

**Monday, November 13, 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; Treasurer Steve Howarth. Absent: none.

**Staff Present:** City Administrator Susanne Griffin, City Clerk Heidi Honey, Public Works Superintendent Brian Berent, Zoning Administrator Ben Gozola

**Guests:** Police Sargent Chad Stensrud; Park Commissioner Diane Rogers; Planning Commissioner Jim Haag

- 1. Mayor Taylor called the meeting to order at 7:00 p.m.**
- 2. Council Member Bartel led the Pledge of Allegiance.**
- 3. Approve Agenda for the November 13, 2017 City Council Meeting.**  
Myers asked to move 13.1 City Council Meeting Management Procedure to follow 4. Approve Minutes.

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

- 4. Approve Minutes –**
  - 4.1. Regular Meeting of October 10, 2017  
Council Member Lindstrom listened to the audio of the October meeting and suggested adding that Howarth wanted affirmation that the lakeshore setbacks would remain the same as they are now and will be set aside for future discussion.

**A motion was made by Council Member Myers and seconded by Council Member Bartel to approve the October 10, 2017 Regular City Council meeting minutes as amended. With all members voting in favor, the motion carried.**

**5. New Business A - City Council Meeting Management Procedures**

Taylor proposed a process that former mayors used to help manage meetings. The proposed process is in the packet. He stated that Council meetings are a forum for the Council to conduct the City's business. Council and staff are interested in the perspectives of all citizens and encourage public input to Council. Meetings are open to the public but they are not a forum for public expression and members of the public should not participate in Council discussion and debate. The Mayor stated that the process that is being considered tonight is that people will be asked to fill out white cards if they wish to speak during the public forum and regarding an item not on the meeting agenda, blue cards for wanting to speak about an item on the agenda. The person would need to be called upon by the Mayor to speak, they would speak at the podium and limit it to three minutes. Council will not likely take action or respond at the same meeting where an issue is initially raised. Lindstrom said that at board meetings the chair, or mayor in this situation, has discretion to call upon everyone including individual members of the board or council. Nobody speaks unless they are asked to speak. The Mayor can ignore someone who wants to

speak or chose to call on them. Council should have a complete discussion without interruption but may want citizen input. Taylor stated that perhaps it is up to him to manage when people talk. Howarth suggested a time limit will help manage the meetings. Council discussed various scenarios using this procedure. Lindstrom said she does not think a formal procedure is needed and the Mayor should conduct the meeting appropriately. Council decided that a formal process is not needed. Taylor recommended residents try to limit their discussion to 2-3 minutes.

## **6. Open Forum**

6.1. Jim Walsh – Vineland Tree Care, Professional Arborist, representing 2209 Huntington Pt Rd E Walsh asked to remove an ash tree within 37.5 feet of the shoreland impact zone. He said it is not necessarily infested but diagnosis is difficult. The homeowner feels replanting is more important than treating the tree. Park Commission Vice Chair Patty Rezabek said that the City treats valued trees and recommends removal of non-valued trees. Walsh said that the arborist community does not think that the rules are not keeping up with the threat and many communities remove all ash trees. The tree is 30” diameter and 25 feet from the shoreline. Council would like more information. The landscape plan is not complete because this tree impacts it. Gozola said it is protected by code because it is not hazardous or diseased but there is a provision that allows Council to authorize removal of the tree. The state is proactively removing ash trees to inhibit future disease. Council asked Walsh to come back with a plan, the tree’s location on a survey, photos and a statement from the neighbor to the north agreeing to its removal.

## **7. Police Report**

### **7.1. Police Report – October**

Sgt. Stensrud stated that activity was very light and mentioned two car accidents and parking complaints. Next month is his last meeting for at least three years because he was chosen for the Investigative Sargent position and will be overseeing the investigative unit. Sgt. Boris will be taking over for him.

## **8. Public Works Report – Brian Berent, Superintendent**

Berent reported he has been picking up leaves and the ice rink is prepped. Hockey boards are painted every year. The heater was inspected at Ray Peters warming house and he will install a carbon monoxide detector there. When leaves slow down, he plans to sample water from several areas of the City. A new water pump was installed in the leaf truck. He is looking for truck replacement. He hopes to trade in the old truck but be able to re-use the box on it because it is in good shape. He is also looking for a trailer to replace two old trailers. Bartel asked if he would have time to put holiday lights up at City Hall and the library. He doesn’t know how long he will be working on leaves. Generally leaf pickup goes until it snows. Civic thought holiday lights are a Park Commission issue. Berent will check the availability of power for lighting and Council can decide after they hear back from him.

## **9. Planning and Zoning**

### **9.1. Resolution 2017 – 43, Ordinance No. 117, 2<sup>nd</sup> Series – Zoning Code Amendment**

The Planning Commission and city attorney have reviewed the final changes and feedback provided by Council in October. Gozola stated that as a result of a recent variance at 1909 Beach Lane and the City’s Attorney’s recommendation to eliminate language prohibiting variance requests of less than 8 feet, that specific criteria has been removed. He also pointed out that the language on the Planning Commission review of variances was updated on page 27.

He stated that the commission added the issue of patios to their 2018 work plan. Existing patio regulations would remain in place with the exception of adding a minimum side yard setback of

eight feet. The new zoning code would become Appendix A of the City Code and there would be a new Section 202: Subdivision Ordinance.

Gozola explained that if a building application was accepted when the old code was in effect, the old code would prevail unless something in the new code benefits the applicant. Patios are the only issue added to the Planning Commission's list of items for further discussion. Individual pieces of the code can be updated later. Lindstrom thought it was relevant to discuss a petition presented at the Planning Commission meeting. Residents who signed the petition were concerned about making more changes to how the City regulates patios. The commission felt the only change appropriate at this time is the side yard setback and they plan to have further discussion on patios next year. Resident Nell Mathews stated her petition was discussed and tabled at the Planning Commission meeting and she handed out an updated petition with 21 signatures. She wants patios to be included in the zoning code now. Planning Commissioner Jim Haag agreed with Gozola's statement saying they did not want to hold up publishing the code for this issue. They want to do their due diligence on reviewing the patio issue and discuss it later. They do not have a formal time frame for reviewing the list of open items but they are committed to revisiting them. Bartel would like to see the list at the January Council meeting and have follow up from the Planning Commission. Haag commended Gozola and the Planning Commission for their hard work.

**A motion was made by Council Member Lindstrom and Seconded by Council Member Kozloski to Adopt Resolution 2017-43 Approving ORDINANCE 117, 2<sup>nd</sup> Series, Entitled "AN ORDINANCE REPEALING CHAPTER TWO OF THE CITY CODE AND ADOPTING A NEW CHAPTER TWO GOVERNING LAND USE MANAGEMENT," and Authorizing Summary Publication Thereof. With all members voting in favor, the motion carried.**

**A motion was made by Council Member Kozloski and seconded by Council Member Myers to adopt Ordinance 117, 2<sup>nd</sup> series, Entitled "AN ORDINANCE REPEALING CHAPTER TWO OF THE CITY CODE AND ADOPTING A NEW CHAPTER TWO GOVERNING LAND USE MANAGEMENT". With all members voting in favor, the motion carried.**

## **10. Commission Reports**

### **10.1. Park Commission – Commissioner Diane Rogers**

Rogers reported that they met on October 25 to specifically examine expenses to date and remaining work to be done by the end of the year. They reviewed the budget line by line and prioritized spending while being mindful of the sustainability of the effects of their decisions. The commission is frugal and takes their responsibility with the City's budget seriously. They reallocated some funds because of a few hurdles as well as frugality. They changed several tree planting locations when they found some residents did not want trees planted on their boulevard. Most cities plant in recommended locations and don't ask residents for permission. When she was Chair of Parks, they committed to try to reforest the City and they continue to be committed to doing what they believe is in the best interest for the City as a whole. She then discussed tree planting, trimming and maintaining. Trees increase home values and beautify the city. Trimming is the best preventative way to save trees. Rezabek worked with experts identifying trees with the biggest risks and needing the most trimming. Rogers then stated that tree trimming is 1% of the City's overall budget. Lindstrom said the Park Commission is doing a wonderful job. Rogers discussed a rotting willow tree that is partially on City property and partially on a resident's property. She asked if the City should have a trained arborist trim it before it falls down and

damages the road and infrastructure. Griffin will check with the city attorney about who would be legally responsible for trimming. Howarth stated that Council recognizes the good work Parks is doing and that Council has been responsive to the needs of the Park Commission with increased funding. He then stated that the budget is not a use it or lose it mentality. He is not accusing them of that but wants them to be mindful. He asked that they try to do a budget review midyear instead of close to end of the year. Rogers explained that most of the work needs to be done at the end of the year. Taylor said it doesn't matter when the money is spent as long as there is a plan.

10.2. Planning Commission – Commissioner Jim Haag

Haag stated that they already discussed the zoning code updates from their October meeting. He said they will prioritize the list of remaining items to discuss. Planning continues to work on the safe crossing. He expressed concerns that a proposed budget cut for the safe crossing and speed bumps may cause shortfalls down the road. They don't know the costs involved yet and preliminary plans will cost money. He stated there are ways for Hennepin County to assist the City but the City will be responsible for funding also. Orehek has been working on bids for speed bumps and there will be fees associated with that. The Planning Commission continues to look for a new member.

9.3. Civic Committee – Report at Council Liaison reports (15.2)

9.4. Finance Committee – Report below at Treasurer's Report

**10. Consent Agenda**

10.1. Fire Report –October

10.2. **Resolution 2017 – 44** – Annual Tornado Siren Maintenance Contract – Embedded Systems - 2018

10.3. Utilities Commission Appointment – Santiago Abraham

10.4. Amendment to Contract for Rhode Bookkeeping Services

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

**11. Treasurer's Report**

11.1. Consider Motion to Approve November Checks

The larger checks were all budgeted items – Flagship, Garden Gate, Otten Bros., and Varsity Painting. Griffin will submit the final reimbursement request paperwork for the Hennepin County Sports grant in the amount of \$25,000. Kozloski noted close to \$10,000 spent on the Mathews inquiry.

**A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve 53 checks numbered 16396 through 16448 in the amount of \$67,726.13 for November 2017 expenses. With all members voting in favor, the motion carried.**

11.2. YTD Budget, Previous Year Comparison Reports

Howarth said the Finance Committee met with Griffin to review nine month actual charges and Griffin's three month projections for 4<sup>th</sup> quarter 2017. This allowed them to go line item by line item for budgeting. They estimated an excess of \$67,827.37 for 2017. There is capital not expected to be spent by year end. Legal fees will be higher than expected.

11.3. Outstanding Accounts Receivable Reports

Howarth stated two accounts are 61-90 days overdue. Griffin has explained to them that they can appeal to Council if they dispute the charges. Taylor said they were going to propose a procedure for

dealing with complaints but it is under review with the city attorney. Taylor asked Griffin to send Attorney Hilke's memo regarding complaints to Council. Howarth asked Griffin to send a letter to the two accounts requesting them to outline the disputes or pay the amounts due. Howarth asked how to deal with the two invoices that are over 90 days from the Mathews dispute. Since it is under litigation, it is a question for the city attorney.

#### 11.4. Finance Committee Recommendations on 2018 Budget

The Finance Committee recommendation are outlined in Griffin's memo in the packet. The proposed changes result in an overall percentage reduction from 14.3% as adopted at the September City Council meeting to 3%. This was done by revenue increases and expense reductions. Council then reviewed the recommendations.

Finance recommended lowering City Hall maintenance for 2018 from \$5,000 to \$2,500. Lindstrom, Bartel and Kozloski would like City Hall to have a reasonable budget to maintain the building, replace or repair floors and repair woodwork. Taylor recommended a working session on discussing the budget if they want to discuss a lot of detail. Council decided to continue the discussion.

##### 1. **2018 CIP:**

- City Hall maintenance – Council agreed to leave it at \$5,000.
- Transportation study – Myers updated Council on the Transportation Study needs. They are requesting funds for a speed bump study, possibly purchase speed bumps, and have a survey and architectural plan done for the proposed safe crossing path. Myers stated that he learned today that the survey alone is \$10,000 so he thinks \$20,000 would be adequate for everything. Howarth recommended that Planning provide a detailed list of how they propose spending it. Taylor recommended they put \$20,000 in.

Taylor recommended adjusting the agenda and come back to this discussion after discussing 12.2 Nuisance Complaint since the homeowner has been waiting over two hours. Below is the resumed budget discussion.

- Leaf loader – Howarth and Bartel met with Ben Young to discuss the condition of equipment. Young believed the leaf loader was functional and he projected it should be fine at least another year. Young had stated that the truck was a problem. Berent was not at the meeting. He stated that the leaf loader functions properly however Council should be prepared to replace it immediately if it fails. The cost would be approximately \$25,000 to \$40,000. The current leaf loader is labor intensive and newer models can vacuum up more leaves more quickly. Leaf loaders can be rented for \$1,500 per week. Taylor stated that the current leaf loader works and they should take the time next year to research what they want and potentially purchase it in 2019. The fee paid by residents only covers dumping the leaves and does not cover Berent's time, vehicle wear and tear and the equipment cost. Taylor mentioned that they may want to outsource leaf pickup. Berent said it would work well to run two trucks for approximately two weeks when pick up is the heaviest. Taylor said outsourcing is something to consider before buying a new one.

Howarth said the budgetary excess is \$67,000 plus \$25,000 from the grant. He recommended bringing forward one of the planned expenditures from 2018 to 2017 because 2018 capital is high. He recommended moving the truck to 2017. Council discussed that City reserves are typically above the 65% minimum requirement and wondered if the City's AAA bond rating would lower if the reserves were reduced to 65%. Taylor suggested they find out if there would be an impact on the City's bond rating. Howarth anticipates the City would have approximately \$800,000 in reserves at

the end of the year. Council decided to move the truck to 2017 and asked Griffin to find out if the painter can get staining done at City Hall by year end. Berent will get pricing for a truck. He will also get bids for a skada system. Howarth asked Griffin to put together 11 months of actual expenses and the last month projected expenses for when they meet next.

2. Summary of Recommended Changes to 2018 Final Budget

- Item 1140 – Permits: Increase from \$40,000 to \$75,000. Council agreed with \$75,000.
- Item 1410 – Interest Earnings: Increase interest earnings from \$10,000 to \$12,000.
- Item 2960 – CIP: Reduce from \$167,800 to \$122,800. Council reviewed their previous CIP discussion and summarized that the truck will move to 2017, the leaf loader will move to 2018. The difference is +\$5,000. They added \$10,000 to Planning Commission. This would increase the recommended amount of \$122,800 to \$137,800.
- Item 2060 - Legal: Increase from \$11,000 to \$40,000. Howarth explained that it is a contingent liability. Council discussed rates for a new attorney and if the budgeted amount would cover potential higher rates. Rates may be \$195 to 250 per hour. Council agreed on \$50,000.
- Item 2080 – Zoning Administrator: Increase from \$35,000 to \$40,000. These are City expenses, not resident expenses reimbursable to the City. Council discussed the length of the Zoning Administrator’s contract. Griffin will look it up.
- Item 2081 – Comprehensive Plan: Reduced from \$47,100 to \$40,000. Mayor Taylor is reviewing requirements and hopes to reduce the cost by doing some of the work.
- Item 2120 – Village Hall: Increase from \$10,000 to \$11,930.
- Item 2726 – Repairs: Reduced from \$55,000 to \$7,500. This is for infrastructure repairs.
- Item 2739 – Televising: Reduce from \$10,000 to \$1,000 because required city wide televising has been completed.

Lindstrom discussed concerns over Item 2240: Fire Contract. She stated that Woodland has 189 homes and pays Wayzata \$37,000 per year. Minnetonka Beach has 229 homes plus City Hall, the Public Works building, the Margaret Dahl Library, Lafayette Club and St. Martin’s Church. Taylor said Woodland is charged on the number of calls, not on home valuations. Council then discussed the number of hours it takes per call and that the contract is based on a formula. Myers and Howarth have already planned a meeting with Mound Fire Chief Greg Pederson in December.

The changes result in a 5.6% increase. Griffin will prepare this draft final budget for the Truth in Taxation meeting on December 4, 2017. Council can make additional adjustments at the meeting.

**12. Old Business**

12.1. Videotaping City Council and Planning Commission meetings

Taylor referenced his email in the packet regarding his conversations with other cities that video record meetings and with Woodland, who does not video record. Lindstrom asked Taylor his opinion. He thinks it is the right thing to do for transparency but he is a bit apprehensive about being on TV. Some cities video record meetings but not work sessions. He asked for resident input in his Beachcomber article and he also asked commissions to have their members email their opinions to him. He did not receive any emails. Jim Lundberg from the LMCC said that 10-15% of a city’s population views video. Taylor speculated that substantially less listen to audio. He recommended either video recording or reverting back to the old system and not have the LMCC post audios. It is a workaround of their system, it is a very time consuming process for the LMCC and very few people listen. Woodland does not video because they encourage people to attend meetings. Kozloski thinks

video recording will stifle people, especially citizens. Myers was open to testing it. Howarth said most people get used to the camera after a few meetings and it provides more transparency. Bartel is ambivalent. Kozloski thinks they should work on getting more engagement from residents. Lindstrom had no reason to say yes or no.

**A motion was made by Council Member Myers to test video recording Council meetings for two months starting in January and February and then make a decision at the March meeting. No second. Motion failed.**

Resident Mathews agreed that they should discontinue the audio. It is difficult to listen to, you can't download it and you can't identify who is talking.

Council agreed to not having the LMCC post audio any longer.

#### 12.2. Nuisance Complaint – 2328 Lafayette Road

Taylor stated there were complaints on the property resulting in an evidentiary hearing August 14, 2017. At the hearing, Council asked Mr. Burak to complete unfinished work and report back to them with an update on the progress. Building Official Peitso sent a letter dated November 6, 2017 detailing the items still in violation. Burak stated that he has been fixing the roof over the past three years and has completed it. He is now cleaning up shingles by throwing them in the trash can each week. He stated that he is unable to match the deteriorating cedar siding so he is thinking of putting steel siding over the top. He thinks the rotting was caused by chemicals from his neighbor spraying his yard. Taylor stated that Council has been trying to be understanding by giving him several months to address the issues. Burak said he worked on the shingles all summer. Myers asked how long all of these nuisances have been going on. Burak said that Hennepin County cleared him of these items three years ago and he has a letter stating that. Taylor asked Burak to address the issues and pull permits for work to be done. Myers reminded him that he will need a permit for the siding. Burak stated that he is a disabled vet and he doesn't have the labor to help him. He has a painter who can help. Taylor said the City wants the items on the list to be addressed and a timeline to complete the work. Burak plans to get all of the work done but thinks it will take two years. Council did not agree to that much time. Burak asked to have until next fall. Howarth asked Burak to give Council a letter that states his understanding of the items to be repaired, the plan to repair them, and when the work will be completed. Burak stated that he will have the letter to Council by the December 11th Council meeting. Burak won't allow Peitso on his property. Burak confirmed he has two copies of the letter which detail the items to be completed.

#### 12.3. City Code of Conduct

Taylor stated that the city attorney did not support the Statement of Values so he asked that Council only review the proposed Code of Conduct Policy in the packet. Lindstrom thought they may be overacting because this proposed policy is a result of a reaction to a perceived conflict of interest but she has read about other cities with rogue council members. Council discussed recourse. Kozloski said they took an oath and wondered if they need any more than that. Council discussed that state statutes govern conduct. Myers likes written policies. Council decided the policy is not needed.

### **13. New Business**

#### 13.1. City Council Meeting Management Procedure

Discussed earlier after 4. Approve Minutes.

13.2. City Attorney RFP/RFQ Process

Myers will work with Griffin on the RFP and they will bring it back to the December meeting for their review.

**A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to direct staff to begin the process to secure a new city attorney and to appoint Council Member Myers to work with staff to prepare a Request for Proposal/Qualifications for City Attorney, develop a list of firms to send the RFP/RFQ to, and prepare a selection process and timeline for hiring a new City Attorney. With all members voting in favor, the motion carried.**

**14. Action Notes and Staff Reports**

14.1. Council Meeting Action Notes

Lindstrom added a Civic meeting January 10, 2018. Howarth discussed the assessed value versus sold price for homes. Council will speak with the assessor in the future about the information.

14.2. Clerk's Report

No report.

14.3. Administrator's Report

Administrator Griffin confirmed that they will not be using the cards for allowing people to speak at meetings. She also said that at the Truth in Taxation meeting on December 4, they will take comments from residents. At the December 11 Council meeting, they will need to amend the CIP with the changes made tonight as well as adopt the final 2018 budget.

**15. Council Reports**

**15.1. Mayor's Report**

No report.

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

Lindstrom said that Tea and Toddies is December 1, 5-8 pm at Boyd's home. Spookywalk was fabulous. Member dues will remain at \$50. Utilities is meeting prior to the Dec. 11 Council meeting. Bartel stated that Planning felt dismissed by Council for not talking in more depth about the issues that were raised by them on the zoning code updates. Council stated they felt they discussed the issues.

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

**The meeting adjourned at 11:31 pm.**

**PUBLIC IN ATTENDANCE – The following people signed the attendance sheet: Jim Walsh, Jim Haag, Santiago Abraham, Patty Rezabek, Bob Burak, Sue Kozloski, Colby Skelton, Nell Mathews, Joann Anderson, and Mike Fasching.**

Respectfully submitted,

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Heidi Honey, City Clerk