

Monday, April 11, 2016 6:38 PM
CITY OF MINNETONKA BEACH
CITY COUNCIL MEETING MINUTES

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

Staff Present: City Administrator Susanne Griffin, City Clerk Heidi Honey, Public Works Director Ben Young, Zoning Administrator Ben Gozola, City Engineer Darren Amundsen

Guests: Senator Dave Osmek

- 1. Mayor Skalla called the meeting to order at 6:38 p.m.**
- 2. Ben Gozola led the Pledge of Allegiance.**
- 3. Approve Agenda for the April 11, 2016 City Council Meeting.**

Council Member Lindstrom requested the agenda be amended to allow Mayor Skalla to adjust the agenda items as needed to accommodate guests due to the early start time of the meeting.

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

4. Approve Minutes

4.1. Regular Meeting of February 8, 2016

Council Member Bartel noted a typo on page 5. Clerk Honey will make the correction.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve the Council meeting minutes of February 8, 2016 as amended. With all members voting in favor, the motion carried.

4.2. Board of Adjustment of January 11, 2016

Council Member Lindstrom asked to add Ben Gozola to the list of staff present at the January 11 meeting. Clerk Honey will make the correction.

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

5. Guest Speaker – Senator Dave Osmek

Senator Osmek reported that Minnesota is becoming a hub for reuse and recycle, especially for electronics such as servers and computer equipment. He is working on funding to improve safety on Highway 12. Mayor Skalla asked how a proposed buffer bill would affect the community.

Senator Osmek said the bill is focused primarily on agricultural communities but it keeps changing.

He will forward information on to the City if he discovers that there are changes that would affect lake shore properties. Mayor Skalla also asked about a law that is no longer in effect. It provided a 10% cap on property value increases. Homeowners have experienced over 10% in property value increases. In cities the size of Minnetonka Beach, a few high price property sales affect everyone. Senator Osmek stated that he would prefer property valuation to increase the same as the inflation rate regardless of location.

6. Open Forum

Lee Goehring from the Dock Committee explained that the docks permitted through the City are provided by the dock slip holder (that actual dock sections). In the past, most residents have been responsible and replace sections as needed for safety but some residents are not compliant with keeping their dock sections safe. The Dock Committee is working on a rotational replacement program for the swimming beach docks, and will replace seven sections per year. The associated costs will be billed back the impacted residents for their percentage of the dock. It will cost approximately \$60 per year per resident. Mayor Skalla stated that the replacement program language will be on the dock application and contract in the future. They will begin with the beach area because it is very public and used by the many residents. The Dock Committee will be doing a full inspection of all docks once they are installed. From a legal aspect, dock owners are responsible for the docks. The City leases the access to the docks. Administrator Griffin reminded Council that City Code states that dock owners are responsible for maintaining the safety of the docks and, if they are not doing that, the City may replace the docks at the owner's expense.

7. Police Report – February and March 2016

Sergeant Stensrud reported that there has been identity theft and mail theft in the area. It is very common during tax season. Packages are still being stolen from front stoops as well. He encouraged homeowners to place mail in a regular USPS mailbox and not personal mail boxes. April is distracted driving month and police are increasing enforcement with extra officers patrolling. The Orono Police Department will be participating in a national "Take Back" initiative. The initiative will provide an opportunity for people to bring unused prescription drugs and other medications to the Orono Police Department for destruction. Prescription drugs and other medications can be dropped off Saturday, April 30th between 10 am - 2 pm.

8. Treasurer's Report

8.1. Approve Checks: March and April

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve 49 March checks numbered 15473 through 15522 in the amount of \$66,356.67. With all members voting in favor, the motion carried.

A motion was made by Council Member Lindstrom and seconded by Council Member Taylor to approve 39 April checks numbered 15523 through 15561 in the amount of \$51,120.84. With all members voting in favor, the motion carried.

8.2. 2016 YTD vs Budget and Prior Year Comparison

Mayor Skalla asked if there is a possibility of additional docks being rented. Administrator Griffin stated that last year people came in throughout the summer and rented docks so it is possible that

that there may be additional revenue from docks being rented. Council Member Lindstrom asked if the building permits are on track with what was projected. There are a few homes on the market that will likely be torn down and rebuilt. Lafayette Club is planning on doing work requiring permits also.

8.3. **Outstanding Accounts Receivable Report**

City Administrator Griffin will be sending out notices in the next few months if the outstanding invoices are not paid. They will be considered in the special assessment process in September if they are not paid.

9. **Consent Agenda**

- 9.1. Fire Report – February and March
- 9.2. LMCC Budget Amendment
- 9.3. **Resolution 2016 – 12** Gambling Exemption Request – Ducks Unlimited – Lafayette Club
- 9.4. Hennepin County Playground Grant Application and Engineering Proposal for Accessible Ramp
- 9.5. **Ordinance No. 108, 2nd Series** – Amending Section 110 Violations and Enforcement of Chapter One of the City Code Clarifying Language Authorizing Staff to Enforce the Ordinance
- 9.6. City Clerk’s Institute Application – Year Two of a three-year Clerk Certification Program – Heidi Honey, City Clerk
- 9.7. **Resolution 2016 – 13** Consider Dock Applications for 2016 City Dock Permits
- 9.8. **Resolution 2016-14** Consider Dock Variances
- 9.9. Consider Approval of Safe Assure Contract Renewal
- 9.10. Consider Approval of Rackley Computer Consulting Contract & Microsoft Office 365/Exchange Email Server
- 9.11. **Resolution 2016 – 15** Public Data Access Policy and Appointment of Responsible Authority
- 9.12. Hennepin County agreement for E-Poll Book

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

10. **Planning and Zoning**

- 10.1. Resolution 2016-11 – Average Minimum Lake Setback and Front Setback Variance Request – 2442 Lafayette Road

Administrator Gozola described the remodel of the home and explained that as the project progressed the applicant desired to alter the front bay window to allow more light in the basement. The current bay window is one foot in front of the AMLS and proposed bay window would be in front by three (3) feet. The bay window will still be substantially back from the existing nonconforming porch. Staff and the Planning Commission recommended that the variance should be approved with the following conditions as listed on page 11 of his report:

1. The applicant shall obtain all necessary permits and approvals from the city and other applicable entities prior to any construction of the bay window or associated improvements.
2. Construction shall follow the survey and plans as submitted or as required to be updated by City Engineer.

3. The applicant is required to inform the Minnehaha Creek Watershed District of the proposed changes and update their permit for erosion control. A copy of the permit shall be submitted to the City if one is required.
4. The City Engineer shall have the option to inspect the property at the applicant's expense during the construction process.

A motion was made by Council Member Kozloski and seconded by Council Member Bartel to approve Resolution 2016 – 11 granting a Variance to Permit Construction Beyond the Average Minimum Lakeshore Setback Line and Within the Front Yard Setback to Allow Construction of a Reconfigured Bay Window for Property Located at 2442 Lafayette Road with conditions. With all members voting in favor, the motion carried.

10.2. Zoning Code Amendment Update

Mayor Skalla discussed the zoning code update process. He then requested Zoning Administrator Gozola to provide an overview of the updates to date as well as discuss any points of contention that have come up. Council Member Kozloski asked if the Planning Commission has discussed reviewing variance applications from the past few years to determine any commonly occurring issues for possible change along with these updates. Mayor Skalla suggested Council Member Kozloski forward specific concerns on to the Planning Commission. Administrator Gozola referred to a memo in the Council packet from the City Attorney which describes recommendations that were included in the code draft regarding Council voting. He went on to review the updates for chapters one and two that were discussed with the Planning Commission. These chapters deal with the general provisions of the code and application procedures. He stated that the Planning Commission had concerns about Section 2.2 and they will review that again. The draft has highlighted sections and explanations next to the section to describe the change in further detail.

Council Member Bartel asked if Council was going to discuss the proposed updates at the meeting tonight. Council Members Bartel and Lindstrom had prepared to provide guidance at this meeting. Mayor Skalla said these are the recommendations for moving forward and there have been no decisions, and made nothing is before Council to make a decision on. It is strictly informational on the progress of the update. Administrator Gozola stated that everything will come to Council for their approval toward the end of the year and there will also be public hearings. Council Member Taylor said if a council member has any concerns, they should provide feedback to Administrator Gozola right away. Administrator Gozola stated that changes to one section of the code can affect changes to other sections so any concerns should be provided.

Administrator Gozola continued with his overview of Chapter 2. Council Member Taylor explained that a table and other narrative in Section Two defines the different bodies who make decisions and listen to appeals and then how they will perform. Administrator Gozola has centralized this information in the code update. In the current code, these responsibilities were in various places. He then discussed a highlighted section on page 18 where he is trying to define a way be in compliance with state deadlines in the case of delays. He went on to discuss application reviews and procedures. He also discussed the addition of driveway permits. Council discussed the calendar and determined Administrator Gozola does not need to attend the Planning Commission meeting on April 25. Administrator Gozola will work on a system to get draft code information out to the Planning Commission earlier to give them more time to review before meetings.

11. Old Business

11.1. Stormwater Improvement Study Proposals: Lafayette Road, Brooks Lane - Stantec
City Engineer Amundsen referenced two proposals in the packet. The proposal for Lafayette Road is to study a storm sewer replacement project from Huntington Point Road West to the fire lane area near the swimming beach. The cost of the study is not to exceed \$2,600.

The Brooks Lane project would examine several options for piping and re-routing stormwater with the associated costs and impacts of those options. The cost of the study is not to exceed \$4,000. If both projects are done at the same time, Engineer Amundsen will honor the initial \$6,300 quote for both studies. Council Member Kozloski asked why the city is considering Brooks Lane since the city was found not responsible in past litigation. Council discussed that the City had no responsibility for that one home but the City may decide it needs to determine what is going on there because there are multiple homes involved. Mayor Skalla said it is the City's responsibility to study areas where there are stated issues. The City can study it and then either act or put it to bed. It is possible that residents may have to cost share if there are private stormwater issues. Council Member Bartel asked for a better understanding of the current issue. Public Works Director Young described where water runs in that area. Mayor Skalla asked Administrator Griffin to follow up with City Attorney Hilke to see if there are any conflicts before they decide to move forward. Council Member Taylor suggested she also ask what the City was absolved of so the City does not open itself up to future problems.

Resident Patty Rezabek stated that at Woodbridge and Lafayette the catch basin fills up and overflows because it cannot handle the flow and affects many properties in the area. She was told there is nothing she can do to her property because the drain can't handle the quantity of water. The City has experienced some larger than normal rainfalls in the past few years. Engineer Amundsen said they would need a backup plan for larger than normal rainfalls. Council Member Bartel asked what the cost would be to also study a backup plan. Engineer Amundsen said the proposed study and work that is needed would not impact a backup plan. Council Member Taylor asked what the City will get with the proposed study. Engineer Amundsen stated the City will have a design plan for a 5 to 10-year storm event with associated costs, the size of pipe needed and opportunities to provide phosphorus removal plan. A secondary study would examine the flooding issue.

A motion was made by Council Member Taylor and seconded by Council Member Bartel to approval the stormwater study proposal for Lafayette Road not to exceed \$2,600. With all members voting in favor, the motion carried.

A motion was made by Council Member Bartel and seconded by Council Member Taylor to table the Brooks Lane stormwater study proposal. With all members voting in favor, the motion carried.

11.2. 2536 Lafayette Road As-Built Survey – City Engineer Amundsen
City Engineer Amundsen explained that this issue is before Council because the resident is asking that the certificate of occupancy be issued, however, that cannot be done until there is an approved as built for the project. Engineer Amundsen stated he wanted to provide council with his engineer

opinion on this situation, but was not able to give legal advice. He stated when the three new homes were built on Lafayette Road, they were required to make sure that stormwater drainage was not worsened from the construction. He went on to state that the as built for the property at 2536 Lafayette Road shows the homeowner did not build a retaining wall per the approved plans which included drainage characteristics. There is a 440 square feet of area that is different from what was approved. The area is of concern because it is a known flooding area, and there is potential for water to go on to the neighbor's property. The area in question is 440 square feet of the 17 acres already going to the flooding area. To provide Council with perspective on what the numbers mean, he ran storm models to determine the amount of runoff. A two-year storm model did not register any runoff from the 440 square feet. In a 100-year storm, the 440 square feet area would result in 750 gallons versus 1.8 million gallons from the 17-acre drainage area. This shows the amount of runoff is minimal but it is still different than what was approved. In his opinion, the as built should not be approved since they didn't follow the approved plan, even though the impact may be small. He also recommended the City check with the City attorney. Council discussed setting precedence and the potential for creating drainage issues.

Stacia Bank, 2536 Lafayette Road, explained that the retaining wall was built to make going in and out of the garage safer. Drains were installed and they also added gutters that flow into the drains and away from the homes. Council examined the plan that was approved with the retaining wall. Council Member Kozloski stated that the city has checks and balances in place. Council discussed that rules need to be applied equally to all residents. Council Member Bartel asked about the solution. Engineer Amundsen stated the solution is getting the water captured as it was originally approved. Council consensus was that while they realize the homeowner was not trying to break rules, they need to respect the requirements of the engineer and City. Mrs. Bank asked Engineer Amundsen to give specific direction of exactly what needs to be done. She also asked if Engineer Amundsen could sign off on the final solution when it is complete so they do not have to pay for another as-built. Engineer Amundsen will work with the landscaper to come up with a solution that will work. Resident John McLaughlin, 2542 Lafayette Road, asked why that home is built higher than the other homes in the area. Engineer Amundsen stated it was part of the drainage solution for the area.

11.3. Phosphorus Removal Update – City Engineer Darren Amundsen

City Engineer Amundsen stated he had a conversation with Minnehaha Creek Watershed District (MCWD) about the City's leaf pickup and street sweeping program and the studies shown that these activities have a big impact on phosphorus reduction. The City will be receiving a request from the MCWD asking the City to provide a progress report on its phosphorus removal program, and the City will need to respond with detailed information to back up the City's claim for phosphorus reduction and to quantify the amount of reduction. Mayor Skalla asked Administrator Griffin to find out how much was budgeted in the CIP for phosphorus reduction and compare that amount with the cost of leaf pickup and street sweeping to determine how much money will be saved. Mayor Skalla asked to add this to the Action Notes.

12. Council Meeting Action Notes and Staff Reports

12.1. Council Meeting Action Notes

There was no discussion on the Action Notes.

12.2. Director of Public Works Young

Public Works Director Young updated council members on a service water leak at the Seuntjens residence on Arcola Lane which is the resident's responsibility. The curb stop was also broken and this is the City's responsibility. The bill was \$8,300 so the City paid half and resident paid half.

12.3. City Clerk's Report

Clerk Honey referenced the municipal water use report, monthly home sale report, and building permit log in the Council packet. She reported that Staff has become aware that there are residents who have more than the allowed two pets per home. After surveying surrounding cities, she found nearly all of them limit to two dogs and require a special license for three or more dogs. She also found that most of the cities do not license cats. Council directed Staff to draft an amended ordinance for a maximum of three pets, with a maximum of two dogs.

12.4. Administrator Griffin

Administrator Griffin referenced the City's multiple dock license application in the packet, which was approved by Lake Minnetonka Conservation District (LMCD). She discussed a draft ordinance for the short term rentals in Orono. Many cities are looking at regulating short term rentals. Council would like to refer that to the Planning Commission as part of the Zoning Code update. The Capital Improvement Program process is underway and feedback will be compiled and go to the Planning Commission prior to approval by Council. Council would like Dennis Klohs come to next meeting for an update on the LMCD. Mayor Skalla asked that the Dock Committee chair attend the meeting also.

She also reported on the Police Commission meeting. They discussed training for Heart Safe and the use of AEDs. Grants are available from Excel Energy and the University of Minnesota to purchase AEDs. The City may want to get one because of the trail and that people would come in here if there was an emergency. Administrator Griffin will check into grants to purchase an AED. The City could do a training at City Hall and invite residents. They discussed the distracted driving campaign and the Twelve for Twelve campaign. They also discussed their position on civil disobedience and their response is they generally do not engage with protesters unless it is necessary. They discussed the financial report. In 2015 there was a \$7,300 surplus from Minnetonka Beach. Orono PD uses these funds to purchase equipment and other things they need but have not budgeted for. Mayor Skalla said the City's increase was \$12,000 for police services. He said he would feel better about it if the City was involved in the budgeting process. Mayor Skalla will attend a meeting to discuss this. Council would like to see what they spend the surplus money on and find out why they just don't budget for those items. Administrator Griffin provided a list of the items Orono Police would like to purchase with surplus funds.

Administrator Griffin will be on vacation the rest of the week.

13. Council Reports

13.1. Mayor's Report – Mayor Skalla discussed information in the packet about a current initiative regarding the Met Council. He stated that the Met Council members are appointed by the governor and there is group that would like to see local representation consisting of taxpayers and not appointed government employees. They want the Met Council to be more accountable. Council Member Bartel would like to research what Met Council does before she makes a judgement of how well they are doing it. Engineer Amundsen commented that the Met Council is starting to look at

regionalizing ground water. The Met Council would take water from the Mississippi River, treat the water and sell the water to cities. The Met Council is a taxing body without accountability. Mayor Skalla suggested someone from the Met Council and someone who is spearheading this movement come and talk to Council. Administrator Griffin will find out from Zoning Administrator Gozola who our Met Council representative is and invite them to talk to Council. Mayor Skalla will contact someone from the coalition to invite them to Council. Administrator Griffin will look at the May and June agendas to determine which meeting would be best for this.

13.2. Liaison Reports-

Council Member Bartel – Park Commission has not met.

Council Member Kozloski – Phosphorus reduction was discussed earlier.

Council Member Taylor – Docks and Planning was discussed earlier tonight.

Council Member Lindstrom – February Civic Committee meeting minutes are in the packet. Utilities Commission hasn't met.

A motion was made by Council Member Taylor and seconded by Council Member Bartel to adjourn the meeting at 10:13 pm. With all members voting in favor, the motion carried.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Chris Bennett from Hennepin County Assessor's Office (for Local Board of Review), Mark Osmanski, Lee Goehring, Jennifer McLaughlin, John McLaughlin, Dan Forbes, Patty Rezabek, Stacia Bank.

Respectfully submitted,

Heidi Honey, City Clerk