

Monday, May 10, 2021 7:00 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES

Mayor Lindstrom determined that an in-person Council meeting was not practical or prudent because of the COVID 19 health pandemic and that this Council meeting was held remotely using Zoom Teleconferencing. This was done in accordance with MN State 13D.02

1. Mayor Lindstrom called the meeting to order at 7:01 p.m.

2. Roll Call: Mayor Jaci Lindstrom; Council Members: Tracey Breazeale, Susan Enlow, Steve Howarth, Vibhu Sharma, and Treasurer Chris Zinn. Staff Members: City Administrator Pat Melvin, City Clerk Heidi Honey, Administrative Assistant Jane Burgess, Alan Offerman – Stantec, Zoning Administrator Phil Carlson, Planning Commission Chair Jim Haag
Absent: Public Works Superintendent Jason Hilgers
Guests: Mike & Julie Lang

3. Approve Agenda for the May 10, 2021 City Council Meeting

Howarth asked to remove Item 8.4. Leaf Pick Up Program discussion due to Hilgers being absent.

Howarth motion, Breazeale second to approve the May 10, 2021 City Council agenda as amended. Roll Call Vote: Breazeale – aye, Enlow -aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

4. Approve Minutes –

4.1. Regular Meeting of April 12, 2021

Regarding Item 7.1. Lake Improvement District (LID): After the April 12th meeting, the city received information that homeowners would not be responsible for treating their own shoreline. Honey will add an addendum to the minutes explaining this.

Enlow motion, Howarth second to approve the April 12, 2021 Regular City Council meeting minutes with an addendum deleting the second to the last sentence of Section 7 regarding homeowner responsibility for treating their own shoreline area. Roll Call Vote: Breazeale – abstain, Enlow -aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

4.2. Special Meeting of April 23, 2021

Howarth motion, Sharma second to approve the April 23, 2021 Special City Council meeting minutes. Roll Call Vote: Breazeale – aye, Enlow -aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

5. Recognition of Outgoing City Administrator Patrick Melvin

Lindstrom stated that Melvin served with honesty and integrity, worked hard and long hours and provided extraordinary service to the Mayor, Council, other commissions, and residents. She noted his work on managing City Hall and staff during the pandemic, managing two city playground replacements, contracting a new building official, organizing countless city meetings, and working through innumerable problems. Lindstrom thanked him for his service and dedication to the residents. Melvin thanked the Mayor and stated he enjoyed working with everyone at Minnetonka Beach.

6. Open Forum – no discussion

7. Planning and Zoning

7.1. Variance Request Lake Shore Setback for Pool – 2651 Woodbridge Rd (Lang)

Lindstrom provided background on the property stating that in 2014 Langs received a 68' AMBS variance and a 5' driveway variance. Carlson reviewed the current front yard variance request to build a pool with the corner of the proposed pool 39' from the ROW. The pool would not be more than one foot above existing grade. There was discussion about options to place a pool in the front or back yard without a variance and that the applicant created the need for a variance due to where they initially built their home. The Planning Commission recommended approval on a split vote. Haag discussed property values and thought it was a reasonable request. Carlson did not recommend approval. Sharma asked if the walkway near the driveway is required. Carlson explained that this is part of pool decking and not required. Sharma asked how this size pool fits with the overall lot, setbacks, and surface requirements since it is slightly under an acre. Carlson stated the engineer would review stormwater mitigation and they need to meet hardcover requirements. Breazeale discussed the standard for granting variances and that they are an exception granted when there are hardships due to the land itself instead of the homeowners' desired aesthetics. Lindstrom stated that variance approvals center around practical difficulties and they can be subjective. Carlson explained that criteria for variances are set in state statute and cities include that in their local ordinance. Prior to 2011, the term "undue hardship" was in state statute for variances which was more restrictive than its replacement in 2011 of "practical difficulties". Property use in a reasonable manner was also added in 2011. Carlson went on to say the basic criteria remained. Enlow discussed that the ordinances are there so residents know what they can and cannot do and Planning and Council are tasked with enforcing the ordinances. Langs then discussed the benefits of centering the pool instead of angling it stating it allows for a logical water mitigation, doesn't block neighbor views, can't be seen from the road, reduces hardcover, it would be in the sun, not shade, and resale value. Howarth stated that he struggles with the criteria that this circumstance is not to be created by the property owner because if they sold the house the next owner may ask for a variance to do the same thing, and had they thought about building a pool in the future, they may have set their house back further initially. Enlow discussed enforcing rules. Sharma discussed less stormwater runoff and less visual intrusion with the proposed location. Breazeale thinks variances should be the exception not the rule and granted when there is no other way to do the project. Howarth stated he takes the ordinances seriously however he sees the alternate location as less visually desirable for neighboring properties and the Langs.

Howarth motion, Sharma second to adopt Resolution 2021 – 22 Approving a Variance to the Front Yard Setback for a Swimming Pool at 2651 Woodbridge Road with the following conditions: no fence established, an automatic pool cover would be used; the setback would be no greater than an 11 feet variance as indicated on the plans and no greater square footage intrusion into the required setback; and the plan would be revised so the pool is no higher than one foot above grade level. Howarth amended his motion to add that the size of the pool would be no larger than 40' x 18'. Sharma seconded the amendment to the motion. Roll Call Vote: Breazeale – nay, Enlow -nay, Howarth – aye, Sharma - aye. Resulting in a tie vote. Lindstrom voted aye. The motion carried.

8. Old Business

8.1. Update on City Administrator Recruitment Process

Melvin stated the schedule was updated and the application deadline was today, applications will be screened, preliminary interviews will be scheduled as soon as possible, and final interviews will be the week of May 24th. Council considered Clerk Honey for interim city administrator. Issues in process include payroll, planning and zoning issues, permitting process, and installation and accounting for both playgrounds.

Howarth motion, Enlow second to appoint City Clerk Heidi Honey as interim City Administrator of the Village of Minnetonka Beach until such time as an administrator is appointed. Roll Call Vote: Breazeale – aye, Enlow -aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

8.2. Update on Crystal Bay Lake Improvement District (LID)

Melvin researched if a LID can be done. State statute allows a city that has a lake wholly in its boundaries or more than two cities that have a boundary of water wholly within their shared boundaries to form a LID. Applying this standard to Crystal Bay is complicated since it is a small part of the larger lake which spans many cities. It was done in St. Alban's Bay with the involvement of the DNR and Board of Water and Soil Resources. Melvin forwarded information to Richie Anderson and Eric Evenson and encouraged them to continue exploring the process. This should be sorted out prior to surveying affected property owners.

8.3. Update on Half Moon Park and City Hall Park Playground Equipment Installation

Melvin stated City Hall Park installation was delayed but work will begin again this week. The Livingston sign at Half Moon Park was not ordered by the vendor and it will be coming. Sharma reported work being done on Sunday at Half Moon Park. He also recommended a street sweeper clean up after it is complete. Hilgers will inspect Half Moon playground since he has been on vacation and report these concerns to the vendor. Engineered wood fiber will be blown in at competition.

8.4. Leaf Pick Up Proposal – agenda item removed

9. New Business

9.1. Consider Caldwell Tanks, Inc. Request to work outside of construction hours and extend the substantial completion deadline

Offerman stated the contractor is requesting to work two Sundays on May 15 and June 6. Contract work hours are 7am – 7pm Monday through Friday and 9am to 5pm Saturday. Caldwell is expecting a substantial competition date of September 8, 2021 due to steel construction and painting delays, the contract date was July 1. This would not impact the final competition date. City construction hours are 7:30 am to 5:30 pm Monday through Saturday. Council members did not support work on Sunday. Council would need to acknowledge the substantial competition date by July and will discuss at the June meeting. If the project is not completed on time, the city would contact the city attorney for protection against additional costs. Howarth stated they are saying they lost 39 days due to road restrictions. He asked Offerman if Caldwell planned to start on March 1, but they should have planned for road restrictions. This will be on the June agenda.

Howarth motion, Sharma second to set the water tower work hours as follows: Saturdays 7:30 am to 5 pm, no work hours on Sundays, and Monday through Friday 7 am to 7 pm. Roll Call Vote: Breazeale – aye, Enlow -aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

8. Consent Agenda

- 8.1. Police Report – April
- 8.2. Fire Report – April
- 8.3. **Resolution 2021 – 20** – Additional 2021 Dock Permit Applications
- 8.4. **Resolution 2021 – 21** – Accepting Donation to City – Lafayette Ridge Homeowners Assn.
- 8.5. Water Tower Update Memo
- 8.6. Utility Rate Study Agreement – Abdo, Eich, and Meyers, LLP
- 8.7. Update on legal expenses related to Schussler v. Minnetonka Beach

Howarth motion, Sharma second to approve the Consent Agenda. Roll Call Vote: Breazeale – aye, Enlow -aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

9. Treasurer’s Report

- 9.1. Approve Checks – May 2021

Zinn reviewed the new financial dashboard report which summarizes bank accounts, larger accounts payable and debt service. Howarth asked that he add accounts receivable to the report. Zinn will research options for higher interest income with Ehler’s. Sharma referred to questions from the April meeting and asked Melvin to email updates. Fund accounting discussions need to take place with Lynette Rhode and Bonnie Schweiger. Howarth asked for a comparative summary on reserve status as of year end. Melvin to ask Schweiger to compete it. Staff will ask Schweiger for information needed for the Utility Rate Study to determine if they can move forward on it during the city administrator replacement process.

Howarth motion, Sharma second to approve 40 checks numbered 18304 through 18343 in the amount of \$83,855.98 for May 2021. Roll Call Vote: Breazeale – aye, Enlow -aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

- 9.2. YTD Budget to Actual Report and Prior Year Comparison

- 9.3. Outstanding Accounts Receivable

Howarth discussed follow up on accounts receivable. Melvin needs to provide details to Snell. They assumed the builder was paying the invoices and now has asked for detail. Zinn will discuss developing a process with the new city administrator for collection with timely notifications. The only leverage the city has to collect outstanding invoices is in issuing certificates of occupancy for new home builds but remodels do not require certificates of occupancy.

10. Action Notes and Staff Reports

- 10.1. Council Meeting Action Notes

- State Funding - Hilgers will lead a tour of the water treatment facility with representatives.
- Water Treatment Plant – Utilities met to discuss options – repair, replace or purchase from Orono. Next step is to meet with Zinn and Sharma to share financial analysis needed to make a comprehensive decision. Repair will give a 20-year life and replacement will give up to 100-year life. A joint Finance and Utilities meeting may take place after the financial analysis is complete. The time frame is about two years until the situation becomes critical.
- Civic wants to begin planning activities. Jillian Moriarity and Marnie Johnson have offered to take leadership roles. They will meet after May 28th.

- 10.2. Clerk’s Report – written report in packet

- 10.3. Administrator’s Report

Melvin has been working with Lynette Rhode on QuickBooks and reconciliations. She has also been working with Burgess on PSN. Melvin will send a new profit and loss statement to council. He has been working to resolve issues on Dock 2 and Docks 8/9 and also working on recruitment.

10.4. Public Works Superintendent's Report – written report in packet

12. Council Reports

12.1. Mayor's Report

Lindstrom continues to work on state funding with Morrison and Phillips. She has signed a Mayor's Monarch Pledge and, when the city expands gardens, it will include monarch/pollinator plants. There will be information in the Beachcomber for residents to also encourage them to plant monarch and pollinator habitats. Lindstrom stated that they may be able to meet in person soon due to a roll back of COVID restrictions. She explained that cities are required to meet in person during non pandemic time. Lindstrom will check with the League of MN Cities on the possibility of a hybrid meeting option.

12.2. Liaison Reports (if necessary):

- Breazeale –Parks has been busy. There will be ribbon cutting events for the two new playgrounds are being installed. Parks and Junior Civic are looking for volunteers to help clean up the Swim Beach Park on Saturday, May 15. Asset inspections were completed, and they are prioritizing work over the next 18-24 months. The information will also be used for budget and CIP requests.
- Enlow – Planning discussed a pending variance at 2508 Arcola for an accessory dwelling unit. The city attorney has been contacted regarding the DNR rules and the city's rules. His opinion will provide direction to Planning regarding lakeside setbacks. Long Lake Fire Advisory met and Orono will terminate their relationship with Long Lake in 2025. A subcommittee is meeting to discuss a tree preservation ordinance.
- Howarth – no further report
- Sharma – Sharma talked with the swim beach dock captain regarding installation of the boat houses. The installer has not yet received the dock sections from some new dock slip holders. They are working to get everything installed. He asked if council wants to address golf carts being driven through city parks. Residents who do this see the postings prohibiting it, and they ignore the messages sent out in the Beachcomber and Weekly SPLASH! Council supported Lindstrom contacting the police and Three Rivers Park District and asking them to write tickets because property is being damaged, and the messages are being ignored. The city is using taxpayer money to repair damage and it is unsafe.
- Zinn –

13. Adjourn

Sharma motion, Breazeale second to adjourn the meeting. Roll Call Vote: Breazeale – aye, Enlow - aye, Howarth – aye, Sharma - aye. All ayes, the motion carried.

The meeting adjourned at 10:16 pm.

Members of the Public: Nell Mathews, Joanne Anderson, Garth Millner, 612-991-0627, Jill Bartel, TB

Respectfully submitted,

Heidi Honey, City Clerk