

Monday, November 14, 2016 7:15 PM (Note time change)

City Election Canvassing Board Meeting at 7:00 PM

**CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES**

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

Staff Present: City Administrator Susanne Griffin, City Clerk Heidi Honey, and Public Works Director Ben Young.

Guests: Orono Police Sergeant Chad Stensrud, LMCD Representative Dennis Klohs

1. Mayor Skalla called the meeting to order at 7:05 p.m.

2. Council Member Taylor led the Pledge of Allegiance.

Council Member Bartel asked to take a minute to extend condolences to Council Member Lindstrom for the loss of her mother and to Zoning Administrator Gozola for the loss of his grandfather.

3. Approve Agenda for the November 14, 2016 City Council Meeting.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to remove 7.4 Special Assessments and 7.8 Process Filing a Council Vacancy from the Consent Agenda and approve the agenda as amended. With all members voting in favor, the motion carried.

Mayor Skalla suggested moving 7.4 to the Treasurer's Report as 8.4 and moving 7.8 to 11.1 New Business, thereby changing Staff Reports to 12.0, Council Reports to 13.0 and Adjourn to 14.

4. Approve Minutes

4.1. Regular Meeting of October 11, 2016

Council Member Bartel noted a typographical error on page one. Clerk Honey will make the correction.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the meeting minutes of October 11, 2016 as amended. With all members voting in favor, the motion carried.

5. Open Forum –

5.1. No discussion.

6. Police Report

6.1. **Orono Police Report – October – Sgt. Stensrud**

Sergeant Stensrud said the October activity report was short with normal activity. He went on to report the Highway 12 median project is complete and, within an hour of opening it, someone having a medical emergency drove into the median and they were able to save him. He reminded

everyone that the holidays are coming and with that comes an increase in package thefts from mailboxes and front porches. Residents need to lock doors of cars and homes.

7. Consent Agenda

- 7.1. Fire Report – October
- 7.2. **Resolution 2016 - 38** – Annual Tornado Siren Maintenance Contract – Embedded Systems
- 7.3. **Resolution 2016 – 39** – Accept Results of November 8, 2016 City Election
- 7.4. **Resolution 2016 – 40** - Special Assessment for Unpaid Bills – Hacker/Mathews, Santiago – MOVED to 8.4 Treasurer’s Report
- 7.5. **Resolution 2016 – 41** - Recycling Contract Renewal with Republic Services
- 7.6. **Resolution 2016 – 42** - Joint Powers Agreement with Resource Training and Solutions for Group Employee Benefits and Other Financial and Risk Management Services
- 7.7. **Resolution 2016 – 43** – MCES Grant Agreement for Inflow & Infiltration
- 7.8. **Resolution 2016 – 44** - Process for Filing Council Vacancy – MOVED to 11.0 New Business
- 7.9. **Letter of Engagement** – George Gmach – Classification and Compensation Study

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

8. Treasurer’s Report

8.1. Approve Checks: November

Treasurer Gilster said the expenses all look accurate and were budgeted for.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve 62 checks numbered 15836 through 15891 in the amount of \$84,578.71. With all members voting in favor, the motion carried.

8.2. 2016 YTD Budget Report and Previous Year Comparison Report

Treasurer Gilster said as the end of the year approaches, the budget is balancing out.

8.3. Outstanding Accounts Receivable Report

City Administrator Griffin said one outstanding invoice (Ziebarth) was not included in the assessment process because the homeowner had questions about the bill. By the time she was able to contact the homeowner, it was past the assessment period. She will contact the homeowner again and, if the bill remains unpaid, it will go into the next assessment.

8.4. Special Assessment for Unpaid Bills – Hacker/Mathews, Santiago. Moved from 7.4.

A motion was made by Council Member Bartel to delay the special assessment until the lawsuit is settled or mediation takes place.

Council Member Taylor said as long as there is an open issue, he does not think it is right to assess the unpaid bills to their taxes. He is not making a statement as to whether the money is owed or not owed. A judge will tell them if anything is owed. Council Member Lindstrom confirmed this would separate out the Santiago assessment because they are not part of the litigation. **Council Member Bartel asked Council Member Taylor if this was a second to her motion. Council Member Taylor affirmed it was.** Mayor Skalla called for further discussion. He said the City has processes

that need to be followed. He explained that the bills are attributable to three different actions. The first action is enforcement. He compared this with Administrator Gozola giving a resident a free one hour consultation but, after that initial hour, the applicant or resident is billed for the additional time. He stated that initially Ms. Mathews and Mr. Hacker had questions about the project and did not think they should be charged for having questions around enforcement. When they met with Administrator Griffin and Mayor Skalla, they questioned why they were charged for asking Administrator Gozola questions on enforcement. Mayor Skalla and Administrator Griffin decided to reduce some of the charges related to that. The second action is the appeal and there are costs the City incurred related to that action. The third action is the litigation. Mayor Skalla thinks the litigation is its own item and Council is not discussing that. They are discussing the current bills due because that is the process of the City and the litigation shouldn't be tied to it. It is a separate issue. He went on to say intermixing City rules with a lawsuit is setting a bad precedent. Council Member Kozloski agreed with Mayor Skalla and said the City should not be burdened with the bills. Council Member Taylor said he is not making a statement about whether they owe the money or not.

Council Member Kozloski said if a person receives a bill but disputes it, the money is still owed. Council discussed lawsuits over bills in other situations and that creditors will come after the person for payment even while they are involved in litigation. Mayor Skalla said it is a difficult decision but this is the process in the City. Council Member Kozloski said the Council is the body that needs to enforce the rules and regulations of the City and they have a fiduciary responsibility to the City. Mayor Skalla said the process needs to remain the same for everyone and a lawsuit cannot be tied to City business.

Mayor Skalla reminded Council there was a motion and a second to table the Hacker/Mathews assessment.

A motion was made by Council Member Bartel and seconded by Council Member Taylor to table the special assessment for Hacker/Mathews until the lawsuit is settled or mediation takes place. Council Members Taylor and Bartel voted in favor. Council Members Lindstrom and Kozloski opposed. Mayor Skalla opposed. The motion failed.

Mayor Skalla stated the motion to table the assessments failed and they will go ahead and assess them.

Mayor Skalla then asked Council about Santiago's assessment because their assessment was separated out from the Hacker/Mathews assessment.

A motion was made by Council Member Kozloski and seconded by Council Member Taylor to assess Santiago's unpaid bills to their taxes. With all members voting in favor, the motion carried.

9. LMCD Representative Update – Dennis Klohs

Representative Klohs stated everything at LMCD is going very well with the new director. They are currently working on a new strategic plan which will focus more on following the original mandate of 50 years ago which was primarily the ecology and the safety of the lake. Lake Minnetonka is one of the busiest lakes in the country. The LMCD has spent a lot of time trying to

solve too many problems they do not have the budget, staff or expertise for. Now they can coordinate with other agencies to handle these items such as aquatic invasive species.

He went on to say a new ordinance is being proposed and the current ordinances are being re-codified. The proposed ordinance will eliminate the number of docks and the square footage requirements for multiple dock/city dock licensing. The ordinance will be based on extended lot lines and distance out into the water. He went on to say if Minnetonka Beach had ten 20' slips equaling 200 linear feet of dock, they could potentially have one 200-foot dock. The City could decide how to use the allowed space. The City will always a maximum of 86 docks and the current linear footage. Mr. Klohs stated this is his thought on how the process will work and the LMCD Board will begin discussions on the ordinance in December. Administrator Griffin asked if the grandfathered setbacks will stay in place. Mr. Klohs said that is up to the attorneys to decide. He recommended submitting the multiple dock license application the same as in the past.

10. Old Business

10.1. Consider Adopting New Personnel Policy

Mayor Skalla said the finalized revision of the personnel policy is in the packet. Administrator Griffin said the changes shown are recommendations of the city attorney. Significant changes are on page two of her memo.

The significant changes are:

1. Changing a benefit earning employee from working a minimum of 30 hours to 20 hours per week. The City will create an addendum to the policy listing the specific related benefits in the future.
2. Pre-employment medical exams and background checks for candidates who have been offered employment.
3. Drug testing when offered employment and for "reasonable suspicion". This document will be a separate document prepared by the City Attorney.
4. Premium pay for non-exempt employees who work on a holiday (Public Works).

Council Members Kozloski and Bartel commented that Administrator Griffin did a great job on the policy. Mayor Skalla asked the financial impact of benefits for the part time employee and if the benefits were budgeted for. The financial impact will be defined by the future benefit policy addendum.

Council Member Lindstrom suggested changing "fitness" to "qualifications" under Scope on page 15. She also said the two paragraphs at the end of page 19 seem redundant. Administrator Griffin said one defines the responsibility of the employee and the other paragraph defines what the City needs to do to rectify it. The attorney added the second paragraph. Administrator Griffin can check with the attorney about removing one of the paragraphs or clarifying why it was added.

A motion was made by Council Member Kozloski and seconded by Council Member Bartel to adopt the Personnel Policy with the update to page 19 as directed by the City Attorney. With all members voting in favor, the motion carried.

10.2. Nuisance Complaint – 2308 Huntington Point Road East

Administrator Griffin stated that the City has received phone calls and a written complaint about the home that burned at 2308 Huntington Point Road East. A nuisance ordinance violation letter to the homeowner from the building official is in the packet. The homeowner and building official exchanged information about difficulties with the insurance company. The building official also sent a letter to the insurance company stating requirements and inspections necessary for the home to be repaired. The homeowner told Administrator Griffin that he was unable to attend tonight's meeting but he would be willing to meet with the Mayor to discuss the issues. Mayor Skalla suggested having the home inspected to determine its structural condition. Council Member Kozloski said the city attorney suggested having an evidentiary hearing. Mayor Skalla requested the home be inspected by the Orono Building Official and possibly a structural engineer and report back to Council on the findings at an evidentiary hearing at the December Council meeting. He also requested the homeowner attend the December Council meeting. Administrator Griffin will follow up with the building official.

A motion was made by Council Member Taylor and seconded by Council Member Bartel to set an evidentiary hearing for December 12, 2016. With all members voting in favor, the motion carried.

11. Resolution 2016 – 44 - Process for Filing a Council Vacancy

The City Charter states that Council terms begin the first Monday of January but the City typically does this process at the first Council meeting of the year which is the second Monday in January. Council discussed a meeting on both January 2nd and 9th. They then decided to table the resolution until the December Council meeting and directed Administrator Griffin to consult with the city attorney to determine how to proceed.

12. Council Meeting Action Notes and Staff Reports

12.1. Council Meeting Action Notes

The personnel policy is complete. The phosphorous reduction credits for leaf pickup may have a large impact on the capital budget in the future. Mayor Skalla said Council Member Taylor will take over researching the police contract when he becomes mayor and he recommended the city have a contract for its police services separate from the other cities. Council Member Kozloski suggested a council member attend the police contract negotiation meetings with the mayor so there is continuity with the mayor being a two-year term and council member being a four-year term. Council supported the idea. The LMCD report was done at the meeting. Council Member Taylor will be meeting with the Met Council.

12.2. Director of Public Works Report

Public Works Director Young has been picking up leaves and brush. There were three breaks in the water main on Shoreline. Council Member Kozloski commended him on his hard work with leaf pickup. The residents are very fortunate to have the service.

12.3. City Clerk's Report

Clerk Honey reported that the election went very smoothly. Administrator Griffin was a tremendous help. She wrote a step by step process for the election judges to use to close the polls on election night and make sure everything was accurately reported. Clerk Honey thanked Administrator Griffin for her guidance during the election and her work on the election judge process.

Clerk Honey also reported that she is in the process of getting bids to deep clean City Hall. Two bids are in the packet and she is waiting on two more.

12.4. Administrator Griffin

Administrator Griffin suggested Council may want to think about lighting the foot path along the new accessible ramp next year. She reminded Council that on Monday, December 5th there is a Council Study Session from 5:30 to 7:00 pm, a Truth in Taxation Hearing from 7 pm to 7:30 pm, and a Special Council meeting at 7:30 pm to consider the two final plats for which they have already reviewed the preliminary plats.

13. Council Reports

13.1. Mayor's Report – Mayor Skalla said he contacted the city attorney about past litigation costs and included the information in the packet. He went on to say that one of the great things about this City is that it is small but that also makes it a challenge. All the work is done on a volunteer basis with the committees and commissions. He suggested the City may want to consider a conflict of interest policy or statement for elected officials and committee and commission members. It is ok to recuse yourself from decisions when needed.

13.2. Liaison Reports-

Council Member Bartel – She attended the Planning Commission meeting for Council Member Taylor. Planning will be presenting a top ten list of transportation related items to Council. The Park Commission is moving ahead with the Half Moon Park project. Hennepin County will not require any additional submittals with the changes to the project for the grant. Mayor Skalla asked Council if they are ok with the money being moved from the City Hall Park to Half Moon Park. Council agreed with the Park Commission that drainage at Half Moon Park is a priority.

Council Member Kozloski – no report

Council Member Taylor – Council Member Taylor said the next Fire Commission meeting is Wednesday. He will be out of town.

Council Member Lindstrom – Utilities Commission did not meet. Civic talked about organizing the Holiday Tea and Toddies on December 9th at Ted and Marianne Dudley's home from 5 to 8 pm. Civic also talked about Minnetonka Beach merchandise making good holiday gifts. Nell Mathews is making great progress planning the Progressive Dinner. Dessert will be at the Lafayette Club this year.

A motion was made by Council Member Kozloski and seconded by Council Member Bartel to adjourn the meeting at 8:44 pm. With all members voting in favor, the motion carried.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Sue Kozloski, Jeff Steinke, Andrew Myers, Dennis Klohs, Nell Mathews, and Patty Rezabek.

Respectfully submitted,

Heidi Honey, City Clerk