

Monday, August 15, 2022 6:00 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL 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, and Public Works Superintendent Jason Hilgers

Guests: Park Commission Co-Chair Julia Sharma

- 1. Mayor Lindstrom called the meeting to order at 6:01 p.m.**
- 2. Clerk Burgess led the Pledge of Allegiance.**
- 3. Approve Agenda for the August 15, 2022 City Council Meeting.**

Council member Breazeale requested that the agenda be amended to move Old Business item 7.4 to 7.2 as she needs to leave at 7:00 pm. Lindstrom stated that she would like a quorum to vote on the important proposed Tree Preservation ordinance including Breazeale before she leaves the meeting.

Sharma motion, Enlow second to approve the amended agenda. All ayes, the motion carried.

4. Approve Minutes –

4.1. Regular Meeting of July 11, 2022

Lindstrom requested an amendment to the minutes on Page 5 of 8, paragraph 3, regarding the proposed Tree Preservation ordinance. She would like her comments included regarding her advocacy of the City of Woodland's tree ordinance model, and comparisons to the proposed Minnetonka Beach tree ordinance.

Enlow motion, Sharma second to defer the approval of the July 11, 2022 City Council meeting minutes until the next City Council meeting based on a proposed amendment. All ayes, the motion carried.

5. Guests

5.1. Park Commission Co-Chair Julia Sharma Certificate of Appreciation

Mayor Lindstrom recognized and thanked resident Julia Sharma for her contributions to the community. She served as Park Commission Co-Chair and Commissioner from February 2021 to August of 2022. Lindstrom noted that Sharma's accounting and finance background was invaluable as she managed the Park Commission budget and projects. Lindstrom stated that Sharma worked closely with Commissioner Rezabek on the Hennepin County Tree Canopy Grant process which was significantly important to Minnetonka Beach. She stated that Sharma is an outstanding citizen and contributes to the community in many other ways including leading the community Bible Study, Book Club, and adoption of Half Moon Park with her husband, Vibhu Sharma.

6. Open Forum – Opened at 6:08 pm and closed at 6:08. No Comments.

7. Old Business

7.1. Consideration of Organics Recycling Container Location – continued from July 11, 2022

Lindstrom recapped the discussion of the location of the Organics Recycling container from the last council meeting. She stated that Hennepin County mandated that an organics recycling program be implemented,

and the City chose to have a drop off receptacle. Resident Paul Sperduto of 2515 Woodbridge Rd would like the container moved from its present location near the Public Works facility, and circulated a petition signed by 14 residents in that neighborhood who also share his concern for the container's location.

Lindstrom stated that when asked last month, St. Martin's Church, City parks, Lafayette Club grounds supervisor and Club General Manager Malsbary all said no to having the container moved to their properties.

Dr. Sperduto presented an alternative location suggested by Hilgers to place the container just outside the Public Works gate on the driveway. Halverson's, at 2512 Shoreline Drive, said no to placing it on the west side of the driveway. Sperduto proposed placing it at the east side of the Public Works driveway, and placing it behind the shrubs next to the water treatment plant and Halverson's were supportive of that. Sperduto added that they would be able to then see it from their front door, but they approve that instead of where it is now. All petition signers are in agreement with this spot behind the bushes as well.

Hilgers said if they want it placed in the Public Works driveway it would have to be down by the road. It is now not possible to place it where Sperduto presented as there is a well inside the water plant, and there cannot be any risk of contamination from the organics container. He said the Department of Health requires that anything that could leak and contaminate the well must be located a minimum of 50 feet from it. Neither side will work as they are not 50 feet from the building.

Lindstrom asked Sperduto if there are any other locations he would like and he stated that he had no suggestions at this time because he was unaware of the well inside the building. He added that residents feel that it is an eyesore where it is presently located.

Hilgers stated that it should stay where it is as a lot of time was spent determining the best location.

Enlow stated that the container is convenient to use where it is, and the new one that is black is better. Hilgers said that screening it will make it look bigger, stickers must be on it, and it must be closed and locked when the resident is finished.

Sharma asked for clarification of where the public works dumpster is located in relation to the well and Hilgers said it is 60 feet from it and he stated there are two wells in the building.

Sperduto said that shrubs would be more desirable than a fence around the container.

Enlow motion, second to let the organics recycling container mandated by the county remain where it is and that it be acknowledged that the city, neighboring residents have worked hard to find an alternative location and have not been successful. No second; motion failed.

Sharma stated that while he wants a solution, he asked if this is something that City Council would typically vote on.

Enlow answered Sharma stating that because there was a complaint then it needed to go to council. She added that placement of something like this can be decided by staff.

Breazeale stated that she feels the location is good and it is easy to drop off there. She asked if it stays there what screening would work to help the neighbors, and what would be the costs associated with that.

Sperduto stated that although the container is not used a lot, use may increase, and he feels that people could access it when the Public Works gate is open during the day. He suggested placing it by the other Public Works dumpster.

Enlow stated that would not be safe for residents as trucks go in and out.

Lindstrom stated that she is concerned about the safety at Public Works, and most cities have their Public Works facilities completely fenced in. She added that most cities would make this decision without public input.

Breazeale motion, Sharma second to keep the organics recycling container in its current location but look for ways to make it more visually attractive to neighboring residents with some form of screening. Hilgers to work with neighboring residents to achieve that. Breazeale aye, Enlow nay, Sharma aye; majority vote ayes; motion passes.

Enlow asked Honey what the cost would be for each resident to have an organics recycling cart at their home rather than one container for everyone to use. Honey stated that it would be the same amount as recycling at \$60.00 per year.

7.2 Tree Preservation Ordinance Review continued item from July 11, 2022 council meeting

Lindstrom requested that the task force go through the amendments one by one so council members understand them.

Enlow referred to her July 14th email to Honey on page 148 in the packet. It lists all items that raised questions at the July City Council meeting, and how they were addressed.

Enlow presented them to council:

She provided the answer to the question raised about how an unlicensed tree contractor who does work in the City in an emergency would be handled. She stated that staff has discretion to not enforce the requirement if it isn't possible but perhaps obtain the information after the fact.

Enlow stated that staff can determine if licensed tree contractors will be on the City website.

Zinn asked for clarification on the licensing process done by the City which Honey and Enlow provided. Honey added that proof of insurance and state registration is part of the permit. Honey was asked by Lindstrom if licensing makes sense, and she said yes as it's important to the task force. Honey added that she is unsure how work done on the weekend would be handled. She assumes most tree companies are registered by the state.

Enlow added that the companies would have to agree to abide by the rules of the City's ordinance. She added that Lindstrom's request for photos to be provided with the application is now included, and Hilgers is now the third person on the review board instead of the city engineer unless called in by the review board.

Enlow stated that in addressing the concern for hedges and arborvitae, the task force is basically asking for diversity in trees, both coniferous and deciduous, and diversity of species and size of trees and shrubs. They want to prevent residents from planting hedges and having that count as their tree canopy. She added that all agreed that arborvitae is a tree. Hedges are not acceptable as tree replacement and do not count towards minimum tree density.

Lindstrom asked if a row of evergreens is a hedge like her neighbor planted.

Breazeale stated that a hedge is typically short, and hedges should not be counted towards tree replacement. A row of trees, such as River Birch, would count as minimum density tree requirement and replacement trees, she added.

Zinn asked what the distance requirement is for spacing of the same type of tree. His example was if he were to plant trees, but not in a hedge, but intentionally planted close together to create a screen, would that be counted. Petersen said the same variety of trees planted in a row, but spaced apart, are not a hedge.

Sharma provided an example using his seven pine trees he planted “intending to create a boundary, hedge, fencing, or screen.” He did so to not see the neighbor’s pool. He added that according to the definition, Zinn could plant his row of Birch trees and it would not be a hedge.

Petersen and Wortman stated that they will add the definition of a hedge to clarify. Breazeale requested they add trees, bushes or shrubs to the definition of a hedge and Enlow said they will capitalize the word hedge.

Sharma suggested removing the word PRIVACY from hedge.

They discussed different scenarios of hedges, tree replacement, and minimum density requirements. They also discussed options for the fee in lieu fund.

Enlow stated that the group responsible for reviewing the permit application, whether it is staff, the review board or council may make recommendations for replacement trees and planting locations. Often, it’s a new resident or a contractor.

Previously, Honey asked if a resident takes down a deciduous tree do they have to replace it with a deciduous tree? The chart was amended in keeping with the goal of tree diversity showing that no, they can plant a coniferous tree if they choose to.

Wortman said the goal of the task force is to encourage people to keep trees, use proper permitting, bring heritage tree removal requests to council, continue the beauty and high quality of life, and show the City protects significant trees, all similar to Excelsior’s ordinance.

Rezabek stated that they looked at templates for preservation ordinances, and one that she found made her realize that the task force needs to be flexible. There will be instances where things come up that don’t fit the template. There may be variance requests, but with good common sense and flexibility this ordinance will protect the character of the community and preserve our lake community that has an 87% city boundary of water, she concluded.

Enlow motion, Sharma second that Ordinance 135 2nd SERIES an ordinance amending the zoning ordinance regarding tree protection be adopted as presented with the following amendments inserting a new definition of hedge as presented at this meeting and amending the definition of minimum tree density and replacement tree as presented at the meeting. All ayes, motion carried.

Honey stated the ordinance will be updated and submitted to the newspaper tomorrow morning for publication Saturday, September 20th. It will go into effect Sunday, September 21, 2022.

Enlow thanked the members of the Tree Preservation Task Force.

Lindstrom stated that as a special gesture of gratitude, she and Planning Commission Chair Jeff Breazeale will purchase a tree in honor of the Tree Preservation Task Force. There will be a planting ceremony and a plaque with their names on it. They can choose a tree of their choice and she hopes this is meaningful. She thanked them for all their hard work.

Council member Breazeale departed from the meeting at 7:30 pm.

7.3 Consideration of No Parking on Northview Road – continued from July 11, 2022

Honey stated that initially the City had a request for no parking on either side of Northview Rd. That was discussed at the July council meeting, and she was asked to survey the Northview Rd residents to the west of Lake Rd. She was then asked to survey Northview Rd residents from the Lafayette Club west to the end as to which side of the street would be their preference for no parking. Then a few weeks ago, Mayor Lindstrom was asked to consider a third option of no change to Northview Rd parking. She surveyed the

same residents and offered three options to seek their preference: no parking on the Dakota Trail side, or no parking on the lake side, or no change at all for parking.

The survey results with the three options were that nine homes on Northview said to leave the street as is with parking allowed on both sides, three homes said they would like no parking on the Dakota Trail side, and three homes said they would like no parking on lake side.

Lindstrom asked if the conclusion is to leave the parking as is on Northview and Honey stated that according to the survey results, that is what the majority want. Most of the parking problems are on Northview west of Lake Rd. due to the increased amount of building construction along there at this time. She added that the fire chief prefers parking on one side, but he said they will find a way to get through. Hilgers prefers parking on one side.

Sharma and Enlow stated that no action should be taken as these construction projects will end at some point.

Lindstrom stated that if something comes up then council will take action.

Resident Joann Anderson stated that the City used to collect escrow for building projects, and she feels that homeowners should pay for road damage out of escrow. Lindstrom agreed. Zinn said there is a lot of work in creating separate escrow accounts and added it would be hard to identify who to blame for road damage.

Sharma recommended to do a flat fee.

Honey suggested implementing a street impact fee like Excelsior has, and she included it in the updated fee schedule so the Finance Committee can consider it.

Recess at 7:41 pm and reconvened at 7:44 pm

7.4 DNR Code Compliance – ADU update

Enlow said the ADU Task Force submitted their proposed ordinance amending accessory dwelling units to the DNR for no detached dwelling units in Minnetonka Beach. The ADU will have to be in the primary dwelling, and it can be used by family, caretakers and household staff. They submitted it to the DNR with their checklist. She learned from the DNR that their proposed ordinance has been reviewed, it is consistent with the preliminary draft, and staff anticipates issuing a conditional approval letter to the City prior to the Planning Commission public hearing on 8/22. If that goes well it will be presented to council for adoption at the September 15th meeting.

Sharma asked if he could build another building not connected to his house for an office space. Enlow said yes, and it is called an accessory structure that can be used for home office use but not for temporary or permanent dwelling. It cannot be lived in.

They discussed that those ADU's already in existence in the City would be grandfathered in.

8. Finance Report

8.1. Financial Dashboard

Zinn reported that the City received their first half tax levy collection. The remaining portion of the 2021A bond proceeds were transferred to the 4M General Fund. He stated that the City has a strong cash position at \$200,000 more funds than last year, and Accounts Payable shows nothing out of ordinary. Zinn added that the sewer issues that occurred on Sunday, July 14th, so far cost \$17,000, but it is anticipated that the total will be \$30-35,000. Orono helped out the City that day so that will be invoiced to the City, There will be

street restoration expenses as well. The sewer repairs will come out of the sewer fund which has a surplus. He stated that six Park Commission budgeted benches were purchased. He noted the IT invoice was higher than normal due to the email phishing hack the City had. A higher-level email security program was purchased for \$1300 and installed that would have prevented the hack. The work done for the proposed ADU ordinance generated \$2300 in legal expenses. The City is staying under budget and maintaining fiscal responsibility.

Lindstrom asked if Planning will go on to the next item on their priority list. Honey suggested waiting until the ADU ordinance is completely finished.

8.2. Utility Rate Study

Zinn and Honey met with Bruce Kimmel of Ehler's for budget assistance, and to discuss doing the utility rate study to assist with financial projections. Since the City is not receiving any federal money for the water treatment plant, Zinn felt it was time for them to conduct this budget-approved study for about \$20,000. They will compare Minnetonka Beach rates to other cities. The water treatment plant cash outflows need to match with cash inflows. Zinn added that Kimmel will work with Stantec for cost projections, there will be bond issuance, and he will determine how our rates will match cash outflows. The study results will determine how City fees will be able to cover the expense of the water treatment plant, and the City will gradually increase rates and fees. Zinn said they will do sewer as well when asked by Lindstrom. She also said Stantec will need to update the plant project costs. It will take 6-8 weeks for the study, and Kimmel said, but it will be done before year end and fee schedules finalized. It can go on consent as this was expense was already approved and put on hold. Lindstrom asked if it will be folded into the 2023 budget and fee schedule. Honey said the City budgeted a preliminary 10% water increase rates until the rate study is completed.

Lindstrom asked when Kimmel will present the results of the study and Zinn thinks October.

The Finance Meeting is meeting August 25th, and Lindstrom, Zinn and Honey are meeting the August 18th.

9. Consent Agenda

- 9.1. Police Report - August
- 9.2. Fire Report - August
- 9.3. Resolution 2022-33 - Re-appoint Jennifer Halverson to Planning Commission
- 9.4. Resolution 2022-34 - Re-appoint Joann Anderson to Planning Commission
- 9.5. Resolution 2022-35 - Re-appoint Joe Pagano to Park Commission
- 9.6. Resolution 2022-36 – Re-appoint Kim Petersen to Park Commission
- 9.7. Resolution 2022-37 - Additional Dock Permit Applications
- 9.8. Resolution 2022-38 – Additional Dock Variance
- 9.9. Resolution 2022-39 – Acceptance of American Rescue Plan Act (ARPA) for COVID-19 relief and approval of usage of funds
- 9.10. Tree Removal Request – City Property Near 2320 Lafayette Rd
- 9.11. Approval of Checks - July

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

10. Staff Reports

10.1. Council Meeting Action Notes

Honey stated there are no updates. The utility rate study referral can be removed now.

10.2. Administrator's Report

Honey stated that she finished employee performance evaluations, and she finalized workers' compensation and liability insurance. Gage created a spreadsheet with all the surrounding cities' fee schedules which is good for comparison purposes. She stated that the City should charge an additional 15% to the building

code fee schedule, which other cities do as the fee schedule was updated in 1997. The building projects take so much more work and time today than when the fee schedule last updated so the 15% addition is appropriate. Other City permits and fees were adjusted and increased on the fee schedule as staff learned where the City is compared to other cities. She added that the fee schedule will go to council in September. Honey stated she studied wages at surrounding cities and learned a great deal of the current market for compensation.

Lindstrom added that surrounding cities have had high employee turnover for administrator and public works positions. Honey added that they have had clerk turnover as well.

10.3. Clerk's Report

Burgess stated that she has been working primarily on elections administration. The training of 12 judges and equipment testing went well, as well as the reporting to Hennepin County Elections, publishing notices in the Laker Pioneer and absentee voting. The Primary Election went very well with 27% of residents voting, and 117 of them voted in-person at the August 9th Primary. That's high voter turnout for a Primary. Only six residents voted absentee.

She added that building permits issued now total \$5.8M so far this year which keeps staff very busy working closely with Stantec, Metro West, the contractors and homeowners. National Night Out went well with an ice cream truck on a very hot evening August 2nd following a Park Commission meeting. The Margaret Dahl Library was ransacked and the children's furniture broken. Residents donated replacement furniture and the library reopened. Burgess stated that she's been selling new Civic sweatshirts at City Hall for kids and adults which has been very positive. She contacted the Laker Pioneer reporter and submitted photos and copy from all the Civic events this past summer which were very well attended. Weekly SPLASH! Eblasts and special announcement eblasts as well kept her busy this past month. She's working on a July/August Beachcomber with lot's of photos too from Civic and Parks events.

10.4. Public Works Superintendent Report – in packet

Hilgers explained the two sewer main breaks and subsequent gas line break on Sunday, July 17th. The check valve blew, and it may have been a fluke or maybe not as he's not sure. Orono Public Works helped greatly that day. Sharma asked if Center Point Energy will pay as they are responsible as they did the locate marks wrong. Honey stated that she is waiting for all the bills to come in before pursuing Center Point.

Lindstrom asked Hilgers if these events concern him about the overall sewer infrastructure to which he said yes. He added that a copper line blew in the Water Treatment Plant that pumps chlorine into the system. It has been patched over 20 times so he bought new one. He added that he and Kohlton spent a great deal of time watering 42 newly planted trees during a drought, mulched them, and cut trees down to plant trees.

11. Council Reports

11.1. Mayor's Report

Lindstrom stated that she attended the primarily financial LMCC meeting in Howarth's place. Bonnie of Abdo does their audit and reported that the LMCC is on budget to date. They presented their 2023 budget showing the franchise fee rate increase for Minnetonka Beach which the City will receive in September.

Lindstrom attended a meeting at the Orono Police Department, and stated that the police department is now fully staffed with three new officers. They will have a 2023 budget increase of 5-8% increase mostly due to staff wage increases and increased fuel costs. She stated they discussed the new marijuana law which is now in effect, and advised that cities should do nothing until the State of Minnesota is more organized.

She stated that the prosecuting attorney contracts are up. The City spends \$3600 a year for prosecuting attorney services with Potts and he may be retiring. She stated that each City around us uses different

prosecuting attorney and it was suggested at the meeting that one attorney service all the cities that Orono Police serves.

Lindstrom requested that council members get a sub if they can't attend a meeting as a liaison.

11.2. Liaison Reports

Breazeale – She had to leave the meeting at 7pm so no report this time.

Enlow – She stated that the Tree Preservation and ADU ordinances were covered earlier in the meeting – she worked on both. She added that she missed the fire district meeting due to the storm that toppled a tree in her yard.

Sharma – He stated that there needs to be a Dock Committee meeting and he will call me to schedule it. He had pool chemical fire at his home and warned others to not store chemicals in hot garages during the summer as his garage could have burned if they were in there.

Zinn – no additional report

12. Adjourn

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

The meeting adjourned at 8:43 pm

PUBLIC IN ATTENDANCE – The following people signed the attendance sheet: Paul Sperduto, Nell Mathews, Joann Anderson, Patty Rezabek, Kim Petersen, Bridget Wortman.

Respectfully submitted,

Jane Burgess, City Clerk