

Monday, August 17, 2015 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, Treasurer Randy Gilster.

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

Guests: Police Sergeant Chad Stensrud; Three Rivers Park District Trail Representative Charlie Hise.

- 1. Mayor Skalla called the meeting to order at 7:00 p.m.**
- 2. City Administrator Griffin led the Pledge of Allegiance.**
- 3. Approve Agenda for the August 17, 2015 City Council Meeting.**

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

Action Notes:

Mayor Skalla asked Planning and Zoning Administrator Gozola for the status on the building permit process. Administrator Gozola stated that he gave a preliminary report at the last Planning Commission meeting with ideas and ways to improve the process. They can implement the process with Staff without Council approval but would like to discuss it at the August Planning Commission meeting and then present it to Council in September. Council does not need to approve it, but would like to review it.

Council Member Lindstrom reminded Council that the Wind Generator Study deadline is an actual deadline of December 14, 2015. The study needs to be concluded before the moratorium expires.

- 4. Approve Minutes**
 - 4.1. Regular Meeting of July 13, 2015
Council Member Bartel stated on 11.2 of page 5 there was a typo. Delete “the” in the first sentence so it reads more clearly.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve the Council meeting minutes of July 13, 2015 as amended. With all members voting in favor, the motion carried.

- 5. Open Forum**

None

- 6. Police Report –**
 - 6.1. Police Report – July Report
Sergeant Stensrud stated the police are still investigating the incident where a driver thought his window was shot at near Arcola Lane. Evidence does not show there was a shooting and they have

no new leads. He reported that charges will be filed by Hennepin County on the driver from the vehicular incident on County Road 15. In the next few weeks, the police should hear the outcome of the vehicular incident which occurred on Arcola Lane last year. He stated that their ten Police Reserves have put in over 800 hours of volunteer time so far this year, mainly at special events.

Sergeant Stensrud discussed the parking situation at Lafayette Road after receiving a request from Clerk Honey to tag violators. Officers have tagged vehicles without permits and received complaints. He thinks some residents are giving the parking permits to non-residents to use as a parking pass. Council discussed that permits are for residents only and the permits need to be affixed to the window of the vehicle. Mayor Skalla said he was at the beach the other night and, of the 13 vehicles parked there, 11 did not have permits. The City may need to restrict how many permits are given out per family.

Mayor Skalla said there are rules on the books that need to be enforced. Clerk Honey should notify residents via the newsletter and email blast of the increased enforcement. Mayor Skalla directed police to issue warnings until September 1st and then tags will be issued. This parking violation would be tag-able under the administrative citations. Jody Sperduto said people are parking around the water tower on Woodbridge where there are no parking signs. Officers should enforce there also.

Sergeant Stensrud discussed the activity report. There was a drug task force arrest, a DWI and a warrant arrest charge. Nothing else was out of the ordinary.

- 6.2. Dakota Regional Trail– Three Rivers Park District Trail Officer Charlie Heise –
Officer Heise is able to provide reports to Council prior to the meeting in the future. Council requested he do that. They have new uniforms and new patches. He reported over the last month there were 34 calls on the entire Dakota Rail, and 17 of those were bikers running stop signs. This summer crime has been much lower than years past. There were a few reports of stolen property, kids jumping from the bridge and debris on the trail. There was one weapons complaint near Gale Woods Farm, which ended up being kids with a bb gun. Administrator Griffin will email the trail summary report from Boe Carlson to Council members.

7. Consent Agenda

- 7.1. Fire Report – July
- 7.2. Resolution 2015 – 26 Consider Re-Appointing Corey Orehek to Planning Commission
- 7.3. Resolution 2015 – 27 Consider Re-Appointing Jim Haag to Planning Commission
- 7.4. Resolution 2015 – 28 Consider Re-Appointing Signe Koehler to Park Commission
- 7.5. Resolution 2015 – 29 Consider Re-Appointing patty Rezabek to Park Commission
- 7.6. Resolution 2015 – 30 Consider Appointing Diane Rogers to Park Commission
- 7.7. Resolution 2015 – 31 Set Truth in Taxation Hearing for December 7, 2015
- 7.8. Resolution 2015 – 32 Hennepin County Recycling Grant Contract
- 7.9. Special Event Permit – 2944 Northview Road – Home Tour August 22/23, noon to 6 pm

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to pull item 7.9 Special Event Permit from the Consent Agenda. With all members voting in favor, the motion carried.

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

7.9. Special Event Permit – 2944 Northview Road – Home Tour August 22/23, noon to 6 pm
Terry Hughes spoke on behalf of House Dressing Company. His company built Tom Sween’s home at 2944 Northview Road. Their home is pictured on the cover of the Luxury Home Tour brochure. He wasn’t aware of the concerns about parking issues with home tours until a couple weeks ago. His project has not had any complaints and they run a tight ship. He understands there have been problems with home tours in the past. They have made arrangements with St. Martin’s Church for parking. He will do everything to make sure people aren’t parking on the street. They have plenty of staff to enforce the parking restrictions.

A motion was made by Council Member Lindstrom and seconded by Council Member Taylor to approve the Special Event Permit for 2944 Northview Road – Home Tour August 22/23, noon to 6 pm with conditions as outlined on the memo dated August 17, 2015 from Administrator Griffin. With all members voting in favor, the motion carried.

8. Treasurer’s Report

8.1. Consider Motion to Approve August Checks

Treasurer Gilster reported on the most recent list of checks that require authorization from the City Council for payment.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve checks numbered 15140 through 15191 in the amount of \$70,898.77. With all members voting in favor, the motion carried.

8.2. YTD Budget Report and Previous Year Comparison Report

Council Member Bartel wanted to know if there is building going on is that impacting the roads and are we collecting enough in permit fees to pay for the damage they are causing. Maybe we need to increase the building permit fees. Public Works Director Young stated that much of the asphalt repair is due to construction vehicles. Council Member Bartel asked P & Z Administrator Gozola if he had any suggestions. He will check with his office and report back.

8.3. Outstanding Accounts Receivable Report –

City Administrator Griffin handed out the report. Mayor Skalla asked why the City is giving back Todd Pottebaum’s escrow money when he owes the City money. Administrator Griffin stated she wasn’t sure if the current performance agreement allows for the City to apply the escrow money to the amount owed to the City but would pursue that with our legal consultant.

8.4. Mid-year Fund Balance Report – Abdo, Eick & Meyers

Bonnie Schweiger has been working for Abdo, Eick and Meyers for a number of years. She reviewed the mid-year compilation report. Operating expenses and revenues should be at about 60% this time of year and the city is right where it is expected to be. She explained some of the differences between the way Council usually sees reports and this report. There are reporting differences from the way things have to be budgeted to the way they have to be reported. She explained the changes she mentioned earlier including a \$35,000 transfer on line item 401 of page 11. This transfer is just because of reporting being different than budgeting. In most cities, you don’t

normally see the city as a whole do a balanced budget but rather a balanced budget within the General Fund but this city does that. The City may want to think about only having the general fund be a balanced budget.

She also talked about the debt service. Scheduled debt payments from the water fund will be increasing \$8,000-10,000 annually however the scheduled increase in revenues will be less than \$3,000. The City may want to consider this when budgeting. Abdo had proposed a rate study in the past and Council opted out of it at the time. Council discussed reviewing it before there is an infrastructure problem. Council would like Finance Committee to look at this and Treasurer Gilster recommended Bonnie or Matt from Abdo to be at the Finance Committee meeting. There was discussion about setting up a class system in QuickBooks for budgets. Ms. Schweiger said they could help staff set it up. Currently Excel is used for budgeting and manual comparisons are made. Treasurer Gilster asked Ms. Schweiger to prepare a proposal for the Finance Committee to consider this for recommendation. Mayor Skalla said that the City received a report from Standard and Poor's that Minnetonka Beach has maintained its AAA rating.

8.5. 2016 Preliminary Budget – no action required –

Council discussed having a Study Session to discuss the preliminary budget in more detail before the preliminary budget and levy is set in September. A date was set for the study session on August 31, 6:30 pm – 8 pm. Council members were asked to email Administrator Griffin with any questions. She will provide more info at the study session such as: unfunded liability (pay-out when employees quit or retire), police contract increase, wastewater fee for 2016, and staff salaries and benefits.

Park Commission Chair Sperduto confirmed that Council would like her to attend the Study Session on August 31st. Council Member Kozloski asked why committee chairs don't usually attend. It is because they don't have budgets.

9. Planning and Zoning

9.1. **Resolution 2015 – 33** – Consider Average Minimum Building Setback Variance – 2932 Northview Road, Dawson residence

Mayor Skalla stated this is not a public hearing. The public hearing was last week. There will be no new evidence accepted. Council's job is to approve or disagree with the Staff and/or the Planning Commission's recommendation and their finding of fact in how they relate to the variance application. Council will make a decision based on facts on the record as they are today.

Planning and Zoning Administrator Gozola reported on a variance request for 2932 Northview Road, Dawson residence. The applicants are proposing to tear down the home and replace it with a new home. It is not the first time they have discussed building a home on this property. He said just as he had told the Planning Commission, he would like everyone to step away from the past and look at this proposal with fresh eyes. When things get to this point and litigation is involved, it is easy to let animosity get in the way. We all have the same goal. We all want the best home for the neighborhood, the applicant, and the City. Administrator Gozola stated if this goes to court, the facts are what will be discussed. He further explained it doesn't matter how things were done in the past, it matters what the City's Comprehensive Plan says and what the City Code says. He began his review of the Comprehensive Plan by noting the document discusses "View" and "Views" several times. There is a strategy in the Plan to promote landscaping that does not obscure lake views, a

focus on protection of view sheds along the parkway, and multiple references to the importance of protecting views. Per the Plan, the City's ordinance should include reasonable view protection for adjoining homeowners and non-riparian owners and a home location on the lot relative to other properties. Administrator Gozola noted that protecting the view of an adjacent non-riparian owner is unique to this community and is applicable in this situation. He concluded his review of "views" language by stating all Plan language calls for views to be maintained and protected, but not necessarily improved.

Administrator Gozola then noted the Comprehensive Plan there emphasizes the City's history and a need to preserve that history. Minnetonka Beach is comprised of historic homes and the Plan strives to preserve and enhance landmarks and structures that define the history and culture of the community. There is an entire section on Historic resources, policies and strategies which focuses on best practices when preserving and restoring old buildings in the community. The Comprehensive Plan does not encourage the homeowner to tear down this historic home but rather restore it or replace it in its current location. He then discussed state statutes which have always protected legal nonconformities to be repaired, restored, maintained or improved. In 2001, legislature expanded the protections of legal nonconformities by adding replacement, as long as the replacement is the same size, same footprint and same bulk.

Administrator Gozola summarized that according to the Comprehensive Plan, views are to be maintained and protected but not necessarily improved, the Comprehensive Plan encourages landowners to NOT improve views but rather keep the home in its current location, and state statute protects the landowner's right to not improve views. There should be no expectation of improved views however the owner wishes to build new. The Average Minimum Building Setback requires the new home to be located relative to other properties and the requested variance is from that standard.

Administrator Gozola discussed the subject lot. He stated that typically homes are built parallel to the shoreline. The significantly skewed AMBS line on this property doesn't allow for a parallel shore location likely without a variance. He pointed out when the applicant designed the L shaped home, he was designing based on a 20' side yard setback and a 40' rear setback parameter. Administrator Gozola stated he disagrees with this interpretation as the angle of a lot line should not dictate if it is a side yard or rear yard. Showing examples, he pointed out that lot line classifications on one property do not have anything to do with the classifications of the adjoining properties. Properties often have a side yard abutting a rear yard. Administrator Gozola reviewed the City's definition for rear lot line indicating that the definition discusses a contiguous border and not potentially multiple boundaries separated by up to 150+ feet. He stated it is important to treat this lot the same as the City treats all other lakeshore lots: the lakeshore is front, the boundary furthest from the OHW and closest to the road is the rear and the lines connecting the two are the sides.

Zoning Administrator Gozola then addressed some issues that arose from the Planning Commission meeting. He stated that he is presenting the facts but his position requires him to interpret code based on wording within the ordinance and the Comprehensive Plan. If this issue goes to court, the court would interpret the Code and Plan also. He stated there is a perception that City Code encourages all property owners to have 180 degree view. He doesn't see that requirement in the Code. If that was the City's intent, then homes would built at the AMBS line and not be allowed to be built behind it.

He stated there is a belief that there are other options for the type of home that can be built on this property. He agrees with that if this was a clean application. He believes the applicant designed the L

shaped house based on what he was told was the buildable area. There is pending litigation with the L shaped house. If this goes to court and the applicant loses, he will be forced to redesign the home at that point, so he has no incentive to do a redesign at this time. Zoning Administrator Gozola took all of these facts into consideration to try to help the applicant identify a way to place the L shaped house on the property so that all City goals are being met and the variance criteria could be justified.

Finally, he noted there is a perception that the City must consider all homes along the lakeshore when examining a request. He stated this is not the case. Regardless of how things have been done in the past, we have to look at the code as written which says only the homes on either side are considered for AMBS.

Zoning Administrator Gozola described the location of the existing home and the adjacent homes. He described the plans that were submitted. He would not recommend the 127' setback proposal because it requires more hardcover, additional side yard setbacks, is not aesthetically pleasing, and is not good for views. The 2nd proposal has better views, is more aesthetically pleasing, does not require the side yard setback and has less hardcover. This proposal was still too close to the lake so the applicant submitted the proposal being considered tonight which is 124' from the OWH. This proposal has a three stall garage so the applicant is proposing to keep the existing legal nonconforming detached garage. This does not allow the applicant to eliminate as much hardcover as staff would like but it is still within code. He then described the views for the riparian and non-riparian adjacent views. There is a bit of an impact on the non-riparian views but he feels it meets variance criteria. He discussed the variance criteria and believes this property meets the criteria.

He went on to report that the Planning Commission disagreed with the recommendation that he is proposing because they believe the plight of the landowner is not unique to this property and was created by the applicant. The land is buildable but not with a house design as proposed by the applicant, and the plight is created by the applicant in designing a house that is not in conformance with the setback requirements for this lot and does not meet the policies and strategies of the Comprehensive Plan.

In conclusion, the applicant is seeking approval for one variance for constructing a new home at 44 feet beyond the AMBS line (124' from the OHW). Council can approve, deny or table this. Based on the application date of July 1, Council has until the 30th of this month to make a decision. State Statute allows an additional 60 days if more time is needed. Administrator Gozola provided sample motions and three draft resolutions. The resolutions are Staff recommendation, Planning Commission recommendation, and initial application denial.

Zoning Administrator Gozola made a few corrections in the draft Staff's resolution. The distances in that resolution should read 44 feet instead 48.5 feet from the AMBS and instead of being 119 feet from the OHW, it should read 124 feet.

Council Member Lindstrom asked whether the definition for rear lot line has been interpreted this way in the past. Administrator Gozola stated that he doesn't know what has happened in the past. He is basing his interpretation of this lot line on code definitions.

Council Member Lindstrom also said that she felt the neighborhood as a whole should be considered. Zoning Administrator Gozola doesn't see that in the code or the Comprehensive Plan. He can only go by the stated criteria and it doesn't include taking all of these other things into consideration.

Council Member Taylor stated this presentation makes it easier to understand than before. He discussed interpretations and that if this went to court, it would be up to the court's interpretation. He stated if the intent of the code was to maximize views in the way it was written and enforced but that was not accomplished in the ordinance, we need to look at the ordinance. He feels the flexibility and interpretation allows something to be done that was not really intended.

Council Member Lindstrom asked to look at the slides of each home design again to see views.

Mayor Skalla asked why Zoning Administrator Gozola suggested they move the garage instead of incorporate the existing garage. He explained they could rebuild it but it may require a variance.

Council discussed options to pull the home back. Zoning Administrator Gozola stated that would improve views for adjacent properties. He said they could table it and ask them to come back with a different design. He advised against repeating the previous action to debate and approve something that is not before Council tonight.

Mayor Skalla told Council they have three options: approve the variance request per Staff, deny the variance request per Planning Commission, or table it for further consideration. If tabled, they would extend it for another 60 days.

Council Member Kozloski said Zoning Administrator Gozola seems to have looked at this with fresh eyes, and worked diligently with the applicant to find a reasonable solution that works for everyone. He improved views for everyone. No one gets hurt here, everyone wins. Zoning Administrator Gozola said the applicant could leave the house where it is and expand it in the back but that would not improve views at all.

Mayor Skalla allowed members of the public to comment:

Bev Aho, representing applicant Scott Dawson, thanked Council and Zoning Administrator Gozola for their time reviewing this again and stated her client regrets that he could not attend the meeting. She stated that there are three options 1) at 111' where the home is now, 2) at 113' which is the one in litigation and 3) which is what staff recommended. This design came about because of staff recommendation on what could be done. Her client has made the house smaller, removed a garage stall, and moved the house back to 124' from the lake. If approved tonight, all litigation will be settled. She stated, you as council members have information that no one else has, you are elected and have higher responsibility than others. We are here tonight seeking approval of this plan. It improves everyone's views. The applicant has worked to come up with a solution and it's a win/win. She mentioned the last variance that was approved on Lafayette Road. Her client is trying to compromise to improve views, including the non-riparian.

There are questions whether this plan would de-value property. Her view is that it would improve the values. She acknowledged that there were a few neighbors have expressed concerns but stated that they didn't have all the information that Council has and their comments were self-serving.

Ms. Aho went on to discuss how Zoning Administrator Gozola went through in detail how every criteria has been met. She believes this results in a win for everyone and respectfully requested Council approve resolution recommended by staff with the listed conditions and that will dissolve all litigation.

Mayor Skalla asked for any other comments from the public.

Mike Fasching – 1928 Cottage Lane – This is a negotiation by Mr. Dawson. The art of compromise is great but you have compromised already. You can move the back yard, there are lots of things you can do. He thinks moving a house forward is not a compromise. He feels that you can build a house behind a slanted setback. He hopes Council is getting more information than just from Mr. Gozola and asked them not to be swayed by the voices.

Janet Boschwitz – 2950 Northview Road – When you go through every variance, you have to look at the criteria. The Planning Commission didn't recommend approval. The applicant knew what they were doing when they purchased the lot. The setback requirements are published and available. What do the citizens of this community want you to do? The seven citizens of the Minnetonka Beach Planning Commission spent their time and energy to study and twice recommended that this not be approved. They should follow the setback ordinance so they can live in harmony so everyone knows what the rules are. She thought the compromise at 141' was a fair compromise. Building in front of your neighbors is not what the citizens are saying and not what your Planning Commission are saying to do. Don't listen to lawyers but listen to the citizens – deny or ask for more time to come up with a compromise beyond the 141' that still fits the community.

Jorg Ayaz – 4844 Island View Drive – Mr. Ayaz served on the Mound Planning Commission for 12 years. This is happening because one house is built so far back as to completely skew the shoreline. This is an extreme move which resulted in a difficult situation for everyone. He feels the compromise is good because views are all improved from the current home. Administrator Gozola made the facts very clear in his opinion.

Andrew Myers – 2429 Woodbridge – Planning Commissioner Chair- He was not at the Planning Commission meeting but he thinks they looked at this as a brand new variance request. Whatever decision is made by Council, Mr. Myers asked Council to please articulate in detail the reason for their decision so the Planning Commission can understand why they made that decision. This will help educate them in the future.

City Attorney Hilke stated the litigation is not a factor in ruling on this particular request. Council has to follow the criteria in ordinance and statute. You cannot consider anything other than what is there before you. Contrary to what Ms. Aho alluded to about knowing more than everyone else does, Council cannot bring in outside information. Council can't use information a neighbor told them on the street or from litigation council. Council can only use the information provided here tonight. That is the statute.

Council Member Lindstrom is struggling because she is looking at this as a brand new application. She asked Council to help her understand why this isn't a practical difficulty caused by the owner. A reasonable house can be built within this buildable area. This request is 124' which is 44' feet in front of the AMBS. She believes this does sound like a compromise.

Council Member Kozloski said one option Mr. Dawson has is to build on the existing lot and that would be a worse scenario than this proposal today.

Council Member Taylor stated that he likes that the way the compromise looks, and Administrator Gozola did a great job presenting it but the AMBS is really what this is about and the intent of

Council and the Planning Commission to maintain lake shore views. The design as presented is good. If they want to build in the old footprint then have at it, it wouldn't improve the value but that is their choice. Planning Commission has twice said no. They are appointed to uphold the ordinances put in place by Council. He believes that is partially due to the AMBS. The previous Zoning Administrator had a different interpretation and he said no. The impacted residents who elected us have all said no because the expectation is that Planning, Zoning and Council are to uphold the rules that Council voted on and put into place. It makes it difficult for him because so many people think it's not the right thing to do to approve this. He felt good about the first compromise that was at about 143' and took the Gabos house out of the equation. He feels this is the intent of the ordinance. It takes care of the AMBS and the applicant can build a house like he wants.

Council Member Bartel said if we are really worried about the rules, then the house has to go back. She asked to make a motion and then they can discuss it more.

A motion was made by Council Member Bartel and seconded by Council Member Kozloski to approve the requested average minimum building setback variance of 44 feet as presented on pages 12 through 14 of the Zoning Administrator's report. Council members voting in favor: Bartel and Kozloski; Council Members opposed: Lindstrom and Taylor. This resulted in a tie. Mayor Skalla opposed. Motion denied.

Council Member Kozloski stated the City hired Zoning Administrator Gozola because he has the expertise so why would we not take his recommendation. Zoning Administrator Gozola justified how each and every criteria has been met. Council Member Bartel agreed.

Council Member Lindstrom still sees it as a compromise for a new application of a home with a buildable area. Mayor Skalla confirmed that this is a new application and the decision needs to be made on this information presented today.

Mayor Skalla explained to Council that since they did not approve the variance, they now have two options to either deny the variance or table it. City Attorney Hilke stated Council has denied the motion approving the variance meaning the variance has not been denied but the motion to approve it has been denied. He encouraged Council to select a denial motion or request an extension for 60 days for further examination.

Zoning Administrator Gozola stated there are two provided denial motion options. One is recommended by the Planning Commission and the other provides thoughts that have come up in the past which Council can draw from to add to it.

Council Member Taylor thinks we are so close that it's worth further discussion. He liked the previous plan because it took out the Gabos house. Council looked at the slides again and Council Member Taylor discussed the AMBS without the Gabos house (Dahlen house). Zoning Administrator Gozola stated that according to the ordinance, the Dahlen home would not be taken into consideration.

Mayor Skalla reminded Council that they need to either deny or extend this request before them tonight. If Council feels further discussion is needed, they can extend this and they will be able to discuss it further under the right circumstances.

Zoning Administrator Gozola summarized his understanding at this point as: the variance as requested is getting close but that a majority of Council feels that it is not justifiable with the criteria but there is feeling if it is brought back consistent with the Sween house to the west, that may be an option. He said the current design would not fit and additional variances will be required so a whole new process will have to start all over again including a public hearing. Council Member Bartel asked Zoning Administrator Gozola about what Planning Commission recommended. He stated they recommended denial.

A motion was made by Council Member Taylor and seconded by Council Member Lindstrom to table the action on this variance request with direction to staff to extend the review period an additional 60 days. Council members voting in favor: Lindstrom and Taylor; Council Members opposed: Bartel and Kozloski. This resulted in a tie. Mayor Skalla voted in favor. Motion approved.

Mayor Skalla called for a break at 9:45. The Council meeting reconvened at 9:55.

10. Old Business

10.1. 2016 – 2020 Capital Improvement Program (CIP)

Administrator Griffin reviewed the CIP process as receiving input from commissions and committees and compiling the information. The Planning Commission holds a public hearing for additional input and then determines if the information is consistent with the Comprehensive Plan. The Utilities Commission met two times to discuss the CIP. The Council packet has a narrative and spreadsheet version of the proposed CIP. The Utilities Commission reviewed all of the stormwater drainage projects and prioritized the top three. They recommended that the City Engineer Darren Amundsen submit more definitive cost factors which include incorporating phosphorous reduction. City Engineer Amundsen stated the priorities are 1) Brooks Lane, 2) Beach Lane and 3) Lafayette Road. This is the flooding area between Lafayette Road and Woodbridge. It would be an infrastructure protection or replacement project and it was not on the original list. There are good opportunities to reduce phosphorus on Lafayette Road and Beach Lane. Brooks Lane needs to be reviewed because of a drainage issue. It is an area that does not drain and would need to put something in place to not increase phosphorous runoff.

City Engineer Amundsen also talked about the watermain improvements. There was discussion about the 500 gallons per minute for fire service goals having been met. Now the system is 40% new pipes and 60% old pipes. There was discussion of using the 2016 CIP money for studying projects. He discussed a schedule with a possible referendum in November, design beginning December 2016 and then it could be bid in March and April for the 2017 building year.

There was discussion about the size of projects and what is the most efficient amount to bond for if the City chooses to do so. Staff will check with financial consultants.

Beach Lane and Lafayette Road are straight forward stormwater projects. Brooks Lane has three possible options and varying amounts associated with them. City Engineer Amundsen stated a rough estimate for the feasibility study for the three priority areas would be \$6,800 and another 10% for the actual design. There was discussion about various costs and scenarios.

For Beach Lane, the study would provide information on what easements are needed, and identify phosphorus reduction. For Lafayette Road, the study would look at phosphorus removal and limited elevation issues. A bulk of the planning would be spent on Brooks Lane studying the different options. Mayor Skalla asked City Engineer Amundsen if the City needs to allocate money for design work along with money for studying the projects. There was discussion about referendum procedures, necessary ballot language and allotting \$20,000 for the feasibility study and starting engineering design. Council added \$10,000 for the study and \$10,000 for designs to the stormwater project in the CIP.

Council discussed the transportation study. The Planning Commission requested the study be referred back to them so they can determine the scope of the study before they allot any money toward the study.

Council discussed City Hall repairs and maintenance costs. The City needs to take care of maintenance of the buildings, sidewalks and walls. Council asked Staff to see if they can get more specific costs for the City Hall maintenance and repair. Public Works Director Young stated the water tower painting and leaf loader items can be moved to 2017.

Park Commission Chair Sperduto requested that on odd years (2017 and 2019) they reduce EAB to \$5,000 and keep the even years (2016, 2018, and 2020) EAB treatment at \$10,000. She also stated Park Commission is prioritizing park maintenance and park enhancement projects. The amount was changed for park enhancements to \$5,000 per year budgeted from tax levy with the possibility of another \$5,000 per year from grants. Council made these changes to the CIP.

Council agreed with the Utilities Commission recommendation for \$10,000 in 2016, 2017 and 2018 for phosphorus reduction. The original \$3,000 was determined in 2007 and the budget doesn't reflect the anticipated cost. The West End Looping watermain project met the 500 gallons per minute water flow goal so the 4" pipe is acceptable. City Engineer Amundsen stated there is 4" pipe elsewhere in the City which also meets the flow criteria. Council Member Lindstrom stated Utilities Commission did not recommend it but is looking for guidance on whether they should study replacing any 4" mains.

A motion was made by Council Member Bartel and seconded by Council Member Taylor to adopt Resolution 2015-37 approving the 2016-2020 Capital Improvement Program as amended. With all members voting in favor, the motion carried.

11. New Business

11.1. Resolution 2015 – 34 Adopting Ordinance No. 103, 2nd Series: MS4 Permit Required and Other Ordinance Amendments

City Engineer Amundsen explained that the ordinance puts the City in compliance with the new MS4 stormwater permit requirements which went into effect January 2015. What has come out of this is an administrative checklist of performance standards for planning projects in Minnetonka Beach. Planning Commission has worked extensively on these amendments.

A motion was made by Council Member Taylor and seconded by Council Member Bartel to Adopt Resolution 2015-34 Adopting Ordinance No. 103, 2nd Series: MS4 Permit Required and Other Amendments. With all members voting in favor, the motion carried.

11.2. Resolution 2015 – 35 Adopting Ordinance No. 104, 2nd Series, 2016 Fee Schedule and Authorizing Summary Publication

City Administrator Griffin explained the changes to the fee schedule. The water fee increase of 3% is set by the water rate study, the Planning and Zoning Administrator hourly rate increased with the new Zoning Administrator, recycling costs increased so this is an actual expense and the Lafayette Club liquor license fee increased based on membership numbers which were confirmed by the Club.

A motion was made by Council Member Lindstrom and seconded by Council Member Taylor to Adopt Resolution 2015-35 Adopting Ordinance No. 104, 2nd Series, 2016 Fee Schedule and Authorizing Summary Publication. With all members voting in favor, the motion carried.

11.3. Ordinance No. 105, 2nd Series, Administrative Offenses Ordinance

City Administrator Griffin explained the fines for the Administrative Offenses are a resolution. The Administrative Offence Ordinance has been reviewed by the City Attorney.

A motion was made by Council Member Lindstrom and seconded by Council Member Taylor to Adopt Ordinance No. 105, 2nd Series, Administrative Offenses Ordinance. With all members voting in favor, the motion carried.

11.4. Resolution 2015 – 36 Adopting Penalties for Administrative Offenses

Council added tobacco use on City property to the public nuisance section with a \$60 fine.

A motion was made by Council Member Taylor and seconded by Council Member Bartel to Adopt Resolution 2015 – 36 Adopting Penalties for Administrative Offenses adding Tobacco Use on Public Property to the Public Nuisance Section. With all members voting in favor, the motion carried.

12. Staff Reports

12.1. Public Works Director Young

Public Works Director Young reported about the rocks being placed in City Right of Way (ROW). This will make it very difficult for snow plowing. A letter will be sent to every resident that has rocks in the ROW telling them that they need to be moved at least two feet off the road for safe plowing and so an ice ridge is not built up during the winter which decreases the width of the street and also makes plowing difficult. The letter needs to have a deadline for removal..

Council Member Lindstrom asked Public Works Director Young about the accessible ramp and a tree that was removed. He reported that the tree was going to die with the ramp being installed there. The tree was already rotten on the bottom and had 5-6 limbs that were dead. It may have only lasted a few more years anyway.

Public Works Director Young also reported that a plug broke in the pump at the water plant and he estimated it pumped approximately 100,000 gallons of water on the ground. The valve has been fixed.

12.2. City Clerk Report

Clerk Honey was absent. No report.

12.3. Administrator's Report

City Administrator Griffin reported that the City received funds from the state transportation bill. The City received \$6,655 which is half of the \$13,000 the City will receive from the Small Cities Assistance Account. The money needs to be spent on construction and maintenance of roads. The League of Minnesota Cities recommended not to count on this for budgeting because it may not happen again.

13. Council Reports

13.1. Mayor's Report – Mayor Skalla – no report

13.2. Liaison Reports-

Council Member Taylor – Planning Commission – he did not attend.

Council Member Taylor – Fire Commission – City Administrator Griffin attended for him. The City contribution is up 2.06%, which is based on property values. Council member Taylor can't attend the next meeting. No volunteers.

Council Member Lindstrom – Civic Committee – no report

Council Member Lindstrom – Utilities Commission has already been discussed.

Council Member Bartel – Park Commission meeting was budget discussion.

Council Member Kozloski – No report.

A motion was made by Council Member Taylor and seconded by Council Member Bartel to adjourn the meeting at 11:28 pm.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Bev Aho for Scott Dawson, Jody Sperduto. Terence Hughes, Diane Rogers, Jorj Ayaz, Betsy Taylor, Janet Boschwitz, Mike Fasching, Andrew Myers, Adam Seinkowski.

Respectfully submitted,

Heidi Honey, City Clerk