

**Monday, May 09, 2022 6:00 PM**  
**CITY OF MINNETONKA BEACH**  
**CITY COUNCIL MEETING MINUTES**

**Roll Call:** Mayor Jaci Lindstrom; Council Members: Tracey Breazeale, Susan Enlow, Steve Howarth, and Vibhu Sharma. Staff Members: City Administrator Heidi Honey, City Clerk Jane Burgess

**Absent:** Treasurer Chris Zinn

**Guests:**

1. Mayor Lindstrom Called the meeting to order at 6:00 pm.
2. Approve Agenda for the May 9, 2022 City Council Meeting

**Sharma motion, Howarth second to approve the May 9, 2022, City Council agenda. All ayes, the motion carried.**

**3. Approve Minutes –**

3.1. Regular Meeting of April 11, 2022

Enlow requested minutes be delivered each month with the packet the Friday prior to the next council meeting. Burgess stated that she would make sure that happens.

**Enlow motion, Breazeale second to defer approval of the April 11, 2022, Regular City Council meeting minutes to the May 9, 2022 City Council meeting. All ayes, the motion carried.**

**4. Open Forum –** opened at 6:06 and closed it at 6:10pm

Joanne Anderson 3150 Northview Rd. had a tree comment. The house next to her has great big tree and was told by an expert that it is 250 - 300 years old. She supports a tree ordinance to protect old trees like this one.

Chip Zawislak 2204 Huntington Pt. Rd. E stated that streetlights near his home broadcast a lot of outward light not just down to the road and it's light pollution. He spoke to Colombo's and they agreed. He must close his blinds at night especially during the winter and wants blinders to direct light down. Sharma asked where and Zawislak said the two near Sharma's home. Lindstrom said this issue will be looked into.

**5. Recognition of Outgoing Council Member Steve Howarth**

Lindstrom presented Howarth a certificate of appreciation to honor and recognize his service to the community. She stated he began his public service commitments shortly after moving here and served in various capacities right up to his May 16, 2022 move from Minnetonka Beach. Howarth served on Planning Commission from April 2015 through December 2016, was the City Treasurer from January 2017 through December 2018, followed by election to City Council from January 2019 - May 2022. Lindstrom added that Howarth gained valuable experience on the Planning Commission with some very complex issues including land use and variance reviews issues. He brought this experience to his term on Council making him invaluable. She added that as City Treasurer, Howarth maintained strong and sound stewardship over all matters financial. During his term on council Howarth worked on the 2019 water infrastructure project, installation of the pedestrian median crosswalk on Shoreline Drive, construction of the replacement water tower, installation of two new City Park playgrounds, endured COVID-19 for nearly two years, countless variances, moratoriums, and one year of double the number of City Council meetings and he didn't miss any of them. Lindstrom stated that Howarth was the council liaison to the LMCC from 2017 – 2022. She thanked Howarth for his long-standing service and dedication to Minnetonka Beach and wished his family the best in their upcoming move and retirement.

Howarth praised Lindstrom for her well prepared, eloquent comments stating that she always does a wonderful job with everything she touches and always goes the extra mile. He added that Minnetonka Beach was the perfect, special place

for his family to make a new beginning having moved halfway across the country 11 years ago. He added that the future is bright for Minnetonka Beach and encouraged everyone to embrace the Be a Villager effort and be a strong community in unison. He provided accolades to City staff is noted that it has been wonderful to see Honey grow and develop in skills and capabilities through the years to become City Administrator and praised Burgess as well. He gave accolades to City Council as well and thanked the community for giving him the opportunities he had in the City.

Joanne Anderson 3150 Northview Rd. thanked Howarth for his service to the City and following through with everything necessary for him to serve on council. She stated that in her 16 years of experience with City Council this is the best council this City has ever had.

Pagano 3101 Old County Rd praised Howarth for being a rare individual, confident, and he's willing to commit and has the courage to stand by what he believes in.

## 6. Old Business

- 6.1. Consideration including Public Input – City Code Section 513 Snowmobiles, Golf Carts, ATV Operation and Use and Consideration of Ord. No. 135, 2nd Series, Amending City Code Section 513 Snowmobiles, Golf Carts, ATV Operation and Use and **Resolution 2022 -21** Authorizing Summary Publication

Sharma summarized the work and research done to date on this issue by Honey and him including public input. The direction was to get a small group task force group to see what the amended ordinance proposed. They met with Pagano, Nate Arnold, Jennifer Halverson, and Honey to review the ordinance in a basic way with productive discussion. He added that the proposed revisions to the ordinance as presented today reflect that group's viewpoint. They identified two areas for further discussion, and one was how to address the Lafayette Club. Sharma said that Halverson stated that a 14 year old can drive a golf cart at the Lafayette Club. The other item is determining the permit fee amount. Sharma stated it should be \$400 from an administrative expense perspective, and to cover damage and repair of parks and other areas caused from these vehicles. Sharma added that from his home he continues to see kids riding pocket rockets in Half Moon Park and this is not allowed. The permit fee is to just cover the costs as mentioned, not profit from it. The fee will adjust each year up or down if necessary. He mentioned that Honey and Lindstrom met with the Mayor of Mound and staff to gain their unput.

Sharma stated there are two options

- 1) Keep ordinance as is and do nothing. The ordinance does not allow golf carts to be driven in the City per state statutes and they are illegal on city streets.
- Or,
- 2) Have a process to permit golf carts and other vehicles with an application.

Public Input Session opened at 6:25 pm to comment on the potential ordinance that regulates golf carts and ATVs.

- 1) Joanne Anderson 3150 Northview Rd. has seen golf carts all over the City. They go on the Dakota Trail which is not allowed. They are smoking and hollering and are very unsafe. Think of safety for people who are driving golf carts. Mound doesn't allow them. She doesn't think the City should allow them as they are unsafe.
- 2) Chip Zawislak 2204 Huntington Pt Rf E asked a question: Is the main concern for safety or damage to the trail and park or drivers and passengers yelling at people? If it's about people following rules he added that having a permit isn't going to stop bad behavior. People should be held accountable. The community should say something to these kids breaking the rules and make those kids pay or be responsible to repair damage. He added that golf carts should stay in the City. Breazeale said the seat belt requirement has been removed. Sharma stated that if the City does nothing then they are not allowed. Orono Police will enforce. Zawislak said they haven't enforced it since he's lived here and everyone he's asked has never been pulled over by the Orono police. In his personal experience the Orono Police wave at him and do nothing.

- 3) Gianna Colombo 2201 Huntington Pt. Rd. E. stated that she moved here as she heard this was a special place. Minnetonka Beach is highly desirable as people enjoy their freedom. She asked that the City chooses option #1 and don't do anything including no fees or regulations as she is not a fan of that.
- 4) Joe Pagano 3101 Old County Rd. thanked Sharma and Honey for providing so much information and the task force. He thanked Moriarty's for their petition for no changes. He stated he's heard for 3 years all the incidents of golf cart and ATV safety and damage to the park system. He said many residents feel golf carts are part of the social fabric of this community. He asked that council be cautious about adding more regulations as the City has enough of them. Golf cart owners have said they would like to self police and use common sense and parental guidance to demonstrate respect for the Comprehensive Plan and Parks' 5YP and the narrow streets here. This is a pedestrian friendly not a golf cart community. He advised giving the opportunity to trust residents. People break rules not golf carts and golf carts don't make people social. People do.

Mayor Lindstrom closed the Public Input session at 6:42 pm.

Lindstrom thanked the task force and stated that this is not what she wants to do. The Mound mayor went through this in 2021 with 20-30 golf carts there, and they decided to do nothing. He gave Lindstrom persuasive and powerful reasons why not to allow them and said the City cannot enforce regulations and this would remove police authority. She added that if and when Minnetonka Beach moves to a City administrative program the problems don't go away. Orono and Minnetrista said they are not doing permitting and regulation either after exploring the topic. Lindstrom concluded by saying you can't make a city safer without the compliance of citizens.

Sharma stated that for the record that doing nothing means that golf carts are not legally allowed on City streets. He recommended putting articles in the Beachcomber and telling Civic the facts. Moriarty's petition was not factual in articulating what the current ordinance says and what amending it would be. He said the minimum age would be 16 not 18 and concluded that he wanted to create awareness and knowledge of this issue.

Lindstrom stated that sometimes ideas don't work, but awareness of possible permitting and regulation was done.

Breazeale stated that her view is different now as she reads through this the task force and potential rules. What she saw through her lens was she's not opposed to golf carts in general as they are easier to park at the beach, in a yard, or at Ray Peters Park and serve really good purposes. She's torn but leaning towards Sharma said if we do nothing then we are turning a blind eye knowing they are not allowed. She would rather find a way to make them legal in the City. If residents just get a permit and then they can have one and she didn't see too many rules. She added that perhaps many people maybe didn't know they can't drive them on the Dakota trail who has their own rules. She added that the Lafayette Club published that their Junior golf rules are that no one under 18 can drive a golf cart. She stated that she is leaning towards trying to make it legal, not regulate people. She is concerned if the City is liable if there is an accident.

Lindstrom stated that Orono Police enforces erratic behavior which they say they have not seen here. Honey said that Mound said only a handful people there were problematic. Why regulate the entire City instead of dealing with the few who cause problems. There would be the opportunity for City Council or City Staff to revoke a permit and they would have to appeal to council to get their permit back. City Council would become what law enforcement should be. Breazeale stated that perhaps Mound didn't want to take on a police role. She thinks the City adopting an ordinance just making this legal and permissible is the upside. The downside may outweigh the benefit.

Enlow said there are 20+ golf carts driving on City streets illegally. Her thinking is the City see is and acknowledging it should we do something to allow them to drive them legally. First draft was overreaching. Smart to have rules people need to follow and golf carts should have a permit. The application would list rules, state where to stay off City property, and be self-policing. The City is policing the part of the trail that goes through Minnetonka Beach. No private golf carts are allowed at the Lafayette Club. She viewed this as educational situation. The City has looked the other way and its not healthy from a liability perspective if there was an accident. If the City allows them on City streets there could have an issue.

Lindstrom asked Honey what City Attorney Batty said about litigation involving the City with this regulation. Honey stated that Batty said if it's not written into the Code that they are locally permitted then they're not allowed. Sharma said if we permitted it the waiver is written in application.

Enlow said she likes Pagano's word "self-police" and education. A golf cart etiquette forum would be great. She said she's torn. She added that she was an attorney, and she wrote rules and expected people to follow them. Minnetonka Beach is a special place, and the City shouldn't overregulate. She likes the Be a Villager mentality. A lot of home turnover is happening, and toys are more advanced and faster too.

Howarth stated that he's done a 180 on this. He stated that there was talk for months of the need to regulate this issue. The part not being used here is the safety of the community. The state doesn't allow them on streets. Who are we in Minnetonka Beach to exempt from state statute? There should be self regulation, he said. He asked a dozen citizens, and they were all against it saying it's not for the City to deal with. He has heard of some close calls on golf carts. He said the City should empower parents' oversight for better use of golf carts and be good parents.

Lindstrom asked Sharma what he thinks now after all this work and unput. He said if the City does nothing then they are not allowed. The Beachcomber and SPLASH! eblasts say they are not allowed. That would mean they can't be decorated and driven in the July 4<sup>th</sup> parade etc. He said he is wrestling with this, but the process has brought awareness. He added that he's not sure how to proceed.

Honey said if nothing is done then the City would revert back to current ordinance which named go carts, dirt bikes, neighborhood electric vehicles in it. She recommended cleaning up the old ordinance with proper terms. Neighborhood electric vehicles are larger than golf carts so remove that and remove toys from it. She recommended keeping it as is and cleaning it up to take those references out.

Breazeale stated that she would like to make them legal but right now we are talking out of both sides of our mouths. We are encouraging a law out there to be broken. On other hand if there is an infraction, misjudgment or someone operating their vehicle in an erratic or unsafe way how would we police it?

Lindstrom stated that Orono Police Chief Farniok said if council chooses to not do anything then the City message can be the City doesn't not have an ordinance so the City doesn't regulate golf carts and ATV's so state statute applies. The City understands that people may use them, but as long as they are driven in a manner that does not draw attention to themselves the police will not do anything.

Enlow suggested seeing how this summer goes with kids and golf carts and revisit this at the end of summer and ask parents to educate their kids. Adults are also doing unsafe things on golf carts. She stated that the 180 people who signed the petition should be asked if they see an improvement. She has a hard time with the City condoning illegal behavior.

Lindstrom said we essentially are a six block community and a neighborhood. The trail can't be avoided as you can't be on Co. Rd. 5 to get to the Lafayette Club. She added that the community should be safer this summer on golf carts.

Enlow said the Beachcomber should say that the Lafayette Club does not allow private golf carts, they can't be driven on the trail, City Council decided to not regulate golf carts and that's the end of story. The City should encourage golf cart owners to educate all golf cart users and revisit this at the end of summer to see how the education went.

**Howarth motion, Sharma second to include in the next Beachcomber a City information disclosure regarding the use of golf carts on public property including roads, City parks, the Lafayette Club, and the Dakota trail. Citizens are to be advised of current Minnesota statues regulating use of golf carts that states that they are not permitted on roads. All ayes, motion passes.**

**Enlow motion, Sharma second for City Council to revisit golf cart use within the City and determine whether revisions need to be made to City Code Section 513 no later than the October City Council meeting. All ayes, motion carried.**

**Put Link to state statute in Beachcomber article.**

**7. New Business**

7.1. Tree Removal Request – 2856 Northview Road Right of Way

Honey presented Cedar trees requested to be removed in ROW. City Council approval is required to remove trees or shrubs in ROW. There is no landscape plan from owner or builder.

They discussed that the replacement plan should be so it causes no runoff. Hilgers looked at them and he said no they are lovely trees.

Breazeale asked isn't this why we have a moratorium?

Enlow said that there is a lot of foliage and canopy and there is no replacement plan. There is no arborist opinion and no claim that they are unhealthy.

Honey stated that that lot's minimum density is three trees and there are six other ones.

Enlow said that under the moratorium in place it should be denied. Sharma agreed. Enlow stated that a replacement plan is needed and that arborvitae is a tree under the interim ordinance.

**Enlow motion, Sharma second to deny the tree removal request at 2856 Northview Rd.  
All ayes motion passes.**

**8. Finance**

8.1. Summary Report on City Finances

Honey reviewed the Financial Dashboard. Zinn pulled out larger checks equal 95% of the invoices. The sewer televising was paid by 2022 ARPA funds. She said they could only clean not televise the sewers and they were pretty dirty. Enlow asked that Honey send out a follow up note as to what this was all about and what was bad about it and incomplete. The City Auditor said that reports and statements don't need to be legally included in council packets as the Dashboard is enough. Reports will be included quarterly, but the monitoring of the budget will continue month to month. AR aging detail is not included but the City only has a past due of \$780.00. Lindstrom asked about increased vendor expenses due to high fuel prices and other reasons and Honey stated that she doesn't know yet but expects fuel costs for public works to increase quite a bit. Lindstrom stated she wants to have a good idea what to budget for 2023.

Howarth said that with rising interest rates City Council should feel good about the infrastructure projects completed at very low rates. He added that council should keep an eye on the laddered CD program versus the 4M program which tends to lag. Honey said there is a balance in the Ehler's account for the 2021A bond and Lynette did the work necessary to move it out of there.

Lindstrom asked Honey how fund accounting transition is going, and she said it is fine but she's still working on some items.

**9. Consent Agenda**

- 9.1. Police Report – April
- 9.2. Fire Report – April
- 9.3. **Resolution 2022 – 22**– Additional 2022 Dock Permit Applications
- 9.4. Tree Removal Request – 1928 Beach Lane - Knudsen
- 9.5. Approve Checks: May 2022

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

**10. Action Notes and Staff Reports**

10.1. Council Meeting Action Notes

Honey stated that the water treatment plant tour took place with Senator Johnson and Mayor Lindstrom is working hard to schedule meetings and tours with senators. The Planning Commission priority list was removed as they have it.

10.2. Administrator's Report

Honey stated she's been very busy working on golf cart ordinance, with golf cart task force, and City attorney Batty. She and Lindstrom met with the Mayor and City Administrator from Mound plus the Orono Police Chief Farniok for their input.

She added that she's also been extremely busy with the tree ordinance and working with the Tree Preservation Task Force and City Attorney Batty.

She stated that City staff has received numerous calls regarding construction parking, calls about the fence at the Lafayette Club, and the lot at 2669 Woodbridge Rd. She stated there are a lot of projects in the City and much more than when she began working at the City.

Honey stated she updated City life and liability insurance renewal, and found errors with the new life insurance provider, Standard.

She provided 5 years' worth of various reports to the MN Dept of Revenue for their solid waste sales tax audit. She added that she worked with the City's bookkeeper, Lynette Rhode, updating all the reporting for each bond documenting all transactions, interest earned, and market depreciation so the financials are ready when arbitrage reporting is conducted. She also worked on final financials for the 2021A Bond and Brooks Lane infrastructure project and will be transferring money from the Ameritrade account back to the general fund to cover the Brooks Lane project expenses.

Honey stated she spent a lot of time following up on processing building and grading permits and continued working on tracking down approval documents from the DNR review of the City zoning code in 2017.

Sharma stated cones needed by 2423 Lafayette Rd as the roads are being destroyed by constructions trucks.

**Breazeale motion Sharma second to ask the Finance Committee to look at fees particularly associated with damage to roads from construction projects as part of the permitting process. All ayes, motion passes.**

10.3. Clerk's Report

Burgess reported that the City Dock program has gone well for 2022 and I sent application packets to lower priority residents for renewal of the slip or new renters filling approximately 72 of 80 slips. Many residents are happy to be on a dock they were on the waiting list for. Four slips turned over at the Swim Beach and there are 17 names on the waiting list for Swim Beach docks. She receives a lot of phone calls, emails and in person inquiries about the City dock program from potential home buyers and realtors.

Burgess completed and submitted the American Rescue Plan Act Expense Report and supporting required documentation to the US Treasury for 2021 \$31,746.50. That money repaired two lift stations, one on Brooks Ln and one on Woodbridge Rd., and cleaned and televisew sewer lines and lift stations. We will receive \$31,746.50 this summer and have allocated so far \$18,900 to work completed in April on cleaning sewer lines and more lift stations. The remaining \$12,846.50 Jason will spend on similar projects which are within the ARPA funding guidelines.

For elections Burgess stated that she's been doing equipment training, additional training sessions, call out for judges, multitude of email correspondence, general learning curve (early stages) as City Clerk. Fawn is training as well to help with absentee voting which is expected to be at 60% this year.

Burgess stated that there was a big increase in permitted projects in the City. In the first four months of 2022 staff issued nearly \$5.2M in building, mechanical and plumbing permits which represents an 86% increase from 2021 during the same time period. In 2021, during the same time period it was \$2.8 M. In 2020 it was \$3.9 million, and in 2019 it was \$1.7 M.

Work involved with this process includes working closely with Stantec, builders, vendors and residents on their building projects – troubleshooting those not following procedures and improving all communication. There is follow up required to make sure all proper channels followed. Adding documents to and managing the individual active building project folders on the Shared Drive is done. Follow up is done with Stantec and the building official from start to issuance of permit. Weekly Stantec meetings are held with Phil and Alan to make sure we're aligned in working through a resident's permit process. Burgess executed Pre-Construction meeting agreements for building projects over \$50,000. She drafted Performance Agreements for homeowners and their builder, and assembled all documentation needed for Pre-construction meetings with Honey, Burgess, homeowner and builder. Documents are notarized and filed some with Hennepin County accordingly.

She added that relating to building project enforcement, Honey and Burgess drove around the City making sure building projects etc. are following the rules.

Burgess stated that she completed the April 11 and April 18 Board of Appeal minutes, follow up, and April council meeting minutes. She updated the City website with ongoing items and events will do more per Sharma's request last month. She created the Weekly SPLASH! eblasts, and the Beachcomber newsletter and inserts.

She conducted the Park Commission meeting and prep for the May 3<sup>rd</sup> meeting and did follow up plus minutes from the April 5<sup>th</sup> meeting.

Burgess assisted Honey with the Golf Cart Ordinance research and discussions, public input, phone calls, emails etc.

For the Tree Preservation Ordinance Burgess stated she worked with Enlow, and Honey reviewing latest drafts and providing input. She continues to assist residents, builders, and tree services navigate tree removal inquiry process. She said she engages in numerous phone calls each week with resident complaints about the moratorium, neighbors suspicious and tattling on neighbors regarding trees.

Burgess stated she submitted required County and other Clerk reports. She did Resolution updates and logging and filing of them.

#### 10.4. Public Works Report (in packet)

### 11. Council Reports

#### 11.1. Mayor's Report

The Water Treatment Plant tour with Senator Stewart-Johnson took place on April 18<sup>th</sup> and went very well. As Johnson is an engineer and professor of engineering so she's very knowledgeable about the plant and process and understood everything presented. Capelle and Zinn were there, and Zinn explained the financial part of the plant replacement. Hilgers and Honey were there also. Stewart-Johnson asked a lot of good questions, took numerous photos, and Lindstrom is confident that she will advocate for the City. Lindstrom stated that she has contacted every senator on the State Capitol Investment Committee and connected with 7 of 12 and the 8<sup>th</sup> one is to be a Zoom meeting tomorrow. She added that the City should know the outcome of the funding decision in the next two weeks

Lindstrom stated that the discussion of Howarth's vacant seat will take place at the June council meeting as he is here until May 16<sup>th</sup>. Lindstrom will assume Howarth's liaison position with the LMCC, Utilities Commission and Lafayette Club in the meantime. She thanked Howarth again as she has worked with him for six years. Howarth thanked Lindstrom and said he admires her dedication to her role. He thanked all the unsung heroes including council and staff. He added that representing citizens is significant and noted that Lindstrom works many, many hours in her role as mayor. Enlow said she is grateful for Lindstrom, and Howarth said he too is grateful for Lindstrom's resounding commitment and leadership at this level as mayor.

11.2. Liaison Reports (if necessary):

- Breazeale – Civic meeting is Wednesday, and the first Newcomers’ Party is Sunday, June 5<sup>th</sup>. They expect a big crowd at the Kaplan/Mayer home for new people who have moved here last three years. Civic is gearing up for the Summer picnic on June 17<sup>th</sup>. Monday Fundays begin June 20<sup>th</sup> later in the day so parents can come. There might be food trucks at some of them. The Progressive dinner is on September 17<sup>th</sup> and details will be determined. No dues needed this year as finances are in good shape so Civic is using 2021 money. Civic might have the Tea and Toddies party. Junior Civic is having a cleanup this Saturday, May 14<sup>th</sup> at the Swim Beach Park.

Breazeale added that Parks met recently, and they are working on their CIP list. They discussed No Mow May and also had a discussion regarding an experiment in Lafayette Park in the area where it’s wet. Hilgers hesitant other places as hard to mow later encourage pollinators. Milkweed will be planted by berms and also colorful plants too. Life’s A Beach is not working out for the City this year for beach cleanup, but Waterfront Restoration is willing to pull weeds in water at the beach area within Parks’ budget. There was discussion of a Hydrosweep which gets rid of weeds and if it’s safe, or a liability for kids swimming at the beach. She added that soccer nights will continue this year once monthly in summer at Rap Peters hopefully with food trucks. Burgess and Panait are working on dates and details. She concluded with Pagano was named Park Historian and Special Volunteer.

- Enlow – The Tree Preservation Ordinance Task Force conducted an information session to an audience of two residents. The audio can be made available for residents on a flash drive. Burgess will include this in a SPLASH! eblast that the recorded audio from this session will be available at City Hall on a flash drive. Next this will be presented at the May 23<sup>rd</sup> public hearing at the Planning Commission meeting with the same packet of materials. Enlow will present a high level summary to Planning Commission and the task force can answer questions.
- Howarth – He substituted for Enlow at the April 25th Planning Commission meeting. He stated that Chair Breazeale provided an excellent summary and direction for City Council relative to the 2022 project priority list and it will be based on budgetary considerations. They are focused on the ADU moratorium and compliance with the DNR and City ordinance. He added that the LMCC has not met but he will be attending a meeting later this week.
- Sharma – The golf cart and ATV issue was already discussed. He had a call with Steinke and Pottebaum of the Dock Committee and the installer Cody Rassatt regarding the possibility of him storing all docks and lifts for swim beach docks in off season.

**12. Adjourn**

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

The meeting adjourned at 8:30 pm.

Members of the Public: Joann Anderson, Joe Pagano, Chip and Joanna Zawislak, Gianna Colombo

**Respectfully submitted,**

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**Jane Burgess, City Clerk**