

**Monday, July 11, 2022 6:00 PM**  
**CITY OF MINNETONKA BEACH**  
**CITY COUNCIL AMENDED MEETING MINUTES**

**Roll Call:** Mayor Jaci Lindstrom; Council Members: Tracey Breazeale, Susan Enlow, Vibhu Sharma and Treasurer Chris Zinn. Absent: none

**Staff Present:** City Administrator Heidi Honey, City Clerk Jane Burgess, Public Works Superintendent Jason Hilgers, and Zoning Administrator Lauren Walburg substituting for Phil Carlson

**Guests:** Long Lake Fire Chief James Van Eyll and Long Lake Mayor Charles Miner; Jeff Breazeale, Planning Commissioner Chair

- 1. Mayor Lindstrom called the meeting to order at 6:07 p.m.**
- 2. Clerk Burgess led the Pledge of Allegiance.**
- 3. Approve Agenda for the July 11, 2022 City Council Meeting.**

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

- 4. Approve Minutes –**
  - 4.1. Regular Meeting of June 13, 2022

**Sharma motion, Breazeale second to approve the June 13, 2022 City Council meeting minutes. All ayes, the motion carried.**

**5. Guests**

5.1. Long Lake Fire Chief James Van Eyll and Long Lake Mayor Charles Miner – LLFD  
Van Eyll, chief of Long Lake Fire Department since 2008, and Mayor Miner provided an update regarding the City of Orono terminating their contract with the Long Lake Fire Department at the end of 2025 and establishing their own fire department. Van Eyll stated that Long Lake Fire serves Long Lake, part of Medina, Minnetonka Beach, and now all of Orono. Orono pays the most of all the cities for fire services so they are seeking control of the department, or they will launch their own department. Long Lake Fire and Orono share ownership of fire station buildings and they discussed the details of possible ownership scenarios in the future. Station No.2 in Navarre serves Minnetonka Beach. They discussed shared fire services and equipment with surrounding cities as well including costly ladder trucks.

The City of Long Lake has operated the Long Lake Fire Department since 1915. In May, the Long Lake City Council asked Orono how much they were willing to pay for Fire Station No. 1 in Orono near Long Lake, which is equally owned by Orono and Long Lake, along with other logistical questions. At Long Lake's June City Council meeting Mayor Miner stated that a proposed purchase agreement was unanimously approved for the purchase of Orono's interest in Station No. 1 building and property for \$850,000. At their June 27<sup>th</sup> meeting Orono City Council rejected Long Lake's purchase offer without reason. Mayor Walsh gave an August 1 deadline to finalize details of operation and ownership and come to an agreement. Orono wants to transfer Long Lake Fire Department to Orono by that deadline, or else they will begin the process of starting an Orono Fire Department.

Mayor Lindstrom asked Chief Van Eyll if Orono owns 50% equipment and inquired as how the fire fighters themselves feel about this situation. Van Eyll stated that 82-85% of equipment is owned by Orono. He added

that the fire fighters want to stay together, and they don't care if it's at Long Lake or Orono. He stated that it is not easy to get volunteers.

Enlow thanked Chief Van Eyll and Mayor Miner for all the extra time they've spent on this issue, and Mayor Lindstrom thanked them for their valued services. She added that Minnetonka Beach is more than satisfied with Long Lake Fire Department's performance and asked to be updated with any developments.

**6. Open Forum – Opened at 6:30 pm and closed at 6:31. No Comments.**

**7. Planning and Zoning**

7.1. Resolution 20220-28 Variance request front yard setback 1928 Beach Lane – Knudsen  
Lauren Walburg of Stantec provided a summary of the variance request for a screen porch on the front of the house at 1928 Beach Lane. The porch would be about 29 feet from the ROW of Lafayette Rd and the residents, Jim and Carole Knudsen, are requesting variance to the required 50-foot setback. This variance request was heard at the June 27, 2022 Planning Commission meeting where they voted 4-2 to recommend approval of the request.

Mayor Lindstrom asked homeowner Jim Knudsen to speak. He stated that their home is within the 50' zone and will require variance to get this project done. The home is 20' away from property line and ROW. He added that there are four homes along Lafayette Rd that are within the setback as they were built long ago. Knudsen stated that from the edge of Lafayette Rd to this project is 53 feet. But the road easement from the edge of the road to the property line is 20 feet. He stated that visually the home with a new porch will not look cramped as it will be 53 feet from road. The new design allows for a possible roof top deck in the future and the screen porch won't change the character of neighborhood.

Planning Commissioner Chair Jeff Breazeale summarized the discussion at the Planning Commission meeting. He stated that all commissioners agreed that from a design perspective it's a good place for a porch. The house is encroaching already so it's not a big deal to encroach more but it's a tricky lot he said. Breazeale and another commissioner were not in favor of the variance request and want to keep it in the setback which is why they voted against it.

City Council discussed the variance request, if the road easement is unique in the City, the need for a survey, and they requested additional tree protection for a tree that Knudsen said they are going to work around and not remove it.

Council Member Breazeale supports the variance request asking for confirmation that the easement is that much larger than the norm. Although she wants a survey to be submitted, she gave her pre approval but wants all to be a matter of record for surveys to be required for variances.

Honey explained that when building permits are applied for a survey is required.

Enlow stated that she feels that all variances should have a survey, but with the two conditions mentioned above the variance request is acceptable.

**Enlow motion, Sharma second to approve Resolution 2022-28 Approving a Variance to the Front Yard Setback For a New Porch Addition at 1928 Beach Lane with one change to add a second condition of approval that reads the applicant will build with helical pilings, not a tradition foundation as presented in the plans. All ayes, motion carried to approve the variance.**

**8. Old Business**

8.1. DNR Code Compliance – ADU Update Enlow and J. Breazeale

Enlow presented a summary. The Planning Commission approved a DNR Task Force consisting of Nell Mathews, Susan Enlow and Susan Swanson to approach the DNR representatives with a recommendation which would reconcile three things:

- 1) The 1996 Minnetonka Beach code that was approved by the DNR. The revised Code language prohibited Guest Cottages or ADU's in the Definitions section;
- 2) The DNR model ordinance, and
- 3) The City's current 2017 Zoning Code that permits ADU's that don't meet the 1996 code and don't meet the model DNR ordinance.

Enlow stated that the ADU Moratorium in place expires on August 15, 2022. Enlow stated that the ADU Task Force did research and presented a summary and history to the Planning Commission. The task force said the City should go back to the 1996 code not permitting ADU's as this tradeoff allowed Minnetonka Beach to have 30% hardcover and the standard is 25%. Task Force recommends a proposal to the DNR allowing ADU's would be permitted in Minnetonka Beach within the confines of the principal dwelling unit, for caregivers, domestic help, and/or family members. This will meet the needs of Aging in Place within the City.

Enlow added that density would not be increased so there would not be increased runoff to the lake. The task force met with DNR Hydrologist Wes Saunders-Pierce and DNR Shoreland Program Manager Dan Petrik. The DNR they will provide preliminary feedback by July 18<sup>th</sup>, and it's normally a 30 day review process. Enlow stated that the next steps then would be to go back to the Planning Commission on July 18<sup>th</sup> with recommendations or changes by the DNR, provide notice for a public hearing at the August Planning Commission meeting, then go to City Council in September.

T. Breazeale asked what exactly was proposed to DNR by the task force. Enlow stated that they proposed that Minnetonka Beach would not have detached ADU's. The City gave up the right to have guest cottages in order to get 30% hardcover approved. The task force expects that the DNR will require vegetative buffers between property and the lake. ADU's currently in place will be grandfathered in as legal non-conforming units.

Lindstrom stated that there are currently eight ADU's in the City. Four detached guest houses and four are attached.

T. Breazeale then asked for confirmation that a detached garage can have an exercise room with heat and AC as long as there is no sleeping quarters, no plumbing or cooking facilities.

Planning Commission Chair Breazeale praised the ADU Task Force and said it was a 5-0 vote in about five minutes. He added that another exception the City received in the 1996 ordinance is building height of 40 feet which is huge. The City Planner doing the 2017 Zoning Code update did not know the City needed to comply with the DNR back then and they are very accommodating working with the task force.

#### 8.2. Summary Presentation Tree Preservation Ordinance

Lindstrom thanked the Tree Preservation Task Force for now being at the City Council meeting. A special thank you will be presented in appreciation and gratitude for their work. She stated this proposed ordinance is the single most important ordinance the City will adopt in 20 years. The August 15<sup>th</sup> (new date) council meeting will be final discussion with a vote.

Task force member Bridget Wortman provided a general overview of steps taken, how trees will be protected in Minnetonka Beach, and how neighboring communities do it. She stated that 15 months ago this

task force began researching tree preservation protocol. Wortman provided the credentials of each member of the task force including:

Patty Rezabek who has lived in Minnetonka Beach for over 50 years and has a great deal of wisdom. She's been active on the Park Commission, Civic Committee, organizes welcoming new residents at the newcomers event, obtained grants for the City, knows the history, and wants to maintain and preserve the City's charming community.

Kim Petersen is a tree expert, co chair of the Park Commission, and is educated in horticulture.

Susan Enlow, as a corporate attorney, keeps them on task and centered.

Nell Mathews is an encyclopedia of knowledge.

Bridget Wortman said that she dummies down everything and is passionate about protecting irreplaceable trees.

Wortman presented why they established the Tree Preservation Task Force, and explained why preserving trees is so important. They looked at lake communities and their tree preservation ordinances focusing on communities similar to Minnetonka Beach with high value homes. She spoke of the education the task force has provided to residents, public input obtained, the specs and categories of trees for the proposed ordinance, criteria, and the replacement plan and tree density of properties.

Sharma asked a question in relation to utility companies needing to do work in the City and how that will be looked at. He wants inclusion of trees on county roads and work to be performed by Xcel Energy for example. He asked for clarification of city vs private trees on lot lines and asked that if a tree is dead that there be no fee for a permitted removal and requested expanded list of tree diseases such as Oak blight in addition to Oak Wilt. He added that he feels Cottonwood trees are noxious. Petersen stated they are valuable on shoreline as underground they soak up an enormous amount of water, but they have a short 50 year life span. Sharma also stated that where a tree falls is who is responsible for its removal. How will the task force address that and negligence in trees with neighbors etc. He asked that the task force address what will happen if a tree is denied removal by the City and it falls and causes damage how will that be dealt with.

Administrator Honey stated that she has had conversations with City Attorney Batty about this and they discussed error and omissions insurance.

Mathews stated that tree trimmers must be City licensed vendors and Hennepin County and utility companies must try to adhere to the City's tree ordinance. They must be made aware of the rules she stated.

Breazeale asked if City Council has an opinion about Arborvitae and hedges. She has a problem with Arborvitae taking the place of significant or heritage trees. She also asked if the task force is addressing proper and best practices for tree trimming as not to harm trees.

Petersen stated that some Arborvitaes are shrubs, and some are trees. The task force is encouraging canopy trees for replacement. Wortman stated Arborvitae won't be counted as a tree.

The task force said that a list of approved tree vendors could be on the City website.  
J. Breazeale said that anyone can trim trees.

Lindstrom stated that instead perhaps a list could be made available to residents. She also asked how work done on the weekends will be handled. She also asked about tree photos to accompany permits and clarification on who is the review board. She recommended Hilgers over City Engineer Offerman.

Honey added that Offerman does not want to get involved with trees as he is not an expert. If a grading permit is necessary at the tree stump removal level, then he will get involved.

Lindstrom requested that language be added addressing trees within a certain distance of a house and the critical root zone. She asked if there could be an environmental tree remediation fund to assist those who cannot afford an arborist fee and tree replacement expenses. She stated that City should be compassionate to residents who could struggle with fees and tree removal expenses.

Lindstrom stated that she advocated for using the City of Woodland's Tree Preservation model as it is straight forward and easy to understand. Their ordinance and replacement plan is simple in that if a Woodland resident removes a Significant tree they would be required to replace it one to one. If they remove a Landmark or Heritage tree the replacement is two to one. It can cost up to \$10,000 to remove a Heritage tree and replace it. She added that the Minnetonka Beach proposed tree removal ordinance replacement plan is difficult to understand and the minimum tree density calculation process is complex. She stated that she would like to see it simplified as this would decrease waivers and help staff.

Council and the task force had a discussion about 1" to 1" vs 1 tree for 1 tree replacement process. They discussed revising the defining of the calculation and requirements process, tree density definitions, site plans, and cited various examples including building projects as it relates to trees.

Council members stated that they had no further questions about the proposed ordinance.

Recess at 8:28, and reconvened at 8:32 pm.

## 9. New Business

### 9.1. Consideration of Organics Recycling Container Location

Resident Paul Sperduto addressed his concern about the City's organics recycling container location. He expressed concern that placement was not discussed at a City Council meeting. He provided examples of other cities and their container location and presented his suggestions for six different locations of the Minnetonka Beach organics recycling container other than its present location near public works on a road adjacent to the public works facility. He said a large gravel pad was created for it at its present site and that it's an eyesore. 18 residents signed his petition to move it. He said a fence constructed around it would make it look bigger.

Administrator Honey explained that organics recycling is required by Hennepin County and either has to be with a dumpster or else residents would have a cart at their house to recycle organics. If they don't want one they would still be charged for it quarterly on their utility bill.

Hilgers stated that he picked the present location by public works as it made the most sense. He can plow snow there with no problem. He stated that if it were at Ray Peters Park Republic Services would have difficulty maneuvering their trucks there. Children play at the park which could be dangerous with trucks coming in and out of the park and it would be an eye sore there. The gate at Public Works is closed for security purposes so if anyone enters it would be trespassing.

Sharma suggested it go to public works and he and Breazeale suggested Lafayette Club.

Sperduto said that if trucks can go backwards on Arcola Lane, then they should be able to turn around anywhere. He then suggested placing it at St. Martin's Church.

Council discussed and decided to continue the discussion upon inquiry with the Lafayette Club.

### 9.2. Consideration of No Parking Signs on Northview Road

Joann Anderson brought the parking issue to the city's attention from the increased number of construction vehicles due to the increased number of construction projects on Northview Rd and Crystal Bay Road (Orono.) Currently parking is allowed on both sides of street. City Staff received a complaint when the road was blocked with vehicles that were parked on both sides. The complaint was due to concern there would be no way emergency vehicles could get through on Northview Rd. Administrator Honey requested input from Northview Rd residents and most said parking is a problem, but want parking on one side not no parking at all and the north side was preferred. If they park on the trail side, which is the south side, then the grass really won't grow they said. The surveyed residents stated that some of the driveways are small on a portion of Northview Rd so they need guest parking on Northview Road. It could take away from property values if the road becomes no parking both sides they added. Anderson stated that no parking is out of question. She added that the brick walls prohibit parking on the south side.

Council decided that a survey should be sent to all Northview Rd residents to see which side is preferred for parking allowed if they have to choose one side.

**Breazeale motion Sharma second to continue the discussion of parking on Northview Rd to the August City council meeting with communication sent out to all residents on Northview Rd. All ayes motion carried.**

## **10. Treasurer's Report - Zinn**

### 10.1. Financial Dashboard

Zinn reported that the City has the same amount of cash on hand as this time last year at \$1.25 million. Restricted funds of \$264,000 from the Brooks Lane project will be released so the City will be in a better cash position at the end of July. He stated that cash-based budgeting is working, and the City is not spending more than is being taken in. Bond payments were paid recently. Regarding the CIP Zinn stated that Hilgers received his new bobcat and chipper which were previously approved expenses. He noted that under legal and zoning expenses, the City portion for legal is budgeted at \$40,000 and only \$6,000 of that has been spent. He added that the proposed ADU ordinance will consume up some of that. For legal, the City has spent half of its budget with \$22,000 remaining. Litigation on Dock 10 is over so the City won't incur more expense with that.

### 10.2. YTD Budget to Actual Budget and Prior Year Comparison

Under the P&L, Zinn stated that the City is about to receive the first half portion of property tax collection of \$600,000. City Docks are nearly 100% to budget, building permits are well above budget. Hennepin County Grants will reimburse the City for Park Commission's expenditures under the awarded tree canopy grant so those expenses will wash out. Zinn said he will be looking into how to invest cash reserves as interest rates are rising. Most of the revenue for water is yet to come as Q3 and Q4 sees the most water usage. He added that building permit inspection revenue is up due to significantly higher building activity in the City.

Council discussed water rate increases and incremental increases will be looked at in the rate study, so the City knows how to plan each year for water rates over the next few years. They will know more accurately for setting water rates on fee schedule for 2023 after rate study is completed.

## **11. Consent Agenda**

11.1. Fire Report – July

11.2. Fire Report July

11.3. Three Rivers Park District Trail Report – July

11.4. LMCD Budget

11.5. Tree Removal Request – 3105 Lafayette Ridge Road – Palmer

11.6. Resolution 2022-29 – Appoint Liz Nordlie to Finance Committee

11.7. Resolution 2022-30 – Additional Dock Permit Applications

11.8. Resolution 2022-31 – Appoint Colleen Finnegan to the Planning Commission

11.9. Resolution 2022-32 – Additional Dock Permit Variances

11.10. Approval of Checks - July

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

**12. Staff Reports**

12.1. Council Meeting Action Notes

Ehler's to do utility rate study as soon as possible.

12.2. Clerk's Report

Burgess reported that she continues to prepare for elections, both Primary and General, as first time Elections Administrator for Minnetonka Beach. She has been training party balanced judges, both procedurally and on equipment operation, equipment upgrades, reporting, creating judge manuals, and head judge training.

She worked on tree removal inquiries and the process with Heidi, Jason and Fawn and also the revisions to the proposed Tree Preservation Ordinance. She planned the June and July Soccer and Food Truck Fun For All night at Ray Peters Park with flyer creation, advertising event, and securing food truck. Shoreline Drive message board, Beachcomber, and numerous SPLASH! Eblasts.

Land Use is still very busy (the bulk of each day), with permits including building, mechanical, plumbing, grading, and ROW. She helped with the Knudsen variance request, makes sure all building project related emails from Stantec, both Phil and Alan, plus Roger from Metro West, contractors, homeowner etc. all are placed into hard copy active building project folder and on City Shared drive in each Active Building Project folder by address with all pertinent supporting detail. She and Honey are liaison to all of the above.

Burgess responded to general research inquiries, Park Commission meeting planning with the agenda and packet, minutes, and follow up. She dealt with City Dock issues and inquiries, especially swim beach docks issues with in/out, storage challenges and proposed changes.

12.3. Administrator's Report

Administrator Honey stated that she is working on the 2023 Budget, which takes a great deal of time and research as the economy has changed so drastically with inflation etc. She met with other city managers in the area to discuss 2023 budgets, and the consensus was that there will be a 10%+ increase for overall budgets for 2023. One nearby Lake Minnetonka city is projecting a 22% proposed increase for 2023 with large employee wage increases and another one was near 20%. Honey stated that she is preparing the annual employee reviews which will be conducted soon. She processed many tree removal requests, each one lengthy.

12.4. Public Works Superintendent Report

Hilgers reported that he received new equipment including the bobcat and chipper. He's been scraping up Class 5 rock on the walking trail at Lafayette Park and moving it elsewhere where needed. Two storm sewers repaired, one at Lafayette Rd/Woodbridge Rd and one at Lake Rd/Westwood. Both were deteriorating and collapsing. Asphalt patching will be done in next two weeks. Kohlton is doing a great job as summer public works helper from beach cleanup to mowing to anything Hilgers asks him to do. He wants to come back next summer to work again. There are tons of weeds at the beach this year.

**13. Council Reports**

13.1. Mayor's Report

Nothing to report this month.

13.2. Liaison Reports

Breazeale –

Civic is meeting this Wednesday night at Zinn’s house. The Summer Picnic is at Half Moon and the Swim Beach Park on July 17<sup>th</sup>. The Progressive Dinner is September 17<sup>th</sup> and they still need host homes for dinner. This is no Park Commission meeting in July.

Enlow – already presented report earlier this meeting

Sharma – Docks meeting with Swim Beach Dock Slip renters on 7/14 Thomas Pivec to discuss new plan going forward for in/out of docks, storage

Zinn – presented earlier in meeting

#### **14. Adjourn**

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

**The meeting adjourned at 9:57 pm.**

**PUBLIC IN ATTENDANCE** – The following people signed the attendance sheet: Paul & Jody Sperduto, Nell Mathews, Joann Anderson, Jim and Carole Knudsen, Patty Rezabek, Kim Petersen, Bridget Wortman.

**Respectfully submitted,**

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**Jane Burgess, City Clerk**