

Monday, May 8, 2017 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.

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

Guests: Police Sargent Kenneth Beck; Building Official Roger Peitso

1. Mayor Taylor called the meeting to order at 7:00 p.m.

2. Council Member Bartel led the Pledge of Allegiance.

3. Approve Agenda for the May 8, 2017 City Council Meeting.

Mayor Taylor asked for a motion to add discussion on the Reserve Fund Policy for the water tower as item 11.2 under Old Business.

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

4. Approve Minutes –

4.1. Regular Meeting of April 10, 2017

Council Member Lindstrom noted to change “pursing” to “pursuing” under item # 12.1.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve the April 10, 2017 Regular City Council meeting minutes as amended. With all members voting in favor, the motion carried.

5. Police Report

5.1. Police Report – April 2017

Sgt. Beck reviewed 11 calls in April including a DUI arrest, two order for protection/trespass calls, and eight overweight vehicles. The overweight vehicle citations resulted in \$2,000 in fines payable to the City. Howarth suggested asking legal counsel if the City can charge more than the state statute amount of \$0.15 per lb. over the limit. Orono Police collected 350 lbs. of prescription drugs at the drop off last weekend. Resident Joann Anderson discussed damage to city streets from trucks going to and from construction in Orono.

5.2. Three Rivers Park District – Dakota Trail – Chief McPhee

Chief McPhee said they are planning eight to ten trail saturations May through August. Two interns are helping with enforcement and education. Lindstrom thinks saturations are important for safety and speed on the trail. Kozloski mentioned an area where the trail is buckling near Lake Road. Chief McPhee will check it and notify the trail manager.

6. Commission Reports

6.1. Planning Commission

Commissioner Anderson said approximately 20 residents attended the public hearing on the proposed lakeshore setback update. Residents expressed concern about homes potentially moving toward the lake. Commissioner Halverson said a transportation subcommittee is being formed to work with Hennepin County on the safe crossing. The Commission will review the public responses from the public hearings prior to making recommendations to Council on the zoning code updates. Commissioner Anderson and the other new commissioners wish to meet with Administrator Griffin, Administrator Gozola or Council Member Bartel to get up to date on the zoning code updates. Howarth stated Administrator Gozola will provide an overview of significant changes. Mayor Taylor asked to add scheduling a meeting with new commissioners to the Action Notes.

6.2. Finance Committee

Chair Howarth reported that they have two new members. They met with Jack Fay from Ehlers about engaging them for potential investing. The sample investment contract is in the packet. Lindstrom asked why they are not vetting other investment partners. Howarth stated Mr. Fay was recommended to them, the city used them in the past, they wanted to speed up the process, and the total cost to manage the portfolio is \$1,600 annually. The contract has been reviewed by City Attorney Hilke, Administrator Griffin, Mayor Taylor, and Treasurer Howarth. Ehlers is currently reviewing a language change regarding arbitration. After discussion, Council decided to review the portfolio and final contract at the next meeting.

Chair Howarth summarized the meeting with the following: the city needs an investment policy, they will continue to review the compensation study, they are interested in benchmarking city services, and they reviewed the escrow process but they are waiting for more information from Abdo. Mayor Taylor discussed the replacement of Public Works Director Young and suggested benchmarking five cities because there is a large variation for public works responsibilities between cities. Howarth explained the benchmarking process and Mayor Taylor explained that all services are being studied independently of each other so there is no delay in hiring a public works replacement. Council discussed documenting public works responsibilities. Council Member Myers asked Administrator Griffin to send a list of Ben's daily activities and job description to Council. Treasurer Howarth recommended separating his core activities from his other extraneous activities.

Mayor Taylor referred to the Park and Civic Commission's minutes in the packet. Myers said the rock wall on Northview Road near the library needs repair. The foundation has drainage problems. Administrator Griffin offered to contact Engineer Amundsen to inspect it. Lindstrom said she saw a construction vehicle hit the wall.

A motion was made by Council Member Myers and seconded by Council Member Bartel to direct Administrator Griffin to contact Engineer Amundsen and have him assess the retaining wall on Northview Road and make a recommendation. With all members voting in favor, the motion carried.

Myers stated the pavers at the beach are sinking. The Park Commission may include repairing them in the CIP. Kozloski asked who maintains areas along the trail. The responsibility varies depending on if it is Hennepin County right of way or City right of way. Council discussed finding out if Three Rivers will plant grass or flowers by the other wall on Northview by Kozloski's.

Myers then said the warming house was inspected. The cage around the heater will be replaced, the heater will be inspected in the fall and the flooring is fine. The Park Commission was concerned with overall damage to city streets and boulevards from construction vehicles. They asked Council to refer the issue of potentially creating a new fee for building permits to the appropriate committee for review and recommendation. Griffin explained performance agreements which states that builders and homeowners are responsible for repairing damage created during construction.

Resident Joann Anderson said Northview Road is a mess from trucks working on Orono projects. Adding a fee on building permits would not help that issue. Griffin explained that the City contacts Orono if there is a problem. Roger Peitso said in Orono they require escrows and take before and after photos of the entire block around the job site.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to refer to the Planning Commission to look into the use of fees or escrows for construction damage. With all members voting in favor, the motion carried.

Council Member Lindstrom reported that the Utilities discussed the CIP and re-affirmed their recommendations for the Beach Lane reconstruction, the Lafayette Road/Huntington Pt. Rd. W. storm sewer/pipe replacements, and to finish the Arcola Lane portion of the watermain project. They tabled west side water mains. The commissioners also recommended a feasibility study for the remaining 4” mains east side and a pavement management study. Council Member Bartel said the CIP does not cover studies. Council discussed that feasibility studies can be rolled into bonding for a specific Capital project. The cost for the study will be at the next Utilities Commission meeting. Council discussed bonding and bidding in 2017 and early 2018. Council discussed their experience working with Ehlers in the past. The Utilities Commission also reaffirmed waiting on the water tower maintenance due to the possible grant funding.

She went on to report that the Civic Committee is working on the Progressive Dinner and merchandising. They have requested to have the council liaison attend their meetings.

Council Member Kozloski thought representatives from the committees were supposed to attend Council meetings to give updates. Mayor Taylor will contact all committees and inform them that Council wants a representative to attend the Council meetings.

7. Open Forum

No speaker.

8. Consent Agenda

- 8.1. Fire Report – April
- 8.2. **Resolution 2017 – 23** – Appointment to Planning Commission: Craig Moriarty
- 8.3. **Resolution 2017 – 24** – Appointment to Planning Commission: Jeff Breazeale
- 8.4. Dock Permits: 6A-2 – Jim Haag (Priority 2) and Boat Length Variance, and 24-1/24-6 – Dustin Boyd (Priority 5)
- 8.5. **Resolution 2017 – 25** – Rescinding Resolution 2016-40 Special Assessment and Affirming Unpaid Fees and Charges
- 8.6. Contract for Cleaning Services at Swimming beach: Life’s A Beach

Council Member Lindstrom stated that Jeff Breazeale offered to stay on the Utilities Commission until another member is found.

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

9. New Business

9.1. Special Event Permits:

9.1.1. Artisan Home Tour – 2315 Huntington Point Road – Skelton – June 9-11, 16-18, 23-25 (Noon -6 pm)

David Beeker, Denali Homes, stated the Artisan Home Tour is a high-end, ticketed event with fewer attendees than the Parade of Homes. Parking instructions are included with the tickets. Attendees will park off-site at a private business or the municipal lot behind the Narrows and be shuttled in a van to the event. Permission has been given by the property owner at 2308 Huntington Pt. Rd. E. to use his empty lot for shuttle drop off. Council Member Bartel would prefer that neighbors are notified prior to Council giving approval for special events. Colby Skelton stated that he spoke with neighbors either at the start of the project or recently about the tour.

A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to approve the Special Event Permit application for the Artisan Home Tour at 2315 Huntington Pt. Rd. with conditions as listed in the permit. With all members voting in favor, the motion carried.

9.1.2. Parade of Homes Remodeler Showcase Special Event Permit – 2512 Shoreline Drive – 9/29/17 - 10/1/17 (Noon to 6 pm)

Homeowner Jennifer Halverson and Andy Johnsrud from Lecy Bros. stated the event is one weekend with 300-400 attendees. On Friday, they anticipate 40-50 people all day with Saturday and Sunday a bit busier. Administrator Griffin said currently there is no parking on either side of Woodbridge and the City would cover the no parking signs on the public works side of Woodbridge to allow parking on one side of the road. No parking will be allowed on Arcola and no parking signs will be placed along both sides of Shoreline Drive. Jennifer Halverson said they can parallel park 15 cars in their driveway. They anticipate approximately 20 cars per hour and most will be able to fit in their driveway. They will also have a person who controls parking on site. Administrator Griffin offered to send a follow up email regarding the no parking requirements.

A motion was made by Council Member Lindstrom and seconded by Council Member Myers to approve the Special Event Permit application for the Parade of Homes Remodeler Showcase at 2512 Shoreline Drive with conditions as listed in the permit. With all members voting in favor, the motion carried.

Treasurer Howarth asked Administrator Griffin to check with a couple of neighboring cities to find out if they charge an impact fee for special events.

9.1.3. Tour de Tonka Special Event Permit – August 5, 2017 from 8:30 to 10:30 am – Dakota Trail

Jenny Bodurka from Minnetonka Community Education stated the Tour de Tonka is looking for a potential alternate route through Minnetonka Beach because of possible construction in

Excelsior. The Tour de Tonka is a ride and not a race with participants of all ages. They would stay on the trail through Minnetonka Beach and they would be fairly spread out by the time they are in the city. This part of the route would be approximately mile 15 on the 30-mile route. Corner guards will be at all intersections. Nine guards are planned along this section of the route. They anticipate approximately 600 riders between 8:45 and 10:45 am. They will do early signage to alert people and they collaborate with Orono Police and Three Rivers Park District for the event. Council discussed concerns about residents being able to get out of driveways and requested guards at the street intersections and nearly every driveway that crosses the trail. Mayor Taylor said they rode it in the past and it was managed well and spread out. Resident Sue Kozloski had concerns about congestion due to the stop signs for bikers at street intersections.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the Special Event Permit application for Tour de Tonka to use the Dakota Trail through Minnetonka Beach as an alternate route with conditions as listed on the permit. With all members voting in favor, the motion carried.

9.2. Possible Nuisance Ordinance Violation: 2328 Lafayette Road – City Building Official Status Report

Roger Peitso, Building Official, referred to his letter dated February 21, 2017 in the packet describing alleged code violations on the property. He has not received any response from the homeowner or the family and there have not been any changes to the property. Administrator Griffin sent a copy of the letter to family also. If Council decides to hold an evidentiary hearing, notice would be published and the letter will be sent certified mail. Peitso went on to say there is evidence of holes in the structure and rodents being able to get inside. This is the point where properties really begin to deteriorate and have infestations.

A motion was made by Council Member Myers and seconded by Council Member Bartel to schedule an evidentiary hearing to determine code violations as listed in the February 21, 2017 letter at the June 12 Council meeting. With all members voting in favor, the motion carried.

9.3. Consider Change to City Insurance Agent of Record from AJ Gallagher to Northern Capital Council Member Kozloski stated there is no additional cost to the city to use Northern Capital as the agent of record and service will be better. The coverage and limits are the same and there will be some additional services. The underlying insurance through the League of MN Cities Insurance Trust remains the same.

A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to change the City's agent of record from AJ Gallagher to Northern Capital Insurance Group. With all members voting in favor, the motion carried.

9.4. **Resolution 2017- 26** – Investment Advisory Agreement with Ehler's Investment Partner's

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to table Resolution 2017-26 – Investment Advisory Agreement with Ehler's Investment Partners until Council receives the necessary information to make a decision at the next meeting. With all members voting in favor, the motion carried.

10. Treasurer's Report

10.1. Approve Checks: May 2017

Council discussed if this was the final payment for the agreed upon costs for the zoning code updates. Administrator Griffin will research if \$30,000 or \$45,000 was the original amount for the updates. Meetings were added to the original capped cost. Treasurer Howarth asked Administrator Griffin to send him a copy of the original agreement.

A motion was made by Council Member Bartel and seconded by Council Member Myers to approve 46 checks numbered 16103 through 16148 in the amount of \$63,244.33 for May 2017 expenses. With all members voting in favor, the motion carried.

10.2. 2017 YTD Budget and Prior Year Comparison Report

Treasurer Howarth pointed out that legal fees are up 85% of budget and Village Hall expenses are up because of the cleaning. Village Hall may go over budget for the year and compensation was not in the budget. Council Member Lindstrom noted there has been an increase in repairs and they may need to budget more for them.

10.3. Outstanding Accounts Receivable Report

Mayor Taylor and Administrator Griffin have met with residents on outstanding balances.

Mayor Taylor relayed resident's concerns/disputes about billing policies. There was a disagreement in interpretation between the city's attorney and a resident's attorney and the resident did not think they should pay the City's attorney expenses. Mayor Taylor went on to say there is also concern about the amount of time Zoning Administrator Gozola spends researching. Residents and the city want the minimum amount of money spent on legal, engineering and planning but they still be thorough. Kozloski expressed concern that the city does not have an attorney that specializes in land use. They discussed possibly working with other land use attorneys. The general concern revolves around managing resident expectations regarding costs. Administrator Griffin is working determining average costs for these services based on the project. He went on to say that they had the same issue with the previous zoning administrator and he thinks it is a process issue and an issue with setting expectations. Mayor Taylor explained the process when a resident disputes charges and how they have been resolved in the past.

Council discussed code enforcement complaints and who should pay for expenses especially if the complaint is unfounded. Mayor Taylor suggested a policy to deal with complaints and billing adjustments. Council Member Kozloski recommended a procedure where more than one council member is involved in negotiating billing adjustments. Past practice allowed the City Administrator and Mayor to make some adjustments. Mayor Taylor stated he is happy to bring the billing issues to Council. Council then discussed that managing research time by zoning or legal is difficult and each project varies. Howarth suggested a discussion between Mayor Taylor and Administrator Gozola to better understand the amount of time various projects would take. Administrator Griffin then explained building permit fees are based on the value of the project and additional fees for zoning and engineering review which are based on a per hour basis. Residents know there will be additional costs for these other reviews but they don't know what they will be because they are on a per hour basis. Council discussed having set fees or determining average costs. He also suggested that Administrator Griffin track the feedback from residents with billing concerns. Kozloski requested finding out how other cities manage zoning fees in conjunction with building permits. Mayor Taylor stated that he and a couple of council members will set up a meeting with Administrator Gozola.

11. Old Business

11.1. Posting of Audio or Videotaping of City Meetings

Clerk Honey reported that the city is not able to simply post the audio on its website and is required to use a third party vendor to host the files. She, Mayor Taylor and Administrator Griffin met with Jim Lundberg from the LMCC to discuss options. Lundberg said they would be willing to host two audio files on the LMCC website for no charge. Additional meetings beyond that would be hosted by LMCC but the link to those would be on the City's website. Updated audio equipment would be needed for better quality and as a backup for videotaping. Mayor Taylor said the alternative is to video record the meetings. There is no cost to have two meetings per month video recorded by the LMCC. Council discussed other meetings and related costs. Kozloski asked if everyone wanted to do video because Council committed to having audio recordings posted to the city website and not video. There was discussion about finding out if the LMCC would provide the audio equipment for audio only meetings if the city agrees to video two meetings per month. Howarth has a LMCC board meeting this week and he will clarify details. City staff will have to arrive an hour early so the video technician can set up.

11.2. Designating fund for Water Tower (Capital Asset Financing Policy)

Treasurer Howarth said in 2009 there was resolution asking the treasurer to identify a reserve of \$250,000 for a water tower replacement and that the reserve to be attached to a specific fund. Council approved assigning the reserve to the General Fund at the April meeting but after researching the reserve fund policy, he found out that this would take the General reserve fund balance below the required 65%. The Finance Committee now recommends the \$250,000 go against the water fund and they will readdress it later this year. Howarth distributed a copy of the reserve fund policy from 2011 and a memo from Abdo Eick and Meyers regarding water tower designation. Lindstrom asked why they are doing the \$250,000 designation when they do not know the condition of the water tower. It is self-imposed and can be removed by Council. The designation was part of the capital asset finance policy of 2009 created after discussions about saving money for future infrastructure replacement. Council discussed removing the policy.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to strike policy nine which requires a water tower reserve fund of \$250,000 from the Capital Asset Financing Policy which was adopted April 13, 2009. With all members voting in favor, the motion carried.

12. Action Notes and Staff Reports

12.1. Council Meeting Action Notes

Griffin stated that she emailed a memo to Council earlier in the day with details on the action notes and a summary of the status of issues. Lindstrom suggested removing Met Council from the Action Notes. Lindstrom then discussed rules of procedure. Griffin will make the following changes:

1. Remove Hearing Procedures from the Finance Committee Rules of Procedure because they are not applicable
2. Change Rules of Procedure for all commissions to be reviewed periodically
3. Remove the reference of one member of Parks being appointed by Council
4. Update Finance Committee rules to have Council appoint new members, not the Mayor

After the Finance Committee reviews the updated Rules of Procedures, Griffin will bring them back to Council for approval.

Council discussed attendance requirements for committee members and designating a minimum attendance to allow removal of a member for lack of attendance unless there are extenuating circumstances. Griffin will add that to all of the Rules of Procedure.

Council discussed dock changes and the LMCD dock application fees. Fees have not been defined yet but will likely be less than \$200.

Howarth asked about SWPPP. Griffin explained that Stormwater Pollution Prevention Program is a state program under the MN PCA that requires the city to have a program to manage stormwater. The city is required to have a public hearing once per year on the status of the program. Along with that, the watershed district requires phosphorous reduction. She went on to explain how Ben Young's street sweeping meets the original requirements for phosphorous reduction.

12.2. Director of Public Works Report

Mayor Taylor stated there was nothing on the agenda critical for him to attend the meeting.

12.3. Clerk's Report

Clerk Honey attended her final year of the Clerk's Institute the first week of May. Firefighters will be selling Fish Fry tickets in the city and they are not required to have a solicitor's permit.

12.4. Administrator's Report

Administrator Griffin had no additional report.

13. Council Reports

13.1. Mayor's Report

Mayor Taylor said that he and the City Attorney are reviewing the new police contract.

13.2. Liaison Reports (if necessary): Howarth - Finance, Kozloski – Docks, Bartel – Planning, Lindstrom – Utilities/Civic, Myers – Parks

Council Member Kozloski distributed information on codes of conduct, a template code of conduct document from the League of MN Cities, and related State Statutes. He said cities take various approaches when responding to a citizen. He asked Council how far they want to restrict council members so he could research appropriate information based on their intention. He went on to say that the state statutes apply to the policy and if the city does not adopt the policy, then the statutes don't apply. Howarth suggested a comprehensive review of the City Charter which does not address code of conduct but reviews city bylaws. Mayor Taylor recommended Council read the materials, forward any additional ideas or comments to Administrator Griffin, and discuss it at the next meeting.

Myers said July 18 is the deadline to submit the grant application for the water tower with the Historical Society. He plans to bring it to Council at the June meeting for their review. The City is not committing to anything by submitting the grant application.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to adjourn the meeting at 10:27 pm. With all members voting in favor, the motion carried.

PUBLIC IN ATTENDANCE – David Beeker, Nell Mathews, Jenny Bodurka, Sue Kozloski, Roger Peitso, Tom Houston, Betsy Taylor, Craig Moriarty, Colby Skelton, Mike Fasching, Jennifer Halverson. Also in attendance but not signed in: Joann Anderson.

Respectfully submitted,

City Council Meeting Minutes May 8, 2017

Heidi Honey, City Clerk