

Monday, August 14, 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; **Absent:** Treasurer Steve Howarth.

Staff Present: City Administrator Susanne Griffin, City Clerk Heidi Honey, Public Works Director Ben Young, Zoning Administrator Ben Gozola, City Engineer Darren Amundsen

Guests: Police Sargent Kenneth Beck; Three Rivers Parks District Representative Sgt. Jurgenson; Orono Building Official Roger Peitso

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

2. Clerk Honey led the Pledge of Allegiance.

3. Approve Agenda for the August 14, 2017 City Council Meeting.

Council Member Myers asked to move 12.1 New Business Lafayette Road Fire Lane to after 6. Open Forum. Council Member Bartel asked to move 11.10 Resolution 2017-36 Fee Schedule out of the Consent Agenda to New Business as the new 12.1 (replacing Lafayette Road Fire Lane).

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

4. Approve Minutes –

4.1. Regular Meeting of June 12, 2017

A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to approve the June 12, 2017 Regular City Council meeting minutes. With all members voting in favor, the motion carried.

4.2. Special Meeting of July 13, 2017

A motion was made by Council Member Bartel and seconded by Council Member Kozloski to approve the July 13, 2017 Special City Council meeting minutes. With all members voting in favor, the motion carried.

4.3. Special Meeting of August 9, 2017

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the August 9, 2017 Special City Council meeting minutes. With all members voting in favor, the motion carried.

5. Police Report

5.1. Police Report – June/July 2017

Sgt. Beck reviewed 14 calls for service in July. Minnetonka Beach was one of 30 parties they visited on National Night Out. The Lafayette Club has asked for extra patrol because of damage on the 7th hole and theft of the flag. The route for the Running of the Bays half marathon on September 10th includes Brooks Lane and Lake Road and has approximately 75 participants. The City was unaware of the event because the organizers did not apply for a permit. City Staff will research the event.

5.2. Three Rivers Park District – Dakota Trail Representative – Sgt. Jurgenson

Sgt. Jurgenson reported that they had nine calls for service in June & July in Minnetonka Beach: three administrative citations, three warnings and three verbal warnings. All of them involved stop sign violations.

6. Open Forum

Helen Lindsay, 2321 Huntington Pt Rd E and 2317 Huntington Pt Rd W (Tennis court)

Mrs. Lindsay distributed packets of photos of her property to Council. She discussed the new construction on the property to her north and complained of water issues and damage to her property. She said when her sister-in-law built her home, she was told all new construction must have a rain garden but a rain garden was not required for this property. She claims that when they water their lawn, the water runs down the street in front of her house and is backing up into her yard. She's concerned about mosquitos. Water is also running down the street causing the road to be broken up in front of her house. She claims her fence was damaged during the home's construction and she asked the contractor to fix it. She paid \$500 to have it fixed herself. She sent the neighbor the bill and they didn't pay it. She went on to say she does not want the water to continue to be in her yard.

She went on to discuss the new home construction to the south. She claims a 15 foot berm with a 70 foot tall home was built there. Mud from a large stockpile flows to her yard. In 2000, she installed a raingarden to filter water before it drains anywhere. She claims silt from the neighbor's berm has destroyed her raingarden causing her yard to flood. The contractor was supposed to grade the berm when the weather warmed but it is still there. She went on to say she installed a \$10,000 wall between the properties because her yard is washing away. She asked the City to require the contractor to remove the berm, or she may take the City to small claims court. She asked that the home to the north be forced to build a rain garden because she does not want any more rain drained to her yard.

Mayor Taylor suggested Administrator Griffin compile a summary of the sequence of events and enforcement to help Council understand the complaints. Kozloski asked how long it has been happening and Mrs. Lindsay replied since January or February. She explained that the water table is very high and the builder changed the mechanics of the flow of water. She thinks the home should not have been allowed to be built the way it was.

Mrs. Lindsay then stated that water is being drained from the neighbor's pool into her yard where her tennis court is at 2317 Huntington Pt. Rd. W. She asked the neighbor to move the drainage hose and they told her that they would think about it. Mayor Taylor again suggested a summary for Council for a follow up discussion. Gozola said they have responded promptly to her inquiries. Both homes are conforming and did not require variances. Amundsen said the properties were inspected. The existing grading is temporary at the home to the south. The stock pile of material is for final landscaping which they hope to have completed by the end of the year. It is allowable in city code as long as erosion control is in place. A final as-built will be required to ensure final grading is correct.

Amundsen said he inspected the erosion control in June and it was working. He had not heard of any issues since then.

Mayor Taylor suggested that they get up to speed with a summary of events. He summarized that the homes were built to code. When they received complaints, the area was inspected and actions were taken to reinforce and enhance the erosion control to prevent issues. Council requested a summary of the timeline, what was done and what needs to be done for review at the next meeting.

Nell Mathews – 2637 Arcola Lane

Mathews submitted a memorandum regarding her concerns about billing by Sambatek and other city vendors. At the last meeting she understood that she was to meet with a small group to discuss her concerns. Subsequent to that meeting, the decision was changed and she did not meet with a small group. She revised her submission and submitted a hard copy to the City on July 15. She was informed there was a small group meeting on the 7th and now she does not know the process. She requested that her submission be sent to outside auditors or the state auditor. Taylor stated that the process was modified based on legal counsel. Because it is an open investigation, they cannot share anything other than the fact that it is in investigation at this point and, until a determination is made, there will be no sharing of the public data. Mathews then expressed concerns about timing and discussed collecting signatures on a petition. Mayor Taylor did not know the timing and asked for clarification. Mathews then discussed the Comprehensive Plan proposal from Sambatek. Taylor said the proposal is for information only and no decision is going to be made tonight. Mathews then asked to be informed of the timing.

- 7. Lafayette Road Fire Lane** – Enforcement of Section 513 – access to Lake via Fire Lane
This discussion took place under the 10.1 Park Commission Report.

8. Public Hearing

- 8.1. Evidentiary Hearing (tabled from June 2017 meeting)** – Possible Violations of Nuisance Ordinance – 2328 Lafayette Road

Building Official Roger Peitso referred to the photos he submitted. The grass was overgrown, the saplings have turned into trees, the house has some damage and the roof was shot. Last week, he took more photos and found that the house had been re-roofed. Because of the dense vegetation, he was unable to determine if both sides of the roof was re-done from where he stood near the property line. He believes the condition of the home meets the intent of the ordinance as a nuisance.

Mr. Burak, who was in attendance, challenged Peitso about being on his property and Peitso assured him that he had not been on the property. Burak went on to say that he is a disabled veteran who lives alone and it is difficult to get all the work done on his own. He went on to state that he fulfilled the City's requirements two years ago and he thinks the current complaints are nit-picky. Mayor Taylor asked his intent. Burak has been working on it when he can. He went on to refer to a letter he received that was not very legible. Taylor asked if he had a list of the concerns. Burak replied that he did and showed Council another copy of the same letter which was informing him about the Evidentiary Hearing. Griffin stated a letter was sent to Mr. Burak in February via US Mail with specific details. Another letter was sent in May. The letter that was hand delivered did not include the specific details of the concerns that were in the February letter. Burak again stated that he met the requirements a year and a half ago. Griffin explained that two years ago it was the Hennepin County Department of Health that cited him and the issues they originally identified in their complaint had been satisfied. She went on to say that there have been subsequent complaints

since then. Burak then said the letter stated he had to have all requirements, including painting, met by April 18th and that it couldn't be done because it isn't warm enough to paint in April. Taylor asked Griffin to give Mr. Burak a copy of the letter with the details of the concerns tonight. Mr. Burak confirmed that he intends to fix his house. Mr. Burak accused Peitso of harassing him because he could not meet the requirements of the letter. He plans to get the house fixed up. Griffin then made a copy of the letter for Mr. Burak.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to table the action on the possible violation of nuisance ordinance at 2328 Lafayette Road until after a progress update is given at the October Council meeting. With all members voting in favor, the motion carried.

Mayor Taylor then re-opened the Open forum at 7:59 pm.

Laura Lindsay – 2319 Huntington Point Road West

Lindsay stated that when they built their home, the City required them to install a rain garden. She was unsure who made the requirement. It may have been Dick Krier. Charles Cudd designed a different stormwater system consisting of two large holes on their property filled with rocks that hold water. The water runs through the driveway pavers and go into the holes. She mentioned they still have not received their letter of occupancy but it is an issue with her builder. Gozola explained that the builder needs to provide a maintenance agreement for the storm sewer system. The City Attorney Wally Hilke reviewed the agreement the builder provided and determined it would not work. Hilke gave them the option of providing a new agreement or he would be willing to draft one. The City is waiting for the builder to respond.

Amundsen explained that the code is written to maintain what is existing today. Each property fits into the code uniquely based on what is there now and what is proposed to be there. A homeowner cannot increase water quantity to a neighbor. There is not a rain garden requirement because each property is different. Builder proposed the driveway with the drainage underneath it.

Lindsay went on to confirm that the home to the south of Helen Lindsay's has a large pile of dirt near the property line.

9. Planning and Zoning

9.1. Resolution 2017 – 30 – Variance Request - 2316 Huntington Point Road West – Average Minimum Lakeshore Setback – O'Grady

Zoning Administrator Gozola said the owners of 2316 Huntington Point Road West are seeking a 10' lakeshore setback variance for an in-ground pool and hot tub. Grading within 75' of the lakeshore will also be necessary. The new home design would push the home away from both the lakeshore and the rear property lines. The Planning Commission found that: the property has unique building challenges, the new home will eliminate nonconforming setbacks, views for the neighbors will improve, and the request is reasonable as it achieves many of the city's goals. Planning received twelve letters of support from residents and voted 6-1 to recommend approval with conditions which are on page 19 of the report. Staff supports the recommendation.

Commissioner Halverson stated that just the pool will be in the setback which will improve views. Lindstrom asked if they considered a different size, location or configuration of the pool. Architect Andrea Swan said the owner wanted a motorized pool cover for safety reasons and the cover won't work with a different configuration. Nate Wassink, Streeter and Associates, said the lake shore

compression creates a difficulty that no other property in the area experiences. Bartel supported the variance because it is for a pool, not a home.

Commissioners discussed inserting language regarding the height of the pool. Although the plans show a nominal grade impact, Gozola suggested changing finding of fact (c) by adding “per the proposed plans”.

Resident Mike Fasching asked if residents can build a pool up to 65 feet of the lakeshore if it is built flat. Gozola said many reasons would go into approving this variance including the compression circumstance, setback improvements and improved views. Fasching expressed concerns that the philosophy has changed and the city is changing history by allowing building in the 75 foot setback.

A motion was made by Council Member Kozloski and seconded by Council Member Myers to adopt Resolution 2017-30 Approving an Average Minimum Lakeshore Setback Variance 2316 Huntington Point Road West – O’Grady with the addition of “per the proposed plans” to findings of fact (c). With all members voting in favor, the motion carried.

9.2. Comprehensive Plan Update Proposals – Sambatek and Stantec

Administrator Griffin stated the proposals were submitted for budgeting purposes and no decision is required tonight with the exception of the Water Supply Plan submitted by Stantec. That plan needs to be submitted by October 15, 2017 to the MN DNR.

This plan was last completed ten years ago. Amundsen will review the Water Supply Plan but other staff with more experience at Statec will work on the Water Supply Plan. City staff may take on some clerical work to reduce the costs, such as water data and input data into required documents for Stantec’s review. The new public works superintendent may be involved also. The proposal is not to exceed \$8,500. It was not budgeted but it must be completed by October.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the Water Supply Plan proposal from Stantec not to exceed \$8,500. With all members voting in favor, the motion carried.

Council then discussed the other proposals. Gozola stated that cost of the last comp plan was almost \$100,000. The current proposals from Stantec and Sambatek are \$55,600. Joann Anderson said they were fighting the trail last time which required additional meetings and increased costs. Gozola used his work on Tonka Bay’s comp plan update to determine costs for Minnetonka Beach. Previously, Council agreed they liked the overall vision of the current comp plan and didn’t want major changes. Mayor Taylor suggested that Council put enough money in the budget to cover the costs and decide by the end of the year what work will be done and by whom. Griffin suggested the proposals be referred back to the Planning Commission to determine the level of review.

The current proposals from Stantec are: Water Supply Plan is \$8,500, Comprehensive Sanitary Sewer Plan is \$9,100 and Surface Water Management Plan is \$18,500. Council discussed updating minimal requirements. Sambatek’s proposal was not to exceed \$19,500.

Resident Nell Mathews suggested that the comp plan update be put out for bids and that the city receive credit for previous comp plan work done by Laura Chamberlain. She expressed concerns about Sambatek using other cities as a model for Minnetonka Beach.

Mayor Taylor asked to refer the comp plan to the Planning Commission to review the Stantec and Sambatek proposals. He directed them to seek the minimal requirements for the Met Council in the final scope of work. He also directed Griffin to include the proposal amounts for the budget discussion in September.

Kozloski suggested having a discussion about organizational processes. He suggested a subcommittee with accountability and responsibility to research all contracts and processes.

Resident Joann Anderson said the Long Range Planning Committee did a lot of work on the comp plan last time. They were guided in the process of what specifics needed to be done. Council agreed with idea of a group of residents with knowledge of the City working on the comp plan. Kozloski suggested that the City have a strategic planning group to be more proactive instead of reactive. The City's residents have a wealth of knowledge that should be tapped into.

9.3. **Traffic Study Proposal** – Recommendation by Planning Commission to study placement of speed bumps on Lafayette Road

Planning Commissioner Halverson stated residents have expressed concern about areas on Lafayette Road and they would like speed bumps. The Planning Commission recommended Council approve the Spack proposal, specifically the Base Scope for \$760 and Option 1 (site visit) for \$720 to identify speed bump needs on Lafayette Road. They also requested approval to purchase speed bumps not to exceed \$4,000. Bartel was concerned that the Base Scope and Option 1 will not give the City other alternatives. Mayor Taylor directed Clerk Honey to ask other cities if they have anyone on staff with experience who could help the City with traffic calming options. Kozloski recommended a bidding process instead of reacting to this proposal. Honey was also directed to ask other cities what companies they have used for traffic studies to possibly use them for a bidding process.

Amundsen said Stantec would not be cost competitive for traffic calming studies. He explained that traffic engineers want to gather all available information and a lot of time and cost is associated with that. His concern was that due to low traffic levels, the engineer would be giving an opinion and it would be an experiment because of lack of data. The City needs to have goals such as how much to lower speed.

Kozloski discussed how to quantify the effectiveness of speed bumps and thought an expert should be consulted who can be held accountable to their recommendations. Taylor summarized the conversation stating they want to see if there are other people who could do a study, including possibly another city, instead of approving the proposal tonight. Council decided to table the proposal until they can get information from another city.

A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to table the Spack traffic study proposal to the September Council meeting. With all members voting in favor, the motion carried.

Mayor Taylor asked to move **10. Commission Reports** and **11. Consent Agenda** to this spot in the meeting because it was getting late and people were waiting. Council agreed.

10. Treasurer's Report

10.1. Consider Motion to Approve August Checks

Administrator Griffin stated that check #16289 Schoening for \$920 was not on the original list in the packet and it was for a sewer break. Young stated that the City will be getting another bill for \$3,000-4,000 related to the break. Council asked if they need to budget more for repairs. Young replied that the lift station budget will be increased to include electricity usage at them. Budgeting for lift station repairs is difficult. Griffin can provide historical information on water and sewer repair expenditures.

A motion was made by Council Member Bartel and seconded by Council Member Myers to approve 46 checks numbered 16252 through 16297 in the amount of \$56,743.24 for August 2017 expenses. With all members voting in favor, the motion carried.

10.2. YTD Budget, Previous Year Comparison Reports

Taylor noted that the interest income has gone up from \$557 last year to \$2,500 this year. This increase was prior to the investments. Griffin will email the statements from Ehlers 4M Fund to Council.

10.3. Outstanding Accounts Receivable Report

10.4. Resolution 2017 – 35 – 2018-2022 Capital Improvement Program

The total is \$2.2 million for next year and the amount for bonding is approximately \$1.4 million. Howarth and Griffin met with Ehlers regarding bonding options. Council reviewed the bonding projects and stated the Treasurer's input would be helpful to determine how much the City can afford to spend.

Taylor suggested reviewing the tax levy items which need to be included in the 2018 budget. Amundsen said the Paving Management Study would give the City a strategic approach to managing paving and replacement projects throughout the entire city. Young suggested moving the leaf loader to 2019. Even though it is from the 1960's, it works well but it could stop working at any time. Council discussed leaving everything in as it is presented, running the budget and seeing how it comes out.

Taylor directed Griffin to include the tax levy items as presented in the 2018 budget. Council asked the Treasurer to estimate bond payments for 2018, if any. Council asked how to find out how to determine the tax impact on households. It is difficult to determine but Taylor will research it further.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to adopt Resolution 2017-35 the 2018-2022 Capital Improvement Program as presented. With all members voting in favor, the motion carried.

11. Commission Reports

11.1. Park Commission

Chair Forbes stated that the proposed 2018 Park budget is an increase of 4.5% over 2017. As much as they would like to increase the budget to do more work for the City, they would need more commissioners to manage the projects. Chair Forbes then gave a history of the Park Commission's budget as well as a comparison of the City's Parks budget to other surrounding city's budgets. The commission is focusing on pruning and planting trees, gardening, and beach maintenance.

Chair Forbes then discussed the fire lane at the swim beach. City code does not allow boats, cars and trailers to access the lake at the fire lane. Snowmobiles and ATVs are permitted to use the fire lane in the winter. The ordinance applies to residents and nonresidents but it has not been enforced. The city has received complaints. The current chain and post isn't working and a permanent post or another post will be needed. The Park Commission passed a motion to support the current city code and recommend that it be enforced. Council discussed emergency vehicle use of the fire lane and possible DNR requirements for access. Staff will research statutory requirements for emergency vehicle access. The consensus is to close the fire lane access and to install a sign prohibiting its use.

11.2. Civic Committee

Lindstrom said National Night Out and the picnic were very successful. She thanked all of the Civic Committee volunteers and their families for their hard work on City events.

11.3. Planning Commission

Halverson said the highlights of the last Planning Commission meeting were discussed earlier in the meeting. The next Safe Crossing Subcommittee meeting will be August 24th. A team from Hennepin County collected data for a possible crossing in Minnetonka Beach. The County funded the study.

11.4. Finance Committee

Lindstrom stated the classification and compensation study was reviewed and they recommended that Council approve it. They are looking into benchmarking city expenditures to find ways to save money. They plan to review the post office, fire contract, office expenses (copier lease) and Village Hall expenses.

11. Consent Agenda

- 11.1. Fire Report –June/July
- 11.2. Special Event Permit – St. Martin's Church – Swim Beach – August 20, 2017 (10 am - 1 pm)
- 11.3. Consulting Agreement with Gallagher Benefit Services, Inc. for Employee Health & Life Insurance
- 11.4. **Resolution 2017 - 31** – Consider Re-Appointing Dan Forbes to Park Commission
- 11.5. **Resolution 2017 – 32** – Consider Re-Appointing Jeff Breazeale to Planning Commission
- 11.6. **Resolution 2017 – 33** – Appoint Bill Raisbeck, and Mike Lang to Utilities Commission
- 11.7. **Resolution 2017 – 34** – Approving State of MN Joint Powers Agreement with the City on behalf of its Prosecuting Attorney
- 11.8. Compensation Study as Recommended by Finance Committee
- 11.9. Dock Permit – Dock 9-4 (Priority 3) – Nate Arnold
- 11.10. **Resolution 2017 – 36** Adopting Ordinance No. 115, 2nd Series, 2018 Fee Schedule and Authorizing Summary Publication (Removed from the Consent Agenda at the beginning of the meeting)

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve the Consent Agenda items 11.01-11.09. With all members voting in favor, the motion carried.

12. New Business

12.1 Resolution 2017 – 36 Adopting Ordinance No. 115, 2nd Series, 2018 Fee Schedule and Authorizing Summary Publication.

Council discussed tabling the Fee Schedule to allow the Finance Committee to review it.

A motion was made by Council Member Bartel and seconded by Council Member Myers to table Resolution 2017-36 Adopting Ordinance No. 115, 2nd Series, 2018 Fee Schedule and Authorizing Summary Publication until the September City Council meeting to allow the Finance Committee to review it. With all members voting in favor, the motion carried.

13. Action Notes and Staff Reports

13.1. Council Meeting Action Notes

13.2. Director of Public Works Report

Young reported on a broken sewer line on Woodbridge. Ray Peters parking lot has a hole in the blacktop that he will excavate to determine the cause.

13.3. Clerk's Report

13.4. Administrator's Report

Administrator Griffin referred to the memo in the packet regarding updates to City Hall. Two stucco contractors advised the City to pressure wash and not re-dash the stucco. Staff is proposing to pressure wash City Hall, paint and stain the exterior trim, install a railing by the Post Office entrance, and repair one area of stucco. The cost is for those projects is \$6,900. Staff is also getting bids on an irrigation system for the west side of the building and lighting for the accessible ramp. This is within the approved budget of \$10,000 for this year. Griffin will provide final numbers when they get them. The Planning Commission is looking for a new member and staff will publish the vacancy in the Beachcomber.

13. Council Reports

13.1. Mayor's Report

Brian Berent accepted the offer for Public Works Superintendent. He starts August 28th.

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

Myers reported that the toy box at the swim beach was removed because it was unsafe.

A motion was made by Council Member Bartel and seconded by Council Member Myers to adjourn the meeting at 10:56 pm. With all members voting in favor, the motion carried.

PUBLIC IN ATTENDANCE – Bob Burak, Shawn O'Grady, Jennifer Halverson, Sue Kozloski, Brent Pickett, James & Laura Lindsay, Dan & Helen Lindsay, Joann Anderson, Nate Wissink, Nell Mathews, Mike Fasching, Bill Raisbeck, Mike Lang, Andrew Burak, Betsy Taylor.

Respectfully submitted,

Heidi Honey, City Clerk