

MINUTES
OF THE REGULAR MEETING OF THE
CITY OF BIRCHWOOD VILLAGE
VIRTUAL MEETING

April 13, 2021

7:00PM

CALL TO ORDER

Mayor Wingfield called the meeting to order at 7:01 and stated that the meeting was being held remotely in compliance with Governor Walz's Stay at Home Order, then shared the procedure for public hearing and community comment.

MEMBERS PRESENT: Mayor Mary Wingfield, Councilmembers; Kevin Woolstencroft, John Fleck, Justin McCarthy, Mark Foster

STAFF PRESENT: City Administrator, Andy Gonyou, City Attorney, H Alan Kantrud

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

Mayor Wingfield stated that she would like to add the following:

1. Memo sent out from City Administrator Gonyou from Sarah Marco Hansen regarding signs
2. Bell tower
3. Roads

Councilmember McCarthy added that he would like to add comments of Consent Agenda.

1. Pull D. Resolution 2021-09 Authorizing fund transfer, there is a typo.
2. Pull F. Add that the bid would be subject to City Attorney Kantrud come to an agreement on an acceptable contract.

Mayor Wingfield made a Recommendation, that on D that the typo get fixed by Andy instead of pulling it.

City Administrator Andy Gonyou would like to add under City Administration report.

1. Approve expense Metro Inet to grant voting systems at city hall.
2. updates the council on 2040 comp plan grant

MOTION MADE by Councilmember Woolstencroft to approve the agenda with the changes made, seconded by councilmember Foster. Roll Call Votes: Ayes; Foster, Woolstencroft, McCarthy, Fleck, Wingfield. Motion Passed

PUBLIC FORUM

1. Mary Cahill: (165 Birchwood Ave) requested to have a posting at the tennis courts with designated times to play.
 - a. Councilmember Foster will work with Mary Cahill on coming up with something.
2. Barton Winter: (1 Five Oaks La) discussed the hockey rink.

ANNOUNCEMENTS

- A. We are social, follow us on Facebook @Birchwoodcityhall or Twitter CityofBirchwood.
- B. Pelco will be removing the siding at City Hall 4/14/2021
- C. Cynthia Tomlinson is selling Centennial T-shirts.
- D. Earth Day is coming up.
 - i. Plantings at hockey rink
 - ii. Litter pick up.
- E. Fire Hydrant flushing

Administrative Presentation

- A. Sheriff Report
- B. Planning Commission Meeting Minutes
- C. Birchwood Dock Association Meeting, April 17th at 9:30am

City Business-Consent Agenda

- A. Approve Treasurer's Report
- B. Approve Regular Meeting Minutes from January 12, 2021
- C. Approve Regular Meeting Minutes from March 9, 2021
- D. Approve Resolution 2021-09, Authorizing Fund Transfers
- E. Approve Resolution 2021-11. Declining to Waive the Statutory Momentary Limits on Municipal Tort Liability Established by Minnesota Statutes 466.04
- F. Approve bid from T.A Schifsky for Roadwork
- G. Approve MS4 Public Hearing for May Council Meeting – Storm Water Pollution Prevention Program

MOTION WAS MADE by Councilmember McCarthy to approve the consent agenda parts: A, B, C, E and G. Seconded by Councilmember Fleck. Roll Call Votes: AYES; McCarthy, Fleck, Woolstencroft, Foster, Wingfield. Motion Passed.

Part 2 of the Consent Agenda D and F

Council and City Attorney Kantrud had discussion on Consent Agendas D and F.

MOTION WAS MADE by Councilmember Woolstencroft to accept Consent Agenda part 2: D and F. Seconded by Councilmember Fleck. Roll Call Votes: Ayes; Woolstencroft, Fleck, Foster, McCarthy, Wingfield. Motion Passed.

CITY BUSINESS-REGULAR AGENDA

A. Washington County Historical Society

- 1. Presentation by Brent Peterson

MOTION MADE by Mayor Wingfield to support Washington Historical Society for \$1.00 per person which is \$875.00 and to draft a letter for the Mayor's in Stan Karwoski's district to be in support of financial contribution from the county for one year. Seconded by Councilmember Foster. Roll Call Votes: AYES; Wingfield, Foster, Woolstencroft, Fleck, McCarthy. Motion Passed

- 1. Public Hearing

MOTION WAS made by Councilmember Woolstencroft to close the Public Hearing. Seconded by Councilmember Fleck. Roll Call Vote: AYES; Woolstencroft, Fleck, McCarthy, Foster, Wingfield. Motion Passed.

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2. Council Deliberation & Approval

MOTION MADE by Councilmember McCarthy to adopt and Pass Ord. 2021.03-01. Seconded by Councilmember Fleck. Roll Call Vote: Ayes; McCarthy, Fleck, Foster, Woolstencroft, Wingfield. Motion Passed.

3. Approve Resolution 2021-10 Summary Publication

i. Discussion was made by Council.

Mayor Wingfield asked Council and City Attorney Kantrud if it was possible to publish the "City of Grant Summary of Grant Ordinance" with the corrected wording pertaining to Birchwood for publication, since it was shorter and less money. City Attorney Kantrud suggested to take out the wording "This Franchise Ordinance addresses and regulated the subjects show on the Table of Contents list. To: "This Franchise ordinance essentially rewrites the existing franchise ordinance already on the books and is substantially similar, a copy of which is available at the city hall". It was suggested to put this to the end of meeting so corrections can be made.

C. Variance Case No 21-01-VB for 419b Wildwood Ave

1. Council Deliberation

i. Council requested that the homeowner get documentation from her Engineer and Architect to see if there are other alternatives besides the 2-1/2 feet up and to get back to council.

D. Planning Commission Appointment

i) Applicants

- a. Michael McKenzie
- b. Paul Edwards
- c. Michelle Maiers-Atakpu
- d. Sandra Kriz-Buerkle (no show)
- e. Joe Evans – withdrew

1. Council Deliberation

MOTION MADE by Mayor Wingfield to appoint Michell Maiers-Atakpu to the Planning Commission for the duration of the term of Incumbent John Lund which would be a 3-year term. Seconded by Councilmember Fleck. Roll Call Vote: AYES; Fleck, Foster, Woolstencroft, McCarthy, Wingfield. Motion Passed.

E. Ordinance 2021-04-01. City Code Sec. 301.060(B)

1. First Reading

a. Discussion was made on changing the times for contractors/homeowners a half hour

2. Schedule Second Reading and Public Hearing

MOTION MADE by Councilmember McCarthy to put ordinance 2021-04-01 on for Public Hearing at the May City Council Meeting with the alternative hours of 7:30am-7:00pm. Seconded by Mayor Wingfield. Roll Call Votes: AYES; McCarthy, Woolstencroft, Winfield. NAY; Foster, Fleck

F. City Assessor Report

- i. Meeting was held at 6:00pm, April 13, 2021, just before the Council Meeting with the City Assessor. Tax valuations increased 1.5% based on 12 home sales. No residents appeared at the meeting to contest their valuations. One written request for reconsideration was denied.

G. Three Way Iris/Wildwood Intersection

- I. Council Deliberation
 - a. Councilmember McCarthy will look into this issue further.

H. Brine Pre-Application

- I. Council Deliberation
 - a. Councilmember McCarthy will look further into the application of Brine.

I. American Rescue Plan Funding

- I. City Administrator Gonyou went over this funding plan to the City Council.
 - a. Money could be used for taking care of the financial aspects of the water meter upgrades
- b. Mayor Wingfield asked council to consider letting the utility task force review what expenses are coming up and figuring if it is a good place to allot these funds.

J. Sheriff Meeting Update (Major Wingfield & Council member Foster)

- I. Mayor Wingfield read a report from a police report and was pleased with it because it was something the city was looking for
- II. Should be meeting with the sheriff every 6 months and possibly rotate councilmembers
- iii. Speed monitors were discussed.

K. 312 Wildwood Update

- I. Council Deliberation
 - a. Yard accumulating more stuff.
 - b. City needs to get its court costs back.
 - c. Shed in back falling down.
- II. Discussion was made by City Attorney Kantrud and Council on what the next step would be to rectify this.

L. City Attorney Report

- I. Cedar/Hall Junction Update
 - i. City Attorney Kantrud recorded the permanent roadway easement on April 12, 2021.

M. Councilmember Reports

I. Mayor Wingfield

i. City Planner

- a. Mayor Wingfield mentioned that our City Planner Doug Danks should be reviewing plans to check setback requirements on all exterior modification and final "as builds".
- b. Councilmember McCarthy suggested some way of helping out applicants get all the information they need to the city the first time they apply.

ii. Irrigation Permits

- a. Need a process to inventory the irrigation installation and flushing to the city.

- b. Have a permit
- c. Need to make sure they have a proper backflow installed

iii. Tree Ordinance

- a. No provision in code on the inventory of trees or tree preservation
- b. This was brought up by the subdivisions task force.
- c. Mayor Wingfield asked if our code had anything the monitored the trees.
- d. City Attorney Kantrud mentioned that they should be put on the survey when permits are taken out, but there is not a tree preservation ordinance as of yet.
- e. City Attorney Kantrud suggested bringing one forward and take a look at it.

iv. ROW Permit

- a. There are things homeowners have placed in the right of way which interferes with city's use. (i.e. Irrigation systems, underground dog fencing, etc)
- b. There is no code to follow up with this
- c. There has been some claims that the city has had to pay
- d. Write in the ordinance that if something in the ROW gets damaged that it is the homeowners responsibility.
- e. Homeowners should be aware of what is put in the ROW

v. Memo from Sarah Marko Hanson regarding signage

- a. Signage for grant application for commemorative signs
- b. Drafting the verbiage and the grant that would support it and supporting monies from the city.

vi. Bell Tower

Council Deliberation

vii. Roads

- a. Discussion was made on the condition of roads.

Council Deliberation

II. Councilmember McCarthy

i. Donation of Sand for Kay Beach

- a. 505 Lake Ave homeowner would like to donate excess sand to the city. Access by city easements are now restricted to winter months.

Council Deliberation

ii. IT Proposal

- a. Councilmember McCarthy and Ryan Hankins, an IT expert, went over the citys charges from Metro IT to possibly switch some of the cities services to another provider

Council Deliberation

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1. Approve Resolution 2021-12

MAYOR WINGFIELD made a proposal that informally directs Councilmember McCarthy to work through Resolution 2021-12, and to authorize the Administrator to modify it. To have Councilmember McCarthy and Ryan Hankins come back at the reconvened meeting with a replacement vender, and replacement for a backup subscriber.

***3. Approve Resolution 2021-10 Summary Publication (continued from pg 3)**
Changes were made.

COUNCILMEMBER MCCARTHY MOTIONED to accept Resolution 2021-10 as written and provided to the Council on page 119. Seconded by Councilmember Fleck. Roll call Votes: **AYES: McCarthy, Fleck, Foster, Woolstencroft, Wingfield.** Motion Passed.

MAYOR WINGFIELD MOTIONED to recess this meeting to reconvene on Tuesday, April 20, 2021, at 4:30pm, on zoom, or the purpose of finishing the city's business as posted on the agenda. Seconded by Councilmember McCarthy. Roll Call Votes: **AYES; Mccarthy, Fleck, Woolstencroft, Foster, Wingfield.** Motion Passed.

ATTEST:

Mary Wingfield

Mayor

Andy Gonyou

City Administrator/Clerk

MINUTES
ON THE CONTINUATION OF THE REGULAR MEETING
OF APRIL 13, 2021
THE CITY OF BIRCHWOOD VILLAGE
VIRTUAL MEETING
April 20, 2021
4:30PM

Mayor Wingfield opened meeting at 4:30pm and mentioned that due to our Attorney's schedule the City of Birchwood is going to proceed with the closed meeting portion dealing with the following.

The City of Birchwood is about to conduct a closed meeting of its City Council meeting pursuant to Minnesota Statue 13D.05 Subdivision C to review confidential or protected non-public appraisal data under section 13.44 Subdivision 3 to develop or consider offers or counter offers for the purchase, or sale of real property. The parcel in question is located at 176 Cedar St in full disclosure to the public, the parcel is 3.59 acres of property that was purchased by Husnik Homes who is a real estate developer and who has intern offered to sell a portion of the parcel to the city as in for open space or alternatively to buy down development density. The offer from the developer was to sell the city 2.6 acres of the parcel as well as a 10 foot path way to the area from Cedar St for \$500,000 dollars. City Attorney Kantrud has engaged in a professional appraiser and obtained an appraisal for the parcel which will also be discussed in closed session and is considered confidential data pursuant to Minnesota Statue 13.4 Subdivision 3A to which Mayor Wingfield proceeded to read.

The closed portion of this meeting will be preserved for 8 years and made available to the public after all real property discussed at the meeting have been purchased or the city has abandoned the purchase. For the record, the following persons will be in attendance during the closed session and this statement will be available to the public following the adjournment of the overall City Council.

ROLL CALL: AYES; COUNCILMEMBERS; John Fleck, Mark Foster, Justin McCarthy, Kevin Woolstencroft, MAYOR Mary Wingfield, CITY ATTORNEY, H. Alan Kantrud, CITY ADMINISTRATOR/CLERK, Andy Gonyou

Mayor Wingfield then proceeded to close the meeting at 4:35pm.

Meeting was temporary recessed and back on at 4:42pm to get the proper data to review for the closed session.

Mayor Wingfield reread the City of Birchwood notice of closed meeting and public statement.

ROLL CALL: AYES; COUNCILMEMBERS: John Fleck, Justin McCarthy, Mark Foster, Kevin Woolstencroft, Mayor Mary Wingfield. CITY ATTORNEY; H. Alan Kantrud. CITY ADMINISTRATOR/CLERK, Andy Gonyou

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MOTION MADE by Councilmember Fleck to close the meeting pursuant to this statute and under these terms. Seconded by Councilmember Foster. Roll Call, AYES: Fleck, Foster, McCarthy, Woolstencroft, Wingfield. Motion Passed

Meeting is now off the air at 4:47pm. CLOSED SESSION

MOTION MADE by Mayor Wingfield to reopen the closed portion of the meeting since back on the record. Seconded by Councilmember Foster. Roll Call, AYES: Foster, Woolstencroft, Fleck, McCarthy, Wingfield. Motion Passed. Meeting opened at 5:31pm

II. Councilmember McCarthy (continuation from Council Meeting on April 13, 2021)

ii. IT Proposal

a. **Councilmember McCarthy** and Ryan Hankins discussed a simplified proposal and recommendations.

Council deliberation

1. Approve Resolution 2021-12

MOTION MADE BY Councilmember Woolstencroft to adopt the motion on Resolution 2021-12 as amended. Seconded by Councilmember Foster. Roll Call Votes: AYES; Woolstencroft, Foster, Fleck, Wingfield. Motion Passed

N. City Administrator Report

I. Village Hall Rental Reopening

a. **CITY ADMINISTRATOR** Andy Gonyou discussed that a resident was interested in renting the hall and if the council wanted to reopen.

Discussion was made by Council and City Attorney

MOTION MADE by Councilmember Woolstencroft that the City Hall will reopen pursuant to the CDC and directive of the Governor's orders. Seconded by Councilmember McCarthy. Roll Call Votes: AYES: McCarthy, Woolstencroft, Foster, Fleck, Wingfield. Motion Passed.

II. Music in the Park.

a. Discussion made by Councilmember McCarthy

1. Raise fee for musicians \$200/single, \$300/group of 2 or more.

2. 10 weeks

3. between the hours of 6 -- 8

4. beer and wine permitted

MOTION MADE by Councilmember McCarthy to raise the pay of the musicians to \$200/single, \$300 for 2 or more, and 10 good quality concerts. Seconded by Woolstencroft. Roll Call Votes: AYES; McCarthy, Woolstencroft, Foster, Fleck, Wingfield. Motion Passed.

i. Approve Resolution 2021-08

MOTION MADE by Councilmember McCarthy to approve Resolution 2021-08 to approve beer and wine. Seconded by Councilmember Foster. Roll Call Votes: AYES: McCarthy, Foster, Woolstencroft, Fleck, Wingfield. Motion Passed.

Minutes/Birchwood City Council Continuation/April 20, 2021

City Administrator Andy Gonyou (added from Council Meeting of April 13, 2021)

1. Approve expense Metro Inet to grant voting systems at city hall.

City Administrator discussed the Metro IT expense.

2. Updates the council on 2040 comp plan grant

City Administrator Gonyou discussed the 2040 plan grant

MOTION MADE by Council member Fleck to Authorized City Administrator Gonyou to accept their extension agreement which would allow the city to have up to December 31, 2021 to get the documents submitted. Seconded by Woolstencroft. Roll Call Votes: AYES; McCarthy, Foster, Woolstencroft, Fleck, Wingfield. Motion Passed.

ADJOURNED

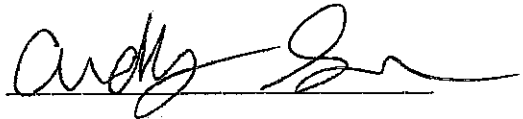
MOTION MADE by Councilmember Fleck to adjourn the meeting. Seconded by Councilmember McCarthy. Roll Call Votes; AYES; Fleck McCarthy, Woolstencroft, Foster, Wingfield. Motion Passed. Meeting Adjourned at 5:57pm

ATTEST:



Mary Wingfield

Mayor



Andy Gonyou

City Administrator/Clerk

RESOLUTION 2021-10

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF
ORDINANCE NO. 2021-03-01, AN ORDINANCE GRANTING A FRANCHISE TO
COMCAST OF MINNESOTA, INC. ("COMCAST") TO CONSTRUCT, OPERATE, AND
MAINTAIN A CABLE SYSTEM IN THE CITY OF BIRCHWOOD VILLAGE,
MINNESOTA AND ESTABLISHING CHAPTER 900 OF
CITY CODE**

WHEREAS, the City of Birchwood Village is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City has adopted Ordinance No. 2021-03-01, which grants a cable television franchise to Comcast of Minnesota, Inc.; and

WHEREAS, the new ordinance is lengthy and would be costly for the City to publish in its entirety as required by law for the adoption of an ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village, Minnesota, as follows:

1. Because the terms of Ordinance 2021-03-01 are lengthy, the City may publish the attached summary of the Ordinance as allowed by statute, and need not publish the entire ordinance. The attached summary clearly informs the public of the intent and effect of the Ordinance. Summary publication has been approved by at least a 4/5 vote of the City Council.
2. The effective date of the Ordinance amendments shall be upon their publication by summary as required by law.

Resolution duly seconded and passed this 13th day of April, 2021.



Mary Wingfield, Mayor

Attest:


Andy Gonyou, City Administrator-Clerk

SUMMARY OF AN ORDINANCE GRANTING A FRANCHISE TO COMCAST OF MINNESOTA, INC. ("COMCAST") TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREIN.

On April 13th, 2021, the City of Birchwood Village, Minnesota ("City") adopted an Ordinance granting a Cable Television Franchise to Comcast. The Ordinance serves two purposes. First, it grants a nonexclusive cable franchise to Comcast to operate and maintain a cable system within the City. Second, it provides requirements for the provision of cable television services including technical standards, customer service obligations, and related matters.

The Ordinance includes the following key terms:

- 1) Establishes a franchise term of ten (10) years;
- 2) Imposes on Comcast a franchise fee of five percent (5%) of Comcast's annual gross revenues;
- 3) Incorporates the City Code regarding right-of-way protections;
- 4) Requires Comcast to dedicate channel capacity for public, education, and government ("PEG") programming;
- 5) Establishes a PEG Fee between three-and-one-quarter percent (3.25%) and two-and-three-quarters percent (2.75%) of Comcast's annual gross revenues;
- 6) Imposes strong customer-service standards regarding Comcast's provision of cable services; and
- 7) Requires a performance bond and letter of credit to enforce Comcast's compliance with the Ordinance.

It is hereby determined that publication of this title and summary will clearly inform the public of the intent and effect of the Ordinance. A copy of the entire Ordinance shall be posted at the City of Birchwood Village City Hall.

It is hereby directed that only the above title and summary of the Ordinance be published, conforming to Minn. Stat. § 331A.01, with the following:

NOTICE

Persons interested in reviewing a complete copy of the Ordinance may do so at the City Hall at 207 Birchwood Avenue, Birchwood Village, MN 55110, during city hall regular hours.

Passed by the City of Birchwood Village City Council this 13th day of April, 2021.

CITY COUNCIL OF BIRCHWOOD VILLAGE

s/ Mary Wingfield, Mayor

Attest:

s/ Andy Gonyou, City Administrator-Clerk

RESOLUTION 2021-11

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**A Resolution Declining to Waive the Statutory Monetary Limits on Municipal Tort
Liability Established by Minnesota Statute 466.04**

At a regular meeting of the City Council of the City of Birchwood Village held virtually through video and telephone conferencing on Tuesday, April 13, 2021, via Zoom Video Communications, Inc., with the following members present: Mayor Mary Wingfield, Council Members Jon Fleck, Justin McCarthy, Mark Foster, and Kevin Woolstencroft, and the following absent: none, the Birchwood Village City Council resolved:

WHEREAS, cities obtaining liability coverage from the League of Minnesota Cities Insurance Trust must decide whether or not to waive the statutory tort liability limits to the extent of coverage purchased.

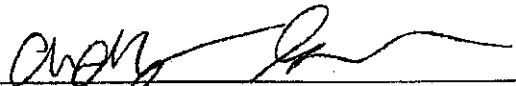
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Birchwood Village hereby does not waive the monetary limits on municipal tort liability established by Minnesota Statute 466.04.

Resolution duly seconded and passed this 12th day of April, 2021.



Mary Wingfield
Mayor

Attest:



Andy Gonyou
City Administrator-Clerk



RESOLUTION 2021-12

**CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO REPLACE
CERTAIN IT SERVICES PROVIDED BY METRO-INET WITH ANOTHER
PROVIDER**

At the reconvened regular meeting of the City Council of the City of Birchwood Village held virtually through video and telephone conferencing on Tuesday, April 20, 2021, via Zoom Video Communications, Inc., with the following members present: Mayor Mary Wingfield, Council Members Jon Fleck, Justin McCarthy, Mark Foster, and Kevin Woolstencroft, and the following absent: none, the Birchwood Village City Council resolved:

WHEREAS, the City of Birchwood Village currently relies on Information Technology (IT) such as computers, telephones, and other services and equipment to conduct its business, and

WHEREAS, the City relies on outside contractors to provide IT services, including Metro-INET, and

WHEREAS, the City desires to keep its costs for IT services low while still providing adequate resources for the staff and Council, and

WHEREAS, the City has found that email hosting, network storage, and work from home solutions for City employees may be provided in a more cost effective manner by purchasing Microsoft365 annual subscriptions for staff from Microsoft instead of continuing to use Metro-INET for these services.


WHEREAS, the City has found that certain elements of our IT services should continue to be provided by Metro-INET.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Birchwood Village that the City of Birchwood Village hereby authorizes the City Administrator to modify our contract with Metro-INET by removing email hosting, network storage, and work from home services for 2022.

NOW THEREFORE BE IT ALSO RESOLVED, by the City Council of the City of Birchwood Village that the City Administrator is authorized to purchase Microsoft365 business standard and business basics yearly subscriptions from Microsoft on or around September 2021 as needed to replace Metro-INET services and begin transitioning email, network storage, and work from home activities to these services.

NOW THEREFORE BE IT ALSO RESOLVED, by the City Council of the City of Birchwood Village that the City Administrator is authorized to procure backup services from iDrive on or around September 2021.

Resolution duly seconded and passed this 20th day of April, 2021.



Mary Wingfield
Mayor

Attest:



Andy Gonyou
City Administrator-Clerk

