

**Monday, May 8, 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, and Vibhu Sharma. Absent: Treasurer Chris Zinn

**Staff Present:** City Administrator Heidi Honey, Zoning Administrator Phil Carlson, City Engineers Alan Offerman and Ryan Capelle. Absent: City Clerk Jane Burgess

**Guests:** Planning Commission Chair Jeff Breazeale

**1. Mayor Pagano called the meeting to order at 6:00 p.m.**

**2. Pledge of Allegiance** – Led by Administrator Honey

**3. Approve Agenda for the May 8, 2023 City Council Meeting.**

**Halverson motion, Dovolis second to move the Financial Dashboard moved to the Consent Agenda and approve as amended. All ayes, the motion carried.**

**4. Approve Minutes –**

4.1. Regular Meeting of April 10, 2023

Sharma discussed clarification needed under item 5.1. stating the current water test results meet current limits.

**Sharma motion, Breazeale second to amend the minutes under 5.1. to remove “is below the proposed limit for PFOS and PFOA, indicating the water quality”. All ayes, the motion carried.**

**5. Open Forum** – no discussion

**6. Old Business**

6.1. Water Treatment Plant – Stantec Proposal

Offerman stated at the last meeting they were asked to come back with a proposal and options for PFAS treatment. Capelle stated at the last meeting there was discussion about adding an alternate into the proposal. Since the last meeting, the MDH had an update related to an east metro settlement and that information is pertinent to the city. Pagano, Stantec, Hilgers, Zinn, and Honey met to discuss the implications of the MDH update. The MDH indicated they will continue using a Health Index approach for PFAS enforcement. The EPA uses a Health Index (hazard index) and additionally there are set values specifically for PFOA and PFAS because they are carcinogenic. The proposed maximum contaminant goal is zero, meaning they do not want any carcinogens in water because they cause a cumulative effect in the body. These levels are established separately from the index values. MN currently only has the accumulated Health Index approach of the six substances being monitored but on March 14, 2023 the EPA added specific levels for PFOS and PFAS in addition to the cumulative Health Index of four substances. This is the beginning of a change in how this is viewed. MDH is still evaluating but have found indications of carcinogenic endpoint for PFOA, and not PFAS yet. PFOA is the substance the city has the highest

concentrations at 2.1, 2.2 and 3.1. These tests are below the 4.0 limit but the MDH will likely lower the limit since it is a carcinogen. MDH suggested they would have a limit lower than EPA's 4.0. He added that this shows how close the city is to the new carcinogenic level. If an MCL (Maximum Contaminant Level) is established at 4 or lower, it would be enforceable if the city was non-compliant. It would be a national requirement.

Sharma speculated that it may be many years before enforcement takes place. Capelle explained typically a city would have 3 years to comply but, if treatment is being constructed or a city is working on a solution, they are not penalized. The MDH limits will be established this fall. Capelle then discussed the previous direction by council which was to prepare a proposal with an optional addition of a building envelope and equipment inside to treat PFAS treatment as a standalone that could be accepted or denied after bids. Stantec evaluated the new information from the MDH, that the city's test results are very close to the limits, and the effect on the proposal because this new information tips the scale toward a requirement to treat PFAS. They created a proposal with the alternate and, after discussion with staff, Zinn and Pagano, added an additional option with the assumption that an area will be needed to treat PFAS with all needed components included. The building envelope would need to be built and components could be added later. It would save approximately \$15,000 if they designed for the PFAS treatment in this part of the building. Pros and cons listed in the proposal were reviewed. Capelle stated council needs to decide if there is enough information that this treatment will be required for either the carcinogenic level or the Health Index to want to move forward with building the area that would house future PFAS treatment. It would be more efficient to do this now, but it is speculative. Capelle then discussed they have considered PFAS treatment on the south instead of north side of the building and need to consider best routes for access. Option 1 would be to design the plant without PFAS treatment but include an alternate for PFAS treatment. Option 2 would be to design in anticipation of PFAS treatment, build the space and install equipment later. The PFAS treatment equipment would need approximately 25 x 30 ft. Dovolis stated \$1M seems very high for a 900 sq ft building. Capelle stated they were conservative estimates. Dovolis asked if test results vary over time. Capelle stated that wells that pump more, pull more plume. The city only has two wells located very near each other. He added that it is fair to say we've only paid attention since June 2022. Capelle stated the ability to detect is improving and the future will have an ability to test at lower limits. The EPA stated reliable testing goes to 4ppt but Stantec's work with John Hopkins University had reliable testing at 2ppt so the technology is there. The EPA is being fair with a safe reliable limit of 4ppt. As testing technology improves, limits will then be lowered. Dovolis asked if the test results would stay similar since there is no local industry. There was speculation about the cause of PFAS found in the water and the possibility of marinas using materials with PFAS. It appears there is something around the lake. Sharma struggles with spending money on something that currently meets the standards and there would be time to look to treating it later when there are more established standards. Capelle stated there is current regulation and the city is compliant with the current regulation, but they have been told it will be more strict in the future. Breazeale stated she wouldn't want to rebuild the plant later. She supported being prepared to treat PFAS later even though it may cost more to design now to plan for an addition later. Sharma supported that. Halverson agreed and also added that the cost per square foot is very high. If the city receives funding, they would be able to build it now. Pagano stated adding \$2.5M would increase debt service by approximately \$162,000 annually for 20 years.

The options proposed were summarized as Option 1 – Additional cost to design for an alternate to build later, the city would own the design and can decide to build the alternate or not. \$2.4 build

would include engineering. Option 2 – Commitment to build the additional PFOA treatment portion of the building. Capelle stated if they design it and they decline the alternate to build it, then at some point the city decides to build the PFAS treatment, overall costs will be much higher than if the structure to house PFAS treatment was built now with the water treatment plant. Pagano explained that the city application for federal funding has moved on to the appropriations committee. If the city receives funding, they may have to rework the design. The city should know if it is awarded funds prior to bidding and it can decide how to proceed. The city would need to bid in the spring to stay on schedule to avoid seasonal cost increases.

Hilgers stated PFOA is a carcinogen. He understands it is expensive to build the building, but he expects the city will be required to treat PFOA.

Dovolis does not think it would cost \$1M to build the building and supported Option 2. Sharma thought the cost should be less than \$1M. Capelle agreed the building may be \$500,000 - \$750,000. He stated they can try to get a quote or look at bids from the city of Chaska in mid-June. They are building a plant. Dovolis stated that PFOA is in the water, and they owe the community two conflicting things: safe water and good value. He added that additional information would help them make this difficult decision. Sharma stated again that the city is compliant with current regulations, and he does not want to be committed to something they may not need. Dovolis stated there are other communities with no PFOA in their water and we need to compare with that. Breazeale stated if money was no object, they would treat to zero PFOA in the water. Pagano stated Option 1 offers greater flexibility. Capelle stated there will be some challenges with plant layout and site organization with Option 1 and it will be inefficient to add PFAS treatment later but it can be done. Offerman added that they will bid for alternates, and they will not need to make a decision until bids are received. There will be greater clarity on funding and testing levels with time.

**Breazeale motion, Halverson second to authorize Stantec to design the water treatment plant as presented in Option 1 with estimated engineering cost to design the building alternative and PFAS treatment not to exceed \$155,000 in engineering costs. All ayes, the motion carried.**

Capelle stated Stantec and Honey revised the water treatment plant project adding PFAS information to the updated 2023 Project Priority List. There should be more funding available for PFAS treatment coming. It may work well with funding options to wait to treat PFAS.

## 7. Planning and Zoning

### 7.1. Shoreland Rules and Code Compliance Amendments – AMBS – Jeff Breazeale, Planning Commission Chair

Breazeale stated the DNR provided a comment on the proposed amendment regarding Impervious Surface. The DNR said that boulder retaining walls are becoming very large and asked the city if boulder walls should be excluded as hardcover. The Planning Commission updated the language to consider boulder walls as hardcover unless the city engineer determines they are the minimum necessary to control erosion. The DNR accepted approved the language and there will be a public hearing on May 15.

Breazeale reviewed proposed amendments regarding lake setbacks. The city was more restrictive in 1996 than the DNR. An average minimum building setback (AMBS) was determined by right angles. As written, a deck was considered part of the house but in practice they did not want homes built in front of decks which resulted in creation of a deck line and a house line. In 2017, the code

was rewritten with a lake setback (AMLS) which allowed homes to be built in relation to the lake based on the curvature of the shoreline which can allow homes to be built closer to the lake. Planning discussed this two or three years ago but had not amended the code. At the April 24, 2023 meeting, the Planning Commission recommended using line of sight to determine a house setback line and a deck setback line. This supports the objectives of not allowing houses to move toward the lake and not blocking views. No home can be built closer than 75 ft of the lake. The line-of-sight standard proposed is - the average minimum building setback (AMB) line shall be located by connecting a straight line between the forwardmost points toward the lake of the adjacent structures within 150 feet of the lot line.

There was discussion about defining a deck based on height from the ground and proposed defining a deck at one to five feet off the ground including the railing. A 2<sup>nd</sup> story deck would then be considered part of the house because it would block views. A deck setback line would be established for a deck or raised terrace 1 to 5 ft off the ground including railings.

In the event there is a property with no structure on an adjacent lot, Breazeale proposed using a right angle from an existing structure on the adjacent property. At the Planning meeting, commissioners recommended using the setbacks from two properties on the same side but after the meeting Carlson and Breazeale found issues with this approach and determined a right-angle approach will work better.

Council supported the proposed amendments for submittal to the DNR for conditional approval. Breazeale will work with Carlson on specific language prior to submitting to the DNR for conditional approval based on what was presented and discussed.

T. Breazeale stated the task force and Planning Commission have done a great job in getting the setbacks in line with the direction they would like the code amended and recommended they proceed as discussed above. Pagano stated they have added simplicity and clarity to this process.

Breazeale stated the next step is to compare the rest of the code with the 1996 code and DNR model ordinance. He will work to get the 2017 code in the same order of the model ordinance to look at the codes side by side with the task force. He then discussed that they will work on amendments to grading and filling, side yard setbacks, and possibly other items found when comparing the codes side by side. He said there may be 2 or 3 more amendment packages.

## 8. New Business

8.1. Special Event Permit – Pottebaum Birthday at Swim Beach with Live Music – 8/12/23  
Honey stated the application is for a party at the swim beach with live music. The city has approved these in the past with conditions similar to those listed in the packet especially abiding by the noise ordinance and allowing anyone access to the park and slip renters access to their boats and permit parking area. Council agreed to allow them to block the road directly in front of their property only.

**Breazeale motion, Halverson second to approve the special event permit with conditions listed in the memo with the application and an additional condition that swim beach park be cleaned up by 10 am on Sunday, August 13, 2023. All ayes, the motion carried.**

## 9. Finance (moved to Consent Agenda)

## 10. Consent Agenda

- 10.1. Police Report - April
- 10.2. Fire Report – April
- 10.3. **Resolution 2023 – 16** – Support of Continuing Participation in CDBG Program
- 10.4. **Resolution 2023 – 17** – Appointment of Dave Christiansen to Park Commission
- 10.5. **Resolution 2023 – 18** – Additional 2023 Dock Applications
- 10.6. Council Meeting Action Notes
- 10.7. Approve Checks: May 2023
- 10.8. Financial Dashboard

**Breazeale motion, Dovolis second to approve the consent agenda. All ayes, the motion carried.**

## 11. Staff Reports

### 11.1. Administrator’s report

Honey stated that Hilgers would like the city to consider having road weight limits all year, not just during spring. Honey provided a memo in the packet from the city attorney with answers to preliminary questions. The attorney said the city can impose road restrictions by amending its code. Honey asked for authorization to pursue amending the code with the city attorney and also examine the possibility for a permit with fee process in the event there is no alternative to an overweight vehicle. There was a discussion about enforcement. Honey stated when they issue building permits, they can make builders aware of the restrictions and if they violate, the city could collect administrative citation fees. The city cannot add a fee to each building permit for general road damage. There is no perfect solution to protect the roads, but this may help. Council authorized the request for her to work with the city attorney on year-round weight limits and exploring a waiver with fee process.

Honey then discussed an issue with installation of Dock 10. The city received a complaint about the installation of a dock at 2217 Huntington Point Road East (Schussler) and called the LMCD. Their representatives inspected the site and determined the dock was installed outside of their approved area and affects the ability for slip renters at Dock 10 to install their dock. It appears the docks will touch when Dock 10 is installed. The two slip holders on the north would not be able to get through to get to their slip. The LMCD is working with their attorneys to send an enforcement letter and has asked the city to do the same. Honey asked for authorization to work with the city attorney and draft an enforcement letter to Schussler’s.

Honey is meeting with Utilities on May 10 for CIP requests. The CIP Review Committee will meet June 5 to review the requests.

There was discussion about street signs being stolen. Hilgers replaced the Arcola Lane sign three times over a few weeks.

### 11.2. Clerk’s Report – in packet

### 11.3. Public Works Report

Hilgers discussed blacktop patching instead of sealcoating streets. He plans to patch up to \$45,000 this year because of the bad condition of the roads. He would save an additional \$5,000 for anything missed or found later. Sealcoating would not be the best use of funds. This would be city wide, and he will try to do the most area he can for \$50,000. He will be digging up two storm

sewers, a manhole and a fire hydrant and those areas will need to be repaired also. He already reviewed his approach with Zinn.

## 12. Council Reports

### 12.1. Mayor's Report:

Mayor Pagano referred to information in the packet between Long Lake Fire and the City of Orono. The city has a contract with Long Lake Fire for the next six years and is monitoring the situation and ability for Long Lake to continue to provide services. He will be meeting with Honey and Zinn regarding the budget and CIP. There are some significant CIP requests, and they need to have some guidance on the expenses while looking at the overall cost impacts to residents. For a number of years, the city did not have to deal with inflation on top of regular expenses. Sharma suggested council give the message to commissions that requests need to be "must have" and not "want".

### 12.2. Liaison Reports (if necessary):

- Breazeale – Civic newcomers party will be May 21<sup>st</sup>. Council is invited. The Resident Picnic will be July 22 or July 29. Monday Funday may move to a different day of the week because that time slot seems to be difficult for parents and they are working for flexibility. Jr. Civic is looking for new leadership. Swim beach dock installation is going very well and much more quickly than in years past. Park Commission's biggest CIP request is riprap. Saturday May 13 is cleanup day with Jr. Civic at the swim beach. Soccer nights are June 14 and July 12 with food trucks. This summer, Parks would like direction on possibly forming a task force to examine how parks are used and any vision for Ray Peters. She went on to say Parks installed a pollinator garden in Lafayette Park. They asked for directional approval for putting a sign at the pollinator gardens, and explaining what the pollinator garden is. They would look to purchase a sign from their existing budget. She reviewed photos of signs in the packet. The sign would fulfill one of the promises of the Monarch Pledge. Halverson supported the sign and loved the education component. Pagano recommended it be located by the path off Hill Rd. so path users could see it without getting off the path.
- Dovolis – no reports
- Halverson – Attended future fire services meeting. They discussed the letter from Long Lake Fire Dept to the City of Orono in the packet. Long Lake purchased a fire truck, a command vehicle, and other equipment. The new chief of the west suburban fire district discussed how they created their district.
- Sharma – no report

## 13. Adjourn

**Sharma motion, Breazeale second to adjourn. All ayes, the motion carried.**

**The meeting adjourned at 8:35 pm.**

**PUBLIC IN ATTENDANCE** – The following people signed the attendance sheet: Nell Mathews,

**Respectfully submitted,**

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**Heidi Honey, City Administrator**