

Monday, October 13, 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.
Absent: Mike Taylor, Treasurer Randy Gilster.

Staff Present: City Administrator Susanne Griffin; City Clerk Heidi Honey; Public Works Director Ben Young.

Guests: Police Sergeant Chad Stensrud; Three Rivers Park District Trail Manager Troy Okerlund.

1. Mayor Skalla called the meeting to order at 7:00 p.m.

2. Clerk Honey led the Pledge of Allegiance.

3. Approve Agenda for the October 13, 2015 City Council Meeting.

Council Member Lindstrom asked to remove 7.1 Civic Committee report. Civic Committee will report to Council in November. She also asked to remove 8.4 Proposed Special Assessment of Unpaid Bills because all bills have been paid.

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

4. Approve Minutes

4.1. Regular Meeting of September 14, 2015

Council Member Bartel asked to remove the word “recommended” from the Action Notes section of the minutes regarding the Truth in Taxation meeting. Clerk Honey will make the correction.

A motion was made by Council Member Lindstrom and seconded by Council Member Bartel to approve the Council meeting minutes of September 14, 2015 as amended. With all members voting in favor, the motion carried.

5. Open Forum – no discussion.

6. Police Report –

6.1. Police Report – September Report

Sergeant Stensrud reported nothing was out of the ordinary on the September activity report. One of the Orono Police officers attended a week-long Crime Prevention training where he learned how to assess homes and businesses from a security standpoint. The Orono Police Department will be scheduling appointments with businesses and residents who would like security assessments and ways to increase security. Information will be posted on their website in November.

6.2. Dakota Regional Trail– Three Rivers Park District Trail Officer Troy Okerlund

Officer Okerlund reported for Danny McCullough. He works in the Brooklyn Park and Maple Grove areas for Three Rivers Park District. From April through October, there were three incidents involving a bicycle and vehicle on this segment of the trail. Officer McCullough will be working with Hennepin County in understanding how the county prosecutes trail users for small stop sign

violations. Mayor Skalla asked to have Trail Manager McCullough to come back with more information at another Council meeting. There were 90 contacts on the Dakota Rail trail this year. Minnetonka Beach receives more patrol time and has an increased response rate compared with other cities.

7. Reports

7.1. Civic Committee – Civic to report in November.

7.2. Park Commission – Chair Jody Sperduto

Chair Sperduto reported that the \$7,800 remaining in the budget will be spent by the end of the year. There will be some heavy pruning of trees and tree removal at Half Moon Park. Park Commission is working on developing Rules of Procedure and will have them ready for Council to review after the January Park Commission meeting. She also reported that EAB was recently found in Plymouth. Minnetonka Beach ash trees are protected from the treatment they receive. The Park Commission will be encouraging residents to contact Bartlett Tree Service for treatment of ash trees on their property.

Chair Sperduto requested Council to authorize staff to submit a Hennepin County Youth Sports Equipment grant application for an added swing set bay at Lafayette Park, and a path to the accessible swing at Half Moon Park with a matching contribution not to exceed \$2,500. This is the same grant they applied for last year. Council approved a matching contribution to come out of CIP last year but they missed the deadline. This year they added an adaptive swing for City Hall Park to the application.

Council discussed tree removal on City property and if the removal costs come out of the Public Works or Park Commission budget. Chair Sperduto explained that Public Works Director Young usually handles storm damage tree removal and does not assess trees for disease. Erik Paulsen primarily deals with planned tree removals. He walks the City, makes a list of recommendations, and sends Chair Sperduto a proposal with the associated costs. Park Commission makes decisions on tree removal based his recommendations and their budget. Mayor Skalla suggested the process continue to be managed this way but all tree removal be budgeted through Park Commission since it is all on City property.

Mayor Skalla asked how Vice Chair Forbes and Chair Sperduto plan to split the work for the Park Commission. Vice Chair Forbes will run the meetings, develop the Rules of Procedure, and manage the new park maintenance matrix. The matrix is designed to identify all of the maintenance needs of each park and who is responsible for the work. The matrix will also help evaluate how issues or proposed projects fit into Park Commission's role and long range plan.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to authorize staff to submit the Hennepin County Youth Sports Equipment grant application. With all members voting in favor, the motion carried.

7.3. Planning Commission – Chair Andrew Myers

Chair Myers reported that the Planning Commission is reviewing the building permit process and variance process with Zoning Administrator Gozola. They are also looking at the work program which allows the Planning Commissioners and the public to weigh in on possible changes to ordinances and the Comprehensive Plan as well as budgeting for these changes. The Planning Commission is defining the scope of the transportation study in order to budget for the study.

Mayor Skalla asked Chair Myers to update Council with tentative dates of completion for the various items they are working on.

Council Member Kozloski asked if there have been attendance problems on the Commission. Chair Myers recently reached out to Planning Commissioners and all of them are committed to continue to serve. Planning Commission feels it is very important to always have a Council member at their meetings.

7.4. LMCD Representative – Dennis Klohs

Representative Klohs reported that the LMCD dock ordinance was approved. It is a Planned Unit Development Dock License. A minimum of 200 feet of frontage is needed for this to apply and it cannot be done in fire lanes. Docks can be clustered and go out up to 200 feet using half the lakeshore. He is not sure if this would be applicable at the swim beach. The Dock Committee will have to assess that and make recommendations.

The new owner of dock 10 approached Mr. Klohs about possibly combining their private dock and the City's dock 10. A public/private dock relationship has not been done on the lake in the past and a new ordinance would have to be created to do it. This would not affect the docks until 2017. Mayor Skalla discussed safety for the dock users and the City's potential liability. Park Commissioner Rezabek and Park Commission Chair Sperduto discussed the effects of a new dock layout on congestion, views and water flow at the swim beach. The Park Commission would like to be part of the discussion if changes will be recommended. Mr. Klohs suggested extending the docks would hopefully alleviate congestion and improve safety. A public hearing would take place after the Dock Committee reviews the dock situation and makes a recommendation.

8. Consent Agenda

- 8.1. Fire Report – September
- 8.2. Resolution 2015 – 41 Snow Plow Agreements – Arcola Lane
- 8.3. Resolution 2015 – 42 Snow Plow Agreement – Crescent Street
- 8.4. Civic Committee Membership

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

9. Treasurer's Report

- 9.1. Consider Motion to Approve October Checks
City Administrator Griffin asked Council if they needed updated budget reports after final bills are paid. She provides them to Council in the packet on Fridays but then updates them on Mondays. Mayor Skalla does not think this is necessary. The large check was for the new public works truck. Council Member Lindstrom asked about the \$14,000 deposit. It was for utility payments, the refund for overpayment for asphalt, and resident payments for engineering or zoning services.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to approve 42 checks numbered 15240 through 15282 in the amount of \$88,812.01. With all members voting in favor, the motion carried.

- 9.2. YTD Budget Report and Previous Year Comparison Report
Administrator Griffin explained that it appears the City overspent in the Capital Fund line item but the truck was actually budgeted over two separate years.

9.3. Outstanding Accounts Receivable Report –

The delinquent invoice on the report has been paid. The remaining invoice over 60 days is for Dawson for \$4,956 in zoning and legal fees.

10. Planning & Zoning

10.1. Variance Request – Consider Resolution 2015 –43 Average Minimum Building Setback and Side Setback, 2932 Northview Road, Dawson Residence

Zoning Administrator Gozola presented a revised variance application from Scott Dawson, 2932 Northview Road. The previous proposal was tabled and the applicant withdrew the building plan and application in favor of the application before Council tonight. The property has been discussed in the past and the minutes from the previous meeting are in the packet for reference. The current proposal requests a variance for construction of a home 41 feet beyond the AMBS, which is 127 feet from the OHW. This location would also require a variance for a south side yard setback of 17.5 feet. Administrator Gozola reviewed the Comprehensive Plan objectives.

Administrator Gozola referred to his analysis on pages 5 through 9 of the report. He explained state statute requires the following three criteria be met for variances: consistency with the ordinance, consistency with the comprehensive plan and the establishment of “practical difficulties”. He stated that with this new proposal, stormwater runoff issues have been addressed and moving the home south reduces hardcover thereby meeting the criteria for both variance requests. This proposed home improves lake views so the AMBS variance request meets criteria. The distance between this home and the neighboring structure will be over 50 feet, so he believes the intent of code appears to be met for the side yard setback request. He also stated the variance request for the side yard and AMBS meets criteria for consistency with the Comprehensive Plan.

Administrator Gozola recommends approval of both variance requests subject to conditions listed on pages 12 and 13 of his report. Planning Commission recommended denial of both variance requests because they believe the plight of the applicant is not due to circumstances unique to the property and has been created by the landowner in designing a home that is not in conformance with setback requirements and does not meet the policies and strategies of the Comprehensive Plan.

Administrator Goloza explained that Council has the option to approve the requested variances, deny the requested variances or table the items for additional review. Council has until November 7, 2015 to review the application.

Mayor Skalla asked the public for comment.

John Woerner - 2928 Northview Road

Mr. Woerner stated that he supports the Planning Commission’s recommendation. He referred to the three criteria required by state statute. He believes the request is not consistent with the ordinance. Granting a variance of this size violates the purpose of AMBS and the spirit of the ordinance. All homeowners rely on the setback requirements. He does not believe the variance requests are consistent with the Comprehensive Plan. He referred to page 23 of the Comprehensive Plan. He then discussed practical difficulties. Mr. Dawson bought the property with understanding of the lot and the building regulations . He had practical alternatives such as purchasing a larger lot, one without an L-shape or reducing the garage size to fit the requirements. He does not feel this is a compromise or respecting a beautiful community.

Karen Scott - 2938 Northview Road

Ms. Scott has a nonconforming lot. She feels the applicant is not abiding by the AMBS ordinance. She is concerned about the interpretation of the city code regarding the side yard versus rear yard setbacks. The previous interpretation was a rear yard setback of 40 feet and now it is considered a side yard with a setback of 20 feet. This variance request is even less distance between her home and the new home at 17.5 feet.

Chris Dawson - 2932 Northview Road

Mrs. Dawson introduced herself and thanked Council and Zoning Administrator Gozola for their consideration of the variances. She stated they are trying to build a nice home on the property and they are trying to follow the law by asking for the variances.

Beverly Aho - Attorney Representing Mr. Dawson

Ms. Aho stated that the opinion of the City planner is that each criteria under state statute, the Comprehensive Plan and City ordinance has been met in these two variance requests. The previous request was tabled and the applicant worked with Administrator Gozola to make adjustments. The applicant has invested a lot to meet requirements and sacrificed a lot. The home was moved back, it has been flipped, and the garage was made smaller. She stated that Administrator Gozola reported all criteria was met. Ms. Aho requested Council approve the two variance requests.

Jody Spurduto – 2515 Woodbridge Road

Mrs. Spurduto stated her understanding is that many people speaking tonight have a vested interest in the outcome because they live near the home but Council should keep in mind that the Planning Commission is made up of residents from all over Minnetonka Beach. Five to seven residents have voted three times to deny the variance applications and these residents had no direct benefit in the outcome. Council should consider decisions and recommendations brought to them by residents who serve the City.

Janet Boschwitz - 2950 Northview Road

Mrs. Boschwitz advised Council to listen to the neighbors, the Planning Commission and the residents of the community. Although the applicant went from a four car to three car garage, he actually increased garage space because he is now allowed to keep the nonconforming garage. Usually with a variance request when there is a nonconforming building, the City requires it to come into conformity when the variance is granted. The applicant should have designed the home for the lot instead of creating a design and trying to fit it on the lot. She went on to say that the Planning Commission reviewed applications three times and denied them every time. Council can take their recommendation and deny the request or they can table it to see if they can come to a further compromise. She requested Council try for further compromise but if they feel further compromise is not possible, she requested Council deny the variance request.

Mayor Skalla closed the public comments.

Council Member Kozloski stated nobody wins in this case. He said Zoning Administrator Gozola assured Council that all criteria have been met. Administrator Gozola confirmed that he believes all criteria have been met. Council Member Lindstrom stated they have all struggled with this complex decision. She feels that they have reached the end of compromise.

A motion was made by Council Member Kozloski and seconded by Council Member Bartel to approve the requested Average Minimum Building Setback variance and Side Yard Setback variance based on findings of fact listed on pages 10 through 12 in the staff report, subject to the conditions listed on pages 12 and 13 of the staff report, 2932 Northview Road, Dawson residence. With all members voting in favor, the motion carried.

10.2. Building Permit/Variance Process Improvements

Zoning Administrator Gozola has recommended to the Planning Commission that the City require an as-built survey after the foundation is laid and prior to building whenever someone is building up to a setback when a variance is involved. The foundation as-built would verify elevations and that the building will be built where it was intended. Planning Commission recommends staff to have some discretionary approval as well when no variance is required. This may require a code change in the future to implement this requirement. Administrator Gozola would create a policy designating when this would be a necessary requirement. Council agreed with this recommendation.

10.3. Comprehensive Plan Update – System Statements

On September 17, the Metropolitan Council provided the City with Systems Statements. This is the first step in the Comprehensive Planning process. The City has until mid-November to meet with the sector representative and bring up concerns. Zoning Administrator Gozola's biggest concern is that Minnetonka Beach has been designated as a suburban community which requires developments at five units per acre. He wants assurances that the City won't have to create a new zoning district that would allow residents to split up their lots. Affordable housing is another concern. He wants to confirm that granny flats continue to count toward the affordable housing criteria. Council Member Kozloski asked if granny flats can still be built. Zoning Administrator Gozola believes they can. Zoning is in the process of reviewing the statements and will file an appeal if needed prior to the November deadline.

11. Staff Reports

11.1. Council Meeting Action Notes

City Administrator Griffin will talk with Helen Lindsay to see if she will show City Engineer Amundson her rain garden so he can determine if it qualifies for any phosphorous reduction credit. Regarding the building process, Planning Commission has reviewed the process with the Zoning Administrator and staff has implemented changes to the procedure. This item is complete. Possible ordinance changes will be part of the work program.

Public Works Director Young discussed his work load and stated his largest issue is the amount of time spent on parks. Mowing takes two days. In the past, he has had part time help but was not able to get help this summer. There was discussion about hiring a young person to help but in the past he discovered they needed too much direction. He will follow up Brad Jans, who may be able to help next summer.

City Administrator Griffin Susanne received some feedback from other cities on unfunded liabilities. She will report on it in November. She also stated that the City received a contract from the new email hosting company. The City Attorney is reviewing the contract before the City moves forward.

11.2. Public Works Director Young

Public Works Director Young reported that he sent a letter to Vorpahls requesting they move rocks from the right of way. They moved the rocks but not far enough. They have agreed to move them

further back. He also reported that Mary McLaughlin, 2542 Lafayette Road, contacted him because her driveway is settling from work that was done on the sewer main at that location three years ago. She is asking the City to repair it. It is in the City right of way. Public Works Director Young said that it appears this is the first year it is settling at the driveway. Water sits in the area and does not flow into the ditch. The ground in the area across from the swim beach moves every year. Council discussed repairing the driveway and possibly setting precedence for repairs a long time after work has been completed. Mayor Skalla asked Administrator Griffin to ask the City Attorney for his recommendation.

The sidewalk at City Hall will not go in this year. There was discussion about the City having any recourse for the steps not being to code. Administrator Griffin will look at the contract and make changes to future contracts to prevent this from happening. Council discussed having the City Attorney send the concrete contractor a letter regarding replacing the steps. There is \$30,000 budgeted for this project so the money will be available to do it in the spring. Norling will be doing the retaining walls. The City is still waiting for the survey with the sidewalk plan on it with hardcover calculations.

Public Works Director Young also discussed the Infraseek memo from Stantec in the Council packet. As part of the Capital Improvement Program, Council had approved this in the past. Administrator Griffin received an updated Infraseek proposal from Stantec with just the utility and infrastructure components. This would be a comprehensive database of the city's infrastructure. Currently that information is only on paper. Administrator Griffin suggested that staff discuss this proposal with the Utilities Commission and then she and staff can make a recommendation to Council.

11.3. City Clerk Report

Clerk Honey reported on the monthly home sales report. She also reported on public beach closings on the lake over the summer. Those cities with less beach closings this year had no explanation for the change. Park Commission received reports that the beach was not cleaned as well this season as it had been in the past so that likely affected the number of closings. The City will be issuing a building permit for 2417 Woodwinds, Pohlrad residence, which will be approximately \$10,000 in permit fees.

11.4. Administrator's Report

City Administrator Griffin reported that Office Assistant Jane Burgess negotiated new pricing with the phone company for a reduction in the monthly phone bill. She also met with Catch 'Em 4 U, the bat removal company, and reported that they discovered where bats are entering City Hall. There are five active female bats in the attic. The City received a proposal to install the bat exclusion for \$900. The guano on the outside of the building and in the window wells attracts the bats and needs to be cleaned up. The basement ceilings need to be sheet rocked and holes in the walls fixed because that is how the bats are moving between the attic, the main floor and basement. Council recommended that staff have the exclusion installed.

Administrator Griffin also reported that there are old street signs in the City Hall basement that some residents are interested in purchasing. Others had been sold in the past at the street dance auction. Council decided that the City should keep the post office sign and sell the street signs for \$50 each. Clerk Honey will put the information in the Beachcomber.

12. Council Reports

12.1. Mayor's Report – Mayor Skalla said everyone has been through a lot with the Dawson variance. He appreciated everyone's time and efforts.

12.2. Liaison Reports-

Council Member Lindstrom – Civic Committee - no report.

Council Member Lindstrom – Utilities Commission - no meeting.

Council Member Bartel – Park Commission – Chair Spurduto already gave an update.

Council Member Kozloski – no report.

A motion was made by Council Member Bartel and seconded by Council Member Lindstrom to adjourn the meeting at 9:35 pm.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet:

Sue Kozloski, John Woerner, Beverly Aho, Jody Spurduto, Patty Rezabek, Dennis Klohs, Karen Scott, Janet Boschwitz. Also in attendance: Gerry Boschwitz.

Respectfully submitted,

Heidi Honey, City Clerk