**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**December 13, 2011**

**MINUTES**

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

**MEMBER ABSENT: Council Member Mark Peterson**

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

**OTHERS PRESENT: Kristine Goodrich, Gene Ruehle, Larry Walker, and Mary Wingfield**

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

**AGENDA APPROVAL: *Mitchell/Harper 4-0 (Peterson absent) to approve the agenda for the December 13, 2011 Regular Meeting, amended to add Caitlyn Howe to Item # 4 (Approval of the hiring of rink attendants), and to move Item # 4 from the Consent Calendar to Regular Order.***

**COMMUNITY EVENTS AND ANNOUNCEMENTS: Mitchell** noted that the annual Christmas party is scheduled for Saturday, December 17th, and Santa will be there at 11am; and also that St. Lucia Day is today, and in honor of that there is Swedish almond cake in the back of the room.

**OPEN PUBLIC FORUM:**  **Ruehle** thanked the Council for serving the Village beautifully.

**CONSENT CALENDAR: *Harper/Sampair 4-0 (Peterson absent) to approve the following consent calendar items:***

1. ***Approval of the Minutes of the November 8, 2011 Regular Meeting.***
2. ***Acceptance of the Financial Report and Disbursements Register as prepared by the City Treasurer and presented to the City Council on December 13, 2011, including Check #’s 26863-26895, 26898-26906, and Electronic Funds Transfers FED102011, MN102011, PERA103111, FEDfee2009, SBOX 2011, EFT1123211, FED112011, MN112011, PERA111511, and PERA113011.***
3. ***Approval of Resolution 2011-24 abating the portion of a previously paid special assessment bill that exceeds the amount owed.***

**APPROVAL OF THE HIRING OF NICHOLAS HOVLAND, JACK KIPPEN, JOSEPH MORGAN, AND CAITLYN HOWE AS SEASONAL RINK ATTENDANTS AT A WAGE OF $8.00 PER HOUR EACH: Mitchell** requested that this item be removed from the consent calendar to raise the issue that two of the applicants are in their 20s and one is in his 30s, and that it would be prudent to do a background check since they will be working with kids.

***Mitchell/Carson 4-0 (Peterson absent) to approve the hiring of Nicholas Hovland, Jack Kippen, Joseph Morgan, and Caitlyn Howe as rink attendants on the condition that Hovland, Kippen, and Morgan go through a background check.***

**Harper** alerted Mitchell to a follow-up to Item # 2 on the Consent Calendar. ***Harper/Sampair 4-0 (Peterson absent) to authorize staff to pay the bills through the end of the year that are routine, within budget, and authorized by contract, and they be brought back in January as part of the disbursement list.***

**CANCELLATION OF THE DECEMBER 27, 2011 REGULAR MEETING: *Sampair/Carson 4-0 (Peterson absent) to cancel the December 27, 2011 regular meeting.***

**TRUTH IN TAXATION PUBLIC MEETING: Mitchell** related that the City Council established a preliminary levy of $365,000 on September 13th and that is the maximum amount we could levy in 2012. **Mitchell** continued by saying that the Council now has before it a revised proposed final levy of a little over $331,000 and a proposed budget of $458,000. **Mitchell** concluded his opening remarks by stating that the Council’s task tonight is to hold a Truth In Taxation meeting and adopt a final levy and a final budget for 2012. **Harper** asked whether the resolutions at the table approving the final levy and final budget are replacements; **Mitchell** replied that they are replacements with slight modifications from those in the packet.

**Harper** noted that the proposed changes reflect items discussed at the workshop, including removing $4,000 for the desk audit, adding $2,000 for insurance, reducing $1,700 for Music In The Park, and removing funding for Hockey Day In Minnesota. **Sampair** stated he reviewed the work done by the Council and thought it was very well done. **Harper** related that the sewer projects were moved from the levy and placed in the Capital Projects Fund and noted that the City contracted with Shelly Rueckert to review the sewer and water rates and make recommendations on changing the rates to ensure funding for those capital projects and to cover operating expenditures that have exceeded revenue in the last couple of years.

The following comments were made during public comment:

**Walker** said he attended the workshop and thought the budget was very well done, and shared that he sent an e-mail to individual Council members on suggestions on what to remove or reduce on the proposed budget. **Walker** continued by stating that one item that was not discussed at the workshop was Line 240 (Miscellaneous), and noted that in the past Miscellaneous was in the $1,000 range and should be kept at that level for 2012. **Walker** concluded his remarks by stating that maintaining the 2011 levy of $323,000 for 2012 is achievable. **Mitchell** responded by going over some items noted in Walker’s e-mail, as follows:

* Line 60 (Per Diems) at $1,560 – note says for Parks and Finance. **Harper** noted that in the past per diems were only for the Planning Commission, and the thought was that the Parks Committee should also receive a per diem. **Harper** advised that this does not mandate that the Parks Committee will receive a per diem; that requires a separate act of the Council. The money is in the budget if the Council wanted to pay per diems to the Parks Committee.
* Line 90 (Audit) at $4,000 – **Harper** noted that this was removed because it was found that the cost of a desk audit – which reviews internal control procedures – far exceeds the amount budgeted.
* Line 164 (Street Signs) – **Walker** noted that this was put in with the understanding that the City was mandated to adhere to a federal standard that has subsequently been delayed, and mentioned that with the delay there isn’t a need to fund this item. **Mitchell** said there was a delay in requiring implementation of the retroreflectivity standards. **Sampair** reminded the Council that it approved a phasing in of new signs over three years.

**Wingfield** commented that she agreed with Walker that $323,000 is attainable for next year, and observed that (a) without the $16,000 expense budgeted in 2012 for an audit, the Council by keeping the levy flat at $323,000 will actually have approximately 7% more to spend in 2012; (b) noting the discussion on the proposed warming house grant, commented that the City received a grant for the walking path that has not been maintained since it was installed; (c) mentioning the $30,000 cost for replacement of manhole covers, stated that the Council passed last December a motion mandating the City receive a second opinion for all expenditures over $5,000.

Hearing no other requests to speak, **Mitchell** closed the Truth In Taxation meeting at 7:30pm.

**Harper** clarified that the $4,000 for the desk audit is to be removed, reducing the proposed levy to $334,412. **Harper** also made the following comments:

* Looking at the to-date disbursements, the City is at about $320,000 in levy-funded expenditures. The City will likely be over budget slightly this year.
* With regard to the miscellaneous fund, it is typical for an organization to have contingency funds to cover unexpected expenses. As well, the City doesn’t receive 100% of the levy; the County collects and distributes typically 97-97.5% of the levy due to delinquencies. If the City levies only the amount required for the budget, it will fall short for this reason. **Sampair** asked if that’s why the 2-2.5% amount for contingency fund is used; **Reiter** responded that is the foreclosure rate which tracks with the delinquency rate of the County. **Mitchell** noted that the miscellaneous amount in the budget of $14,758 is higher than 2-2.5%; **Harper** responded that a portion of the miscellaneous covers the 2.5% of uncollected taxes and the other portion is budgeted to cover cost overruns and unanticipated expenditures.
* With regard to the street signs, **Harper** noted that there are some signs on Hall Avenue that are in rough shape that need to be replaced, and the City shouldn’t be bound by federal mandates. **Sampair** recommends increasing the sign budget to $3,000 to cover sign replacement in 2012, as agreed to in prior council actions.
* **Harper** noted that the budget document included in the packet is the incorrect one, as she recalls the Council lowering the proposed levy from $338,000 to $331,000 after the workshop meeting. **Harper** said that the budget up for consideration is not what’s in the packet but what’s in the newsletter.

CLERK’S NOTE: During the compilation of the various items that make up the agenda packet, the City Clerk inadvertently inserted the incorrect version of the proposed budget in the packet. This subsequently created a level of confusion that should not reflect on the professionalism or the preparedness of individual Council members or City staff. The City Clerk regrets this error and the negative impression it may have caused the viewing public, and apologizes for the mistake.

The meeting recessed for a brief period of time to allow Reiter time to update the budget document for the Council and for Powers to print off a copy of the budget summary that was in the newsletter.

**Harper** walked the Council through the following changes to the budget document that was included in the council packet:

* Line 5 (General Property Taxes) and Line 39 (Total Receipts/Revenues): From $338,412 to $331,312
* Line 90 (Auditing Services) reduced from $4,000 to $0 with the removal of the desk audit expense
* Line 102 (Insurance) increased to $10,524
* Line 134 (Total General Government) reduced from $121,259 to $118,359
* Line 182 (Total Public Works) reduced from $47,900 to $45,400
* Line 187 (Community Events) reduced from $1,900 to $200
* Line 188 (Recreation - Culture and Recreation Subtotal) reduced from $2,200 to $500
* Line 214 (Total Culture and Recreation) from $15,200 to $13,500
* Line 248 (Total Operating Expenditures) from $348,412 to $331,312

**Sampair** expressed a desire to have sign replacement restored to $3,000.00 in keeping with the three-year plan for sign replacement, and noted that originally $4,000 was budgeted for this activity and was subsequently reduced to $1,000. **Harper** responded that the Council made the reduction at the budget workshop in November. **Sampair** responded that he did not think the amount should be touched because the Council previously agreed to the expenditure, and recommended that the budget be restored to $3,000 with the funds coming out of the contingency fund, reducing the contingency item to $12,750. The consensus of the Council was to make that change, which **Elfering** said would pay for 10 signs. **Harper** noted that this action changes Line 240 (Miscellaneous, Contingency) and Line 247 (Total Unallocated Expenditures) to $12,750; any further changes to these categories would involve reducing the levy. **Harper** continued by stating that the contingency fund could be reduced to $8,500, which still would cover our uncollected taxes, and asked the Council what it wants to see for a contingency fund. **Sampair** asked Harper if she was comfortable with the $8,500 contingency fund; **Harper** said she was comfortable with that amount, which will result in a levy of $325,062. **Walker** shared with the Council his experience with the levy was to submit a round figure, and recommends a levy of $325,000 by reducing the contingency fund by $62 to $8,438.

**Harper** then walked the Council through the capital projects fund, and stated that these projects are paid by user fees and fund balance not the 2012 levy. **Harper** reminded the Council that Shelly Rueckert had been hired to recommend new fees for the water and sewer fund, and these calculations will be worked into her calculations. **Walker** commented that there is no urgency for the $15,000 for City Hall improvements. **Sampair** responded that the City has a thorough inspection of the structure and that to take care of this building the $15,000 is needed. **Powers** noted that there have been several improvements made to the structure over the past year, and the remaining items are the handicapped ramp and making the upstairs restroom handicapped-accessible. **Powers** further stated that the estimates for the ramp have all been over $20,000, and perhaps it would be prudent to wait to see if there is grant money available for that improvement; and that an estimate for the restroom will be forwarded to the Council in early 2012. **Powers** concluded by stating that even if the $15,000 was reduced to zero it would not impact the levy.

***Harper/Carson 4-0 (Peterson absent) to approve Resolution 2011-22 approving a Final Levy amount of $325,000.00.***

***Harper/Carson 4-0 (Peterson absent) to approve Resolution 2011-23 approving a Final Budget amount as indicated in the attached exhibit.***

**UTILITY LATE FEE INTEREST ORDINANCE: Mitchell** opened the public hearing at 8:23pm. Seeing as there was no one in the audience to speak on the proposed ordinance, **Mitchell** closed the public hearing at 8:24pm.

**Harper** asked whether the Council still had a concern about whether the late fee is subject to compounding, and if it does compound that should be stated in the resolution. **Mitchell** responded that might be helpful and asked the City Attorney if he had any suggestions on how to address that issue. **Sandstrom** responded that he recommends adding the following clause to the end of the proposed 701.095: “and said late fee shall be added to the delinquent balance”, noting that the change will clarify that compounding will take place. **Mitchell** also wanted to clarify the actions of the Council in the resolution and recommends the following clauses added after the second “whereas” clause: WHEREAS, the City determined that a late fee of 5% of the outstanding delinquent balance is reasonable and consistent with what other municipalities charge; and WHEREAS, the City held a public hearing on December 13 to provide the public an opportunity to comment on the proposed ordinance amendment.

***Mitchell/Carson 4-0 (Peterson absent) to approve Resolution 2011-25 as amended adopting Ordinance 2011-05 as amended amending Chapter 701 of the Birchwood City Code to Establish a Late Fee for Delinquent Utility Bills.***

**REVIEW OF PAY SCALE REPORT FOR THE CITY CLERK: Harper** reviewed with the Council the enclosed 4salary survey for the City Clerk position prepared by MPS Staffing, noting that as part of the clerk’s performance review the Personnel Committee recommended, and the Council approved, the undertaking of a market survey to determine whether the clerk’s salary is in line with comparable positions. **Harper** continued by stating that the results of the survey indicated the clerk’s salary is appropriate and the Personnel Committee does not recommend any additional pay increase at this time; however, **Harper** noted that only 10% of those surveyed did not offer any health benefits. **Harper** concluded by remarking that sometime in 2012 that the Council should explore the issue of offering health insurance to employees.

**CITY CLERK’S REPORT: Powers** updated the Council on his progress in achieving his assigned 2011-2012 performance goals, and informed the Council on the status of the chimney repair. **Powers** also noted that the contract with KEJ Enterprises for locates, general road repair, sign repair and replacement, emergency tree removal, etc. expires at the end of December and asked for direction from the Council. **Powers** related that there is an issue with KEJ performing locating services for the City in that since the City purchased the locating wand for KEJ that potentially an employer-employee relationship could exist. **Powers** also stated that there are times when KEJ responds to a locate request by driving out to the site and, if it is determined that the locating work has already been done that he leaves the scene without billing the City; while KEJ is to be applauded for not overbilling the City, it does create an issue of establishing a paper trail in situations where the City may be liable for failure to locate. **Powers** concluded his remarks by stating that the current proposal for providing water services by Saint Paul Regional Water Services also offers locating services for sewer and water and perhaps subsequent contract with KEJ would exclude locating services. **Harper** requested the City Clerk to provide the Council with a list of contracts, when they were bid, and when they expire.

***Sampair/Mitchell 4-0 (Peterson absent) to request of KEJ Enterprises that the current contracts for locates, general road repair, sign repair & replacement, emergency tree removal, street sweeping, parks maintenance and mowing [all services currently provided by KEJ Enterprises except snow plowing] be extended until February 29, 2012.***

***Mitchell/Sampair 4-0 (Peterson absent) to authorize the City Clerk to bid out the services currently provided by KEJ Enterprises (except snow removal) and to report back to the City Council at its February 2012 regular meeting.***

**CITY ENGINEER’S REPORT: Elfering** provided her monthly update on the discussions with Saint Paul Regional Water Services (SPRWS) as it relates to the provisioning of water operator services, and noted that she is also talking with the City of White Bear Lake (WBL) at the same time. **Elfering** said when she talked to WBL they said they hadn’t had time to provide a bid and called on the City Clerk to see what could be done to expedite the matter. **Elfering** did say that her conversations with WBL indicate that it would bid for the work at an hourly basis when staff time becomes available, while SPRWS proposed a monthly rate for a menu of services, including mapping and hydrant services. **Mitchell** lamented the lack of an “apples to apples” comparison, and **Elfering** agreed and attempted to provide some measurable basis in the enclosed memo; however, some items like the cost of meter installation were difficult to find. **Carson** noted that the City currently pays $35,600 for these services, and the City is comparing $18,000 to $35,000. **Sampair** asked Elfering if there are any services the City currently is paying for that it will not get from SPRWS; **Elfering** responded there are not and actually the City would be receiving more services from SPRWS. **Harper** wanted to clarify with the Council that with the action of the Council earlier tonight in setting the levy and the budget that we do not have any funds to cover any of these costs; we had $14,000 but that was taken out. **Harper** noted that there is $22,000 for hydrant repair and maintenance, but no other funds are available if the cost of the contract and the hydrant repair exceeds $22,000; **Elfering** confirmed with SPRWS that the $18,000 would cover those costs and advised the Council that the SPRWS proposal is for a one-year contract. **Sampair** asked Elfering whether the Council should approve the SPRWS proposal; **Elfering** responded that the City has worked closely with WBL in the past, and there has been a perception of alienation between our two cities in the past and in trying to work with WBL we want to tread lightly on this issue. The Council directed the City Clerk to communicate with WBL regarding the City’s desire to receive a bid from WBL on providing services to the City, and that the City Council will act on this matter at the January 10th meeting.

**COUNCIL MEMBER REPORTS: Mitchell** commented that the Clerk sent to the Council draft revisions to Chapters 203 and 205 regarding the building code and building fees, and said he has been working with White Bear Lake Chief Building Official Ben Eggan on these revisions. **Mitchell** continued by saying the intention of these revisions is to make the City’s building code and fees consistent with White Bear Lake’s.

**Harper** noted that she has worked with the City Attorney on revisions to the City’s fee ordinance, and that she recommends that the fees be established in a separate schedule so that the Council can change them by motion or resolution and not be bound by the restrictions of having them in an ordinance, such as publication requirements, etc. **Mitchell** would like to have all the fees in one location and not spread out. The Council concurred that the fees should be a separate schedule and that staff should compile a fee schedule for consideration at the January meeting.

**NEXT MEETING – JANUARY 10, 2012 - TOPICS: Mitchell** said that the next meeting on January 10 will be the Council’s annual organizational meeting, and a list of the current Council appointments is included in the packet for the Council’s review. **Mitchell** also noted that since Council Members Peterson and Sampair are the only two members guaranteed to be on the Council in January 2013, he thinks that one of them should be on the Personnel Committee and one should be on the Budget Committee. **Harper** said the fee ordinance revisions should be ready for the January meeting. **Mitchell** also wanted the Council to consider going to one regular meeting each month; if there is a need for an additional meeting that can be scheduled as a special meeting.

**ADJOURN: *Harper/Sampair 4-0 (Peterson absent) to adjourn the meeting @9:25pm.***

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Dale Powers

City Clerk