

APPROVED  
Minnetonka Beach Planning Commission Meeting Minutes  
March 20, 2017

**1. Call to Order**

Vice Chair Hacker called the meeting to order at 7:05 pm.

**2. Roll Call**

**Present:** Vice Chair Hacker. Commissioners Anderson, Carruthers, Haag, Steinke, and Halverson.

**Absent:** Chair Orehek, Council Liaison Bartel

**Staff in attendance:** City Administrator Susanne Griffin, Zoning Administrator Ben Gozola

**3. Approve Agenda**

**(Haag motion, Steinke second to approve agenda; all ayes). Motion passed.**

**4. Approve Minutes: February 27, 2017**

**(Carruthers motion, Halverson second to approve the minutes of the regular Planning Commission meeting of February 27, 2017; all aye). Motion passed.**

**5. Public Hearing – Zoning Code Amendment – Chapters 5-8**

Vice Chair Hacker stated that at the last City Council meeting the city attorney was directed to prepare a resolution that would provide guidance on Planning Commission Hacker's recusal of voting on certain activities of the Planning Commission. Hacker stated that until he receives that guidance he would feel more comfortable not presiding over the meeting, and particularly the public hearing. He also stated that he asked Jim Haag if he would be acting chair and Commissioner Haag agreed to do.

**(Steinke motion, Anderson second to appoint Jim Haag as acting chair for the remainder of the meeting including the public hearing; all ayes.) Motion passed.**

Acting Chair Haag asked Zoning Administrator Gozola to explain the purpose of the hearing which was to get feedback from residents on chapters 5-8 of the zoning code update. He briefly talked about the background and goals of the project, and the process going forward in that there would be one more public hearing and then the Planning Commission would review the feedback before making a recommendation to the City Council. He stressed how important public input is in this process. He stated that the effectiveness of the code will be monitored after it is adopted to ensure it is working as anticipated.

Administrator Gozola reviewed each of the proposed changes to code in Chapters 5 through 8 as specified in his memo. He distributed a handout entitled: Code Update Public Hearing #2 (3-20-17): Summary of Main Changes, Chapter 5 - significant changes spelled out in items 1 through 12. Chapter 6 – nonconformities as spelled out in items 13-17, Chapter 7 – Enforcement spelled out in items 18-22, and Chapter 8 – Rules and Definitions spelled out in items 23-27. Each of the significant changes were discussed stating the difference between the current and proposed code and pros and cons of each proposal.

Commissioner Hacker asked whether the zoning code amendment process would be a good time to address issues resulting from the Dakota Regional trail. It was mentioned by Commissioner Anderson that Three Rivers Park District entered into a performance agreement with the city and reviewing that document might provide insight on what might be considered for the zoning code.

Zoning Administrator Gozola also mentioned that resident Mike Bloom contacted him and provided some verbal feedback that Gozola summarized in a document entitled "Informal Feedback via phone on 3/20/17 from resident Mike Bloom (3138 Northview Road). Members reviewed the comments and particularly the issue of storage of docks and lake accessories on the shoreline.

Administrator Griffin asked a question about permanent fire pits (page 157) which according to the draft language does not allow gas fire pits. Gozola will clarify this, and another question about outdoor fireplaces vs outdoor fire pits.

Acting Chair Haag opened the public hearing at 7:55 pm.

**Patty Rezabek - 2522 Lafayette Road** – Ms. Rezabek asked about outdoor storage issue and suggested that the city allow for outdoor storage but it should be screened from the public and gave the example of winter storage of boats and docks at homes along Shoreline Drive. She said the Park Commission is working hard on esthetics of the city and would really like things screened that face the road.

**Ann Brilley - 2478 Lafayette Road** – Ms. Brilley asked about what is currently permitted regarding outdoor storage, and asked about the definition of screening. Zoning Administrator Gozola explained that it would be fences, bushes, plantings, etc.

The proposed language was not changed from the current language, they just reorganized it. Gozola stated that this might be an area for further review and a bigger discussion.

**Paul Kozloski – 3034 Northview Road** – Mr. Kozloski stated the doesn't think it's feasible to store dock and related items 15 feet from shore.

Commissioner Hacker suggested preparing a handout with commonly asked questions to help people understand the issues. City staff could help with that. Gozola felt based on feedback at the meeting, he will change lake related accessory uses (i.e. docks, etc.) to be allowed right up to the shore.

**Colby Skelton - 2315 Huntington Point Road E** – supportive of the recommendation to remove rip rap from hardcover. His question was about rocks, rip rap, pervious pavers, and what credit is allowed for using such things. Gozola stated that the City Engineer would be the one to determine that.

**Ann Brilley – 2478 Lafayette Road** – asked about the church and whether anything in the proposed code would affect the St. Martin's church. Gozola clarified that the proposed code does not affect the church. Her second comment was about swimming pools and whether the proposed change to require fences or covers was over-regulating. She asked about whether other cities require this. Gozola stated that many of the cities he works with require fences. Brilley is concerned that this could impact existing pools at some point.

**Nell Mathews – 2643 Arcola Lane** – Ms. Mathews wanted to further clarify points that she made at the February Planning Commission meeting. Her points were summarized as follows:

- Organization of the code: tables confusing, hard to cross-reference, may be confusing
- Suggestion to make it very simple: anything that is within the building envelope (within all setbacks) you can build, and anything outside of that envelope would require a variance, no exceptions. This would be best way to communicate what the requirements are. Mathews feels the code is still confusing. She stated that the city took on the code update to clean it up and reorganize it so it was easier to read, to understand and to find things.
- Planning Commission/City needs to look at the Comprehensive plan when making changes. It's clear that lake views, open green space, etc. are important in this community. Doing so allows lake views, privacy from neighbors, proper drainage, noise. There are other values within the Comprehensive Plan that should be taken into consideration when doing this code amendment.
- "Hardcover swapping" – for her it's "the unexpected thing that ends up next door". There has been discussion on this already, but she has concerns about the level of authority of the Zoning Administrator which she believes to be ministerial in nature. She said if she were the Zoning Administrator she wouldn't want to be making discretionary decisions about these issues. She

asked the question of who they want as the advisory board for the City Council, the Planning Commission or the Zoning Administrator. She referred to a table in the draft zoning code that showed responsibilities of the Planning Commission and the Zoning Administrator. She stated that the Zoning Administrator should have the authority to do analysis and assessment, but not make recommendations, and that the Planning Commission should be making the recommendations.

- Board of Adjustments and Appeals – she reviewed the statute that she handed out at last month's meeting (MS 462.354) that talked about cities where the Planning Agency does not act at the board of adjustment and appeals and that board shall make no decision until either the planning agency or designee has reviewed and reported on the appeal. She stated that the proposed code is written indicating the zoning administrator will be the designated representative and will be making these decisions. Her recommendation is that the Planning Commission should be making these decisions.

Mathews proceeded to comment on the sections of the code that the public hearing was being held about:

- Legal nonconformities – she handed a sheet with that section of the code (6.2(A)3). She feels the proposed code language isn't clear and doesn't reflect what she believes the intent of the current code is which is that one can't increase the non-conformity without a variance. Current code clearly states that any development must meet the hardcover and other requirements. In addition, regarding voluntary demolition, current code (Section 220(6)) states that anyone who wants to do a voluntary demolition they need the proper permits. She is concerned that the rewrite doesn't accurately capture the current and desired limitations on these issues. She recommends the Planning Commission revisit the language in the proposed code as it relates to the issue of legal nonconformities.
- Definitions: The current code allows the use of the dictionary if a term is not defined. The proposed code allows two new resources that might not be available to most people.
- Definition of structure: current vs proposed definition are very different, she feels this is a big change and should be revisited by the Planning Commission.
- Pools: she stated that in the current code pools must be behind the lake setback but not the AMLS. The proposed code now requires pools to have a cover or a fence. It appears that someone can now have a fence around the pool within the AMLS and she doesn't think that is what the residents would want. She is happy that chain link fence will not be allowed in the proposed code.

Commissioner Hacker asked Ms. Mathews about her use of the term "hardcover swapping". She used an example of a resident who wanted to add stepping stones and they were already at 30%, they would have to remove something else in order to install more stepping stones. She is asking the Planning Commission to look at discretionary authority the administrator should have. She feels the administrator should be given less authority and more be given to the Commission.

Commissioner Hacker also asked Ms. Mathews about the appeal process and her belief is that it is appropriate for appeals to come to Planning Commission as authorized under state statute instead of a designated representative. State law does state that the city can designate a representative. The proposed ordinance language directs that all appeals will be reviewed by the Zoning Administrator. She requests that the Planning Commission be the reviewing authority and not the Zoning Administrator.

Administrator Gozola stated that the City Attorney will review this language now that they have input from the public hearings. Hacker brought up the cost impact of an aggrieved citizen to put an appeal before the Planning Commission vs the Zoning Administrator.

Commissioner Carruthers asked about what other communities do with regard to the Board of Adjustment and Appeals. Gozola replied that some communities use the Planning Commission as the Board of Adjustment and Appeals, but many have the Zoning Administrator review the case with the City Council making the final decision.

Resident Ann Brilley publicly wanted to thanks Nell Mathew for her attention to the details of the proposed code and her comments. Then she asked about the pool decking allowance in the new code which only allows a four-foot pathway around the pool as decking around the pool. She doubts there is any pool in the city with that small of a deck around it. Gozola explained that the decking limitation would only apply to portions of below-ground pools placed beyond the lakeshore setback. Below-ground pools (or portions of such pools) which met lakeshore setback requirements could have as much decking as a person wanted subject to hardcover limitations on the property.

Acting Chair Haag closed the public hearing at 8:45 pm.

## **6. Old Business**

### **6.1. Transportation Projects – Next Steps for Safe Crossing and Traffic Study**

Acting Chair Haag followed up on establishing a subcommittee of volunteers for the Safe Crossing project to facilitate resident participation, which the county felt was important. Carruthers would advocate that the subcommittee be composed of residents and not Planning Commission members. It would also be good for residents to get an understanding of how the city government process works and may want to become more involved in the future. Carruthers also suggested 6-8 members for the subcommittee. It was decided that there should be a “call for volunteers” in the next Beachcomber.

Administrator Griffin asked about expectations of the group, how often would they meet, and objectives of the subcommittee. It was decided that Chair Orehek and Commissioner Halverson could take a leadership role. The subcommittee could decide the objectives, how often they would meet, etc. Griffin will talk to Chair Orehek about the Beachcomber article.

Next steps on traffic study was discussed. The Planning Commission received input last year from residents about general traffic related issues on city streets. They received a proposal to study specific issues such as traffic calming, signage, etc. that the Planning Commission has been studying. The Traffic Study topic has been put on hold because the scope of the proposal received was too broad and it is unknown what the costs of the safe crossing might be. Chair Haag asked members if the folks who were opposed to the crossing in the past were opposed because of cost. The comments were that cost may have had some impact but there were other oppositions.

## **7. New Business**

### **7.1. Review and approve the 2018-2022 Capital Improvement Program Schedule and Appoint a Member in Charge**

**(Hacker motion/Carruthers second to nominate Chair Orehek as the Member in Charge, giving him the option to decline. All in favor.)** Motion passed.

Members then discussed the CIP schedule.

**(Hacker motion, Anderson second to approve the 2018-2022 Capital Improvement Schedule. All in favor.)** Motion passed.

## **8. Reports**

Resident Nell Mathews asked about next steps on the zoning code amendment and whether the City Attorney is going to review the code before the Planning Commission deliberates on the comments from the public. She believes that the City Attorney should review it after the Planning Commission.

Commissioner Anderson suggested that the Planning Commission hold a work session to hammer out the public comments to decide if any changes should be made before final recommendations are made to the City Council. The City Attorney can be consulted as necessary during that process, with a final legal review of the entire code prior to adoption\

## Commissioners Reports:

Commissioner Hacker raised the issue of Council Liaisons which was discussed the March City Council meeting and specifically their roles and responsibilities. Administrator Griffin provided information in an email forwarded by Council Member Lindstrom that stated:

*“Council Liaison Roles and Responsibilities – Following discussion, Council liaisons will no longer be expected to attend City committee or commission meetings. If Council liaison participation is critical to a particular agenda item, a direct invitation should be made to the Council liaison by the chair explaining why participation is requested. Guidelines for liaisons have not been completely developed, more discussion is needed.”*

Planning Commissioners were concerned with this change and that there would be a disconnect between Council and the Planning Commission if the Liaison wasn't involved. Members agreed that establishing clear roles and responsibilities was a good thing. The consensus was that they wanted the Council Liaison at the meetings and have valued their input.

**(Hacker motion, Halverson second to send the message to the City Council that the Planning Commission desires to have their Council Liaison present at all Planning Commission meetings. All in favor.)** Motion passed.

Acting Chair Haag was asked to report on this action and the Planning Commission's intention at the next City Council meeting on April 10<sup>th</sup>.

Building Permit Report – Received and filed.

Administrator Griffin reviewed City Council Liaison Lindstrom's full written report from the past council meeting since she was not in attendance.

## 9. ADJOURNMENT

**(Hacker motion, Steinke second to adjourn; all ayes).** Motion passed. Meeting adjourned at 9:15 p.m.

**PUBLIC IN ATTENDANCE** – The following individuals signed the sign-in sheet: Nell Mathews, Patty Rezac, Colby Skelton, Andrew Myers, Paul Kozloski, Jaci Lindstrom, Ann Brilley.

Minutes respectfully submitted by City Administrator Susanne Griffin.

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Susanne Griffin, City Administrator