

**Tuesday, October 11, 2022 6:00 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES**

Roll Call: Mayor Jaci Lindstrom; Council Members: Tracey Breazeale, Susan Enlow, and Treasurer Chris Zinn.

Absent: Vibhu Sharma

Staff Present: City Administrator Heidi Honey and City Clerk Jane Burgess

Guests: Laura Wallander, Orono School Board

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 October 11, 2022 City Council Meeting.

Breazeale requested that agenda item # 5 Police Report be moved to the consent Agenda as the officer is unable to attend the meeting.

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

4. Approve Minutes –

4.1. Regular Meeting of September 12, 2022

Enlow requested that on page 6 of the minutes Burgess add the word “age” to due to the age of hydrants, one each year should be replaced.

Breazeale motion, Enlow second to approve the amended September 12, 2022 City Council meeting minutes. All ayes, the motion carried.

5. Guests – Laura Wallander, Orono School Board

5.1 Wallander presented information about Orono School’s Technology levy that Minnetonka Beach voters will be asked to approve at the November 8, 2022 General Election. Wallander explained that the levy failed in the 2020 election. There is no increase in the levy, no impact on taxes, and it will not raise property taxes. This is a straight renewal of an existing locally approved levy. This levy will provide for classroom learning and support, reliable access and security and technical support. Wallander added that if it fails, the levy will expire and the district will be faced with \$1.2 million in annual budget cuts, impacting teachers, programs, and technology districtwide, Wallander added. Orono Schools are now live streaming to each family which is expensive, and teachers are actually teaching kids, not just putting them in front of iPads. She added that COVID was very expensive for Orono Schools who did not receive much aid as very few students receive free and reduced lunches. Staffing is very expensive, and they are maintaining smaller classroom size as well.

Mayor Lindstrom stated that she read in the newspaper that property taxes in Orono will decrease for the school portion and Wallander agreed. Lindstrom stated that two residents have hosted information sessions about the Orono Schools Tech Levy Renewal. She thanked Wallander for coming and stated that the City typically has over 90% voter turnout for elections, and they are educated, informed voters.

6. Open Forum - Opened at 6:11 pm and closed at 6:12. No comments.

7. Old Business

7.1 Evaluation of Golf Cart Use/Ordinance No. 137, 2nd Series – City Code Chapter Five, Section 513: Operation and Use of Recreational Motor Vehicles

Mayor Lindstrom summarized that council decided per Enlow's suggestion to see how the summer goes with golf cart complaints and reevaluate the issue in the fall considering permitting and regulating them. Lindstrom stated that she hasn't heard any golf cart complaints, she sees them at City events, and hasn't seen any on the Dakota Trail or unsafe activity. Enlow stated that she sees a lot of golf cart use, but an educational message got out that may have helped. She had one incident that was a close call with what appeared to be a young, licensed driver on a golf cart. They discussed the important of shrub trimming for driver visibility.

Zinn agreed, stating that residents heard the messaging put out by the City, and they don't let their younger kids drive golf carts around the City. Breazeale suggested that next spring the City should get the message out again and it would be especially good messaging to new residents.

Lindstrom stated that the consensus is that the golf cart ordinance does not need to be revisited at this time, except for the amendments.

Honey stated that the amendments were created from public and written input and removed all references to previous items identified as toys, so the City is left with snowmobiles being allowed to access the lake. Recreational motor vehicle provision state that no person can operate a recreational motor vehicle on the City Right of Way. She added that Batty and Sharma reviewed it, and Sharma agreed with the language in it and approves it. Orono Police Chief Farniok did not respond when Honey sent it to him.

Enlow motion, Breazeale second, to adopt Ordinance 137, 2nd series amended to follow City Code regarding the operation and use of recreational motor vehicles. All ayes, motion passes.

7.2 DNR Zoning Code Compliance Update

Honey stated that she discussed with City Attorney Batty open meeting law for committees, task forces and commissions that work to help a city in different ways. City Staff was questioned as to how the Tree Preservation Task Force was formed, their transparency, and if they asked people to join them. Honey asked Batty if there are formal requirements for this and he told Honey that task forces can come about in many ways both formal and informal. He stated that task forces that work with policies, ordinances, and city code should be required to follow open meeting law, meet publicly during work week at City Hall so there is transparency about how the City got there when an ordinance was passed.

As a comparison, Lindstrom stated that when the pedestrian crossing was in its final stages, some residents said that this was the first they had heard of it and questioned how it came to be.

Breazeale said residents must be living under a rock if they do not know about the tree preservation ordinance. She added that the weekly SPLASH! eblasts and Beachcomber regularly informed residents about the ordinance progression. Public input forums for the tree preservation ordinance were poorly attended. She questioned how can task forces get work done if they are constrained to open meeting laws? What if they can't meet during the week during the day, she added. She stated that it seems appropriate that if a task force is doing research, then they should be able to meet when they can, and then present their findings to the Planning Commission and then those recommendations move forward through the normal process.

Honey agreed that in the future, when recommendations like this are being discussed, perhaps those meetings should be at City Hall and if they are deliberating or making recommendations then she should be at the meeting.

Breazeale stated that the Tree Preservation Task Force meets on Sundays as that's the day they can all get together. She doubts that Honey would want to meet on Sundays. She added that the task force is utilizing volunteer hours to save money to avoid hiring additional staff or pay Stantec or Batty for this work. She said it is unrealistic to think the City can get the work done that task forces do if the City says that this work must be done during business hours. Honey stated that it would be good to know where the task force is at any

given time when they are meeting. They discussed options for task force meetings that would satisfy the transparency issue.

Enlow stated that in task force's initial meeting with J. Breazeale, Honey and Lindstrom they were asked to identify their scope which was focused on the non-compliant 2017 code rules and DNR regulations as they pertain to ADU's. The DNR approved the City's code in 1996, and nothing has been submitted to them since then for approval. The City is required by State law to do so. Enlow continued stating they found three people, Susan Swanson, Nell Mathews, and herself to serve on the task force as no one else from Planning volunteered to help. When they met it was requested that they keep the Planning Commission apprised as to what they were doing and regularly presented materials to them, which Swanson did. Enlow added that although the code rewrite is not transparent, their activities and findings were. If they have to invite the public to their meetings, and a new resident comes one week and they answer all their questions, and another new resident comes the next week, and they answer all their questions then they will not move forward. She stated that the Tree Preservation Task Force made recommendations, heard from the public, and made modifications based on input. She feels that open meeting laws do not apply to this situation until the task force brings information to the Planning Commission.

Breazeale stated that the City Code is out of compliance, so a lot of research is taking place reading ordinances and DNR rules to determine where the City is non-compliant. The findings will be compiled, go to the Planning Commission, and a determination made as to what is needed for compliance. The public will then be asked to attend a Planning Commission meeting to give their input.

Enlow stated that the task force is comparing the 1996 city code to the DNR model ordinance to see where they overlap and don't overlap. They are doing the same with the 2017 code. They realize that do not have the authority to amend city code. They need Planning, Honey, Stantec and experts to look at their findings and make recommendations before it goes to council. Their updates are on meeting agendas and are transparent.

Mathews was allowed to speak stating that the task force has spent more than 50 hours in meetings so far, becoming educated about city code, the detached ADU issue, and getting their arms around streamlining the process to be able to give bite size pieces to the Planning Commission and residents. She added that she has spent 400 hours studying the 1996 code, 2017 code, and the DNR model ordinance. She suggested advertising how many hours the group has worked so the public knows what they are getting into if they want to join this task force. They keep everyone on Planning Commission updated, and then eventually it will go to City Council as the decision-making body. Mathews stated they are breaking it all down so everyone can understand it, especially the Planning Commission.

Breazeale stated that when it is the proper time, the task force can share with the public and ask if they want to get involved. They will see that there were a ton of hours involved, she added.

8. Finance Report

8.1. Financial Dashboard

Zinn stated that everything looks good on the dashboard. The City fund balance is up from the prior year as not as much is being spent as projected but that could just be a timing issue. The Water Treatment Plant project they are working on is very costly. He stated that it is official that Ehler's is doing a utility rate study and the approval of their proposal is on the Consent Agenda. They looked at Edina's Utility Rate Study as a sample, and it was good as it showed analysis and financial modeling and comparisons to five neighboring communities.

Honey stated that Gage is trying to pull a report from Banyon, not using drought or COVID data, but she is not having good success yet. Zinn asked if there is an analysis about buying water from Orono and how that would look. Lindstrom said Amundsen had updated data showing that it was more expensive for residents to buy water from Orono over five years.

Lindstrom also asked about security cameras and lights and Honey stated that City Staff is still working on a camera in the front of City Hall solution, then will look at the back. She added that Hilgers added solar lights in the trees, and they are working well to light the pathways.

Enlow asked about the reserves. Zinn said prior to his time as treasurer, the City hired Abdo to do a reserve analysis mid-year. It's as simple as looking at what the reserve is at the end of last year, take the budget and P&L, and make adjustment to those funds to arrive at a ballpark number. The big picture is the City has more cash in the bank than a year ago. Zinn added that bottom line, the City is not spending more than budgeted and not dipping into reserves. The engineering for the Water Treatment Plant project will require some of this money up front for costly engineering and design. Zinn stated that the City will work with Ehler's and City accountants to determine how to fund the project, which takes a year to plan for it.

Lindstrom stated the reason she has the audit reserve summary page done is that it is imperative that the City maintain their AAA rating meeting the 65% minimum in the budget reserve requirement.

Zinn said that legal is high this month and Honey agreed as Kennedy & Graven was behind in their billing, so the City received a lot of invoices recently. There were two land registrations totaling \$5,000 and the City could not pass those fees on to those residents.

8.2. YTD Budget, Previous Year Comparison Reports

Zinn referred council to the P&L by class and he noted there are some deficits. He stated that the City hasn't collected second half property tax yet, so there is approximately \$500,000 that will come to the City. Water revenue will be collected with next utility billing for Q3 so the City will catch up. The Ehler's utility rate study will help set fees for 2023 to the appropriate level.

Zinn stated that in looking at P&L vs Budget, building permit revenue is much higher than budgeted which is very positive for the City. The ARPA funds allocated to the City were spent by Hilgers for lift station repairs and sewer jetting. The Hennepin County Tree Canopy grant expenses will be reimbursed when the final submittal report is done by the end of the year. Zinn noted that legal fees are high at \$32,000 spent of \$40,000 budgeted for the year. He stated that some available budget will be used for Water Treatment Plant engineering expenses. Council reviewed specific line items including sealcoating for which Hilgers got a sealcoat bid and he will use the budgeted amount for that. Zinn added that a lot of fuel was used and now leaf pickup and drop off has begun at the present high gas rates, but the City budgeted for this. He stated that sewer repairs are well above budget due to the break, but some of those expenses might be offset. Lindstrom asked if the City has strong sewer reserves and Zinn confirmed the City does. Capital Improvement budget has spent \$98,000 of \$113,000 budgeted. Any funds not spent will carry over to the next year unlike previous years where there was a rush to spend by year end.

9. Consent Agenda

- 9.1. Fire Report - September
- 9.2. Three Rivers Park District – September Report
- 9.3. Resolution 2022-42 – Proposed Tax Levy Certification for the Year 2023 (Amended)
- 9.4. Resolution 2022-45 – Snow Plow Agreements – Arcola Lane
- 9.5. Resolution 2022-46 – Snow Plow Agreements – Crescent Street
- 9.6. Resolution 2022-47 – Snow Plow Agreements – Brooks Lane
- 9.7. Resolution 2022-48 - Designating Polling Place for 2023 Elections
- 9.8. Resolution 2022- 49 – Appointing Election Judges
- 9.9. Resolution 2022-50 – Annual Appointments
- 9.10. Embedded Systems Contract Renewal
- 9.11. Water Tower Construction Update
- 9.12. Council Action Notes – September
- 9.13. Approval of checks – October 2022, approval to pay November checks due to no meeting

- 9.14. Proposed Special Assessment of Unpaid Utility Bills – 2328 Lafayette Road
- 9.15. Ehlers Utility Rate Study Proposal

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

10. Staff Reports

10.1. Administrator's Report

Honey reported that she met with Ehler's and provided them with requested water use data, 2022 and 2023 budgets and CIP, and water rate data collected from surrounding cities. She met with Orono PD and other cities regarding the prosecuting attorney issue, and possibly having all cities use with the same attorney for less confusion. When crimes cross a city line, borders would no longer be an issue for certain crimes. Mound and Minnetonka Beach both use Ken Potts and when he retires in a few years, the City will consider using Orono's Prosecuting Attorney and bill separately or work with Kennedy & Graven.

Honey stated that she and Burgess continue to work on the shoreland restoration issue/complaint at 2625 Woodbridge Rd. This involves the homeowner, Hilgers, MCWD and Offerman at Stantec. The resident needs to restore the shoreline back as it was prior to the unapproved work done in December of 2021. He will have to mitigate hardcover before he can build retaining walls for erosion. His plans are not complaint with native plant requirements, and he thinks he has water runoff issues. He has now agreed to submit a new plan. She continues to work with staff on the water issues complaint from 2321 Huntington Pt Rd E. She worked on complaints about noxious weeds at 2932 Northview Rd and pavers on city right of way at 2856 Northview Rd.

Honey added that a resident complained about the recently approved tree preservation ordinance and may pursue requesting an amendment to it at an open forum and a petition to do so. She feels that it is too restrictive. Honey added that the City is assessing the resident's property taxes at 2328 Lafayette Rd. for unpaid utility bills. She met with Metro Water Resources Group to better understand the MS4 permitting requirements and PCA requirements. Honey stated that she is still working on final as-builts and maintenance agreements, tree removal requests, the final submittal of the tree canopy grant and various building projects.

10.2. Clerk's Report

Burgess reported that absentee voting for the November 8 General Election has increased with voters coming to City Hall to vote early. Some are voting absentee by mail as well. She updated the City website with all pertinent elections related information, tree ordinance, ADU ordinance. She continues to do the usual monthly tasks from Parks and Council minutes, state and county reporting, answering resident, vendor, realtor numerous daily phone calls and emails, Beachcomber, weekly and more SPLASH! Eblasts. She reported that 75% of her time is spent on land use related projects coordinating communication between the resident, contractor, Stantec, Metro West and Administrator Honey and Administrative Assistant Gage. The City is on track for a record year in building projects and will give a report about it in December. She reported that a resident reported a suspicious car on Lafayette Rd which led to a drug arrest of the men in the car by Orono Police.

10.3. Public Works Superintendent Report – Written report in packet

11. Council Reports

11.1. Mayor's Report

Lindstrom reported that there is no regular November City Council meeting, but council will meet on November 14th for a short meeting to canvass the November 8th General Election results. She reminded council of the December 5th Truth in Taxation meeting at 6:00 pm. She attended a Long Lake Fire Department meeting and reported the discussion about the City of Orono purchasing the Long Lake Fire Department. She stated that Orono Councilmember Matt Johnson stated that Orono wants to purchase the entire Long Lake

Fire Department, but Long Lake prefers a joint powers agreement with Orono, Medina and Minnetonka Beach. Orono said no to that. Johnson stated that if the purchase goes through, Orono intends to honor the current 10 year Long Lake Fire contract with Minnetonka Beach and Medina. Long Lake would be offered a flat 10 year fire services fee. This put Lindstrom at ease she stated. There is a state mandate to creating your own fire department with legislation requirements and Orono is working on that.

Zinn asked if the City's contract has a change of control clause, and Enlow stated that the City may have to consent to it. Lindstrom stated that options should be looked at including perhaps going back to the Mound Fire Department. Lindstrom closed with stating that the City must do what is in Minnetonka Beach's best interest, not Orono's best interest.

11.2. Liaison Reports

Breazeale – She stated that Park Commission did not meet and that Civic meets tomorrow night.

Enlow – She stated that Planning Commission minutes are in the meeting packet. There were no variance requests, and Zoning Administrator Carlson did a good Land Use teaching session at City Hall, and she recommended that councilmembers listen to it.

Enlow attended the Long Lake Future Fire Services meeting and the Excelsior Fire District attended, and they are part of a joint powers' agreement. A taxing district is a stand-alone entity taxing residents directly. Excelsior has a joint powers agreement which taxes a city and that city taxes their residents comprised of Greenwood, Shorewood, Excelsior, Deephaven, and Tonka Bay, and each city has only one vote. There is a Dropbox link to the meeting not for the public, so council can listen to it and Enlow has the link.

Sharma – Absent

Zinn – no additional report

12. Adjourn

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

The meeting adjourned at 7:30 pm

PUBLIC IN ATTENDANCE – The following people signed the attendance sheet: Nell Mathews.

Respectfully submitted,

Jane Burgess, City Clerk