

MINUTES

1. CONVENE CITY COUNCIL REGULAR MEETING

Mayor Zerby called the meeting to order at 7:00 P.M.

A. Roll Call

Present. Mayor Zerby; Councilmembers Johnson, Labadie, and Siakel; City Attorney Keane; City Administrator Lerud; City Clerk Thone; Finance Director Rigdon; Planning Director Darling; Director of Public Works Brown; and, City Engineer Fauske

Absent: Councilmember Sundberg

B. Review Agenda

Labadie moved, Johnson seconded, approving the agenda as presented. Motion passed 4/0.

2. CONSENT AGENDA

Mayor Zerby reviewed the items on the Consent Agenda.

Johnson moved, Labadie seconded, Approving the Motions Contained on the Consent Agenda and Adopting the Resolutions Therein.

A. City Council Regular Meeting Minutes of May 13, 2019

B. Approval of the Verified Claims List

C. Approve 2019 Data Practices Policies and Updates RESOLUTION NO. 19-048, "2019 Data Practices Policies"

Motion passed 4/0.

3. MATTERS FROM THE FLOOR

Katie Linder, 24420 Niblick Alcove stated that she has concerns about the traffic on Country Club Lane. She stated that people are not adhering to the posted speed limits, especially in the mornings. She is here to ask if there can be a greater police presence in the area. She stated that one other issue is that she understands that there were a significant number of trees taken down in order to put in the pathways in the area. She stated that her neighborhood would like to know if those trees will ever be replaced.

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Mayor Zerby thanked Ms. Linder for bringing her concerns to the Council. He noted that the City Administrator will speak with the police department about additional enforcement in this area. He asked Planning Director Darling about the trees. Planning Director Darling stated that it is her understanding that the developer has planted all the trees that they were required to plant. She stated that the City could purchase trees at the tree sale next year for planting extras.

Mayor Zerby noted that the City is certainly open to working with Cal Atlantic on getting additional trees planted, if they will assist in the expense. He suggested that Ms. Linder work with Planning Director Darling on this issue.

Ms. Linder noted that there are even some residents that have stated that they are willing to pitch in and in get some trees planted in the area.

Deborah Zorn, 4940 Shady Island Road, stated that she has been in contact with the City already about the No Parking/Parking signs on Enchanted Drive that becomes Shady Island Road after the bridge. She stated that there has been increased incidents of people coming out and driving along the road and fishing from the shore. She stated that this has meant increased erosion and a lot of garbage being left behind. She stated that they have taken pictures of up to ten cars being parked there and people and children running across the road, as well as many near accidents. She stated that there has even been one incident where someone parked in the cul-de-sac, walked across private property and proceeding to fish on a private dock. She explained that when this person was confronted, they replied they thought they were in Mound and could fish from any of the docks. She stated that they are asking for additional No Parking signs on the island roads.

Public Works Director Brown stated that he has been in communication with Ms. Zorn about the issue and will need to research whether there have been No Parking resolutions passed for that area. He has suggested that a petition be circulated in the community regarding the issue, so there is feedback from the full community.

Whitley Mott, 24890 Yellowstone Trail, stated that he is back about the drainage on the Minnetonka Country Club project. He explained that he continues to have issues with flooding on his property and wanted the Council to be aware of the issue. He stated that he understands the watershed district has been working on the issue and trying to find a solution, but noted that there is no reason that the Minnetonka Country Club project should be draining onto his property.

City Administrator Lerud stated that the necessary information was sent to the watershed district sometime last week for review.

Mr. Mott reminded the Council that the pipe used for drainage was not constructed to spec when it was originally installed. He stated that he continues to have to spend money to clean up the mess that was made and caused by Mattamy Homes.

Mike and Petra Cripe, 450 West Lake Street, stated that they are partially in Excelsior and partially in Shorewood and pay taxes to both cities. Mr. Cripe stated that there is a bad run off problem that they have had for years that creates a river in their back yard. Ms. Cripe stated that the problem this year has been the worst it has ever been. She stated that it takes everything from the street such as wood and glass and rushes through their yard into the lake. She stated that they have reported it this to both Excelsior and the watershed district. She explained that they had placed large rocks in the area to try to slow the run off, but all of the rocks have even washed into the lake with the force of the water.

Public Works Director Brown stated that he will discuss the situation with Excelsior Public Works and have engineering take a look.

4. PUBLIC HEARING

5. REPORTS AND PRESENTATIONS

A. Ken Potts, City Prosecutor

Mr. Potts stated that he has been prosecuting for the City since 1992 and has never seen what he has seen the last few years with an increase in impaired drivers. He explained that by "impaired" he means alcohol, marijuana, opiates, amphetamines and heroine. He stated that the average DUI arrests in the City up to the last two years have been fifty to sixty arrests per year. He explained that in 2017 there were eighty-eight and in 2018 there were eighty. He stated that much of his time is spent litigating these cases. He stated that many times the attorneys for these individuals try to get the case thrown out on technicalities, but the police department is doing a great job, so not many are thrown out. Mr. Potts reminded the Council that the "hands free" cell phone law will go into effect later this summer. He noted that domestic assault cases are way down in the City.

Councilmember Labadie asked if Mr. Potts saw any patterns in the DUI situations. She asked if it was mainly residents or visitors to the City. Mr. Potts stated that it mostly weekends and related to bar times. He stated that there really isn't a pattern with ages because it runs the gamut from seventeen to seventy-two. He stated that it is mainly visitors from the surrounding suburbs.

Mayor Zerby thanked Mr. Potts for his service to the City.

B. Deborah Zorn, Lake Minnetonka Conservation District

Ms. Zorn noted that she had distributed a packet of information to the Council and gave a brief overview on what has been happening in the Lake Minnetonka Conservation District. She stated that there will be a comment session held on June 5, 2019 if anyone would like to comment on their proposed budget and levy. She explained that the Minnehaha Creek Watershed District takes water level measurements everyday on the lake. She noted that the high-water mark is nine-hundred thirty feet and the reading from yesterday was nine-hundred third point zero give and today was nine-hundred thirty point one eight. She explained the protocol for when high water is declared.

Mayor Zerby stated that it seems as though some boaters don't understand wake at all. He stated that one suggestion he had in a discussion on Facebook was to add a five mile per hour speed limit through the channels.

Ms. Zorn showed the flyer with the list of rules for 2019 and noted that Mayor Zerby's suggestion is already in the code. She will forward onto staff his suggested that it needs to be posted on signs. She noted that there will be waterproof containers at every boat landing that have the rules for high water and the lake.

Ms. Cripe suggested that the information be distributed more widely than the public access points, such as area restaurants.

Councilmember Johnson asked for details on how the call is made for the high-water declaration. Ms. Zorn explained the process and criteria for a high-water declaration. She gave an overview of the AIS master plan to manage the vegetation. She noted that while they are looking into whether the current plan is the best for the lake, they are suspending the harvesting program for 2019.

Councilmember Siakel noted that she understands the rationale and the issues with harvesting, however she has concerns about the channels becoming unnavigable without harvesting. Ms. Zorn stated that they will be monitoring the channels and if it does become a public safety issue, the LMCD may enlist local harvesting companies. She explained that in St. Alban's Bay and Robinson Bay there will be a zebra mussel control project through late July.

City Attorney Keane warned the Council that starry stonewort has been found in the area and is very bad. Ms. Zorn noted that it has been found in Medicine Lake is on the AIS master plan. City Attorney Keane noted that he has seen the devastating effect the starry stonewort has had on Lake Koronis.

6. PARKS

A. Report by Commissioner Mike Hirner on the May 14, 2019 Parks Commission Meeting

Commissioner Hirner gave an overview of the May 14, 2019 Parks Commission meeting. He explained that the Parks Commission had invited the area sports associations to come to the meeting and stated that he felt it was a fantastic conversation. He stated that the all of the associations expressed their appreciation for how easy the City was to work with and all expressed interest in working with the City on various projects, such as seeding or adding bleachers. He stated that the Parks Commission also spent time discussing the rink attendant pay scale and would like the Council to consider raising it for the next season.

Councilmember Labadie stated that there were some associations that were willing to contribute financially to some park improvements and suggested that the City aggressively pursue these opportunities now during the peak time of use. She asked about the challenges with rink attendants and asked where the City had lacked. Planning Director Darling stated that one of the largest problems was that there were not enough applicants to keep all three rinks staffed, which was also common in the other area cities as well.

7. PLANNING

A. Report by Commissioner Dustin Maddy on the May 7, 2019 and May 21, 2019 Planning Commission Meetings

Commissioner Maddy gave an overview of the May 7, 2019 and the May 21, 2019 Planning Commission meetings.

B. Appeal Zoning Violation Notice

Planning Director Darling explained that in February, the City received a complaint alleging that the property owner at 450 West Lake Street, was storing too many recreational vehicles on the property. She stated that staff inspected the property and issued the owner a zoning violation letter. She explained that the applicant has appealed the violation notice indicating that they feel

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the rules are being unfairly enforced. She stated that this property is a challenging piece of property because is partially in Shorewood and partially in Excelsior. She noted that the property owner has been storing four seasonal recreational vehicles; a pontoon, a trailer with two jet skis, a pop-up camper, and a trailer with one other recreational item on it. She explained that the Planning Commission reviewed the situation and voted unanimously to uphold the validity of the violation notice.

Mike and Petra Cripe, 450 West Lake Street, stated that she attended the Planning Commission meeting and noted that the Commission gave her the impression that their hands were tied because there was no gray area. Ms. Cripe stated that she is tired of fighting and defending herself against an anonymous neighbor. She stated that their home is located right next to the Minnetonka Portable Dredging Company, which is basically a junk yard on one side and the other side is the regional trail. She stated that they have privacy fencing and explained that she feels their storage does not impact anybody and doesn't understand why they cannot park their own boat on their paved driveway. She stated that rather than charge a fee for this issue, she asked that the City consider community service. She stated that they are a one income family because of their special needs son and does not think a fine is appropriate for this issue. She explained that they have been living there for eighteen years without an incident and are pillars in the community. She explained the difference in how Shorewood and Excelsior determine which is the front yard as well as their differing rules. She stated that she did not think this ordinance is fair to them and their situation.

Councilmember Labadie stated that this is a very unique lot and asked Planning Director Darling to explain why a variance wouldn't apply in this situation.

Planning Director Darling explained that a variance would not apply because storage of recreational vehicles within the buildable portion of a lot is a defined accessory use within the City code and that state statute prohibits use variances. She explained the parameters of where the buildable portion of the lot is for lakefront property which also defines where recreational equipment may be stored.

Councilmember Siakel asked what the rule would be for the City of Excelsior.

Planning Director Darling gave a brief overview of what would be allowed per the City of Excelsior code.

Councilmember Siakel asked why the homeowners couldn't just spread the vehicles out on the property and be in compliance with each cities code.

Councilmember Labadie asked if there would be a hardship associated with moving the trailers onto the Excelsior portion of the lot.

Ms. Cripe stated that in their situation it would be a hardship for their son because he has Down's Syndrome, autism and is non-verbal. She explained that area of the yard is his garden and play area and is completely fenced in and locked. She stated the pontoon is only on shore during the winter months. She stated that she believes they may currently in compliance because the pontoon is in the lake.

City Attorney Keane stated that his question for the Zoning Administrator would be whether the violation is still taking place.

Planning Director Darling stated that if they are storing more than one recreational vehicle on the property they would be in violation. City Attorney Keane stated that it sounds like they are not.

Ms. Cripe stated that the pontoon is in the water and the camper is gone. She stated that the wave runners are parked on the driveway but should be the appropriate setback from the street. Planning Director Darling stated that it appears the homeowners would be in compliance.

Councilmember Labadie stated that it may make sense that either Shorewood or Excelsior would absorb this property. Mayor Zerby stated that he feels it makes sense for Excelsior to absorb the property because West Lake Street is their street.

Ms. Cripe stated that she likes being part of both cities and has always found Shorewood to be reasonable. City Attorney Keane stated that because there is not a continuing violation, he suggested that staff work with the property owners on some plausible options that may give them a non-code issue in the next storage season.

Labadie moved, seconded by Siakel, to direct staff to work with residents to explore options relating to property lines at 450 West Lake Street, and any future potential zoning violations to resolve the storage issue. Motion carried 4/0.

8. ENGINEERING/PUBLIC WORKS

A. Approve Plans and Specifications and Authorize the Advertisement for Bids for 2019 Bituminous Mill and Overlay, City Project 19-02

Public Works Director Brown explained that Council authorized WSB to prepare plans and specifications at their April 22, 2019 meeting. He reviewed the projects proposed to be included in two alternatives. He noted that this had been budgeted as part of the CIP program. Staff is recommending approval. Mayor Zerby asked if the timeline is realistic.

Public Works Director Brown stated that it is a compressed schedule but noted that if the bids do not come in where the City would like them to, it can wait and decide to move forward at a different time, if necessary.

Johnson moved, Labadie seconded, Adopting RESOLUTION NO. 19-050, "A Resolution Approving Plans and Specifications and Authorizing Advertisement for Bids for the 2019 Mill and Overlay Project, City Project 19-02, including the bid alternates as discussed." Motion passed 4/0.

B. Approve Professional Services Agreement for the Woodside Road and Woodside Lane Street Reclamation Project Feasibility Report, Preliminary Design, and Final Design, City Project 19-04

Public Works Director Brown stated that they have gotten feedback from the residents regarding drainage improvements and watermain extension. He stated that the neighborhood meeting held in December was well attended. He explained that staff is recommending approval.

Johnson moved, Labadie seconded, Adopting RESOLUTION NO. 19-051, "A Resolution to Approve a Professional Services Agreement with WSB and Associates, Inc for Feasibility

Report, Preliminary Design and Final Design for the Woodside Road and Woodside Lane Street Reclamation Project, City Project 19-04.” Motion passed 4/0.

- C. Approve Professional Services Agreement for Strawberry Lane Topographic Survey, City Project 19-05

Public Works Director Brown explained that it will take quite a bit of time to determine right-of-way acquisition and easements, staff is requesting Council approval a topographic survey for the project area.

Siakel moved, Labadie seconded, Adopting RESOLUTION NO. 19-052, “A Resolution to Approve a Professional Services Agreement with WSB for Topographic Survey on Strawberry lane, City Project 19-08.” Motion passed 4/0.

- D. Accept Proposal for Upgrade to Amesbury Well Controls

Public Works Director Brown stated that the City had included replacement of the Amesbury Well controls in its CIP. He explained that based on a failure in the interface, staff is recommending switching things around in the CIP to replace the PLC and interface in 2019 and the corrosion project be moved to 2021.

Siakel moved, Johnson seconded, Approving the Revision to the CIP and Adopting RESOLUTION NO. 19-053, “A Resolution Accepting Proposals from AE2S for Upgrades to the Amesbury Well Controls.” Motion passed 4/0.

9. GENERAL/NEW BUSINESS

- A. Ordinance 565 Amending City Code Section 1001 Building Code

Planning Director Darling explained that this is a housekeeping item that makes the City Code match the State statute.

Siakel moved, Johnson seconded, Approving Ordinance 565, Amending City Code Section 1001 of the Building Code. Motion passed 4/0.

Siakel moved, Johnson seconded, Adopting RESOLUTION NO. 19-054, “A Resolution Approving Publication of Ordinance No. 565 by Title and Summary.” Motion passed 4/0.

- B. Approve RFP for Engineering Services

Administrator Lerud explained that Council had requested that staff prepare a RFP for engineering services. He reviewed the items included in the RFP and noted that it will be distributed by invitation. He noted that the planned transition would be in the fourth quarter of 2019.

Labadie moved, Zerby seconded, to Approve the RFP for Engineering Services, as presented. Motion passed 4/0.

- C. Approve Street Inspector Position Description and Authorize Advertisement

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Administrator Lerud stated one of the things discussed at the February Council retreat was the possibility of bringing on a street inspector as a staff member rather than through the consulting engineering firm. He stated that staff has developed a proposed job description and salary range and included it in the packet.

Johnson moved, Siakel seconded, to Approve Street Inspector Position Description and Authorize Advertisement. Motion passed 4/0.

10. STAFF AND COUNCIL REPORTS

A. Administrator and Staff

1. April General Fund Report

Mayor Zerby commended Finance Director Rigdon for a well put together report.

2. Spring Clean up

Public Works Director Brown stated that the Spring Clean Up event was well attended.

3. Boulder Bridge Pond Update

Public Works Director Brown noted that the water levels should be good for the time being.

4. June 10 Park Commission Interviews Start Time

City Clerk Thone stated that there are four people to interview and staff would like to start the process at 5:30 p.m. She asked the Council to let her know if that start time would be possible.

Other

City Engineer Fauske stated that the contractor from the 2018 street construction project has been out finishing up the last details. She noted that Excelsior will be starting their street projects on Academy, Grant, and Pleasant soon.

B. Mayor and City Council - None

11. ADJOURN

Johnson moved, Labadie seconded, Adjourning the City Council Regular Meeting of May 29 2019, at 9:00 P.M. Motion passed 5/0.

ATTEST:

Scott Zerby, Mayor

Sandie Thone, City Clerk