

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

**MINUTES OF THE CITY COUNCIL MEETING  
AUGUST 16, 2022, 7:00 P.M.**

**MEMBERS:**

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

**STAFF:**

Becky Kellen	City Administrator
H. Alan Kantrud	City Attorney
Steve Thatcher	City Engineer

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 presented. All in favor; motion carried.**

**4. OPEN PUBLIC FORUM**

There were no comments.

**5. ANNOUNCEMENTS**

There were no announcements to report.

**6. ADMINISTRATIVE PRESENTATION**

**A. Sheriff's Report:** A report of law enforcement incidents and citations for June 2022, was provided for the Council's review.

**B. Sheriff's Report:** A report of law enforcement incidents and citations for July 2022, was provided for the Council's review.

**7. CITY BUSINESS – CONSENT AGENDA**

**On a motion made by Councilmember Woolstencroft, seconded by Councilmember McCarthy, it was resolved to approve the consent agenda except for items E and F. All in favor; motion carried.**

- A. Approval of the Treasurer’s Report:** The Treasurer’s report for the period ending August 9, 2022, was provided for the Council’s review and approval.
- B. Approval of the April Council Meeting Minutes:** The minutes of the Council meeting held on April 12, 2022, was provided for the Council’s review and approval.
- C. Approval of the May Council Meeting Minutes:** The minutes of the Council meeting held on May 10, 2022, was provided for the Council’s review and approval.
- D. Approval of the June Council Meeting Minutes:** The minutes of the Council meeting held on June 14, 2022, was provided for the Council’s review and approval.
- E. Approval of the Videographer Contract:**

**On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to approve the videographer contract with Cristian Stoltzman subject to additional language regarding the contract as work made to hire and the copyright vested to the city of Birchwood. All in favor; motion carried.**

- F. Approval of the Tree Inspector Contract:**

**On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to approve the tree inspector contract with John Lund at an annual cost of \$1,300 subject to the removal of 4.1., 4.1.b., 4.1.c., 4.1.d., and 4.2., and that 4.3. and 4.4. are renumbered accordingly. All in favor; motion carried.**

Mayor Wingfield noted that a liability clause would require a bond and be cost-prohibitive. The city is insured for up to \$50,000 by the League of Minnesota Cities.

- G. Approval of the Feistner Beach Wormwood Lease Release:** The settlement and release agreement was provided for the Council’s review and approval.

**8. CITY BUSINESS – REGULAR AGENDA**

**A. Second Reading Ordinance 2022-07-01, Amending Section 617**

**a. Public Hearing:**

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

There were no comments.

**b. Council Deliberation and Approval:**

**On a motion made by Councilmember Fleck, seconded by Councilmember Woolstencroft, it was resolved to approve Ordinance 2022-07-01, Amending Section 617 subject to changing (1) to state, “the Birchwood Dock Association shall number and provide a list of each lift and the respective owner’s name to the city clerk by October 31 of each year before any installation is permitted”. All in favor; motion carried.**

The Council expressed concern regarding the publication of personal information on the boat lifts. The Council suggested designating identification numbers that could be tracked to each respective boat owner instead.

**B. Discuss Eliminating \$3,000 Escrow for Some or All Permits**

**a. Except for Variances and Conditional Use Permits:**

**On a motion made by Mayor Wingfield, seconded by Councilmember Foster, it was resolved to suspend the \$3,000 escrow with regard to building permits effective immediately and to return any escrows received effective immediately. Councilmember McCarthy abstained. Motion carried.**

Mayor Wingfield noted that the collection of escrow is a time-consuming and unproductive use of staff time.

**b. Replace with Agreement: ACTION – Councilmember McCarthy will draft an agreement to include that homeowners understand they are responsible for any damage to city property.**

**C. Proposal to Reopen Hall Avenue Both Ways on September 1, 2022**

Councilmember McCarthy reported vehicles traveling in the wrong direction on the one-way road and posing a safety risk to the community. The Council expressed concern regarding the influx of traffic once the barricades are removed and the street reopened.

The Council authorized Mayor Wingfield to arrange for the barricade to be moved 25-feet to the west to allow a resident to access to their driveway. Hall Avenue will remain a one-way road for the interim.

**D. Administrative Sick Leave Procedures**

The Council agreed that office hours coverage is not required if the individual covering is sick and not able to cover. The office can be closed on the condition that the public is duly informed.

**E. Approval of Willow Tree Replacement at Feistner Preserve**

The city will be taking no action regarding the removal of the willow tree at Feistner Preserve as per the re-release agreement with the Wormwood family. The Sherwood family has requested to replace the willow tree at their expense with the Council’s approval. The Council agreed to continue to monitor the 20-foot public space pending future consideration for the use of the park space.

**F. Ash Path**

**a. Authorize Steve Thatcher to Make Survey Points:**

**On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to authorize Steve Thatcher to make survey points at Ash Path. All in favor; motion carried.**

Mayor Wingfield noted reports of encroachment into public space.

**b. Approval of Cedar Fence Section Installations:**

**On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to approve the city maintenance staff to install cedar fence sections to delineate the city property lines at Ash Path. All in favor; motion carried.**

**G. Terminate Remaining Overtime for Washington County Sheriff Deputy Patrol**

**On a motion made by Councilmember Fleck, seconded by Mayor Wingfield, it was resolved to terminate the remaining overtime for the Washington County sheriff deputy patrol. All in favor; motion carried.**

The additional patrol has not been a beneficial use of the city's funds. The city was not informed that the Washington County sheriff's office would not be able to perform its duties as expected by the city.

**H. Increase of 2023 Boat Fees Discussion**

**On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to approve a \$125 increase to the boat fees for a total of \$875 for 2023 subject to a review of the boat fees every year. All in favor; motion carried.**

The cost of boat lifts for surrounding communities ranges from \$2,500 to \$3,500. The city's current boat fee is \$750 and the city has not had an increase in four years.

**Lynn Hanson, 700 Hall Avenue**, reported that the Birchwood Dock Association (BDA) boat fees will increase from \$1,400 to \$1,500 in 2023 due to inflation. He noted that boat owners incur additional costs, including a boat lift that can range from \$4,000 to \$5,000. He emphasized that the BDA is operating under the rules and regulations of Section 617.

**Sarah Nephew, 20 Birchwood Avenue**, reported that residents of Mahtomedi are charged \$60 to \$150 for boat fees to which Council clarified that Mahtomedi has deeded access for their boats.

**I. Streetlights**

**a. Send Letters to Residents: ACTION**– *Becky Kellen will issue letters to residents in areas with streetlights slated for removal advising that the streetlight has no municipal value and will be removed.*

Councilmember Fleck reported a streetlight at the end of Hall Court that should be removed.

b. **Transfer Ownership:** There were no additional comments beyond what was included in the meeting package.

J. **Emerald Ash Borer Grant**

A \$10,000 grant was received and is valid until 2024.

K. **Legacy Grant Signs**

The Legacy Grant signs were received and should be erected within the next six weeks.

L. **Tree Task Force Update**

John Lund reported that the tree task force held a meeting on August 2<sup>nd</sup> at 7pm to discuss city code 403 regarding diseased trees, code 606 regarding public nuisance, and code 302 regarding zoning requirements specifically de-vegetation and alterations.

John Lund noted that a review of the White Bear Township ordinance found language that restricts residents from preventing tree inspectors to enter a property. In comparison, the city's ordinance requires tree inspectors to inspect from the street level, and a list is provided of residents who will not allow entry to their property unless authorized.

John Lund suggested no modifications to the ordinances except for code 302 in regard to trees on main routes set at 16 feet and trees on paths set at 8 feet. All diseased trees will be marked, and a notice sent to residents regarding removal by April 15, 2023. The cost for the tree removal or for an injection will be included in the notice.

The Council noted that tree removal is expensive, and the city will work with residents accordingly. The Council reiterated that the tree inspector cannot proceed with an inspection if a resident declines entry onto their property.

M. **Birch Beach Sand and/or Waterslide**

**On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to purchase sand for Birch Beach at a cost not to exceed \$1,000. All in favor; motion carried.**

*ACTION – Councilmember McCarthy will obtain a quote for the purchase of sand to cover an area of 20 feet by 40 feet by 6 inches at Birch Beach.*

N. **Ordinance 2022-04-02 / 302.050**

a. **Update from DNR (Department of Natural Resources):** Councilmember McCarthy reported that the DNR is requesting more protection for the shore impact zone. The DNR indicated that they could provide language regarding the shoreland standards; however, no language has been received yet.

b. **Next Steps:** *ACTION – Councilmember McCarthy will follow up with the DNR regarding the language for shoreland standards for implementation into the city's proposed Ordinance 2022-04-02.*

**O. First Reading Ordinance 2022-02-01, Adding Section 300.025**

- a. **Adding and Incorporating the MPCA (Minnesota Pollution Control Agency) Requirements:** *ACTION – H. Alan Kantrud will confirm with the MPCA regarding the implications should the city opt not to obtain an MS4 permit or not to incorporate the requirements for the MS4 permit.*

October 2022 is the deadline to incorporate the MCM 4 and MCM 5 requirements.

- b. **Council Deliberation:** The Council expressed concern regarding the lack of the MPCA's support and enforcement as it pertains to Hall's Marsh. Further discussion was deferred to the September 2022, Council meeting.
- c. **Order Second Reading and Public Hearing:** This item was deferred pending additional information to be obtained by H. Alan Kantrud.

**P. Hall's Marsh MOA**

- a. **Draft MOA:** Councilmember McCarthy reported that the city recently conducted testing of Hall's Marsh and discovered that the sediment from the Priebe Lake Outfall project is contaminated with a substance called PAH.

The city approached the Rice Creek Watershed District (RCWD), Mahtomedi, and White Bear Lake with its findings and concerns. No response was provided except from the RCWD who has provided a draft Priebe Lake Outfall/Hall's Marsh maintenance agreement. The agreement states that the RCWD will help clean the entire system of PAH and sediment.

The RCWD agreed that stormwater does not sit long enough in Priebe Lake for dredging, as a result, all the stormwater runoff from White Bear Lake drains into Hall's Marsh without any treatment.

Steve Thatcher recommended obtaining high-quality water testing for Priebe Lake and Hall's Marsh.

- b. **Map:** A map was included in the meeting package for the Council's review.
- c. **Ruth Jensen's Comments on Revised Draft:** *ACTION – Ruth Jensen will send template maintenance agreements to the Council to send to the RCWD.*

*ACTION – The Council will send a letter to the RCWD stating that the city does not authorize any drawdown from Priebe Lake until a maintenance agreement, including an easement, is provided to the Council for review and approval.*

Ruth Jensen expressed concern regarding the proposed agreement as it absolves the RCWD of any responsibility. She cited concerns regarding the PAH pollution, sediment buildup, and Priebe Lake being on the DNR's impaired list since 2014 for nutrient contamination.

Ruth Jensen noted that the MS4 permit requires that water not be sent into a wetland without an agreement that includes an easement. The RCWD has never obtained an easement. She emphasized that the RCWD should provide an

easement, a maintenance agreement for the vegetation, and check the outflow from Priebe Lake for nutrient contamination before draining to Hall's Marsh. These items were required in the original permit but not enforced by the DNR.

**Q. Administrator Updates**

**a. Upcoming Personnel Changes:**

**On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to publish the on-site bookkeeper position with the City of Birchwood at an hourly rate of \$20 to \$23, depending on experience, for an average of 25 hours per week. All in favor; motion carried.**

*ACTION– Becky Kellen will work with Mary Cahill to interview potential candidates and provide a recommendation to the Council at the next meeting.*

Mary Cahill's current position will be open as she moves to the role of head Treasurer and serves as an advisor to oversee the city's bookkeeping. Mary Cahill had recommended hiring an on-site part-time bookkeeper to serve as a liaison between the Treasurer and the office clerk.

**b. Metro-INET:** The new bookkeeper will work on-site only and use the desktop computer, which is supported by Metro-INET for security and malware services.

**c. AED Grant Approval and Prices:** The city's automated external defibrillator (AED) is functioning as intended; however, it is obsolete and the battery is not replaceable. The AED can be connected to 911 at a cost of \$376 for a three-year non-refundable plan. A grant for an AED was approved for a \$500 price reduction for a new AED at a cost of \$1,053. The Council agreed to keep using the discontinued AED model without service coverage.

**d. 2023 Budget:** *ACTION– Becky Kellen will confirm whether the annual cost of the Tennis Sanitation contract will remain at \$14,500.*

The Council suggested an amount of \$27,500 for line item 76 Assistant Treasurer/Deputy Clerk.

The Council agreed on a 6% salary increase for the City Attorney for a legal service's budget of \$19,000.

Mayor Wingfield reported that line item 182 Contracted Services (Pot Holes) should be increased to \$14,000 as advised by T.A. Schifsky & Sons for increased road maintenance.

**e. City Maintenance Equipment and Staff:** Becky Kellen suggested that the city purchase maintenance equipment for city staff use. Mayor Wingfield reported that, historically, any equipment owned by the city was not maintained and lost. City maintenance staff were hired at a rate of \$25 per hour to account for the use of their personal equipment.

Mayor Wingfield confirmed that the cost for city equipment and supplies is a capital expenditure that can be allocated to the parks fund.

The Council discussed issuing a reimbursement for the use of personal equipment for city work similar to a mileage tax deduction. Further discussion was deferred to a future meeting.

- f. **Crosswalk Painting Bids:** *ACTION – Becky Kellen will confirm the warranty period on the crosswalk painting bids from Sir Lines-A-Lot and Warning Lites MN.*
- g. **Century Avenue Policymakers Workshop:** Becky Kellen offered to attend the quarterly Century Avenue Policymakers Workshops.
- h. **Uninstalled Water Meters – Resident Notification:** John Manship has offered to contact the 13 residents with uninstalled water meters to schedule their installation. Any residents who do not comply will be issued a notice.

H. Alan Kantrud advised that the city cannot shut off resident water access; however, a deadline for the installation of a water meter should be provided, failing which, any resident without a water meter would be in violation of the city's ordinance and a fine of up to \$1,000 can be imposed.

9. **ADJOURNMENT**

**On a motion made by Councilmember Fleck, seconded by Councilmember Woolstencroft and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 10:22 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

\_\_\_\_\_  
9/13/2022

Date



\_\_\_\_\_  
City Administrator Becky Kellen

\_\_\_\_\_  
9/13/2022

Date