

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
February 27, 2017

1. Call to Order

Chair Orehek called the meeting to order at 7:00 pm.

2. Roll Call

Present: Chair Orehek, Commissioners Carruthers, Haag, Steinke, Hacker, and Halverson. Council Liaison Bartel. **Absent:** Anderson

Staff in attendance: City Clerk Heidi Honey, Zoning Administrator Ben Gozola

3. Approve Agenda

(Halverson motion, to move Open Forum #5 to after #7 as #8, Haag second to approve agenda as amended; all ayes). Motion passed.

4. Approve Minutes: January 23, 2017

(Hacker motion, Carruthers second to approve the minutes of the regular Planning Commission meeting of January 23, 2017; all aye). Motion passed.

5. Open Forum moved to after #7.

6. Old Business - Transportation

6.1. Safe Crossing Discussion with Hennepin County Transportation – Bob Byers, Hennepin County

A memo in the packet provided by Mr. Byers addressed issues related to the objectives, questions and method which were raised at the January Planning meeting. He described the county's evaluation process involving a flow chart decision matrix to find the most appropriate crossing area. He stated the options for each area differ depending on characteristics for the area and the city and county will need to work together to come up with something better than what is there today. Criteria evaluated for the crossing is largely based on crossing volumes, delays, who is trying to cross and their vulnerability.

He discussed the crossing near North Shore Marina which created an area that lights up with two crosswalks for more visibility. It may be feasible to do something similar for Minnetonka Beach. Mr. Byers stated success comes when those interested in the solution participate in the process. Although volume has not increased, there is more distracted driving and increased speeds. Hacker said the residents know it is dangerous to cross CSAH 15 so most residents do not attempt it, and asked if the county would entertain the crossing without visualizing a large volume of crossers. Mr. Byers said if demand is low, there may be other solutions to make crossing more comfortable. He also said there can be incremental solutions that can be built on over time. Carruthers asked about placing a crossing at origins of where people are trying to access. Mr. Byers explained that the County is not obligated to get people to cross exactly where they want to but may work to either do that or provide a safer solution. Orehek asked about other past crossing projects. Mr. Byers then discussed the crossing at CSAH-19 in Tonka Bay where the city got the money for a bridge but bids came in too high so they found another solution within their budget. The time frame for that was approximately six months.

Mr. Byers then said the next step is to determine the scope of the study by meeting with county staff, walking through the matrix, and possibly visiting some locations. Public informational meetings to involve city officials and residents in the development of preferred improvement options would also take place. When asked about costs to the city, Mr. Byers said consultants from past projects may be willing to meet for no fee.

6.2. Traffic Study Proposal

Chair Orehek stated that he, City Engineer Darren Amundsen and Mike Spack discussed traffic issues within the city. The \$8,790 proposal from Spack Consulting in the packet includes collecting traffic data, speed data, crash data, and assessing proactive measures to improve transportation. Analyzing traffic calming alternatives would be an additional charge. Orehek reminded commissioners that Council approved \$10,000 for the transportation study and they may want to hold this proposal until they find out the costs for studying a safe crossing with Hennepin County. Carruthers said the city does not have the volumes the proposal is based on and it seems to be geared toward a larger city. Orehek suggested Administrator Griffin forward this information to Engineer Amundsen and possibly have Mike Spack attend a future meeting.

7. Public Hearing – Zoning Code Amendments – Chapters 1-4

Chair Orehek stated after Gozola gives his update, he will open the public hearing to get citizen input on Chapters 1 through 4 of the zoning code updates. A recommendation will be presented to Council after the three public hearings. Gozola showed examples of formatting issues, inconsistencies, and reorganization needs. He reviewed the process and annotated outline of the project goals. He then reviewed the proposed changes to code in Chapters 1 through 4 as specified in his memo. He distributed a handout entitled: Code Update Public Hearing #1 (2-27-17): Summary of Main Changes.

Chair Orehek opened the public hearing at 8:12 pm.

Steve Howarth, 2520 Arcola Lane. Howarth complimented Gozola on his work with the commission. He said the commission decided to table certain items to be dealt with later. He asked that those tabled items be shared with the public during the rollout phase of the updated code. He then said he strongly supports the recommendation the Planning Commission made to Council about fences.

Jody Schwendimann, 1931 Beach Lane and 1937 Beach Lane. When she purchased 1937 Beach Lane, they tore down the home as required by the city to complete a lot combination. The rule is they have 12 months to re-build on the property. She asked if the city has considered modifying the 12-month requirement. Gozola stated it had not been in an issue until now. He said it is legal non-conforming use and state statute requires them to replace the former legal non-conforming use within one year. Gozola also stated that the city attorney could not think of a mechanism for extending this requirement. Ms. Schwendimann then discussed fees and asked if she hires an attorney who disagrees and says this is not state statute, would she be required to still pay for this advice from staff. She asked the commissioners to consider the issue of fees when situations like this arise.

Nell Mathews 2643 Arcola Lane. Mathews distributed a copy of MN State Statute 462.354. She referenced her current lawsuit with the city related to fees and discussed Section 2.3 of the city zoning code. She expressed concerns about the zoning administrator's recommendations having more influence than Planning Commission's recommendations to Council. She then said the current city code establishes the recommending authority as the Planning Commission and does not provide for discretion in the planning administrator's duties except to issue building permits and certificates of occupancy. She is concerned that the code update expands the zoning administrator's authority from what it currently is and it is contrary to state statute. She believes the code section on administrative appeal is contrary to what the state statute provides. She went on to say that substantive changes and giving discretion to the zoning administrator does not follow the original scope of the code update parameters which were to update the language and reorganize it to make it easier to use. She thinks the city misrepresented what they are doing because it is much different than what the authority is now and it is contrary to state law.

She then recommended that the code is written so there would not be any structure or hardcover built into side setbacks, past the AMBS, or in excess of 30% hardcover. She said the interpretation in the city's current code allows discretionary swapping of hardcover by the planning and zoning administrator and she asked that be clearly specified and written out in the code. Orehek confirmed with Gozola that hardcover would be discussed later and asked Mathews to bring that up at the next public hearing.

Jody Schwendimann, 1931 and 1937 Beach Lane. Schwendimann asked about timing of the zoning code update completion. A recommendation will likely go to Council in June based on the current timeline. Schwendimann stated that her attorney disagrees that the 12 month to re-build rule is a state statute and she would like to provide her attorney's information to the city to expedite the process. Gozola said the city attorney sent a letter to her stating that he would be willing to review the information from her attorney.

Colby Skelton 2315 Huntington Point Road East. Skelton was also interested in the code update completion timing. He is building a home and has an issue where riprap is counted against hardcover. His understanding is no other city around the lake does this. He asked if the issue could be resolved prior to them finishing the home so they don't have to make costly accommodations to hardcover. Gozola suggested they can discuss options.

Chair Orehek closed the public hearing at 8:32 pm.

8. Open Forum

Rick Skalla, 3124 Old County Road. He thanked Gozola on his work. He believes that Vice Chair Hacker has a conflict of interest because of his current lawsuit with the city and provided an account of his communication with Council requesting his removal from the Planning Commission. He also believes Mayor Taylor and Council Member Bartel have a conflict of interest relating to the Hackers and had asked that they recuse themselves from Hacker/Mathews lawsuit discussions. He requested that the Planning Commission advocate for the conflict of interest policy which he asked City Council to adopt.

9. Reports:

Chair: Chair Orehek is happy the county is engaging with them.

Commissioners discussed forming a transportation subcommittee and include three or four people outside of the commission. They discussed ways of soliciting interest and possibly including members of other committees such as Parks. Carruthers suggested they schedule a meeting with Bob Byers and notice the meeting with details about times and locations of site visits as part of the meeting. After that meeting, they can put notice in the Beachcomber that they are looking for subcommittee members.

Commissioners Reports:

Council Liaison Bartel – Council Member Bartel reported highlights from the February 13th City Council meeting: Vice Chair Rezabek gave the annual Park Commission report; Civic President Zinn said the Progressive Dinner is May 20 and the summer picnic is July 12; Dennis Klohs, Representative to the LMCD reported that the city may have new flexibility in dock configurations due to LMCD ordinance changes; the city's 2016 financial audit was positive; and a consultant discussed a classification and compensation study for city employees.

Building Permit Report – Received and filed.

10. ADJOURNMENT

(Hacker motion, Haag second to adjourn; all ayes). Motion passed. Meeting adjourned at 8:50.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Patty Rezabek, Sue Kozloski, Paul Kozloski, Lee Goehring, Ward Myers, Laura Raisbeck, Mike Taylor, Rick Skalla, Bridget Wortman, Bob Byers, Steve Howarth, Nell Mathews, Colby Skelton, Andrew Myers, Santiago Abraham, Vanessa Abraham, Susan Oppen and Tom Enlow. Also in attendance but not signed in: Jody Schwendimann.

Minutes respectfully submitted by City Clerk Heidi Honey.

Heidi Honey, City Clerk