

CITY OF SHOREWOOD
CITY COUNCIL REGULAR MEETING
MONDAY, OCTOBER 26, 2020

5755 COUNTRY CLUB ROAD
COUNCIL CHAMBERS
7:00 P.M.

MINUTES

1. CONVENE CITY COUNCIL REGULAR MEETING

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

Due to the Centers for Disease Control's recommendation limiting the number of people present at a meeting, and pursuant to MN Statute 13D.02, the Shorewood City Council meeting was held via electronic means.

A. Roll Call

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

Absent: None

B. Review Agenda

Siakel moved, Labadie seconded, approving the agenda as presented.

Roll Call Vote: Labadie, Johnson, Siakel, Sundberg, Zerby voted Aye. **Motion passed.**

2. CONSENT AGENDA

Mayor Zerby reviewed the items on the Consent Agenda.

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

A. **City Council Work Session Minutes from October 13, 2020**

B. **City Council Regular Meeting Minutes from October 13, 2020**

C. **Approval of the Verified Claims List**

D. **Authorize Purchase of Large Document Scanner/Printer/Copier**

Roll Call Vote: Labadie, Johnson, Siakel, Sundberg, Zerby voted Aye. **Motion passed.**

3. MATTERS FROM THE FLOOR

Richard Eng, 25170 Glen Road, stated that he did not see on the EDA agenda a portion for public comment and asked to address that during the Council meeting. He stated that this appears to

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be another example of City staff providing poor, lacking, misinformation to elected officials. He stated that he would like to quote City Administrator Lerud from a May 2019 meeting.

Mayor Zerby asked Mr. Eng to limit his comments to questions for the Council.

Mr. Eng stated that City staff recommended purchasing 5965 Grant Street and the Council took the word of City staff and now the City owns a half-million-dollar hole in the ground that does not function properly. He stated that he feels, once again, City staff sold the Council a lemon. He stated that he feels the Council has a sworn duty to ask questions of fact and he did not see that anyone on the Council shown any initiative and be a competent elected official in this situation. He stated that if the Council is going to rely one hundred percent on staff's recommendations, then he feels the Council needs to clean house and bring in knowledgeable staff that will do their due diligence.

Mayor Zerby stated that the City has changed engineering firms because they felt that was the responsible thing to do. He noted that Council receives information independently throughout the week by communicating with staff on a one to one basis and not just during Council meetings.

Mr. Eng stated that is his whole point, that the Council took the advice from the engineering firm and it was bad advice. He stated that he would also like to discuss the August 24, 2020 Council meeting regarding **Resolution No. 20-089**. He quoted from the minutes statements made by City Engineer Budde and noted that the resolution passed five to zero. He stated that then at the open house in October that the option presented and approve at the Council meeting was not available.

Mayor Zerby stated that he believes the Mr. Eng had already had conversations with Hennepin County prior to that meeting and was already aware of their decision. Mr. Eng stated that City staff made a recommendation to the elected officials and in reality, there was never an option to vote on that issue. He stated that the City publicized a plan that they could not accomplish.

Mayor Zerby stated that he believes Mr. Eng is making assumptions and suggested that if he has specific questions that he put them before the Council. Mr. Eng asked how much time and money City staff had used to recommend this plan and asked whether they even took the time to see if Hennepin County would even allow this recommendation before it was brought to the Council.

Councilmember Siakel stated that staff did their job and researched the issue and the Council chose the best option that night. She stated that the Council is still in the process of looking through all the details and noted that if Mr. Eng has a problem with the City there are two open positions on the Council that he could have run for.

Mr. Eng stated that he would like the dates for when the City went to Hennepin County and asked them about this project because his information says that the County didn't have any of this prior to August 24, 2020. Mayor Zerby stated that the City held two open houses and these questions were asked.

Mr. Eng stated that they did not get answers. Mayor Zerby stated that he disagreed and stated that the questions were asked and answered. He noted that it may not have been the answers that Mr. Eng was looking for, but they were answered.

Elizabeth Van, 24710 Amlee Road, stated that at the last neighborhood meeting regarding Glen Road/Manitou Lane/Amlee Road project there were many questions about where the water will

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go. She stated that there was discussion about different options and believes that the question of where it will go once it drains west of the wetland has not been answered.

Mayor Zerby stated that he feels the City needs to make a small apology because it seems to be confusing people that this project is still very much in motion. He stated that the project is only about sixty percent complete, so the engineering firm is trying to answer those types of questions. He explained that typically the City has those answers when they publicly present the final plans and specifications, but in this project, there was an overwhelming demand to have more participation and input during the process. He stated that the City is trying to look at all the possible solutions for the problem and trying to design this project in a way that fits all the needs of the State as well as the engineering requirements.

Ms. Van stated that she understands that and feels more questions are coming out because things are changing. She stated that the time schedule was brought up at both neighborhood meetings and that the next presentation would be done before the Council for a vote. She stated that several people asked if that time schedule could be slowed down so they could get answers. Mayor Zerby stated that this project began in 2007, which seems pretty slow to him.

Ms. Van stated that she feels there are a lot of questions that are still being worked out and could not be fully answered at the neighborhood meetings and they are asking that before it is presented for a vote that the questions be answered.

Mayor Zerby stated that when the final plans and specifications are presented to Council is when there will be some answers and concrete solutions. He stated that the public will have the opportunity to weigh in at time and explained that the Council will have options other than a yes or no vote and can ask for changes. He stated that the plan needs to be finished in order to address the questions.

Ms. Van confirmed that the citizens will have a chance to comment on this when the information is presented to the Council. She stated that she just heard Mayor Zerby say that the City may not take the vote right at that time and asked if she had heard that correctly.

Mayor Zerby stated that this was correct. He stated that three days before the Council meeting, the plan and all the information will be available on-line, so there will be time for the public to look at the information. He explained that if residents have questions once they see the plans, they do not have to wait for the Council meeting to ask their questions but can contact staff or Council members ahead of the meeting.

Mayor Zerby stated that he believes Council has as many questions as the residents do on this project. He stated that until there is a proposed plan, he is not sure her questions will be able to be addressed. He stated that she is welcome to e-mail or call both staff and the Council.

Greg Larson, stated that he didn't feel the neighborhood meeting last week was very informative. He asked if he had heard a previous answer correctly that stated that the residents will have a chance to comment and potentially change the design if they do not like the final presentation. Mayor Zerby confirmed that this was correct.

Mr. Larson stated that his questions are surrounding the stormwater. Mayor Zerby stated that is one of the biggest questions that they are trying to investigate.

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Mr. Larson stated that this process has been going on for at least a year and a half and asked how much money the City has spent in planning and designing up until this point.

Councilmember Johnson stated that this project is one piece of a larger puzzle which is the entire western Shorewood stormwater management plan. He stated that the City hired an independent engineering firm to help put all the pieces together.

Mr. Larson stated that he would like to know what all that planning and designing has cost the City up to now. He stated that he does not believe these costs have been included in the Capital Improvement Plan and is paid as the engineering companies complete their work. Mayor Zerby stated that the Council has heard over and over again the desire to slow down the process and get more information which all costs money.

Mr. Larson reiterated his question regarding how much the City has spent, to date, on the design and planning of this road project. City Administrator Lerud stated that he will get that information to Mr. Larson and noted that the engineering fees and other related costs are included in the CIP budget for that project.

Mr. Larson asked if the City simply added a twenty five percent fee to all projects to cover the engineering design costs.

Councilmember Siakel assured Mr. Larson that the City follows a process and does not make things up or spend money that it does not need to. She stated that she feels the City has always been pretty fiscally responsible and conservative. She stated that this project was “kicked down the road” by previous Councils, before any of the current Council was serving. She explained that the streets are coming around for reconstruction and the conversation is beginning again. She reiterated that the Council has followed the process and did complete a feasibility study and this project was built into the CIP with the best guess for what it will cost.

Mr. Larson stated that he was not accusing the City of anything, he would just like to know, as a taxpayer, how much this project has cost, to date. Councilmember Siakel stated that City Administrator Lerud can get this information to Mr. Larson.

Kim Piroyan, 24845 Glen Road, based on the video that was provided last week, she had a few questions that she did not get solid answers on. She stated that she would like to ask them again in the hopes that the Council can give her a bit more guidance. She asked about widths for west Glen Road versus east Glen Road and asked if there had been any discussion about having them the same so the whole road would be twenty-two feet wide. She stated that she is concerned about the number of trees that will be removed, as well as the traffic speeds through the area after the road is widened.

City Engineer Budde stated that if there was discussion about keeping Glen Road east and Glen Road west the same width, it would have been before his time at the City. He explained that the direction he was given by the Council was to proceed with the twenty-two-foot width for the west portion of Glen Road and twenty-four-foot width elsewhere.

Mayor Zerby suggested that this may be something that would be a good for Ms. Piroyan to discuss personally with City Engineer Budde. He stated that the City does want to try to keep as many of the trees as possible.

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Ms. Piroyan stated that her anticipation is that many of these mature maple trees will be clear-cut as part of the project which will really change the material aesthetic of the street. She stated that this is a project that is moving forward even though a majority of the residents in the area do not want it. She asked if there had been any discussion about just doing a road only project and not including water. Mayor Zerby stated that was part of the discussion months ago when they discussed the feasibility study.

Ms. Piroyan asked if that meant that at this point, that is not something that is open as an option. Mayor Zerby explained that there is a process to road reconstruction and stated that the Council heard that there are a lot of issues with drainage in this area. He stated that the best way to deal with those issues are with curb and gutter.

Councilmember Johnson stated that he has attended every neighborhood open house meeting. He stated that Ms. Piroyan's earlier statement that a majority of people are opposed to this project is not accurate because he has seen a lot of support for things like City water and curb and gutter. Ms. Piroyan stated that she does not believe that is true for this project. She stated that there may have been interest early in the process for help with the drainage issues, but now it appears that many of those drainage issues will not be addressed. Mayor Zerby stated that he feels that comment is purely speculation.

Ms. Piroyan stated that based on the video it stated that there would be about twenty-five percent mitigation of water. City Engineer Budde stated that it was a resident that asked a question and threw out the number of twenty-five percent. He stated that from an engineering standpoint, he does not even know what a twenty-five percent mitigation of stormwater would mean and is not a term that is used in the industry.

Ms. Piroyan asked how much water mitigation the City is anticipating as part of this project. City Engineer Budde stated that their goal is to meet the permitting requirements which typically means they meet the existing rate control for a two, ten and one-hundred-year storm event and also has to provide volume reduction for the new impervious surface that is created. He explained that this is typically one inch over the new impervious. He stated that in general, the soils in the City are very "clay-like" and infiltrating the soils to get the volume reduction does not happen very easily so they usually will put in a drain tile under the infiltration areas and filter it out through that. He stated that these are the bare minimum requirements that need to be met from a permitting perspective.

Ms. Piroyan stated that it appears that a majority of the residents have concerns about drainage and asked why the City would consider a minimum requirement for the drainage. She asked for an explanation in layman's terms. Councilmember Siakel suggested that Ms. Piroyan call and speak with City Engineer Budde directly to get her questions answered more clearly. Ms. Piroyan stated that she feels this discussion is good information for the public to review. Councilmember Siakel stated that this item is not on the Council's agenda tonight. She stated that a question is fine, but a full discussion should not happen when it is not listed on the agenda.

4. PUBLIC HEARING

5. REPORTS AND PRESENTATIONS

A. Andrew Myers, Candidate for Legislative Seat 33B

Andrew Myers, 110 Sunrise Lane, Tonka Bay, introduced himself and explained that he is running for House seat 33B. He thanked the Council for their service and noted that he had also served in the past as a Councilmember and Planning Commissioner. He stated that he runs a solo legal practice that represents mostly small businesses. He stated that his desire is to give back to the District and feels his background as both a business owner and a public servant will help in the coming months and years. He stated that he also feels that he will be both a good resource for the voters as well as the elected officials in the area. He shared his website information which is www.andrewmyers.com and noted that his contact information is easily accessible on that site. He expressed his appreciation to his wife and family for supporting him in this bid for election.

B. Spring/Summer Photo Contest Winners

City Clerk Thone explained that this is the third year the City has held the photo contest and gave an overview of the Spring/Summer Photo contest winners: People and Pets: Waiting for Sunset submitted by Judy Voigt England; Wildlife: Barred Owl submitted by Sanford Taly; Spring Wonder: You Said It Was Spring submitted by Phil Zumsteg; Summer Delights: Frog Island Sunrise submitted by Mary O'Keefe; Together Against COVID: Pandemic Perspective submitted by Phil Zumsteg. She thanked all the residents who participated and congratulated the winners. She stated that the next photo contest is underway for Fall/Winter.

6. PARKS

A. Commissioner Mangold Report on October 20, 2020 Park Commission meeting

Commissioner Gallivan stated that Chair Mangold was unable to attend the October 20, 2020 meeting, so he will be giving the update on his behalf. He gave an overview of the October 20, 2020 Park Commission meeting as reflected in the minutes.

Councilmember Sundberg asked about usage of the parks due to COVID-19. Commissioner Gallivan stated that he has not seen any statistics but based on conversations, he believes usage was impacted and there was increased use in many ways. He stated that he thinks usage was increased because people wanted to get outside, but it appears as though people were cognizant and were social distancing appropriately. He reiterated that from a statistical standpoint, he is not sure of the impact.

7. PLANNING

A. Commissioner Gorham Report on October 6, 2020 Planning Commission meeting

Commissioner Gorham gave an overview of the October 6, 2020 Planning Commission as reflected in the minutes as well as their discussion of the revisions being suggested in the Zoning Code. Mayor Zerby thanked the Planning Commission for all the time they have dedicated to looking over and making recommendations to the Zoning Code.

Richard Hoyt, 5710 Ridge Road, stated that he would like to make a correction to a statement just made by Commission Gorham that the new deck is proposed to be closer to the water than the previous deck. He stated that is untrue and they had a six-foot variance approved for the original deck. He stated that he is trying to regain some semblance of the utility that he had to the lake with the original variance approval.

Mayor Zerby noted that this item is later on the agenda and explained that Mr. Hoyt would have an opportunity at that time to speak.

B. Planned Unit Development Amendment

**Applicant: Lennar
Location: 5745 Featherie Bay**

Planning Director Darling explained that this application is a request from Lennar for property located at 5745 Featherie Bay to alter the maximum height to allow the applicant to regrade the rear-yard lot to correct a drainage issue behind the existing home. She stated that staff and the Planning Commission recommend approval of the request.

Johnson moved, Siakel seconded, Adopting RESOLUTION NO. 20-111, “A Resolution Approving an Amendment to the Minnetonka Country Club P.U.D. for 5745 Featherie Bay.”

Roll Call Vote: Labadie, Johnson, Siakel, Sundberg, Zerby voted Aye. **Motion passed.**

C. Variance to Shoreland Regulations

**Applicant: Richard Hoyt
Location: 5710 Ridge Road**

Planning Director Darling explained that the applicant requested a variance to construct a deck that would be six feet from the ordinary high-water level of Christmas Lake where seventy-five feet is required. She explained the location of the lot and noted that the property contains a bluff that contains about a ninety-foot drop between the home and the shoreline. She explained that a previous deck was demolished in a mudslide in 2014 which had a previous variance, as mentioned by Mr. Hoyt. She noted that after the report was published, she met with the property owner on the site and believes the proposed site has more tree cover than the pictures submitted previously had shown. She explained that the applicant has done quite a bit of work around the top of the bluff to reroute water away from the area to attempt to prevent a mudslide from happening again. She stated that staff and the Planning Commission are recommending denial, because the applicant had not met the variance criteria and did not show practical difficulties and noted that there was one abstention.

Mr. Hoyt stated that he is simply trying to replicate what he used to have before the mudslide with a lot less disturbance in terms of visibility and construction. He stated that if the mudslide had never happened, he would not be here in front of the Council so he feels this is a reasonable request. He stated that structure size is forty percent smaller than the original structure and is not any closer to the lake than the original structure. He explained that he is also planning to plant arbor vitae along the shoreland to increase the privacy and visibility.

Councilmember Siakel stated that she attended the Planning Commission meeting and understands where their recommendation is coming from, however when she reads the packet, it seems like Mr. Hoyt is just trying to replace something and find a way to maintain the enjoyment of his property. She stated that she also lives on a property that has a steep slope and feels this request is reasonable. She reiterated that she totally understands where the Planning Commission is coming from, but she would be in favor of approving this variance request.

Councilmember Johnson stated that there was a previous variance granted and the mudslide event happened through no fault of the property owner. He stated that he is in agreement with Councilmember Siakel that he understands the reasons for the Planning Commission's recommendation, but would also support granting this variance request.

Councilmember Sundberg stated that she also feels this is a reasonable request. She stated that in these situations she also likes to take a look and see how the neighbors feel about it and, in this case, they support the request. She asked Mr. Hoyt if he was aware of any neighbors that may oppose this project.

Mr. Hoyt stated that he does not believe so because he has spoken with his neighbors and believes they both support it. He stated that he plans to do the same type of obfuscation from the lake as he did with the previous deck.

Mayor Zerby asked about the foundation for the deck since there had been a previous mudslide to ensure that it is stable.

Mr. Hoyt stated that he is working with Lake Country Builders on those plans, but have not gotten to those types of details yet.

Siakel moved, Johnson seconded, to refer the item back to staff to draft a resolution approving the variance request by Richard Hoyt for the property located at 5710 Ridge Road and to bring back the resolution, with conditions, for Council consideration at the November 9, 2020 City Council meeting.

Roll Call Vote: Labadie, Johnson, Siakel, Sundberg, Zerby voted Aye. **Motion passed.**

8. ENGINEERING/PUBLIC WORKS

A. Accept Proposal from Davey Resource Group

Public Works Director Brown gave an overview of the proposal from Davey Resource Group. He stated that the City has an ongoing effort to inventory and document significant trees within the publicly owned properties. He explained that the City was chosen as a recipient of the Hennepin County Tree Grant which means the City can take advantage of the tailor-made database system which tracks a considerable amount of information on a compatible GIS platform. He stated that staff has solicited a bid from Davey Tree to go out and re-inventory the 850 trees located on public land in the City. He noted that the bid is for a total of \$2,958.00.

Johnson moved, Sundberg seconded, Adopting RESOLUTION NO. 20-113, "A Resolution Accepting Proposal from Davey Resources Group for Updates to Tree Inventory."

Roll Call Vote: Labadie, Johnson, Siakel, Sundberg, Zerby voted Aye. **Motion passed.**

9. GENERAL/NEW BUSINESS

10. STAFF AND COUNCIL REPORTS

A. Administrator and Staff

1. General Election Update

City Clerk Thone stated that there are eight days until the election. She stated that early voting has been very busy and direct balloting will begin October 27, 2020 at City Hall and will be available until November 2, 2020 at 5:00 p.m. She noted that City Hall will be open for voting on October 31, 2020 from 10:00 a.m. until 3:00 p.m. and Monday until 5:00 p.m. She stated that all mail-out ballots dropped off at City Hall, starting October 27, 2020 will be fed through the ballot counters at the end of each day instead of the current courier process. She stated that City has processed over two-thousand five hundred mail in and in person ballots and noted that about one thousand four hundred have been in person voters at City Hall. She stated that they are anticipating that there will be over fifty percent of Shorewood voters that vote early. She stated that because of the seven-day period to count ballots after election day, the Council cannot have the November 9, 2020 Canvas meeting as scheduled and will have to move it November 13, 2020.

Siakel moved, Labadie seconded, Scheduling the Canvassing meeting for November 13, 2020 at 4:00 p.m.

Roll Call Vote: Labadie, Johnson, Siakel, Sundberg, Zerby voted Aye. **Motion passed.**

2. September 2020 General Fund Budget Report

Finance Director Rigdon gave a brief overview of the September 2020 General Fund Budget Report and stated that overall, this is a good budget report for the City.

3. Third Quarter 2020 Investment Report

Finance Director Rigdon stated that the Third Quarter Investment Report shows that the City is in compliance with its policies. He noted that the current market is not very favorable with regard to yield on investments.

4. Update on Woodside Road/Lane Project

Public Works Director Brown stated that nobody is happy about the snow on the ground, but noted that despite the snow, the contractor has poured curb on Woodside that has to cure before the roadway can be graded. He stated that once the weather turns warmer, the hope is to get the first layer of asphalt down on Woodside. He stated that they have been working with homeowners on the cul de sac that have considerable drainage issues. He stated that WSB has come up with a few design options and they will be using an underground storage chamber to drain the extra water off but it needs to go through the Indian Affairs Office for approval. He stated that this portion of the project may need to be completed at a different time because they are awaiting approval. He stated that he thinks this project will be completed by about November 20, 2020, and while he has no doubt they will get base asphalt down on it this year, the wear course may be held off until next year because it is better to put asphalt down on a warm day than a cold day.

Councilmember Johnson asked if there would be a lip between the curb and the base asphalt. Public Works Director Brown stated that there will be about an inch gap. He stated that the City has faced this issue before and they make sure the plow drivers are aware of the situation to

ensure that they stay away from the edge when there is not wear course in place and damage the curb.

5. Shady Island Bridge Forcemain

Public Works Director Brown stated that Public Works has a new challenge and found a forcemain or a pipe under pressure from the lift station on the far end of Shady Island Bridge. He stated that because this is Minnesota, the City has to protect that pipe to keep it from freezing. He stated that it has been determined that the existing heat tape does not appear to be working and now they need to figure out how to get new heat tape into this sealed carried pipe.

Other

Public Works Director Brown stated that watermain flushing was able to be finished before the snowfall, but sweeping was not able to be finished. He stated that if there are still some warm days ahead, they can continue the street sweeping work.

City Engineer Budde stated that the Badger Park tennis court fencing should be installed late this week or early next week. He stated that unless there is a nice stretch of warm weather, the surface coating for the courts will be done next year.

B. Mayor and City Council

Councilmember Sundberg stated that she wanted to thank the City staff because she feels they are exemplary. She stated that she hears this appreciation expressed from many citizens as well. She stated that staff listens to people respectfully, even though they are not always treated with respect. She stated that the staff are good fiscal managers and they all do their homework and get into the details. She stated that staff carefully adheres to laws and ordinances and, especially lately, have done a good job at clarifying a lot of misinformation. She stated that she thinks the City staff is top notch and this Council and the citizens are fortunate to have them.

11. ADJOURN

Siakel moved, Johnson seconded, Adjourning the City Council Regular Meeting of October 26, 2020, at 8:40 P.M.

Roll Call Vote: Labadie, Johnson, Siakel, Sundberg, Zerby voted Aye. **Motion passed.**

ATTEST:

Scott Zerby, Mayor

Sandie Thone, City Clerk