

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
June 27, 2023 – 7 pm

1. Call to Order

Chair Breazeale called the meeting to order at 7:00 pm.

2. Roll Call

Present: Commissioners Anderson, Blodgett, Breazeale, Finnegan, Steinfeld, Swanson, Wortman and Council Liaison Halverson. Absent: none

Staff in attendance: City Administrator Heidi Honey

3. Approve Agenda

(Steinfeld motion, Finnegan second to approve the agenda; all ayes.) Motion passed.

4. Approve Minutes

4.1. Regular Meeting of May 15, 2023

(Steinfeld motion, Anderson second to approve the Regular Meeting Minutes of May 15, 2023; all ayes.)

Motion passed.

5. Public Hearings

5.1. 2024 – 2033 Capital Improvement Program (CIP) – Opened at 7:03, closed at 7:03pm. No comments. Breazeale asked about the condition of the light poles that need to be replaced. He wanted to be sure there aren't safety issues with the one to be replaced until 2025. Honey stated that Hilgers said one is very dangerous but the other can wait. Honey explained that the Park Commission changed their previous rip rap request from every other year to a lump sum in 2024 because of the amount of erosion and bank undercutting. The request is for rip rap along Crystal Bay. City dock fees do not currently cover these costs. Fees are supposed to cover costs of the city dock program and have typically been related to access, steps, and staff time on the dock program in the past. The last time dock fees were raised was in relation to a dock related lawsuit, where the city used dock fees to help pay legal costs. Commissioners suggested increasing the city dock fees to cover the rip rap costs and to save for future rip rap needs. They recommended evaluating the full costs of maintaining the dock program and land where docks are located and raising fees accordingly. Honey stated this has been brought up in the past and should be considered when the fee schedule is adopted. The fees have not been raised for many years.

Breazeale re-opened the public hearing at 7:12 pm

Patty Rezabek stated that she and Park Commission Chair Kim Petersen are in contact with the county on grants for rip rap and shoreline planting. The grants require matching dollars from the city.

Breazeale closed the public hearing at 7:12pm

(Steinfeld motion, Anderson second to recommend the acceptance of the 2024 – 2033 CIP as presented with the comment the Planning Commission would like to see rip rap repair be taken through increases in fees so the city does not have to subsidize the expenses; and with this recommendation the Planning Commission views the CIP as presented in line with the Comprehensive Plan; all ayes.) Motion passed.

5.2. MN Shoreland Rules and City Code Amendments for DNR – Lakeshore Setback (AMBS)

Breazeale stated this is the 3rd amendment package and it is for the lakeshore setback. It was previously reviewed and recommended by the Planning Commission, Council and it received DNR conditional approval. The DNR had a question about decks, their email is in the packet, and they supported the proposed language. Breazeale reviewed the ordinance. They are changing to a building setback from a lake setback as in the past. The setback cannot be closer than the greatest of: 1. A line drawn 75 ft parallel to the lake shore, or 2. A Line of Sight. To minimize building closer to the lake, there is a setback line for the building and a setback line for a deck. To prevent views from being blocked, a deck was defined as being less than five ft off the ground including the railing. This was one of the areas of greater restriction with the DNR and the city agreed to be more restrictive.

Chair Breazeale opened and closed the public hearing at 7:27pm. No comments.

(Steinfeld motion, Blodgett second to recommend City Council approve Ord. No. 141, 2nd Series - An Ordinance Amending the Zoning Ordinance Regarding: 3.7(F) Shoreland District – Design Criteria; and 8.4 Definitions; all ayes.) Motion passed.

6. Old Business

6.1. MN Shoreland Rules and City Code Updates

6.1.1. Shore Impact Zone (SIZ)

Breazeale stated this is the 4th amendment package which addresses Shore Impact Zone. This had been identified as an issue needing to be addressed. They work on grading and filling which will be dealt with in a future amendment package. The DNR model ordinance defines what cannot be done in the SIZ, which is 50% of the structure setback of 50 ft, meaning 25 ft. The 1996 code defined the SIZ as all land between the setback and the lake but the term SIZ is not mentioned anywhere in the code, so there were no rules about it. The 1996 code talks about fence, grading and filling, and vegetation removal not being allowed within 75 feet of the lake. This implies the SIZ was 75 feet in practice. The 2017 code identifies the SIZ at 37.5 ft from the lake. Breazeale referred to an email from DNR's Dan Petrik suggesting the city's SIZ should be 50% of the setback (37.5 – 60 feet) but the 1996 code was more restrictive. Breazeale discussed a conversation with Nell Mathews where she said in 2010 the code had the SIZ all the way to the building setback which could be more than 75 ft, so a patio could not be built off a house without a variance. As code is amended, sections are repealed and replaced so there is no complete version of a zoning code from 2010 for reference. Breazeale reviewed options of 50% of 75 feet, 75 feet, or up to AMBS. Breazeale stated the DNR is accepting of 37.5 feet. Swanson stated Petrik's original email states "given the city's small lots, the SIZ should be of significant size...". She thinks it should be 75 feet. Steinfeld stated if someone can design and build a patio/fire pit without having to request a variance, 75 feet will allow that. There was discussion that the city should not encourage people to build any closer to the lake than 75 ft. Anderson and Blodgett also supported 75 ft. There was discussion about the spirit of the ordinance and protecting views and the lake. Honey explained that shoreline restoration projects require plantings to be from a list of lake shore DNR approved plants and that people can maintain what they currently have such as grass or they need to replace it as they had it previously. Commissioners discussed enforcement issues. Commissioners recommended defining "natural vegetation" in a future code amendment. Commissioners agreed to change the SIZ from 37.5 ft to 75 ft.

Finnegan stated that in practice in 1996, the distance was 75 feet and they were going back to the spirit of the 1996 code. It is also in the spirit of the Comprehensive Plan so the Planning Commission is getting back to the spirit of the rule with this ordinance change.

(Steinfeld motion, Swanson second to amend the code definition of Shore Impact Zone to “the area of land located inland from the Ordinary High Water Level (OHWL) to 75 ~~37.5~~ feet from the OHWL”.; all ayes.)

Motion passed.

6.1.2.Reorganization of Code/alignment with Model Ordinance

Breazeale stated the only way he could determine how long it would take to finalize the code amendments was to reorder and renumber the current code to match the DNR model ordinance to compare them side by side. The current code has deep layers and a confusing numbering system which need to be cleaned up. He reviewed page 54 in the packet which shows the DNR model ordinance in column 1, 2017 city code in column 2, and renumbering the 2017 code in the same order of the DNR model ordinance without changing language in column 3. Page 55 of the packet summarizes section by section and shows cleanup issues and compliance issues to determine what needs to be done.

Breazeale stated the current code has rules for each district but they apply to the entire city. He stated that there is a lot of work to be done moving items out of current Chapter 3 of 2017 code and into DNR sections 4, 5 and 6. He recommended adding a vegetation and land alteration section (8) and added there are many compliance gaps. In his comparison, he did not change any of the language and only changed the numbering and corrected reference errors. If the city does not have code applicable to a DNR section, it will be labeled as left blank intentionally or the city does not allow those items.

He then reviewed his draft timeline with a completion of spring 2024. He stated he needs help to stay on this timeline. He asked Wortman and Swanson for work they completed to date. Breazeale asked if they supported reordering and renumbering the code to align with the DNR model ordinance without changing the language and suggested that the DNR could approve sections as they complete them. Finnegan asked how this overlaps with the task force work. Breazeale stated the task force has done a lot of research, and perspective from wading through the codes. They independently worked on the ADU amendments and proposed them to Planning. Swanson added that they defined the 7 Factors, and compared definitions of all three codes. Breazeale stated they worked together with him defining work and the task force providing institutional knowledge of the code and being very detail oriented to ensure everything was correct. He felt it was a good working relationship. Swanson stated there were amendments and modifications that occurred from 1996 through 2015 but they were not created into a one complete document. There was a complete rewrite in 2017. Breazeale explained that S. Enlow is moving, which leaves Swanson and Mathews on the task force. He was hoping to have Nell Mathews continue to work on details because she has a lot of knowledge, but she is not interested in amending the 2017 code. Breazeale was tasked by council to amend the 2017 code and they cannot amend the 2014 code because there is no complete 2014 code. There was discussion about getting information from Mathews on landscaping code. There was discussion about putting the city’s intended code in the DNR model ordinance format. Swanson stated they were asked to evaluate the code and they made a recommendation to update the 1996 code. Wortman stated they all want to get to the same end point but she is afraid without the perspective and knowledge, they may make errors. Breazeale stated they may miss an opportunity to make things better but they aren’t writing new code so they would not be making a mistake with new language. There was discussion about needing volunteers to help convert the code to the DNR ordinance format and numbering. Wortman offered to help and Swanson would help peripherally. Finnegan offered to take on specific assignments.

(Steinfeld motion, Anderson second to use the 2017 code and make it so it lines up with the DNR model ordinance with numbering and ordering so applicable sections match, and to the extent there is nothing that matches up, those sections will remain blank.; Ayes – Anderson, Blodgett, Breazeale, Finnegan, Steinfeld, Wortman. Abstained – Swanson.) Motion passed.

7. Reports

Halverson reported on the June council meeting. She stated that Breazeale did a very good job presenting to the plan for code amendments and council is in support of the timeline. It is an efficient way to handle the project without getting scope creep. She went on to discuss the police report and that there are crimes of opportunity looking for unlocked cars, garage openers, and unlocked doors. Police say to call 911 if you see something suspicious. The local historical societies merged together.

8. Adjournment

(Anderson motion, Steinfeld second to adjourn; all ayes.) Motion passed.

Chair Breazeale adjourned the meeting at 8:31 p.m.

PUBLIC IN ATTENDANCE – The following individuals were in attendance:

Minutes respectfully submitted by City Administrator Heidi Honey

Heidi Honey, City Administrator