**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**December 11, 2012**

**MINUTES**

**MEMBERS PRESENT: Mayor Alan Mitchell; Council Members Barb Carson, Jane Harper, Tony Sampair, and Kevin Woolstencroft**

**STAFF PRESENT: City Engineer Kristie Elfering, City Clerk Dale Powers, City Treasurer Cindie Reiter, and City Attorney Kevin Sandstrom**

**OTHERS PRESENT: Katie Cavanor, John Lund, and Bryan McGinnis**

**Mitchell** called the regular meeting to order @ 7:00pm, and the Pledge of Allegiance was recited.

**AGENDA APPROVAL: Mitchell** mentioned that he wanted to move Agenda Item # 5 (Resolution 2012-31) to Regular Order for discussion before the Truth In Taxation (TNT) public hearing. **Mitchell** also wanted Agenda Item #’s 6d ($1,000.00 donation to the Washington County Historical Society), 6e (Resolution 2012-32) and 9 (Tree Canopy Trimming) also discussed before the TNT public hearing, since these items involve 2012 dollars and not proposed 2013 expenditures. **Mitchell** also noted that with the agenda item pertaining to Council Member Sampair’s resignation, he would like to add review and consideration of holding a public hearing of a draft ordinance requiring a special election for unfinished council terms of over a year as Agenda Item # 11c. **Harper** also wanted to add Agenda Item # 6e1 a proposed resolution transferring a sufficient amount of general fund dollars to the Sewer Fund to keep the City in compliance with bond reserve requirements.

***Mitchell/Harper unanimous to approve the agenda for the December 11, 2012 Regular Meeting, as amended to move Agenda Item # 5 (Resolution 2012-31) to Regular Order before the TNT public hearing; to discuss Agenda Item #’s 6d ($1,000.00 donation to the Washington County Historical Society), 6e (Resolution 2012-32) and 9 (Tree Canopy Trimming) before the TNT public hearing; and to add Agenda Item # 11c (Draft Ordinance –Special Election); and to add Agenda Item # 6e1 (Resolution 2012-38 Directing the Transfer of General Fund Dollars to the Sewer Fund to Retain the Required Minimum Fund Balance for the 2004 and 2008 Sewer Bonds).***

**COMMUNITY EVENTS AND ANNOUNCEMENTS: Mitchell** mentioned that the City Council will be conducting a workshop meeting on Thursday, December 13th at 7:00pm at City Hall, and noted the workshop will be with the incoming Council members to brief them on ongoing Council matters and concerns; the public is invited. **Mitchell** also noted that the White Bear Lake Conservation District (WBLCD) established a Lake Level Resolution Committee and that the WBLCD will be accepting applications to serve on that Committee until January 4th. **Mitchell** announced that the Martin Luther King breakfast for the Northeast Region will be held at White Bear Unitarian Universalist Church in Mahtomedi on Monday, January 21st. **Lund** noted that Saturday, January 12th is Hockey Day in Birchwood from 11am-1pm.

**OPEN PUBLIC FORUM**: **McGinnis** addressed the Council regarding the maintenance of Owl Street, and believes that the last time street maintenance was performed in that area Owl Street was inadvertently omitted. **Elfering** commented that Owl Street is in bad shape, and no amount of maintenance would improve the condition of the street.

**McGinnis** also commended Elfering for her professionalism, stating that her knowledge of the City will be sorely missed. **McGinnis** also commended the work of the current Council Members and especially Mayor Mitchell and Council Member Harper for their long service to the Birchwood community. **Mitchell** thanked McGinnis for his kind words.

**CONSENT CALENDAR: *Sampair/Harper unanimous to approve the following consent calendar items:***

1. ***Approval of the Minutes of the November 13, 2012 Canvassing Board Meeting***
2. ***Approval of the Minutes of the November 13, 2012 Regular Meeting***
3. ***Acceptance of the Financial Report and Disbursements Register as prepared by the City Treasurer and presented to the City Council on December 11, 2012 in the amount of $65,150.72, including Check #’s 27498-27514, 27519-27595, 27538-27569, Direct Deposit #’s 27475DD, 27476DD, 27536DD, and 27537DD, and Electronic Funds Transfers LIFT112012, PERA111512, EFT112712, FED112012, MN112012, and PERA113012***
4. ***Approval of the Hiring of Joseph Morgan as an Ice Rink Warming House Attendant at a wage of $8.00 per hour, conditioned on Mr. Morgan passing a background check.***
5. **RESOLUTION 2012-31> DIRECTING UNSPENT PARKS OPERATING FUNDS TO BE PLACED IN THE PARKS SPECIAL REVENUE FUND: Harper** brought this to the Council’s attention, and noted that the ordinance establishing the Parks Special Revenue Fund calls for funding of the Fund from dock fees, boat slip permit fees, boat slip storage fees, and such other revenues as may be directed by the Council. **Harper** also noted that the Parks Committee bylaws state that any budgeted and unspent funds up to $5,000.00 are to be carried forward for the purpose of funding park activities. **Harper** believes this resolution implements and clarifies for future Councils that these unspent dollars are to be placed in the Parks Special Revenue Fund for non-operating and capital expenditures. **Harper** did note that a correction to the draft resolution needs to be made by inserting the phrase “and unspent” between the words “budgeted” and “Parks” in the “BE IT RESOLVED” clause.

***Harper/Mitchell unanimous to approve Resolution 2012-31 as amended to insert the phrase “and unspent” between the words “budgeted” and “Parks” in the “BE IT RESOLVED” clause of the Resolution.***

**6d. CONSIDERATION OF PAYING FUNDING REQUEST OF $1,000.00 TO THE WASHINGTON COUNTY HISTORICAL SOCIETY FROM UNSPENT 2012 BUDGET DOLLARS AS A CONTRIBUTION FOR THE ACQUISITION AND IMPROVEMENT OF REAL PROPERTY HOUSING THE SOCIETY: Harper** advised the Council that she went over the 2012 budget expenditures and noted that there will be $28,000.00 in budgeted and unspent fund from the City’s general fund that can be used for payment for some of the items to be discussed next.

**Mitchell** stated that at the October 2012 meeting the Council heard from Brent Peterson from the Washington County Historical Society about a capital campaign for the acquisition and improvement of a structure in Stillwater to house the Society’s offices and artifacts. At that time, Peterson requested the City contribute $1,000.00 towards this effort; the Council expressed a desire to contribute and wanted to wait until December to see whether unspent 2012 dollars could be used for this purpose. **Mitchell** commented that it appears that there will be enough unspent 2012 dollars for the Council to consider authorizing the requested contribution at this time.

***Harper/Sampair unanimous to contribute $1,000.00 to the Washington County Historical Society for the purchase of their new building.***

**9. REPORT ON THE COST TO TRIM THE TREE CANOPY OVER THE CITY STREETS: Mitchell** commented that the amount of budgeted and unspent 2012 dollars has now been reduced to $27,000.00. **Mitchell** stated that the City had received some complaints about the low-hanging tree canopy over the City streets, and the Council asked Steve Dean to provide a cost estimate for trimming the tree branches to a height of 14 feet over the street. **Mitchell** reviewed with the Council Dean’s estimate of $8,350.00.

 **Carson** asked whether two motions are needed – one for approval of the project and the set aside of the dollars, the second for awarding the work to Dean. **Sandstrom** agreed with Carson that this action requires two separate motions.

***Harper/Sampair unanimous to set aside $8,350.00 from 2012 budgeted and unspent funds to implement the tree canopy trimming project.***

***Sampair/Woolstencroft unanimous to accept the proposal from Steve Dean to complete the tree canopy trimming project for $8,350.00 and to authorize the Mayor to sign the contract.***

**6e1. RESOLUTION 2012-38 DIRECTING THE TRANSFER OF GENERAL FUND DOLLARS TO THE SEWER FUND TO RETAIN THE REQUIRED MINIMUM FUND BALANCE: Harper** brought this to the Council’s attention, and noted that the City is required, as a condition of issuance of the 2004 and 2008 Sewer Bonds, to keep a minimum fund balance of $115,000.00 in the Sewer Fund. **Harper** said that the financial report stated that the Sewer Fund fund balance is at $102,000, is underfunded by $13,000.00 and needs to be replenished in order to meet the bond requirements.

***Harper/Sampair unanimous to approve Resolution 2012-38 transferring $15,000.00 of General Fun d monies to the Sewer Fund and directing staff to transfer funds on a quarterly basis to keep the required $115,000.00 balance in the Sewer Fund.***

**6e. RESOLUTION 2012-32 ESTABLISHING STREET SIGN REPLACEMENT LINE ITEM IN THE CAPITAL PROJECTS – PUBLIC WORKS FUND AND DESIGNATING $3,000.00 OF UNSPENT DOLLARS FROM THE STREETS AND ROAD MAINTENANCE GENERAL FUND LINE ITEM TO BE ALLOCATED TO SAID STREET SIGN REPLACEMENT LINE ITEM: Harper** advised that she is bringing this to the Council’s attention, noting that the federal government has mandated retroreflectivity standards for street signs. **Harper** mentioned that the mandate has been delayed until 2015, and that the Council decided to set aside $3,000.00 per year to help cover the cost of the signs. **Harper** stated that Resolution 2012-32 creates a new line item in the Capital Projects –Public Works Fund for placement of these dollars and removes the expenditure from the General Fund.

***Sampair/Harper unanimous to approve Resolution 2012-32, as amended so that the “BE IT FURTHER RESOLVED” clause reads as follows: “BE IT FURTHER RESOLVED that the City Council directs that the $3,000.00 budgeted in 2012 for street signs be placed in said “Street Sign Replacement” line item under the “Capital Projects-Public Works” fund, effective with those budgeted funds unspent at the end of the 2012 fiscal year.***

1. **PUBLIC HEARING: TRUTH IN TAXATION and ADOPTION OF THE FINAL LEVY AND FINAL BUDGET FOR 2013: Harper** went over the proposed Final Levy and Final Budget for 2013, and noted that there are no proposed changes to the preliminary levy and budget. **Mitchell** opened the public Truth In Taxation (TNT) hearing at 7:43pm. There were no comments from the public on the proposed levy and budget; **Mitchell** then turned to a discussion of budget items by the Council.

**6b. PRESENTATION OF PARKS COMMITTEE REVISED 2013 BUDGET AND WORK PLAN: Cavanor** went over the various line items of the revised Parks budget and work plan with the Council, factoring in the clarification from the Council on what activities can be funded through the Parks Special Revenue Fund. **Cavanor** noted the following changes: winter seasonal employees increased to $7,500.00; hockey rink equipment increased to $655.00 due to the cost of hoses and scrapers; the hockey rink floor repairs were moved to the Parks Special Revenue Fund; the replacement boards for the hockey rink were taken care of in 2012, so they were removed for 2013; the repairs to the picnic tables and benches were moved to the Parks Special Revenue Fund; the tennis court maintenance – involving removal of a tree and fixing the surface – was moved to the Parks Special Revenue Fund; the walkway costs and weed control costs were removed (**Cavanor** urged adoption of an improvement plan for long-term parks maintenance); as for easement cleanup, **Cavanor** mentioned that after talking with Council Member Harper that the costs for spring and fall easement cleanup should come under the City and not the parks, resulting in lowering the cost to $675.00 for weed control on sand beaches. **Cavanor** also said that the Elm easement project is on the Committee’s radar but they don’t the ability to cost it out at this time.

**Harper** asked Cavanor about two of the projects: weed control and turf management, and the Elm easement. **Harper** said that it sounds like these will be addressed in 2013, and asked if there is any way to signal the budget for these activities through the Parks Special Revenue Fund. **Carson** suggested a paragraph in the work plan that mentions these projects. **Cavanor** said it was up to the Council on how to address this. **Sampair** asked Elfering about the proposed cost of the rip-rap project; **Elfering** believes the cost should be in the $3,000.00 range. **Harper** advised the Council that there is $9,900.00 in the Parks Special Revenue Fund, so the Council could plug in some dollars for those projects, and recommended $3,000.00 for turf management and $4,000.00 for the Elm easement.

***Carson/Sampair unanimous to approve the Parks Committee 2013 budget and work plan, amended to add $3,000.00 for turf management and $4,000.00 for work on the Elm easement.***

**Cavanor** also wanted to share with the Council that the warming house project is still a priority for the Committee, and that the Parks Committee will be meeting on January 28th to review citizen ideas and plans for the warming house. **Harper** commented that she believes a joint meeting with the Committee and the Council would be helpful in making sure the Council and Committee communicate with each other on goal setting and that both entities are moving together and not going ahead of each other.

**6. COUNCIL COMMENTS ON PROPOSED BUDGET AND LEVY: Mitchell** made the following comments on the proposed budget:

**Line 32 (Revenue-Fines): Mitchell** said that if the Council authorizes administrative fines as part of the proposed penalties and enforcement ordinance, the proposed $650.00 in revenue should be increased; however, that will not impact the levy.

**Line 109 (Engineer-Professional Services): Mitchell** noted that the City will most likely see an increase in engineering services, and the budget should be increased to account for this. **Sampair** said he had contacted some engineers and thinks the number should be increased, as Elfering’s knowledge of the City’s infrastructure saved the City a lot of dollars.

**Line 177 (Snow Plowing):** With the last snowfall, if the City gets any more of these the budget should be increased.

**Line 230 (Lake Level Study): Mitchell** noted that this was paid from this year’s budget and should be deleted.

**Harper** noted the following budget line items that can be reduced to fund the additional dollars for the engineering services:

**Line 129 (Government Buildings)** is suggested to be reduced from $8,550.00 to $7,000.00.

**Line 162 (Highways, Streets, and Roadways – Contracted Services)** is suggested to be reduced from $6,000.00 to $4,500.00.

**Harper** said that with the $500.00 savings from paying the lake level study this year, that leaves $3,550.00 in savings that could be used to increase the engineer line item. **Mitchell** recommends adding $2,000.00 to the engineer line item and $1,550.00 to miscellaneous.

**Mitchell** closed the public hearing @ 8:15pm.

**6f. RESOLUTION 2012-33 FINAL LEVY ADOPTION: *Harper/Sampair unanimous to approve Resolution 2012-33 setting the Final Levy for 2012 payable in 2013 at $336,013.00.***

**6g. RESOLUTION 2012-34 FINAL BUDGET ADOPTION: *Harper/Sampair unanimous to approve Resolution 2012-34 setting the 2013 Final Budget at $373,310.00.***

**7. RESOLUTION 2012-35 APPROVING ORDINANCE 2012-11 ADOPTING CITY CODE CHAPTER 618 ADMINISTRATIVE COMPLAINT PROCESS: Mitchell** went over his explanatory memo on the ordinance, and noted that the Council has been working on this matter for close to a year.

**Mitchell** opened the public hearing @ 8:19pm and, noting no members of the public wishing to testify, closed the public hearing @8:20pm.

***Sampair/Mitchell unanimous to approve Resolution 2012-35.***

**8. RESOLUTION 2012-36 APPROVING ORDINANCE 2012-12 ADOPTING CITY CODE CHAPTER 619 PENALTIES AND ENFORCEMENT: Mitchell** said the proposal for administrative fines was the one area of disagreement between himself and Sampair, and noted that they agreed to get the language for administrative fines out to the Council for review before the meeting. **Mitchell** said that Sampair’s language is in the packet; **Mitchell** also has a version at the table for comparison purposes. **Sampair** said that the Mitchell version is close enough to what he wanted and supports that version of the administrative fine clause of the ordinance.

**Mitchell** said he is opposed to administrative fines due to their questionable legality, and that there was too much discretion allowed without the adoption of a specific schedule of fines. **Sampair** responded by saying that the future Council could address development of a fine schedule, and that it is important to establish by ordinance the authority of the City to impose administrative fines.

***Sampair/Harper 2-3 (Mitchell, Carson, and Woolstencroft opposed) to approve Resolution 2012-36 adopting Ordinance 2012-12 with the Mitchell administrative fine language. The motion failed.***

***Mitchell/Carson 3-2 (Harper and Sampair opposed) to approve Resolution 2012-36 adopting Ordinance 2012-12 without any provision for administrative fines. The motion was approved.***

**10. CITY ENGINEER’S REPORT: Elfering** updated the Council on the easement survey project involving Tighe-Schmitz Park, and Dellwood & Kay easements. **Elfering** noted that the east half of the Dellwood easement – unlike the west half – did not specify a perpendicular width. The existing field monumentation and information on the Lakewood Park Third Division plat indicate that the remaining width of the east half of Dellwood Street appeared to be 22.18 feet; and noted that while there were several surveys recently performed on the lots north of Kay Beach, **Elfering** said that the monuments are in conflict with each other and that, in her professional opinion, the survey monuments set by Otto Associates are the most representative of the north line of Kay Street.

**Elfering** also updated the Council on the Streets Capital Improvement Plan, and commented on the annual work report of Saint Paul Regional Water Services.

**11ab. COUNCIL REPORTS> RESIGNATION OF COUNCIL MEMBER ANTHONY SAMPAIR; RESOLUTION 2012-37 ACCEPTING THE RESIGNATION OF COUNCIL MEMBER SAMPAIR AND DECLARING A COUNCIL VACANCY: Sampair** noted that he has some future business commitments that will preclude him from being an effective council member, so he was submitting his letter of resignation. **Sampair** said that the Council accomplished a lot in the last two years and the Council and staff have done a fantastic job.

**Mitchell** went over the enclosed Resolution 2012-37 accepting Sampair’s resignation. **Mitchell** said that the Council was required to adopt a resolution accepting the resignation and declaring vacancy. **Mitchell**  also noted that he believes two years is too long a time to fill a council vacancy by appointment, and that a special election should be conducted to fill a vacancy of longer than two years. **Mitchell** then went over a draft version of a new ordinance (numbered Chapter 703) calling for a special election to fill vacancies that exceed one year. **Mitchell** also went over an amended version of Resolution 2012-37 that in addition to recognizing the resignation of Council Member Sampair, established a deadline for interested persons to apply for appointment to the vacant position and set a special meeting for December 27 to appoint a successor. The Council discussed that if a special meeting were to be held on December 27 to appoint a successor, the deadline for people to file an application should be the day before the meeting.

***Mitchell/Carson unanimous to approve Resolution 2012-37 as amended, accepting the resignation of Council Member Anthony Sampair, declaring a Council vacancy, and adopting procedures for filling the Council vacancy (including a December 26 deadline for interested persons to apply, and setting a special meeting for December 27 to appoint a successor).***

The Council next discussed whether to hold a public hearing on the proposed special election ordinance (new Chapter 703 of the City Code).

***Mitchell/Carson unanimous to hold a public hearing on the proposed special election ordinance at the December 27 special meeting.***

**12. RECOGNITION OF OUTGOING ELECTED OFFICIALS: Powers**, on behalf of the staff and residents of the City, thanked the outgoing elected officials for their service to the City and presented certificates of appreciation to Mayor Mitchell and Council Members Carson, Harper, and Sampair.

 **13. NEXT MEETINGS> DECEMBER 13, 2012 AND JANUARY 8, 2013 – TOPICS: Mitchell** mentioned the workshop for December 13th is for orientation of the newly elected and appointed Council members, and to advise the new Council on matters pending for 2013. **Mitchell** also said that the first meeting involving the new Council will be on January 8th; at this meeting, the Council will organize themselves, ratify Council assignments and appointments made by the incoming Mayor, and to appoint the Acting Mayor, official newspaper, and official depository.

**14. ADJOURN:** ***Harper/Sampair unanimous to adjourn the meeting @ 9:26pm.***

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Dale Powers

City Clerk