

**CITY OF BIRCHWOOD VILLAGE
EMERGENCY CITY COUNCIL MEETING
November 24, 2015**

MINUTES

MEMBERS PRESENT: Council members: Bill Hullsiek, Mark Anderson and Randy LaFoy

MEMBERS NOT PRESENT: Mayor Winfield, Council member Woolstencroft

STAFF PRESENT: Mike Anderson, City Administrator

OTHERS PRESENT: Steve Chad, Donald Hankins, Nicholas Leeves, Megan Malvey, Kelly Paradise, Thomas Hoffman, Mahtomedi Resident Carla Butts, and many more.

Council Member LaFoy called the emergency meeting to order at 7:00 p.m. The Pledge of Allegiance was recited.

AGENDA APPROVAL:

MOTION WAS MADE BY COUNCIL MEMBER HULLSIEK AND SECONDED BY COUNCIL MEMBER ANDERSON TO APPROVE THE AGENDA AS PRESENTED. ALL AYES. MOTION PASSED.

OPEN PUBLIC FORUM:

Nobody.

CITY BUSINESS - REGULAR AGENDA

A: Second Reading of Ordinance 2015-08-03: Sexual Offenders and Sexual Predators

Council Member LaFoy: Asked that residents limit comments to one minute and only speak about any new information that was not addressed in the previous emergency meeting.

Resident Steve Chad: He asked whether the proposed ordinance would include Mr. Zacher and if not whether the City Attorney would be willing to challenge the definition of residency which the state is using to place Mr. Zacher in Birchwood.

Council Member LaFoy: Answered that he did not know the answer to Mr. Chad's question and that the City Attorney was not available.

Council Member Anderson: Answered that the City Attorney would challenge anything that the council asked him to challenge.

Resident Donald Hankins: He expressed concerns about the council passing this ordinance in an emergency meeting without going through a normal review of the language with the City Attorney. He is also concerned that this ordinance targets a specific individual rather than a

behavior and accordingly, places Birchwood in risk of legal action and expenses for violating someone's rights. He recommends council either table the subject or vote against the current ordinance language.

Resident Nicholas Leeves: He agrees with the comments made by Resident Donald Hankins.

Mahtomedi Resident Carla Butts: Asked if council has determined any way they can prevent Mr. Zacher from living in Birchwood and if not to take the time to enact an effective ordinance.

Council Member LaFoy: Answered that he was not aware of a way to prevent Mr. Zacher from moving into Birchwood.

Resident Megan Malvey: 1) there is a good chance that the requirements for residency has not been established by Mr. Zacher 2) if Mr. Zacher moves to Birchwood, the city parks will no longer be used and that affects all of the children in Birchwood 3) Mr. Zacher and other level three sex offenders are not likely to obey any restrictions passed by an ordinance 4) Birchwood has liability insurance that will cover possible legal action.

Resident Kelly Paradise: 832 people signed the petition to keep Mr. Zacher from moving to Birchwood.

City Administrator Anderson: Read an email from Mayor Wingfield.

Thomas Hoffman: Responded that by definition, emergency meetings are due process. He does not understand where the heightened concern for quality ordinance language comes from as many of Birchwood's existing ordinances are not so well written. Other cities have passed similar ordinances and Birchwood should as well.

MOTION WAS MADE BY COUNCIL MEMBER HULLSIEK AND SECONDED BY COUNCIL MEMBER ANDERSON TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

Council Member Hullsiek: Proposes reverting back to and passing the initial ordinance language as found in the Nov 22 information packet. He also proposes that this ordinance expire and be replaced by a more comprehensive ordinance by April 15, 2016. The replacement ordinance should include a working group of residents, members to be determined at the Mayor's discretion, who represent both sides of the issue who are chartered to create safety zones in accordance with City Attorney Kantrud's recommendations.

MOTION WAS MADE BY COUNCIL MEMBER HULLSIEK AND SECONDED BY COUNCIL MEMBER LAFOY TO REVERT THE ORDINANCE LANGUAGE BACK TO THE NOV 22 VERSION – DISTANCE TO 1,000 FEET AND INCLUDING THE FAMILY EXCEPTION – AND EXPIRING APRIL 15, 2016.

Council Member Anderson: Addressed resident concerns regarding the family exception. No city anywhere has passed a similar ordinance without the family exception clause and Birchwood cannot risk excluding this clause from the ordinance.

Council Member LaFoy: Agreed with both Council Member Hullsiek and Anderson's comments.

Council Member Anderson: Added his concern that excluding the family exception clause could be determined by the courts as targeting a specific individual rather than a behavior.

VOTE WAS TAKEN TO PASS THE ORDINANCE AS WRITTEN IN THE NOV 22 INFORMATION PACKET AND TO EXPIRE APRIL 15, 2016: ALL AYES. MOTION PASSED.

Council Member LaFoy: Directed City Administrator Anderson to proceed with publication of ordinance.

ADJOURN

MOTION WAS MADE BY COUNCIL MEMBER HULLSIEK AND SECONDED BY COUNCIL MEMBER ANDERSON TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 7:23 P.M.

Mary Wingfield
Mayor

ATTEST:

Mike Anderson
City Administrator-Clerk