

**Monday, December 13, 2021 6:00 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES**

- 1. Mayor Lindstrom called the meeting to order at 6:01 p.m.**
- 2. Roll Call:** Mayor Jaci Lindstrom; Council Members: Tracey Breazeale, Susan Enlow, Steve Howarth, Vibhu Sharma, and Treasurer Chris Zinn.
Staff Members: City Administrator Heidi Honey, City Clerk Jane Burgess, Zoning Administrator Phil Carlson. Absent: none
Guests: Planning Commission Chair Jeff Breazeale

- 3. Approve Agenda for the December 13, 2021 City Council Meeting**
Howarth requested adding item 10.12 Authorizing Participation In National Opioid Settlements to the Consent Agenda.

Enlow motion, Breazeale second to approve the December 13, 2021 agenda as amended. All ayes, the motion carried.

- 4. Approve Minutes –**
 - 4.1. Regular Meeting of November 8, 2021

Howarth motion, Sharma second to approve the November 8, 2021 Regular City Council meeting minutes. All ayes, the motion carried.

5. Orono Police Report- October and November

Sgt Sonnek presented October and November police reports. Said it's been very quiet in Minnetonka Beach with nine calls for service in October and seven in November. He mentioned crimes of theft close to Minnetonka Beach, a stolen vehicle recovered in Long Lake, and a package theft report in Minnetonka Beach. He said Sgt Stensrud will be leaving Orono and joining the Robbinsdale Police Department.
Howarth asked that Burgess warn residents of package thefts in weekly SPLASH eblast.

- 6. Open Forum** opened at 6:03pm; Closed at 6:03 pm

7. Planning and Zoning

- 7.1. Resolution 2021 – 62 Variance Requests – Lakeshore, Front (Street), Side setbacks at 3132 Northview Road – Cookson**

The Cookson's are requesting variances to the lakeshore setback, front (street) setback to Northview Road, and to the side setback for a home addition. The request was heard at the Planning Commission public hearing on October 25, 2021, where they recommended approval, and by City Council on November 8, where the Council continued the item and asked the applicants to bring it back for consideration at a future meeting.

The Planning Commission, on a 4-2 vote, recommended approval of the variances, with the conditions that the garage be shortened by two feet from Northview Road, and that the proposed small deck addition and steps off the existing deck on the north side be removed.

The Cooksons agree with the changes requested in the Planning Commission recommendation and request approval of the original plan with those conditions. They have provided additional information and analysis for City Council to consider, discussed below. Carlson said that the Cooksons would agree to removing the existing

garage in the SW corner of the property near Northview Road if that is a necessary condition of approval but said they would be disappointed to see this “piece of history” in the Beach lost.

Carlson explained the side setback. The east side setback is 3.3 ft. This is true at the minimum dimension in the far SE corner, but misleading he said. There is a jog in the property line near Northview Rd which makes that dimension smaller than opposite the structures. The setback dimension further into the lot would be 5.1 to 7.9 ft line, or about 8-10 ft between the proposed addition and the existing garage at 3126 Northview – the buildings angle away from one another.

Related to the side setback between 3132 and 3126, Carlson explained that maintaining the row of Arborvitae at the driveway edge was a condition of approval of the driveway variance for 3126 Northview Rd.

Carlson said that related to the side setback is the issue of fire and emergency access between the lots. The Long Lake Fire Chief recommended to Council liaison Susan Enlow that the minimum dimension needed for firefighters and equipment is 5 feet which is consistent with Carlson’s experience in other cities. He also noted that close buildings allow a fire to move more easily from one building to the next, and it is better if there are no openings or eaves on the sides of the structures that are close to one another. The Cookson’s addition as proposed would be about 8-10 ft from the adjacent structure. There are typical 1.5-ft-deep eaves proposed, but no windows on the east side of the proposed garage facing 3126 Northview Rd.

Carlson said the issue of the width of lot frontage taken up by the proposed structure was discussed at the November 8 Council meeting. The Cookson’s architect analyzed the width of buildings and lot frontage along Northview Road for 11 properties (photos and comparison summaries in packet), including the Cooksons. The numbers show an average of about 71 lineal feet of structure across an average of about 102 ft of lot frontage, or an average of 71%. The Cookson’s property is currently at 47% –the lowest of the lots analyzed – and would be at 83% and 66% with and without the existing garage, respectively, above and below the average.

Carlson stated that the row of Arborvitae between 3126 and 3132 Northview Rd., but on 3132’s property were screening conditions of the recent approval of 3126 Northview’s driveway and also in a 2007 variance granted. He added that the row of Arborvitae would have to be removed for construction but could be replaced with something similar. If this variance is approved replacement would not be required all the way up the edge. They could be placed in the area along Northview Rd for screening but keep 5 feet minimum dimension between properties. Between the garages there would be 8-10 feet providing enough access for emergencies and no plantings needed. Carlson concluded that Cookson’s request is reasonable.

Landschute owner and builder for Cookson’s remodel, Jon Monson, spoke reading from his handout. He expressed concern if all City Ordinance requirements were to be met, Cookson’s buildable area would be about an 80 foot wide by 10 foot deep (average) area which is impractical for a remodel or new build. He said that the variances requested are reasonable as evidenced by the recommendations of both staff and the Planning Commission.

Monson added that Cooksons have indicated a reluctant willingness to remove the historic garage so as to reduce the frontage percentage to under 70% per the ordinance aggregate requirement. If that is deemed to be crucial to Council’s approval, they are willing to give up their piece of history. They do not want to tear down this home and build a two story structure.

Council discussed their support of the old garage being removed as a condition of approving the side yard variance for a new garage. Breazeale and Enlow stated their support of the garage removal condition for side yard variance and also supports the street and lake setback variances due to the lack of depth.

Enlow motion, Howarth second Approving Resolution 2021 – 62 Approving Variances to the Lakeshore, Front, and Aggregate Side Yard Setbacks at 3132 Northview Rd with changes to the Conditions of Approval and Findings of Fact for Approval as outlined. All ayes, the motion carried.

Resolution 2021 – 62 Conditions of Approval:

- 1) Shorten the garage by 2 feet for a revised front setback of 6.1 feet to the Northview Road right-of-way;
- 2) Remove the proposed small deck and steps on the northeast corner of the deck on the lake side of the house;
- 3) Remove the row of arborvitae, or similar landscape screening, between 3132 Northview Road and 3126 Northview Road; No plantings allowed that would obstruct the access of emergency personnel and/or their equipment from the south lot line of Lot 27 through the southwest corner of 3126 Northview Road to the east side of the proposed new garage.
- 4) Remove the existing garage and replace the pavement around it with landscaping;

Resolution 2021 – 62 Findings of Fact for Approval

- 1) The proposed use of the property for additional living space, porch, and attached garage in the locations shown on the plans is reasonable.
- 2) The proposed screen porch inside the 75-ft lakeshore setback is setback further than the existing deck and does not significantly add to the encroachment into lake views of adjacent properties.
- 3) The proposed home and garage additions on the street side of the lot are reasonable and in keeping with the character of this part of the City where many homes and garages are close to the street. Reducing the depth of the garage by 2 feet will lessen the visual impact to Northview Road and allow larger cars up to 19 feet in length to park in the driveway without encroaching on the street.
- 4) The proposed side setback to the east side would be 8 to 10 feet from the neighboring garage, although 3.3 feet is the minimum dimension to the side lot line at the southeast corner of the lot. This is greater than the existing garage side setback of 1.2 ft on the west side of the lot and greater than the 2.0 ft setback of the garage on the adjacent lot to the east.
- 5) The property is a historic cottage that is too small by modern standards. To make it livable, it needs to be remodeled and expanded. The alternative in today's market would likely be to tear it down.
- 6) The lot is shallow, like many in this stretch of Northview Road. Expanding toward the lake is not desirable. Some expansion toward the street is possible but also limited. Therefore, expanding to the side is a reasonable alternative.
- 7) Expanding on the west side of the house toward the existing garage would jeopardize the existing large tree there which is a valuable asset of the property.
- 8) The proposed garage addition would be 8-10 feet away from the adjacent structure, adequate for emergency access as indicated by the Fire Chief.
- 9) The request meets the criteria for granting a variance in Section 2,4(C)(4) of the Zoning Code.

7.2. Resolution 2021 – 65 – Variance Requests – Setbacks and Hardcover at 3034 Northview Road – Nygaard

Carlson presented Nygaard's request and plan to remodel their home on all three levels, including modest expansions. Because the required setbacks on this lot allow almost no buildable area, the proposed remodeling requires variances to the lakeshore and front setbacks, he original plans also needed a hardcover variance.

The request was considered at the Planning Commission public hearing on November 22, 2021, where the Commission unanimously recommended approval, with the condition that the project reduce hardcover to 30%

or less. The applicants have since submitted a revised survey showing some areas of pervious pavers, bringing the total hardcover on site down to 30%. The hardcover variance is therefore no longer necessary.

Planning Commission Chair Jeff Breazeale spoke about their meeting regarding the Nygaard's request. He stated that the buildable area on this lot is about 10 sq ft and is not buildable without variances. He added that this is why the City has a variance process. He added that Nygaard's are reducing hardcover and they are not increasing the footprint they are building on with the second story renovations.

Homeowner Beth Nygaard spoke about not knowing that they get a credit in using pervious pavers so they will be at 25% hardcover, and there will be as little runoff as possible to lake. She added that right now this property has a steep lot to the lake with no landscaping in place from the previous owners so everything is running to the lake. Nygaards will be working with a landscaper in the future to resolve this problem.

Howarth motion, Sharma second to Approve Variances to the Lakeshore and Front Yard Setbacks for an Addition at 3034 Northview Rd with Requested Changes. All ayes, the motion carried.

Break 7:45 pm. Meeting resumed 7:57 pm

8. Old Business

8.1. City Code Section 510 – Noise Control – Update

Honey presented this update: At the November 8, 2021 City Council meeting, the Lafayette Club asked the City to consider amending City Code Section 510 – Noise Control to enable the Club to begin mowing and other maintenance activities prior to the allowable start time of 7:30 am. Honey researched what other cities do regarding golf course maintenance. Some cities had a handshake agreement with neighboring properties starting their work away from homes and moving toward them later, some enforced on complaint but has never received complaints, and some were updating their code to include some of the proposed language.

According to the MN Pollution Control Agency during a one-hour period of monitoring, daytime noise levels cannot exceed 65 dBA for more than 10 percent of the time (6 minutes) and cannot exceed 60 dBA more than 50% of the time (30 minutes.) Decibel levels are recorded at the location receiving the sound.

Honey added that draft ordinance language would allow domestic power equipment use for parcels over 30 acres (which applies to the Lafayette Club) and was reviewed by the City Attorney. In addition to this proposed language, additional language was drafted that would give council the authority to allow public infrastructure projects to work outside normal construction hours if needed with their approval. Over the past few years there have been several times Council allowed work outside the normal construction hours, but the language was not in the code giving authority to do so.

Honey said the goal is to determine if the proposed language is compatible with the thoughts of council on this topic and also to ask for direction on the process moving forward with this code amendment. Unlike Zoning Code amendments, City Code amendments do not require public hearings with published notice, but 10 days posting of the proposed ordinance is required prior to a decision being made. She added that past practice has always been that notice is given and public input is encouraged. The city has strived to make sure that residents are aware of changes and are given a sufficient amount of time to respond. Since the City received complaints this past summer about power equipment use prior to 7:30 am at the Club, Honey felt it is important for Council to weigh in on the public input process. In addition to a public hearing at the next Council meeting, notice of the amendment change will be in the Beachcomber, eblasts and in a mailing sent to residents near the Club.

Honey suggested properly notice the meeting, get public input, do further research and come back with actual ordinance language at next council meeting. She noted that if approved, the city would then have the authority to change work times on future infrastructure projects if needed which council thought was a great idea.

Sharma said most clubs start tee times at 7 am except Minikahda and Lafayette who have 7:30 am start times. He recommends a 5:30 am club maintenance start time and 7 am tee time start. He said it won't be long – by the end of the decade - electric equipment will be used with GPS so it will be quieter.

Howarth agreed adding that the Club provides approximately 40 acres of green space and benefits our community. He said golf memberships at the club are at an all time high right now and it is difficult to accommodate everyone with a 7:30am start time.

Breazeale recommended communicating very clear common past practice for what has been going on with the Club schedule and see what nearby property owners think.

Howarth suggested that the Club to contact nearby residents for input, but Lindstrom and Honey said that since it's the City's code, staff will reach out to neighbors.as this is a change to the City's code.

Lafayette Club President Rita Howarth said the Club has always started grounds maintenance at 5:30am. They start near the clubhouse first then work their way towards neighbors. Steve Doyle, representing Lafayette Club Grounds Maintenance, added that there were 17,000 rounds of golf played with record number of 300 golf members. He said that 9 hole courses are more popular due to busy parents with kids etc.- can play in 1.5 hours.

Lindstrom said that in summary there needs to be a solution for both the club and the neighbors. She said council needs to be sensitive to the two homes near Hole #6 at the Club and the home at the end of Cottage Lane.

On January 10th Honey will contact the club to obtain their past practices and then present her findings at the January 10, 2022 City Council meeting. The topic was officially continued to January 10, 2022 City Council meeting.

8.2. Water Tower Update and Pay Request No. 8 – Caldwell Tanks - \$32,338.00.

Honey stated this is not the final payment – Daryl Kirschenman of Stantec stated in his memo in the packet that the new tower erection has been completed, painted and disinfected and is in operation. The original tower was removed and the original site was restored. Honey said a safety cage is needed and Lindstrom said a pavement patch is needed and this should be discussed with Hilgers who said wait to spring and he can possibly do it. Honey said the City can settle financially and \$54,000 was retained.

Howarth asked if the City can claim liquidated damages as the installation completion was late. Honey said Batty said that we didn't lose money with the late take down of old tower and completion of new tower. Jason's overtime was incurred but that would have happened anyway.

Howarth motion, Breazeale second to approve Pay Request No. 8 to Caldwell Tanks in the Amount of \$32,338. All ayes, the motion carried.

8.3. Tree Preservation Ordinance Update – Enlow

Enlow presented highlights from her summary document in the packet as to what the subcommittee has worked on since they began this project in March 2021.

The group, consisting of Susan Enlow, Nell Mathews, Kim Petersen, Patty Rezabek and Bridget Wortman, continues to draft the final Tree Preservation and Removal Ordinance. Enlow said that Lindstrom said that the City has had a 50% resident turnover in last how 10 years. Enlow said the subcommittee is concerned if new residents know how important trees are to this community and the lake. The tree removal moratorium went into effect September 19, 2021, and since then the group looked at other surrounding cities and their tree removal and preservation regulations. They looked at the Comprehensive Plan, the City's historical tree preservation efforts, policies and practices, along with the fact that our City is so close to the lake, is fully developed almost exclusively residential, and considered the City's limited staff and resources.

Enlow added that in the City's Zoning Code there should be a tree preservation ordinance and landscape regulations because there is a holding spot for them in Chapter 4.

They looked at the following communities as they have tree preservation ordinances: Excelsior, Long Lake, Medina, Minnetonka, Minnetrista, Wayzata, Woodland, Victoria with Excelsior and Greenwood being most like Minnetonka Beach with a mostly residential tax base and higher end price homes. Deephaven is currently developing an ordinance. Enlow said that City Attorney Batty reviewed and commented on the 23rd version draft ordinance in November. Next Carlson will review it. The group wants this to be a "user friendly instructional guide" for residents, staff, and contractors so rules can be followed. Tree replacement will be addressed.

The ordinance will then go to Planning Commission with a public hearing and open discussion. Planning Commission will make recommendations to City Council for final approval that date yet to be determined. Meanwhile the group is educating residents on tree preservation and the importance of trees.

Howarth asked how the ordinance will this affect The Lafayette Club and if provisions will be made for the Club. He also asked if there will be public input and how do other cities enforce these ordinances. Enlow responded that the ordinance will affect every private and public property in the City including the Club just as all ordinances do. She said enforcement may be the same as any other ordinance.

Sharma said the subcommittee should encourage residents to become educated and look at trees from a health perspective to avoid unintended consequences of trees that are unhealthy falling, especially into a neighbor's yard, which he has personally experienced. He added that the property that the tree lands on is financially responsible for its removal in Minnesota.

9. Finance

9.1. **Resolution 2021 – 67 – 2022 Final Budget and Tax Levy, Authorize Partial Bond Payment with Water Revenues**

Zinn presented that the Truth in Taxation meeting went well on December 6, 2021. He praised Honey for doing a great job with this budget which was reviewed by Lindstrom and him. The proposed tax levy increase was reduced from the preliminary budget of a 9.2% tax levy to 2.8% which he said is very reasonable and fiscally responsible. The total budget is \$1.26 million and the City's budgeting for the general fund is for zero net income and zero loss which is a balanced budget.

Howarth said this budget as proposed is extraordinarily tight. He has seen a debt service increase year to year of about \$117,000 funded through reductions in capital expenditures and tax increase which make up most of the change. He added that it is very difficult to absorb a debt service increase of \$110,000 in any one year without increasing the associated taxes. He said also the City has discussed creating capital reserves to replace equipment. This budget does not have room for that, and it does not have the normal \$10,000 a year that was being put into capital putting in reserves Howarth added. Zinn answered Howarth's question about water and sewer funding explaining that the City is projecting a deficit in water of \$129,000 which will be funded by our reserves which are well over 100% and the City raised water rates 10%.

Sharma motion, Enlow second to adopt Resolution 2021 – 67 Adopting Final Budget and Tax Levy for the Year 2022. Be it resolved by the City Council of the City of Minnetonka Beach, County of Hennepin, Minnesota hereby adopts a 2022 budget of \$1,261,174.67 and affirms that the following sums of money be raised by property tax in 2022 upon the taxable property tax levy certification of \$1,092,383.67. Of this amount, \$ 216,799 is levied for General Obligation bond debt (principal and interest), and \$875,584.67 is levied for general property tax.

Be it further resolved, the 2022 scheduled debt levy for the Series 2012A Bond in the amount of \$116,489.63 will be levied in the amount of \$89,519, and there will be sufficient funds in water revenues to make the debt service payments.

Be it further resolved, the 2022 scheduled debt levy for the Series 2019A Bond in the amount of \$170,520.00 will be levied in the amount of \$127,280, and there will be sufficient funds in water revenues to make the debt service payments.

All ayes, the motion carried.

9.2. Summary of City Finances

Zinn presented the Financial Dashboard. As previously approved by Council, the City will pay year to date Dock 10 litigation fees to the LMCIT. Accounts Receivable balance due is down as staff has been doing collecting resident invoices due.

9.3. Year to Date Budget Report and Previous Year Comparison Report

Legal and legal fees are up for 2021 with more zoning billings to come. Expenses equal to budget or lower, so Zinn is projecting a surplus for this year. Lindstrom asked Zinn and honey to report in January.

10. Consent Agenda

10.1. Fire Report – February

10.2. **Resolution 2021 – 68** – 2022 Council Meeting Dates

10.3. Employee Benefits Addendum for 2022

10.4. **Resolution 2021 – 69** – Hennepin County Residential Waste Reduction and Recycling Grant Agreement

10.5. **Resolution 2021 – 70** – Re-appointment of Dennis Klohs to Lake Minnetonka Conservation District (LMCD)

10.6. **Resolution 2021 – 71** – Acceptance of Supplemental Distribution of Unclaimed ARPA Funds from the State of Minnesota

10.7. Brooks Lane Project Update and Pay Request No. 2 / Final – Memo

10.8. Abdo Letter of Engagement for 2021 Audit

10.9. Approval of Checks - November

10.10. Outstanding Accounts Receivable

10.11. Authorize Payment of 2021 Invoices received between December 9 – 31, 2021 to be approved at January 2022 Council Meeting

10.12. Resolution 2021 – 72 – Authorizing Participation in National Opioid Settlements

Howarth motion, Sharma second to approve the Consent Agenda. All ayes, the motion carried.

11. Action Notes and Staff Reports

11.1. Council Meeting Action Notes

In March 2022, the City will find out if it will receive any state funding for the water treatment plant repair or replacement.

11.2. Public Works Report – written report in packet

11.3. Clerk's Report – written report in packet

11.4. Administrator's Report

Honey worked on the 2022 budget, CIP, Truth in Taxation meeting, working with Enlow on the final Tree Preservation and Removal ordinance. She and Burgess meet with Stantec once a week to discuss building project updates. Honey worked with Julia Sharma and Patty Rezabek on the tree canopy grant hoping to get reimbursement. She also finalized employee benefits including life, dental and medical insurance. She worked on the noise ordinance for both the Lafayette Club and the City.

12. Council Reports

12.1. Mayor's Report

Lindstrom reported she's been working hard politicking to obtain funding for the water treatment plant. She is also hoping that the City's water mains that are waiting to be replaced are still in their system and may be included in this state infrastructure funding to be allocated in March 2022.

Lindstrom did the Save the Monarch Mayor's Pledge and she completed six requirements of the 2021 actions. Also, Lindstrom, staff, Kelly Morrison, and Capelle of Stantec conducted a detailed tour of the City's water treatment plant for 25 members of the House Capital Investment Committee to help secure state infrastructure funding. Hilgers and Capelle led the tour and they showed how old our plant is and how it is badly in need of replacement. Zinn presented a financial report to the committee members. Howarth asked if residents should write to representatives and Lindstrom said not yet.

12.2. Liaison Reports (if necessary):

- **Breazeale** – there was no Park Commission meeting., Civic had a light meeting and Newcomers party will be April 24th tentatively with many of new people. Due to COVID numbers up again they decided to not have the holiday party.
- **Enlow** – She will be gone 2/14 council meeting and Howarth too. Presented tree preservation earlier in meeting and Planning Commission summary.
- **Howarth** – LMCC provided additional information about Metro Net cable television franchise; LMCC accepted their request but then they withdrew their request as they withdrew from cable tv. However, they will continue to pursue the fiberoptic network. No other cable tv provider is interested in this market. Utilities Commission is waiting for a resolution to the water plant funding. They hope to financially maintain the existing plant and they hope the City obtains watermain funding too. He will be gone 2/14 council meeting.
- **Sharma** – will work on golf cart policy which will include LSV's or low speed vehicles. He reported that today a snowmobile was ripping up Half Moon Park. He's gone for the March council meeting.
- **Zinn** –

Sharma motion, Breazeale second to reschedule the February 14, 2022, City Council meeting to Tuesday February 1, 2022, at 6:00 pm. All ayes, the motion carried.

13. Adjourn

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

The meeting adjourned at 9:44pm.

Members of the Public: Nell Mathews, Jeff Breazeale, Erin Donnelly, Mike Steidle, Beth Nygaard, Joann Anderson, Jon and Mary Monson, Erica Hway, Gail and Matt Cookson, Rita Howarth, and Steve Doyle.

Respectfully submitted,

Jane Burgess, City Clerk