

Monday, October 11, 2016 7:00 PM
Closed Session at 6:30 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES

Roll Call: Mayor Rick Skalla; Council Members: Jill Bartel, Paul Kozloski, Jaci Lindstrom and Treasurer Randy Gilster. Absent: Mike Taylor.

Mayor Skalla called to order the Closed Session of the City Council at 6:30 p.m. to discuss pending litigation. The City's Attorney George Hoff stated that Council, under the authority of Minnesota Statute 13D.01, subd. 3, should close the Council meeting to discuss Mathews/Hacker pending litigation.

A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to close the session to discuss pending litigation. With all members voting in favor, the motion carried and the meeting was closed.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to adjourn the closed session at 6:55 PM. With all members voting in favor, the motion carried and the closed session was adjourned.

Staff Present for the Regular Council Meeting: City Administrator Susanne Griffin, City Clerk Heidi Honey, Zoning Administrator Ben Gozola and Public Works Director Ben Young.

Guests: Orono School Board Member Laura Wallander, Mound Fire Chief Greg Pederson, and Orono Police Sergeant Chad Stensrud.

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

2. Treasurer Gilster led the Pledge of Allegiance.

3. Approve Agenda for the October 11, 2016 City Council Meeting.

Council Member Bartel asked to move 7.4 Proposed Special Assessments from the Consent Agenda. Mayor Skalla recommended moving that item to 8.4 in the Treasurer's Report.

A motion was made by Council Member Bartel to 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 September 12, 2016

Council Member Lindstrom asked to list Max Hacker as attending the meeting since he was quoted in the minutes. Council Member Bartel noted a typo on page 6 and asked the sentence to read "Ms. Mathews went on to state...". Clerk Honey will make the corrections.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the Council meeting minutes of September 12, 2016 as amended. With all members voting in favor, the motion carried.

5. Open Forum –

5.1. Laura Wallander – Orono School Board

Ms. Wallander is one of six members of the Orono School Board. She is the liaison for Minnetonka Beach. She wanted to inform residents of referendum questions on the ballot. She distributed a fact sheet to Council about the two questions and went on to explain that the first is an operating levy increase and the second is an indoor activity center. Council Member Lindstrom stated the cost per household is relatively low. If approved, a resident with a \$400,000 home would see an increase of \$13 per month for the first question and \$4 per month for the second question.

5.2. Fire Department Report – Chief Pederson

Chief Pederson handed out a few reports. The first was an ISO (Insurance Service Office) Fire Protection audit. He stated that with the improvements in fire protection and water supply, Minnetonka Beach went from a Class 7 in 2003 to a Class 6 in 2009 to a Class 4 in 2014. Class 4 is one of the higher ratings in the state. There are no Class 1 or 2 in the state. Mound is also a Class 4. Water supply is a big component of this rating. The ability to haul water is another component to rating.

He went on to talk about hydrant flow testing. In August, Chief Pederson, fire department staff and Public Works Director Young flow tested various hydrants with a Pitot gauge. Overall there is a lot of good fire flow but, in the future, Chief Pederson strongly recommends that the areas with small 4” mains be upgraded to larger water mains to increase the available fire flow. Fire hydrants J18 and J19 are in areas on Lafayette Road East with 4” water mains that have not yet been upgraded. The fire flow, based upon the Pitot gauge test in the Lafayette Road East area hydrants only produced 530 gallons per minute. He went on to explain that the modeling considers a residual pressure of 20 psi. When considering this 20 psi, the Pitot Gauge results are close to the engineer’s model, and within 10-20% of engineer model flow estimates. Mayor Skalla asked him if is comfortable with results. Chief Pederson confirmed that absolutely he is comfortable with the flow test results in the areas of the City that have been upgraded, with Lafayette Road East being the area of concern.

Additional testing was conducted at the fire hydrant used to fight the fire in June. Page one of the report compares three methods of water flow testing at that hydrant. They tested with a gauge, a single pumper truck without relay, and a dual pumper truck with relay method. They set up the testing exactly as it was the night of the fire with 500 feet of large 4” diameter hose and were able to flow 460-517 gallons per minute with the single truck. Testing with a Pitot Gauge resulted in 920 gallons per minute of flow and tandem (a.k.a. relay) pumping with two trucks resulted in 775 gallons per minute. The changed protocol will be to relay pump with two trucks as well as bringing water with tanker trucks. The tanker truck water supply source is commonly used in rural areas and will be used as a precaution to support the existing Minnetonka Beach water supply system. If the fire department had used the dual pumper relay truck method for the fire on Huntington Point Road East, it still would not have changed the outcome of the fire event because the structure was largely involved in fire when the 911 call was made at 3:51 a.m. and was 40-50% involved when the fire department arrived.

6. Police Report

6.1. Orono Police Report – September – Sgt. Stensrud

Sergeant Stensrud said September was a quiet month. Orono Police postponed the teen driver course until they have more interest. Beginning on Monday, October 17, Highway 12 from County Road 6 to the bypass will be shut down for up to three weeks to install barriers. There will be day and night closure. They anticipate a lot more traffic on Old Highway 12, alternate routes and through Minnetonka Beach.

7. Consent Agenda

- 7.1. Fire Report – September
- 7.2. **Resolution 2016 – 33** – Snow Plow Agreements – Arcola Lane
- 7.3. **Resolution 2016 – 34** – Snow Plow Agreements – Crescent Street
- 7.4. Proposed Special Assessment of Unpaid Bills – Mathews, Santiago – Removed from Consent to Treasurer’s Report 8.4
- 7.5. Civic Committee Membership and Leadership
- 7.6. **Ordinance No. 113, 2nd Series** – Amending 2017 Fee Schedule and **Resolution 2016 – 35** Authorizing Summary Publication

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

8. Treasurer’s Report

8.1. Approve Checks: October

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve 50 checks numbered 15786 through 15835 in the amount of \$78,783.07. With all members voting in favor, the motion carried.

8.2. 2016 YTD Budget Report and Previous Year Comparison Report

Treasurer Gilster said there are some zoning costs a bit out of line but they were anticipated with the zoning code amendments. Everything is tracking as expected and net revenue will even out by December.

8.3. Outstanding Accounts Receivable Report

City Administrator Griffin said the outstanding accounts receivable report is those over 30 days and the special assessments are separate from those.

8.4 Proposed Special Assessments – Moved from Consent Agenda

Mayor Skalla noted Nell Mathews, Max Hacker and Frank Santiago in attendance. He said Ms. Mathews and Mr. Hacker presented details at the previous Council meeting and distributed a letter to Council today. He asked them to provide any new information or clarification to add to what Council had already received. Ms. Mathews stated that her letter addresses the reasons they should not be charged the fees. She said this matter was an enforcement matter where they were asking the city to enforce the city codes and laws. She objects to receiving delinquency notices. She asked the council to make a ruling that the fees are not reasonable, necessary or be charged to them. She went on to say at the very least she is requesting they table the matter so they can have discussions about the fees. Ms. Mathews then reviewed the timeline in her letter which was submitted to the City

Clerk at the meeting and made part of the permanent packet. She said the city did not provide them with the process and what to expect at the meetings. She said the process was not fair and the issue should have originally gone to the planning commission. She also said the zoning administrator should not have advised the Board of Adjustment and then charge them for his time to enforce the city's rules and to prepare for the Board of Adjustment meeting. She summarized the permit and appeal process. They were advised to file an appeal but process was not followed so the process was negated. She said they have a problem with the fees because they are not reasonable and unnecessary. She went on to state they were charged for reviewing revised plans for the Santiago patio which should not be paid by her.

Mayor Skalla asked to Ms. Mathews to discuss the actual charges they are disputing. Ms. Mathews stated she wants council to take action that the charges are not reasonable, necessary or should be charged to them because this was an enforcement issue, the time is excessive, and Mr. Gozola should not have been able to participate in the process in the way that he did. There were ongoing issues with the charges after the appeal was done. She does not think they should pay for any of the charges. Mayor Skalla said she filed the appeal and she signed application which clearly states additional charges may incur and she would be responsible for them. She stated that fees for the appeal need to be directly tied to the processing of the appeal.

Council Member Bartel asked how they can talk about fees if they cannot talk about the litigation. Mayor Skalla said the fees are for the time that was spent by Administrator Gozola on the appeal. Mr. Santiago paid fees relative to his permit. Council Member Kozloski asked Ms. Mathews who should be responsible to pay the fees associated to the appeal that she filed. She stated the City should pay them. The City should not charge for enforcement issues. Mr. Hacker asked if other residents have been charged when they asked the City to enforce its ordinances. Mayor Skalla said the difference is that Ms. Mathews filed an appeal and they have a difference of opinion. The invoices were due to an appeal and costs were incurred by the City to process the appeal. Ms. Mathews asked to have it tabled and not assessed to their taxes.

A motion was made by Council Member Bartel to table the special assessment for Nell Mathews and Max Hacker until litigation is resolved. No second to the motion. The motion failed.

Ms. Mathews asked what the next steps were. Mayor Skalla said that Council will consider the assessment at the November Council meeting. There would be an action on the fees and no discussion at that meeting. If Council votes to assess the fees, notice will be sent to the county by November 30th. It would be up to the Mayor and Council to choose to discuss the specific fees further.

Mr. Santiago stated all he wanted to do was install a patio. He has incurred additional expenses because he had to make changes to the original plan. He thought his bill was unreasonable and there was some duplication of costs to him. He did not understand the consulting services on the bill. He requested detailed line itemization to be able to challenge the charges. Council Member Lindstrom asked the process to dispute an itemized bill. Administrator Griffin explained that initially the resident talks to her and if it is a minor complaint she could adjust it. If the dispute is larger, the resident can meet with the Mayor and City Administrator to discuss the specific charges. They can also bring in the zoning administrator or engineer to discuss the charges. Council Member

Bartel said there are two residents who did not know they had the option to discuss charges they think are unreasonable. Council Member Kozloski said it seems logical to call the company (or city) to dispute a bill. Mr. Santiago asked the process to meet with the city. Administrator Griffin asked Mr. Santiago to highlight the specific line items he wants to challenge so she can get the information from zoning or engineering. Council Member Bartel asked why the Banks were removed from the proposed assessment list. Mayor Skalla met with the Banks and decided to reduce the fees because of significant delays in the process. Mrs. Banks had to have multiple meetings with the engineer to get specifics for her project and Mayor Skalla thought they had a strong case in having fees reduced.

9. Planning and Zoning

9.1. **Resolution 2016 – 37** Consider Land Use Application (Schwendimann/Raisbeck) – Preliminary Plat to Re-Configure Lot Lines with variances – 1931 Beach Lane, 1937 Beach Lane and 2405 Lafayette Road

Administrator Gozola stated the applicants are seeking a preliminary plat approval with variances to shift the property line between the three properties. The intent is to preserve greater side yards between the three homes by adding 10 feet to each of the outlying properties and control the size of the future home on the middle lot. The new buildable area of that property would be similar to the home at 2405 Lafayette Road. Benefits of this reconfiguration are: elimination of the sideyard setback variance at 2405 Lafayette Road, dedicated drainage utility easements, and reduced hardcover at 1937 Beach Lane. Administrator Gozola reviewed the plat criteria and the subdivision criteria. Council discussed possible variances for the future home. Applicant Bill Raisbeck stated the current owner will be demolishing the home so a home cannot be built on the current foundation. There are private agreements with the potential buyer restricting them from asking for sideyard setback variances. A request for a future variance can be denied by Council. Planning Commission Chair Myers stated the Planning Commission reviewed the same concerns and unanimously agreed to recommend the subdivision.

A motion was made by Council Member Lindstrom and seconded by Council Member Kozloski to approve Resolution 2016-37 Approving the Sunrise Preliminary Plat and Variances to Minimum Lot Provisions to Allow the Shifting of the Shared Lot Lines Between Three Existing Properties at 1931 Beach Lane, 1937 Beach Lane and 2405 Lafayette Road with conditions as stated. With all members voting in favor, the motion carried.

9.2. Zoning Code Amendment Update

Mayor Skalla recommends Council have a study session with Administrator Gozola to make sure they completely understand the proposed changes prior to the public hearing. He went on to say that Administrator Gozola and the Planning Commission have reviewed nearly all the updates. Administrator Gozola summarized the proposed updates in his memo in the packet. He reviewed the updates to Chapter 2 defining the administrative process for Grading, Driveway, Sign and Temporary Use Permits. The Planning Commission debated the need for driveway permits ultimately voting in favor of them. Council discussed driveway replacement and resurfacing. They decided that a permit with a small fee should be required for driveway replacement to ensure there is no expansion or effect on hardcover. Lafayette Ridge PUD provisions were moved into Chapter 3: Zoning Districts. Finishing standards including fence regulations were updated in Chapter 4. He then discussed lighting and sign requirements. He recommended the sign code be updated to reflect

current laws. The City cannot have regulations on the message on the sign. He went on to review Chapter 5: Use Standards. Administrator Gozola discussed changes to the accessory use table. Nuisances were added to this chapter. Council discussed above and below ground pools. Safety concerns were addressed regarding pools. The Planning Commission recommended making no changes to existing Home Occupation language. Administrator Gozola then went on to discuss temporary uses. Council asked Administrator Gozola to look at regulations regarding parking boats on personal property. He then discussed Chapter 6: Nonconformities and Chapter 7: Enforcement defines violations and enforcement procedures. The Planning Commission recommended all complaints be in writing so the issue is documented. The specific process for that is yet to be determined. The zoning administrator will have specific information when following up on potential code violations.

Mayor Skalla asked that Administrator Gozola be prepared to give an overview of what was the past and what are the proposed changes for the future with all the chapters that been updated. He should focus on recommended changes and issues that Council should fully understand at the study session. Sections that were simply reworded and minor changes do not need to be examined at the study session. Council would like the Planning Commission Chair and Vice Chair to attend the Study Session.

10. Old Business

10.1. Resolution 2016 – 36 – Amending 2017 – 2021 Capital Improvement Program

Mayor Skalla discussed Fire Chief Pederson's report and the areas that would benefit from replacing water mains. There is no money set aside to study it in 2017. Council Member Lindstrom suggested moving the paving management study to 2018. Mayor Skalla said the Planning Commission spent a lot of time on the Transportation Study and Council decided to not fund it yet but they did decide to fund the paving study. Council Members Bartel and Lindstrom thought Council did not have enough information about the scope of the study and what the associated costs would be to budget for it. Mayor Skalla suggested earmarking less for the Transportation Study but keeping it in the CIP. The Planning Commission can then provide a plan to Council in 2017 and they can determine how to proceed. Council Members Bartel and Lindstrom suggesting moving the paving study to another year. Mayor Skalla summarized that \$15,000 paving study would be moved to 2018, and \$10,000 would be added for the Transportation Study. The water main study will be bonded. Council Member Lindstrom suggested removing the water tower painting and adding it the bond. Council Member Kozloski thinks the water tower is important because it is infrastructure and it keeps getting pushed back. If it is bonded, it would move it to 2018. Mayor Skalla said a 9.2% increase is a lot. He went on to say the biggest expense for next year is \$40,000 for someone to shadow Public Works Director Young and suggested the actual cost for that person be paid out of reserves. The actual cost for this person should be closer to \$24,000. Council discussed the amount in reserves. Administrator Griffin will amend Resolution 2016-36 to state they will be move the Paving Program Management Study to 2018 and fund the Transportation Study at \$10,000.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to Approve Resolution 2016 -36 Amending the 2017 – 2021 Capital Improvement Program as amended by moving the paving study of \$15,000 to 2018 and keeping the Transportation Study in 2017 with \$10,000. With all members voting in favor, the motion carried.

11. Council Meeting Action Notes and Staff Reports

11.1. Council Meeting Action Notes

Administrator Griffin will follow up with Engineer Amundsen on the letter about the phosphorous reduction. The City received positive feedback and verbal confirmation from the MCWD. Mayor Skalla said he will be reaching out to the mayors of surrounding agencies to see if their police departments would support Minnetonka Beach. The new mayor would need to be a part of the conversation after the election. Mayor Skalla said he spoke with the City's LMCD representative Dennis Klohs and Dennis said the LMCD is currently rewriting their ordinances which may allow more flexibility for the city. The meeting does not need to be scheduled between Lee Goehring, Dennis Klohs and the LMCD until after the LMCD determines the changes to their ordinance. Administrator Griffin will provide Council with the Dock Site Plan for current docks at the November meeting. Council Member Lindstrom asked to add November 9 Civic Committee meeting to the Action Notes. Council Member Kozloski asked Council Member Lindstrom to tell the Civic Committee how much they appreciate all the work they do and that the Halloween party was fantastic.

11.2. Director of Public Works Report

Public Works Director Young started leaf pickup today. There was a service break from the curb stop to the main on Shoreline Drive. It was repaired. The resident has water leaking by where the water connects to his home so they had to replace that service line. There continues to be a leak near Shoreline Drive. The City will need to get a permit from the county to work in their right of way. He is not sure of the cost to repair the street.

11.3. City Clerk's Report

Clerk Honey reported that a visual inspection of the attic by Jim Lawrence from Catch 'Em 4 You revealed large piles of bat guano and insulation saturated with urine in the attic. The council packet contains information on bat related illness and an estimate from Catch "Em 4 You to remove bat guano and insulation from the attic and window wells as well as replace the insulation in the attic. The large amounts of guano can potentially be a serious health hazard. She would also like to get estimates to have City Hall cleaned thoroughly after the guano is removed. There is residue everywhere and there will be additional mess from the cleanout. Council Member Lindstrom said this is a health hazard for staff and it needs to be done. Administrator Griffin said that in 1998 they closed city hall for the same attic cleaning process. Jim Lawrence hopes to work over a weekend and suck all of material out of an attic window. It appears the bats are all gone from the exclusions working properly. Council Member Bartel suggested staff come back to Council with a plan for cleaning City Hall.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to direct staff to have the attic cleaned by Catch 'Em 4 You. With all members voting in favor, the motion carried.

Clerk Honey also reported that during the Primary Election, observers representing the Secretary of State visited numerous election sites for compliance with accessibility requirements. Minnetonka Beach met all requirements. The audit and results are in the packet.

11.4. Administrator Griffin

Administrator Griffin gave an update on the employee health insurance program. She has been working with the City's broker to get quotes from co-ops and PEIP. The co-op plans are a significant reduction (31%) from the City's current plan. Council asked Administrator Griffin to send the information to them with specifics on the co-op plan so they can examine it to make sure coverage is comparable to current coverage. The City would be self-insured, must do its own 1095 reporting, and the deadline is Thanksgiving. Gallagher is the company that works with small cities. Ben Young suggested Linn Ferguson look at the new policy because he worked on insurance for City Staff in the past.

Administrator Griffin also reported on the LMCC audio grant of \$1,624. The City could get a better recorder and updated projector for approximately \$1,735. Vendor may allow the City to try out the recorder before purchasing it.

She also stated she was grateful to be able to take the time to go on vacation and thanked Clerk Honey for taking care of everything while she was gone.

12. Council Reports

12.1. Mayor's Report – Mayor Skalla suggested Council try to draw down the base of the 2017 budget. Council Member Lindstrom said a large portion of the budget is police and fire.

12.2. Liaison Reports-

Council Member Bartel – The Park Commission discussed drainage issues at Half Moon Park. The city engineer will be writing up a recommendation. Council Member Lindstrom commented that the Park Commission is doing a great job with their limited budget.

Council Member Kozloski – no report

Council Member Taylor – absent

Council Member Lindstrom – The Civic Committee elected new officers. Robin Zinn is the new President, Jennifer Halverson is Vice President/Secretary, and Tracey Breazeale is Treasurer. Civic reviewed events from the past year. National Night Out was a success. The annual summer picnic was a bit over budget. They established their meeting schedule for the next year. Maryanne Dudley will be hosting the Holiday Tea and Toddies on December 9th from 5 to 8 pm.

A motion was made by Council Member Kozloski and seconded by Council Member Bartel to adjourn the meeting at 10:30 pm. With all members voting in favor, the motion carried.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Laura Wallander, Bill Raisbeck, Andrew Myers, Nell Mathews, Gregory Pederson Mound Fire, Max Hacker.

Respectfully submitted,

Heidi Honey, City Clerk