

**CITY OF BIRCHWOOD VILLAGE  
REGULAR CITY COUNCIL MEETING  
December 13, 2016**

**MINUTES**

**MEMBERS PRESENT:** Mayor Mary Wingfield; Council Members: Kevin Woolstencroft, Mark Anderson Randy LaFoy and Bill Hullsiek.

**STAFF PRESENT:** Tobin Lay, City Administrator; Alan Kantrud, City Attorney.

**OTHERS PRESENT:** Gene Ruehle, Mary Sue Simmons, Jane Harper, Dick Galena, Debbie Harrod, Suzie and Larry Mahoney, Doug Dankes, Len Pratt, John Lund and others.

**Mayor Wingfield** called the regular meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

**AGENDA APPROVAL:**

**Mayor Wingfield:** Added Roads Committee update to just before the consent agenda – this is in addition to the Roads Committee agenda item under the regular agenda.

**Councilmember LaFoy:** Added Century Link update to his report.

**MOTION WAS MADE BY COUNCILMEMBER HULLSIEK AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE AGENDA AS AMENDED. ALL AYES. MOTION PASSED.**

**OPEN PUBLIC FORUM:**

No one stood.

**ANNOUNCEMENTS:**

**Mayor Wingfield:** Announced that there had been a clerical error on the preliminary budget that was submitted to the county. When the City certifies the final budget with the County, there will be zero increase to the property tax levy. She also announced the Village Christmas party on December 18, 2016, 5-7pm.

**RECOGNITION:**

**Mayor Wingfield:** Recognized Bill Hullsiek for his years of service on the City Council; Jane Harper for her contributions on the WBL Conservation District as Board Member and Chair; and Mary Sue Simmons for her work with the Rice Creek Watershed District as liaison and also on their Citizen Review Board.

**ROADS COMMITTEE UPDATE:**

**Gene Ruehle:** Provided two updates about City streets; 1) traffic count will have to wait until Spring due to the cold weather and snow and 2) the biggest challenge has been the traffic volume on Cedar and Hall. This has been a problem dating back to when the County gave old County Road 29 to the City.

**Councilmember LaFoy:** Commented that residents along Hall Avenue have said traffic had decreased and they are pleased.

**Gene Ruehle:** Said some people say Wildwood is getting more traffic but he didn't think it was a significant number.

**Mayor Wingfield:** Mentioned that the City capital improvement program calls for a chip Seal for the main road as well as Wildwood. The committee should start preparing information for the January or February council meeting. She also asked Councilmember Anderson if the City could rent his personal traffic counter. Also, there was a request to add Tom Stangl to the roads committee and the Council has no objection.

**Councilmember Anderson:** His traffic counter can't be used during the winter because it's the rope type and the plows will take them out. He mentioned that the digital speed limit signs that the committee is looking at does count traffic, as well as monitors the speed.

#### **CITY BUSINESS – CONSENT AGENDA**

**MOTION WAS MADE BY COUNCILMEMBER HULLSIEK AND SECONDED BY COUNCILMEMBER ANDERSON TO APPROVE THE CONSENT AGENDA. ALL AYES. MOTION PASSED.**

#### **CITY BUSINESS - REGULAR AGENDA**

##### **A. Truth in Taxation/Adoption of Final Levy and Budget**

**Mayor Wingfield:** Opened the floor for public hearing.

**Dick Galena (Wildwood Avenue):** Questioned his tax statement, stating that his estimated proposed taxes for 2017 has gone up.

**Mayor Wingfield and Council Members:** Repeated that there had been a clerical error in the preliminary budget but that is being corrected and there will be no increase from last year.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER HULLSIEK TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.**

**MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER LAFOY TO PASS RESOLUTION 2016-22, FINAL LEVY ADOPTION. ALL AYES. MOTION PASSED.**

**MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER ANDERSON TO PASS RESOLUTION 2016-23, FINAL BUDGET ADOPTION. ALL AYES. MOTION PASSED.**

## **B. Certification of Delinquent utility Accounts to the County**

**Mayor Wingfield:** Opened the floor for public hearing.

**MOTION WAS MADE BY COUNCILMEMBER HULLSIEK AND SECONDED BY COUNCILMEMBER ANDERSON TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.**

**MOTION WAS MADE BY COUNCILMEMBER ANDERSON AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADOPT RESOLUTION 2016-20, CERTIFICATION OF DELINQUENT ACCOUNTS TO THE COUNTY. ALL AYES. MOTION PASSED.**

**Mayor Wingfield:** Asked City Administrator, Tobin Lay what the total amount was in owing? The amount is close to \$10,000, but will confirm the exact later.

## **C. Second Reading: Ordinance 302.070 (Fence language)**

**Mayor Wingfield:** Opened the floor for public hearing.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.**

**Mayor Wingfield & Council Members:** Ordinance 302.45 was adopted, which is striking fences from the building height. Mayor Wingfield has no problem with it being over 6 feet and over the amount a person needs to get their fence off the ground, but noted that fence posts are part of the fence.

**Debbie Harrod (Lake Avenue):** Requested the language as proposed by the planning commission.

**Susan Mahoney (Lake Avenue):** Requested language that has been used in a number of neighboring communities. All of the communities have six foot fences and she believes there should be uniformity with everyone else in the surrounding area.

**Len Pratt (301 Wildwood Ave):** The Planning Commission recommended that only the fence portion of the fence, not the posts, be set at 6 feet because that is the common practice among fence manufacturers.

**John Lund (Wildwood Ave):** He recalls that at the Planning Commission meeting on this issue, it had been decided that 6'6" should be to the top of the fence. The building standard is 6' for fences. An organic lawn is 3", another 3" for clear cutting under a fence. Posts are more ornamental so should be able to stick above the fence so 6'6" to the top of the fence.

**Mayor Wingfield: 302.070 (Fence height)** I propose that we strike that no fence can exceed six feet and replace it with the language "no fence can exceed six feet, six inches;" 78 fence height.

**Mayor and Council Members:** Deliberated over whether posts are part of the fence definition or not.

**MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER ANDERSON TO APPROVE THE FIRST SENTENCE OF ORDINANCE 302.070, RELATING TO A 78" FENCE HEIGHT. ALL AYES. MOTION PASSED.**

**MOTION WAS MADE BY COUNCILMEMBER HULLSIEK AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE SECOND SENTENCE OF ORDINANCE 302.070, AS WRITTEN. FOUR AYES. MAYOR WINGFIELD OPPOSING. MOTION PASSED.**

**Mayor Wingfield:** Instructed Administrator Tobin Lay to publish the ordinance in the newspaper.

**D. Roads Committee Appointment – Request to Add Tom Stangl**

**MOTION WAS MADE BY COUNCILMEMBER ANDERSON AND SECONDED BY COUNCILMEMBER HULLSIEK TO APPROVE THE APPOINTMENT OF TOM STANGL TO THE ROADS COMMITTEE. ALL AYES. MOTION PASSED.**

**E. Planning Commission**

**Impervious Surface Update**

**Len Pratt (Planning Commission Chair):** Provided an update to the Commission's work regarding the impervious surface ordinance and invited the public to attend a subsequent Commission meeting on the subject to be held on December 27, 2016.

**Public Hearings at Planning Commission Meetings**

**Len Pratt:** Asked what the appropriate venue would be for the public hearings. Historically, they have been held at the planning commission meetings.

**Mayor Wingfield:** Asked City Attorney Kantrud whether this would need to be employed under the City's conditional use permit.

**City Attorney Kantrud:** Said that because the City would have to periodically check that the impervious surfaces were still functioning properly, it would be best to be set up as a conditional use permit. This would change both permitting process and code so the public hearings should take place at the council meetings when the laws are actually being changed.

**Mayor Wingfield:** Added that few people ever attend public hearings at the City Council level and as such, even fewer would attend them at a Planning Commission meeting.

**Len Pratt:** Stated that the Planning Commission wants the public to attend meetings to participate in the deliberation before the recommendations are made.

**City Attorney Kantrud:** Reiterated that MN state law requires there be a public hearing but it is the City's procedure that whenever changes are being made to ordinances, the public hearings take place at the City Council level.

**Doug Danks (Planning Commission):** He made two points. Point #1: the process for reviewing and adopting amendments and ordinances must follow state law. MN Statute 462.357, subdivision 3 and 4 state that amendments and ordinances may be initiated by either the governing body or the planning agency but if initiated by the governing body, must be reviewed by the planning agency for recommendation before acting. The governing body may also act after 60 days have elapsed from the date of reference to the planning agency. The public hearing process can also be done by either body but presumably, the hearing would take place with the governing body when initiated by that body.

Point #2: he believes the City Council has run afoul of this process with the structure height ordinance that was amended in June 2016. He requested Council review the process that had been followed at that time and determine where the amendment, as passed, had been initiated and whether the planning agency had approved the amendment subsequent to that.

**Mayor & Council Members:** Believed the proper process had been followed but asked City Attorney Kantrud to look into this and report back, providing a module for Council to look at. Kantrud agreed, with the assistance of Administrator Tobin Lay.

#### **F. Summer Water Consumption – Request Water Utility Committee Review**

**Mayor & Council Members:** Mayor Wingfield recommended, and Council agreed, that the Water / Utility Committee should review the City's water rate structure in an effort to decrease water consumption. Mayor Wingfield pointed out that the Pioneer Press has been publishing articles related to our water rates being driven by litigation costs involving White Bear Lake water levels. She also pointed out that during one of the wettest summers on record, five homes in Birchwood used over 600,000 gallons of water, and seven percent of the households used over a quarter of the City's water consumption. This is an informal request.

**Larry Walker (4020 E Cty Line Rd):** He reminded Council that residents must water trees. The community places a high value on trees and if the trees aren't watered, they will die.

#### **G. Dock Association – Request to Allow 22 Foot Length Boats**

**Mike Evangelist (Dock Association):** He requested the dock restrictions related to boat length be extended from 19 to 22 feet at some of the easements to accommodate larger boats. Significant turnover at the docks means many vacancies, which the Association is trying to fill. Of the 17 residents on the waiting list interested in taking a spot, at least 10 are longer than the 19 foot limit, but all under 22 feet. Currently only one easement provides space for boats up to 22 feet – it allows 3 such spaces. He offered several solutions to this problem.

**Dick Galena (Wildwood Avenue):** Reminded the Council that the existing length restrictions were determined after long and careful study and have worked well. The restriction should not be changed.

**Tami Heart (506 Wildwood Ave):** She owns a small sail boat and answered questions regarding sail boats.

**City Attorney Kantrud:** Pointed out that this would be a Council initiated amendment that would need to be reviewed by the Planning Commission. The public hearing could take place at either the first or second reading.

**Mayor & Council Members:** Referred the request to the Planning Commission and will plan to have a first reading in January and second in February.

**MOTION WAS MADE BY COUNCILMEMBER HULLSIEK AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO REFER TO THE PLANNING COMMISSION THE REQUEST TO EXTEND THE LENGTH RESTRICTION TO 22 FEET AND AT WHICH EASEMENTS. ALL AYES. MOTION PASSED.**

**Mayor & Council Members:** Asked Mike Evangelist to research the history of the existing restriction and forward to the Planning Commission via Administrator Lay.

#### **H. Resolution 2016-21: Hiring City Treasurer**

City Administrator Lay recommended and Council interviewed Cynthia Govan at the workshop preceding the Council meeting for the position of Treasurer. She has agreed to fill the Treasurer position on an interim basis.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER HULLSIEK TO APPOINT CYNTHIA GOVAN AS INTERIM CITY TREASURER AND TO POST THE POSITION WITH THE LEAGUE OF MN CITIES. ALL AYES. MOTION PASSED.**

#### **I. 2016 Tree Inspection Report**

**Administrator Tobin Lay:** Provided a background to and explained the report. Four diseased trees were identified; two with Dutch Elm Disease are on City property, at Birch Easement. He provided two quotes for removing the trees, Steve Dean at \$700 and John Lund at \$400.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER HULLSIEK TO APPROVE JOHN LUND TO REMOVE THE DISEASED TREES FROM BIRCH EASEMENT. FOUR AYES. COUNCILMEMBER ANDERSON ABSTAINS. MOTION PASSED.**

#### **J. Mayor Wingfield Report**

##### **DOG PARK**

The family of a late Birchwood resident would like to donate money to the City for a dog park to be made in memory of that lost family member. She suggested that the Council form a special committee assigned to look into the feasibility of a dog park and if so, make a recommendation of where it could be placed. One suggestion to consider is Bloomquist Park because it is centrally located and much of the grounds are underused and overgrown with buckthorn. Have a group of people who want to be involved come forward and give us a report from time to time and coordinate it. We need some preliminary documentation on how much it will cost for buckthorn removal and a fence. The committee can help with that.

**Mayor & Councilmembers:** Agreed to ask for volunteers from the community to be on the new committee. Letters of interest should be provided to Administrator Lay by January 3, 2017.

##### **WATER MAIN BREAK**

Birchwood had its first water main break this season and she believes the Council should determine where the excess soil and water can be deposited until cleaned up in Spring. Years

ago the Council agreed to put it at Tighe-Schmitz Park. Possible alternatives: the easement south of Cedar Avenue off of East County Line Road, by the Birchwood Village sign; the City garage.

**Mayor & Councilmembers:** Discussed the possibilities. Tighe-Schmitz Park may send a bad message but the easement presents difficulties for the vacuum trucks. They referred this back to John Manship for feedback.

#### **RCWD UPDATE – HALLS MARSH**

She provided the background to the Halls Marsh backup and explained that Rice Creek has obtained permits from the DNR to repair the drain pipe. Repairs will proceed soon.

### **K. Councilmember LaFoy Report**

#### **COUNCIL MEMBER COMPENSATION**

He proposed a raise be made to the Council Member rate. He provided current rates from neighboring communities and explained that Birchwood's rate had not been increased since 2010, when it was increase from \$500-\$600. He proposed only a \$200 increase be made; pointing out the amount of work warranted an increase. He also pointed out that the raise would not apply to this Council but to future Councils.

**Mayor Wingfield:** She thought that increases had to correlate with election cycles and the voting Council Members can't benefit from the increase.

**Alan Kantrud:** He sees nothing prohibiting Councils from increasing their rates but recommends a public hearing if this is done. It would not be done by ordinance but by policy.

**Councilmember Bill Hullsiek:** He said he would put it up as an issue for residence to vote on and Keep it out of City Council hands.

#### **CABLE COMMISSION**

Century Link is not replying to his phone calls. For now, Comcast will remain the only cable provider. It will happen eventually though.

### **L. City Administrator's Report**

#### **LOST AND FOUND**

He reminded residents that there is a lost and found at City Hall. Residents should contact City Hall if they lose or find a lost item.

#### **FALL LEAF PICKUP**

He provided an update to the leaf pickup – it was a success. He explained why the change in contractors and why charge was increased. Only one negative feedback has been received so far and it was related to the rate increase and not about the service. The total upfront bill that has been charged to the City is \$7,285.26; this will be billed back to the corresponding residents through utility billing, along with a \$2.00 service charge.

#### **LED STREET LIGHT UPDATE**

He and Councilmember LaFoy met with Xcel Energy recently regarding the LED streetlight upgrade. Xcel plans to replace Birchwood's streetlights in late January, 2017. Dates have not been confirmed yet but will be in January. This project does not include the City's ornamental lights. Xcel can perform an assessment of the City's lighting needs but that would be separate from this project. Rates are only going to be lowered 5-7 percent, despite the reduction in energy and maintenance costs.

**KAYAK RACK DEADLINE SIGNS**

The Kayak racks at each of the easements don't have signs posting the date kayaks need to be removed. He plans to add such signs.

**CREATE CITY SOCIAL MEDIA PRESENCE**

He requested authority to create a Facebook and Twitter account and a Youtube channel for the City. These would be used in addition to the existing tools used by the City to communicate with residents.

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER HULLSIEK TO AUTHORIZE CITY ADMINISTRATOR LAY TO CREATE A FACEBOOK, TWITTER, AND YOUTUBE PROFILE FOR THE CITY. ALL AYES. MOTION PASSED.**

**CITY SAFE REPLACEMENT**

He explained that the City had received the recommendation from a lock smith to either retrofit the lock on the City vault or stop using it and purchase a new safe. The lock is from the 1920s and its reliability can no longer be guaranteed. The cost to retrofit could be as high as \$750 but purchasing a new safe would run around \$400.

**Mayor & Council Members:** Prefer to have the existing vault retrofitted with a digital keypad. Administrator Lay will obtain quotes and email to Council.

**M. City Attorney's Report**

**KAY BEACH EASEMENT UPDATE**

No update on the Kay Beach easement for the past 18 months. The document could be received within one month.

**ADJOURN**

**MOTION WAS MADE BY COUNCILMEMBER HULLSIEK AND SECONDED BY COUNCILMEMBER ANDERSON TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 9:36 P.M.**

ATTEST:

\_\_\_\_\_  
Mary Wingfield  
Mayor

\_\_\_\_\_  
Tobin Lay  
City Administrator-Clerk