinion as liaison at meetings. She stands by her comments made at the Planning Commission meeting and finished by saying this is the last time she will address any comment made by Mr. Skalla about her.

9. Consent Agenda

9.1. Fire Report – March

9.2. **Resolution 2017 – 20** - Consider Dock Applications for 2017 City Dock Permits

9.3. **Resolution 2017 – 21** - Consider Dock Variances

9.4. Consider Approval of SafeAssure Contract Renewal

9.5. Special Event Permit – Middendorf – Swimming Beach – 8/12/2017 (11 am – 1 pm)

9.6. **Resolution 2017 – 22** - Resolution regarding recusal from voting for Planning Commissioner
(MOVED TO OLD BUSINESS)

A motion was made by Council Member Lindstrom and seconded by Council Member Myers to approve the Consent Agenda with item 9.6. moved to Old Business. With all members voting in favor, the motion carried.

10. Treasurer’s Report

10.1. Approve Checks: April 2017

Treasurer Howarth said check #16096 to Sambatek is for two month’s services. The previous check issued to them was lost in the mail and payment stopped through the bank.

A motion was made by Council Member Lindstrom and seconded by Council Member Myers to approve 34 checks numbered 16068 through 16101 in the amount of \$48,823.65 for April 2017 expenses. With all members voting in favor, the motion carried.

10.2. 2017 YTD Budget and Prior Year Comparison Report

Treasurer Howarth reported on this during the Finance Committee report.

10.3. Outstanding Accounts Receivable Report

Administrator Griffin sent letters resulting in two residents asking to meet with the Mayor and her about outstanding balances. Howarth requested that a second notice be sent to those who did not respond.

11. Old Business

11.1. Liaison Roles and Responsibilities Draft

Council Member Lindstrom drafted the Roles and Responsibilities after comparing various cities' policies. Council stated the draft was very thorough and well written but the key is making sure the document is followed.

A motion was made by Council Member Kozloski and seconded by Council Member Bartel to approve the Liaison Roles and Responsibilities. With all members voting in favor, the motion carried.

11.2. Consider Amendment to Section 904 – Park Commission – Ordinance No. 114, 2nd Series – change provision for Liaison voting

A motion was made by Council Member Myers and seconded by Council Member Lindstrom to Amend Section 904 – Park Commission – Ordinance No. 114, 2nd Series eliminating the Liaison's ability to vote in the event of a tie. With all members voting in favor, the motion carried.

11.3 **Resolution 2017 – 22 Resolution regarding recusal from voting for Planning Commissioner**
Council discussed the actions of Planning Commissioner Hacker at the last Planning Commission meeting where he and Nell Mathews discussed issues related to their lawsuit. Kozloski, Lindstrom and Myers agreed there was a perceived conflict of interest. Council Member Lindstrom said legal counsel gave them the legal definition of conflict of interest but it did not require removal. Hacker recused himself from chairing the meeting but did not recuse himself from discussions about issues related to his lawsuit.

A motion was made by Council Member Bartel to approve Resolution 2017-22 regarding recusal of Planning Commissioner Max Hacker.

Council Member Lindstrom asked for further discussion and stated that the resolution does not have a consequence for violation if he does not recuse himself. Council then discussed that Commissioner Hacker was aware of the action at the last council meeting. Council speculated on Hacker's level of understanding of the expectations. Council Member Kozloski said they have been dealing with this for months and they keep giving him a pass. Council Member Myers said his actions at the meeting were self-serving and the public is seeing a conflict. Council Member Lindstrom would only approve the resolution if there was a removal clause. Mayor Taylor asked if she wanted to make a motion to amend the resolution.

Council then discussed that even though the resolution had not been approved yet, Commissioner Hacker had been talked to privately and he recused himself from chairing the meeting. After the meeting, Mayor Taylor had a conversation with Commissioner Hacker where he commended him on recusing himself but then lost a lot of the good will when he spent 20 minutes discussing issues related to his lawsuit at the last Planning Commission meeting. Mayor Taylor thinks they need to take a formal action. Council Member Lindstrom stated if he knew to recuse himself but still acted in that way, she will not second the motion.

With no second, the motion failed.

A motion was made by Council Member Kozloski and seconded by Council Member Myers to remove Planning Commissioner Max Hacker from the Planning Commission until his perceived

conflict of interest with the City is concluded. Members voting in favor: Myers, Lindstrom, Kozloski. Members voting against: Bartel. The motion carried.

Nell Mathews spoke up and stated that Max Hacker was not at the December 27th Planning Commission meeting when the issue was introduced. He was out of town for the March 20th Council meeting so he could not attend that either. She then referred to Mr. Skalla's complaint about issues not being on the agenda and people not being able to speak on their behalf. She thought it was unfair to Max Hacker because he had no way of understanding what the rules were when the language of the resolution was not written yet. She then discussed her lawsuit and said it was because of Mr. Skalla's unwillingness to let them to be heard, allow them to be on the agenda and also to enforce the City's laws. Myers said he would be happy for Hacker to address Council at the next meeting. Mr. Skalla stated that Mr. Hacker has been spoken to numerous times over the last year and four months.

12. New Business

12.1. Water Tower Discussion (existing vs. new)

Council Member Myers informed Council that he is researching placement of the water tower on the National Historic Registry. Grants may be available for assessing the condition of the water tower and painting it. The city may be able to save money on maintaining the water tower. Council agreed the option should be explored but the City should be careful that it does not limit itself on future improvements. Myers is currently fact finding on the pros and cons of pursuing it and not submitting any applications without Council approval. Council agreed it is good to explore grant opportunities.

12.2 Audio Recordings

Council Member Myers suggested uploading the audio of meetings to the City's website for easy access to listening. Treasurer Howarth said the LMCC provides videotaping of meetings to cities. Council said they can explore the videotaping option later. Council then discussed the length of time and storage capacity on the website and decided on a period of 60 days for audio to remain on the website.

A motion was made by Council Member Kozloski and seconded by Council Member Bartel to have the audio files of all meetings uploaded to the City's website for period of 60 days. With all members voting in favor, the motion carried.

12.3 Council Behavior

Council Member Myers said he thinks at recent meetings there have been statements by council members to citizens that he believes are uncalled for. He is afraid that statements made by Council may make residents not want to attend meetings or voice concerns. Council Member Kozloski said that he did not agree with legal counsel who said that council members can respond to residents any way they wish. He thinks they need a code of conduct or standards they adhere to and should be held to a higher standard. Treasurer Howarth suggested a rewrite of the City's bylaws. Council Member Kozloski offered to start the process by researching city codes of conduct and reporting back to Council. Treasurer Howarth suggested it have legal review and be applicable to all elected and appointed officials.

13. Action Notes and Staff Reports

13.1. Council Meeting Action Notes

Mayor Taylor said that the Orono City Council approved the proposed police contract and the city is waiting for the contract. Administrator Griffin will follow up. There are no updates from the Met

Council on the change in governance issue. Administrator Griffin will add Council Member Kozloski researching a code of conduct to the Action Notes. Council discussed the timing of cleaning and repairing the water tower. Public Works Director Young said the MN Department of Health has storage capacity requirements and if Lafayette Club ever closed and homes were built there, the tower would need to be replaced. Last time the water tower was cleaned, 15 years ago, it was in good shape. Council decided to wait until next summer to clean and paint the water tower until the City hears back on the historical registry.

13.2. Director of Public Works Report

Director Young said road restrictions are still on. Hockey boards are off and soccer nets are up at Ray Peters Park. The chipper truck was repaired.

13.3. Clerk's Report

The Lafayette Club would like to have a spot light for the grand opening of the bar and grille on June 2 from 7 to 10 pm. They could not find anything in city code restricting a spot light and they would inform residents about it. The club is also considering having a farmer's market one day per week this summer that would only be open to members. The city would permit it as a special event.

13.4. Administrator's Report

Administrator Griffin reported that the pay equity compliance report filed with the state passed. She asked for direction from Council on the process of hiring a public works director because she would proceed differently if they posted the position as is or if they outsourced. Council discussed the Finance Committee evaluating proposals for outsourcing, and discussed the Personnel Subcommittee examining outsourcing options. Council directed Administrator Griffin to explore what other cities do for public works and outsourcing. Council Member Lindstrom said outsourcing can be expensive and sharing personnel can be difficult.

Administrator Griffin discussed the Capital Improvement Program (CIP) process. The Planning Commission collects input from all committees and commissions as well as Council and prepares a draft. She distributed a CIP Worksheet and asked Council to submit changes to her by May 22. The CIP Public Hearing will take place at the June 26th Planning Commission meeting and Council will review and consider adopting the proposed CIP in July. The CIP process forms the basis for the 2018 Capital Budget.

She then referred to a letter in the packet from the LMCD encouraging the cities on the lake to support the Sheriff's electronic sign project. Council wanted more information on the project and requested Administrator Griffin to invite LMCD representative Klohs to report on it at the May meeting. Council Member Lindstrom asked to have Three Rivers report on trail saturations at the next meeting.

Administrator Griffin reminded Council that agenda items should be submitted ahead of time so residents know what will be discussed even though agendas can be amended at the meeting. She and the Mayor set the agenda a week prior to the meeting and agendas must be posted three days prior to the meeting. She then discussed a letter in the packet regarding a possible nuisance violation. The property owner has until April 28 to complete the work. The building official will come to the May meeting to report on the status. If work is not completed by then, the next step is for Council to declare a nuisance and set a hearing date for the resident to speak to the issues.

She also reported on a complaint about a street light on Brooks Lane that was switched to LED. The resident said the previous light was painted black to prevent glare but the new light cannot be painted. Xcel Energy offered to move the light but that would affect another resident.

14. Council Reports

14.1. Mayor's Report –

Mayor Taylor met with Rick Skalla to resolve two open issues. He made the following statements: The first is regarding the Orono Police contract. He reported at a council meeting that the Orono Police Chief had been upset because they learned about Minnetonka Beach's issuance of a request for services from alternative police departments through the grapevine. He did not ask for clarification from Chief Farniok and assumed his statement referred to everyone in the department including him. Skalla stated to Taylor that he had personally contacted Chief Farniok to let him know before the request went out. Mayor Taylor then said if he misled anyone about Skalla's actions regarding how the information was communicated, he apologizes for that.

The second issue is that he had been asked by people what was driving Skalla's action related to his emails to Council about the Planning Commission meeting in December and then his letter asking Max Hacker to resign from Planning. In an effort to provide a reason for the perceived uncharacteristic behavior, he made the statement "he was dealing with issues at home". Skalla indicated that Taylor's statement (although Skalla has acknowledged that it was well intentioned on Taylor's part) had the unintended consequence of causing at least one person to ask if things are ok at home. It was not Taylor's intent to create issues for the Skalla family and, if that was the result of his statement, he apologizes to Rick, Cammy and the family. He went on to say he truly means that and he was sad to see Cammy as upset as she was.

Mayor Taylor then said he has been asked about a video that had been shared of him acting silly on election night at home with a small group of friends. He described the video as him walking around wearing a dog's crown. He said, "Off with their heads" and then was asked to say something smart. While he was trying to think of something to say, a guest said, "beach lives matter" which he repeated. He then removed the crown and it ended. He was asked if his intent was to demean the office of Mayor or if he was making a political statement about the Black Lives Matter movement. He said neither could be further from the truth and he is happy to share the video with any resident of Minnetonka Beach.

Treasurer Howarth said he attended the gathering and it was well intended fun done in the privacy of Mayor Taylor's home that was never intended to be a public matter. He went on to say he is appalled that this has become a public matter and he is shocked that actions in the privacy of his home have to be addressed in public with Council. He reiterated that it was well intended fun.

A motion was made by Council Member Lindstrom and seconded by Council Member Myers to adjourn the meeting at 10:08 pm. With all members voting in favor, the motion carried.

PUBLIC IN ATTENDANCE – Bridget Wortman, Mark Osmanski, Lee Goehring, Nell Mathews, Jim Haag, Ward Myers, Craig Moriarty, Cammy Skalla, Rick Skalla, Bill Bartel, Jeff Steinke, Patty Rezabek, Bryan Halverson, Betsy Taylor, Rita Howarth, Carmen Carruthers, Colby Skelton, and Joe Pagano.

Respectfully submitted,

Heidi Honey, City Clerk

City Council Meeting Minutes April 10, 2017