

**CITY OF BIRCHWOOD VILLAGE
207 BIRCHWOOD AVENUE
BIRCHWOOD, MINNESOTA**

**MINUTES OF THE CITY COUNCIL MEETING
APRIL 12, 2022, 7:00 P.M.**

MEMBERS:

Mary Wingfield	Mayor
Jon Fleck	Councilmember
Mark Foster	Councilmember
Justin McCarthy	Councilmember
Kevin Woolstencroft	Councilmember

STAFF:

Andy Gonyou	City Administrator
H. Alan Kantrud	City Attorney
Steve Thatcher	City Engineer

GUESTS:

Ryan Hankins	Planning Commission Vice Chairman
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Minutes prepared by Anh Nguyen of Minutes Solutions Inc. from a video recording.

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to approve the agenda, as amended. All in favor; motion carried.

Councilmember McCarthy requested the addition of the following items to the agenda:

- Late Fees for Dog Licenses
- Tree Issues
- Music in the Park

Mayor Wingfield requested the addition of the following items to the agenda:

- Special Meeting to Interview Candidates for City Administrator
- 369 Wildwood Avenue Re: Request by Steve Thatcher
- White Bear Lake Society Signage Grants
- Dellwood Lift Station
- Wildwood Lift Station Update

- Data Practices Policy

4. **OPEN PUBLIC FORUM**

Barton Winter, 1 Five Oaks Lane, expressed concern regarding the lack of flooding of the ice rink. The resident requested better maintenance of the ice rink and suggested that he be deputized to flood the ice rink as needed.

James Nelson, 256 Wildwood Avenue, expressed concern regarding what the resident felt was regulation of his free speech. The resident reported that he would continue to attend the Council meetings until a response is provided to him by the Council regarding details of the charges that were laid against him.

5. **ANNOUNCEMENTS**

- A. **Social Media:** Follow Birchwood Village on Facebook @BirchwoodCityHall or on Twitter @CityofBirchwood.
- B. **Dock Association:** Mayor Wingfield reported that the Dock Association has three slips available to fill.

6. **ADMINISTRATIVE PRESENTATION**

- A. **Sheriff Report:** A report of law enforcement incidents and citations for March, 2022, was provided for the Council's review.
- B. **Planning Commission Regular Meeting Minutes:** The minutes of the February 24, 2022, Planning Commission meeting was provided for the Council's review.

7. **CITY BUSINESS – CONSENT AGENDA**

On a motion made by Councilmember Fleck, seconded by Councilmember Woolstencroft, it was resolved to approve the consent agenda as amended. All in favor; motion carried.

On a motion made by Councilmember Woolstencroft, seconded by Councilmember McCarthy, it was resolved to approve the meeting minutes of the regular Council meeting held on March 8, 2022, as amended. All in favor; motion carried.

- A. **Approval of the Council Meeting Minutes:** The meeting minutes of the February 8, 2022, regular Council meeting was provided for the Council's review and approval.
- B. **Approval of the Council Meeting Minutes:** Councilmember McCarthy requested the following amendments to the meeting minutes of the March 8, 2022, regular Council meeting:
 - Section 8, C, fourth motion: replace "hard cover" with "impervious surface"
 - Section 8, C, third paragraph, remove the first sentence

- C. **Approval of Resolution 2022-07 Re-establishing Precinct Boundaries and Polling Location**
- D. **Approval to Change the Dog License Term to Three Years Retroactive to January 1, 2022**
- E. **Approval of the Treasurer’s Report:** The Treasurer’s Report for the period ending April 7, 2022, was provided for the Council’s review and approval.

8. **CITY BUSINESS – REGULAR AGENDA**

A. **MS4: Storm Water Pollution Prevention Program (SWPPP) Review**

- a. **Public Hearing:** Mayor Wingfield reported that the MS4 permit process is an annual permit to keep residents and the Minnesota Pollution Control Agency (MPCA) informed on the city’s procedures and protocols to protect the water quality.

There were no additional comments for the public hearing.

- b. **On a motion made by Councilmember Woolstencroft, seconded by Councilmember Foster, it was resolved to close the public hearing. All in favor; motion carried.**

- c. **Council Deliberation:**

On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to approve the SWPPP permit application with no changes and for the application to be forwarded to the MPCA. All in favor; motion carried.

B. **143 Wildwood Avenue – Previous Code Violation**

- a. **Council Deliberation:** *ACTION – Andy Gonyou will confirm with Mary Cahill, the Assistant Treasurer, whether a cheque has been received from the resident at 143 Wildwood Avenue.*

Andy Gonyou confirmed that the resident was notified in writing of the agenda item regarding a previous code violation due to a lack of a permit and improper drainage and grading by the resident’s contractor.

Andy Gonyou reported that the resident informed Mary Cahill, the Assistant Treasurer, that a cheque would be provided for all the monies owed to the city. Andy Gonyou noted that the contractor’s name and contact information was finally provided by the resident following the issuance of a letter indicating that money was owed to the city.

C. 310/312 Wildwood Avenue – Maintenance Code Concerns

- a. **Council Deliberation:** Mayor Wingfield reported that the owner of the property is deceased, and the property will inevitably be sold. The family is working with Alan Kantrud regarding legal proceedings for the property. The Council agreed to defer further action pending the ongoing legal proceedings.

D. First Reading Ordinance 2022-04-02, Repeal and Replace Section 302.050

- a. **First Reading and Council Deliberation:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to approve the first reading of Ordinance 2022-04-02, Repeal and Replace Section 302.050. All in favor; motion carried.

ACTION – Andy Gonyou will publish the second reading and public hearing for Ordinance 2022-04-02, Repeal and Replace Section 302.050.

Councilmember McCarthy reported that Ordinance 2022-04-02, Repeal and Replace Section 302.050 would change impervious surface to lot coverage including pervious pavement. Councilmember McCarthy noted that impervious surfaces from 25% to 35% only require an administrative permit as long as conditions are met and approval is obtained from the City Engineer, Steve Thatcher. Impervious surfaces over 35% will trigger the requirement for a variance request. The goal is to minimize the burden of residents coming to Council and the Planning Commission for impervious surfaces less than 35%.

Councilmember McCarthy noted that a maintenance agreement was added because the current ordinance does not explicitly state that applicants must implement the structures included in their plans. The maintenance agreement will be recorded with the county and run with the land to ensure that new owners adhere to the agreement. A small-fee certification must be filed with the city every five years to confirm that maintenance was completed.

- b. **Order Second Reading and Public Hearing:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to proceed with a second reading and public hearing for Ordinance 2022-04-02, Repeal and Replace Section 302.050 at the next Council meeting. All in favor; motion carried.

E. First Reading Ordinance 2022-04-01, Repeal Section 601

- a. **First Reading and Council Deliberation:**

On a motion made by Councilmember Fleck, seconded by Councilmember McCarthy, it was resolved to approve Ordinance 2022-04-01, Repeal Section 601 and to waive the second reading. All in favor; motion carried.

ACTION – Andy Gonyou will post Councilmember McCarthy’s memo dated March 24, 2022, regarding the Birchwood Sign Ordinance Section 601 repeal and replace on the City of Birchwood website.

ACTION – Andy Gonyou will publish Ordinance 2022-04-01, Repeal Section 601.

Councilmember McCarthy reported that the memo regarding Ordinance 2022-04-01, Repeal Section 601 was not included in the meeting package for the Council’s first reading prior to the meeting.

Alan Kantrud confirmed that a second reading can be waived; however, he advised that a second reading and public hearing for the repeal, along with a first reading of the replacement ordinance, be held at the next Council meeting in May, 2022.

The Council agreed that Section 601 is unconstitutional and should be repealed immediately with no further discussion as a future agenda item.

- b. **Order Second Reading and Public Hearing:** The second reading and public hearing was waived.

F. Personnel – City Administrator/Clerk Update

- a. **Update from Councilmember McCarthy:**

On a motion made by Councilmember McCarthy, seconded by Mayor Wingfield, it was resolved to approve a special meeting to be held on April 18, 2022, at 6:00 p.m. to interview candidates for the role of City Administrator. All in favor; motion carried.

ACTION – Andy Gonyou will post a notice regarding the special meeting to be held on April 18, 2022, on the City of Birchwood website.

ACTION – Alan Kantrud will provide the Council with a list of proposed interview questions for the special meeting on April 18, 2022.

Andy Gonyou submitted a letter of resignation and will be acting as the City Administrator until May 12, 2022. Councilmember McCarthy reported that a job posting was posted on several platforms. There are currently four applicants.

G. Councilmember Reports

- a. **Mayor Wingfield**

- i) **Fee Schedule Amendment:**

On a motion made by Mayor Wingfield, seconded by Councilmember Woolstencroft, it was resolved to approve a \$25 fee for a three-year dog license retroactive to January 1, 2022, with a \$5 early-bird discount up to February 15, 2022, and a \$5 late fee after April 15, 2022. Councilmember McCarthy abstained. Motion carried.

ACTION – Alan Kantrud will determine the non-compliance fee for dog licenses.

Councilmember McCarthy reported a discrepancy between the fee schedule stating triple the consequence for non-compliance of dog licenses and Ordinance 701.061 stating double the consequence. Alan Kantrud suggested the inclusion of “plus any additional fees incurred by the city” to Ordinance 701.061.

Mayor Wingfield suggested that a dog license required for 18 months or less would be \$15, and any license required for longer than 18 months would pay the full amount of \$25.

ii) Tree Follow-Up:

On a motion made by Councilmember Fleck, seconded by Councilmember McCarthy, it was resolved to authorize Mayor Wingfield to arrange the planting of birch clumps around City Hall at a cost not to exceed \$1,500. All in favor; motion carried.

Mayor Wingfield reported that the spruce next to the tennis courts will be planted in mid-May, 2022. Mayor Wingfield suggested planting birch clumps around City Hall. She noted that the birch clumps would be Japanese white birch and not birch that are susceptible to birch borers.

iii) Tennis Court/Animal Access: Mayor Wingfield reported an abundance of dog waste at the tennis court. The Council reported the same issue at the lake and the trails. The Council discussed issuing a reminder for residents to pick up after their dogs.

iv) Sanitary Sewer Survey of 200 Block of Birchwood Avenue: *ACTION – Mayor Wingfield will obtain a quote from Velocity Drain Services for the installation of a camera at the sewer line.*

Mayor Wingfield reported a water main break and Xcel Energy had a gas line severed. John Manship, the City Water Superintendent, suggested installing a camera at the sewer line to ensure no shifting occurred.

v) Backflow Valve Permits: *ACTION – Councilmember McCarthy will review whether any decisions were made by the Council regarding irrigation jets at the right of way.*

Mayor Wingfield reported that John Manship recommended a permit system to ensure that the city’s recently enacted code regarding backflow valves is applicable to all residents with an irrigation system.

The Council discussed various options to ensure all old and new irrigation systems have backflow preventors. Further action was deferred pending further discussion and consideration.

The Council expressed concern regarding contractors installing jets at the right of way. The Council reported past discussions noting that the city would not be liable for any damages to the jets.

- vi) **Road Updates:** Mayor Wingfield reported that T.A. Schifsky & Sons will be investigating the delamination on several roads to confirm whether the contractor's recommendations will change. T.A. Schifsky & Sons will provide a report regarding whether repairs are needed.
- vii) **369 Wildwood Avenue – Request:** *ACTION – Andy Gonyou will inform Steve Thatcher of the Council's authorization for the City Engineer to work with the City Building Official.*

Mayor Wingfield reported that the City Building Official requested Steve Thatcher's assistance due to grading concerns.

- viii) **Music in the Park:**

On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to approve Al Mitchell's resolution regarding an annual Music in the Park event as drafted. All in favor; motion carried.

Mayor Wingfield reported that Al Mitchell drafted a resolution with a budget of \$3,700 for 10 concerts and permitting alcohol in city parks during the event. The resolution would be subject to the Council's review as deemed necessary.

- ix) **Tree Issues:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to approve the resident's request for an extension until May 26, 2022, to remove the emerald ash borer. All in favor; motion carried.

Mayor Wingfield reported that a resident could not remove the emerald ash borer as required by the city due to weather-related delays with the tree removal service provider.

Mayor Wingfield noted that John Lund has informed the city of ash borers that need to be removed from easements. She has requested that STS remove the trees.

- x) **White Bear Lake Historical Society:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to approve the White Bear

Lake Historical Society to proceed with the six signs at an approximate cost of \$18,000. All in favor; motion carried.

Mayor Wingfield confirmed that the city received the \$10,000 grant for signage. There will be a total of six signs, three at City Hall and one each at Polly's Park, Feistner Reserve, and Hall's Marsh.

xi) Dellwood Lift Station: Mayor Wingfield reported a minimum \$10,000 cost to address a damaged pump and a check valve at the lift station. Mayor Wingfield informed the White Bear Township workers that the Council is not in a position to ascertain the level of work required and to proceed unless heard otherwise from the Council.

xii) Wildwood Lift Station:

On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to adopt Resolution 2022-08 Declaring a Need to Replace a Local Sanitary Sewer Lift Station and Supporting Partnerships and commit to \$120,000 to be allocated from the reserve funds. All in favor; motion carried.

On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved that the City of Birchwood Village support Washington County's resolution for the funding of highway intersection improvements at 120 Wildwood Avenue and Trunk Highway 36. All in favor; motion carried.

Mayor Wingfield reported that the city was put into a queue for consideration of authorized monies from the Feds by Representative Betty McCollum's office. Mayor Wingfield drafted a request for 80% subsidies and grant money, and the city would have to match 20%. A similar request was submitted in parallel to Senator Tina Smith's office.

Mayor Wingfield reported that the city will try to secure funding before proceeding with the lift station project. The project will likely take place in 2023 as a response to the funding request will likely not be received until 2023.

Mayor Wingfield advised that she will request that Washington County, and the Rice Creek Watershed District, support the resolution for the Wildwood Lift Station as it benefits White Bear Lake and the surrounding vicinities. In conjunction, Mayor Wingfield reported that Washington County is seeking the city's support of a resolution to obtain funding for highway improvements.

xiii) Data Practices Policy: ACTION – Alan Kantrud will draft a data practices policy.

b. Councilmember McCarthy

- i) **Impervious Surface:** *ACTION – Alan Kantrud and Andy Gonyou will explore any requirements to inform the Department of Natural Resources of any changes regarding the city’s impervious surface ordinances.*

H. City Administrator Update:

- a. **Feistner Beach Raffle Winner Approval:** Mayor Wingfield reported that a contract needs to be drafted to permit the winner of the Feistner Beach Raffle to moor a boat at a cost of \$1,000 per year for a maximum of a three-year period.

9. ADJOURNMENT

On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 8:35 p.m. by Mayor Wingfield.

DISCLAIMER

The above minutes should be used as a summary of the motions passed and issues discussed at the meeting of the members of the Birchwood Village City Council. This document shall not be considered to be a verbatim copy of every word spoken at the meeting.



Mayor Mary Wingfield

8/19/2022
Date



City Administrator Rebecca Kellen

8/19/2022
Date