**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**February 12, 2013**

**MINUTES**

**MEMBERS PRESENT: Mayor Mary Wingfield; Council Members Greg Donovan, Bill Hullsiek, Randy La Foy, and Kevin Woolstencroft**

**STAFF PRESENT: City Coordinator Dale Powers, City Treasurer Cindie Reiter, and City Attorney Kevin Sandstrom**

**OTHERS PRESENT: Ted Bearth and Dave Wagner**

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

**AGENDA APPROVAL: LaFoy** requested that future meetings adjourn before 10:00pm, as attention spans begin to wane; **Wingfield** said she doesn’t have a problem with that, as she doesn’t abide by the time prompts anyway. **Wingfield** requested the following items be moved from the Consent Calendar to Regular Order: # 2 (Acceptance of the Financial Report and Approval of Disbursements); # 3 (Approval of $265.00 expenditure for the City Coordinator to attend the 2013 Municipal Clerks and Finance Officers Association Annual Conference March 19-22 in St. Cloud); # 4 (Approval by the City Council for the City Coordinator to be a candidate for Treasurer of the Municipal Clerks and Finance Officers Association). **Wingfield** also requests adding the following item to the Consent Calendar as Item # 6a: Request Ken Johnson to appear at the March Council meeting to address maintenance and snow plowing issues, and adding as Item # 9a (Police Contract with White Bear Lake) to the Regular Order.

***Wingfield/LaFoy unanimous to approve the agenda for the February 12, 2013 Regular Meeting, as amended to move Agenda Item # 2 (Acceptance of the Financial Report and Approval of Disbursements), Agenda Item # 3 (Approval of $265.00 expenditure for the City Coordinator to attend the 2013 Municipal Clerks and Finance Officers Association Annual Conference March 19-22 in St. Cloud), Agenda Item # 4 (Approval by the City Council for the City Coordinator to be a candidate for Treasurer of the Municipal Clerks and Finance Officers Association) from the Consent Calendar to Regular Order; to add Agenda Item #6a (Request Ken Johnson to appear at the March Council meeting to address maintenance and snow plowing issues) to the Consent Calendar; and to add Agenda Item # 9a (2013 Police Contract with White Bear Lake) to the Regular Order.***

**OPEN PUBLIC FORUM**: No one desired to address the Council during Open Public Forum.

**CONSENT CALENDAR: *Donovan/LaFoy unanimous to approve the following consent calendar items:***

**1. *Approval of the Minutes of the January 8, 2013 Regular Meeting***

1. ***Approval of the Hiring of Griffin Joseph Konkler as an Ice Rink Warming House Attendant at a wage of $8.00 per hour***
2. ***Approval of RESOLUTION 2013-05 Acceptance a Donation of $500.00 from Writers Unlimited***

**6a. *Request Ken Johnson to appear at the March Council meeting to address maintenance and snow plowing issues)***

1. **REVIEW OF CONTRACT WITH SAINT PAUL REGIONAL WATER SERVICES (SPRWS) > PRESENTATION BY DAVE WAGNER OF SPRWS: Wagner** presented the Council with information on the City’s contract with SPRWS, and handed out a document summarizing the work of SPRWS for the City over the past year. **Wagner** stated that SPRWS entered into an agreement in March 2012 to provide certified water operator services to the City, including hydrant inspection, water valve inspection, record compilation of as-built drawings of the City’s water system to a computerized geographic information system (GIS), respond to Gopher State One Call locate requests, shutoffs, and water meter replacement.

**Wingfield** expressed a concern that the City has the City of White Bear Lake inspect our sanitary sewer and the City pays them $7-8,000.00 for that service; the City pays SPRWS $18,000.00 to be on-call to provide similar services to the City’s water system. **Wingfield** stated further than she believes SPRWS is at a disadvantage in that the City previously contracted with an individual certified water operator that has photographic recall of the City’s water system that charged the City $80.00 a month for on-call services. **Wingfield** concluded by saying that the City is looking for a cheaper alternative because, in her opinion, we have to – this is not a reflection of the services SPRWS provides. **Wingfield** said she talked with John Manship, who agrees that it would be nice to have SPRWS as a backup due to its increased knowledge of the City’s water system. **Woolstencroft** agreed, stating that he doesn’t like burning bridges and keeping the lines of communication open; if the City experiences a water main break and the person the City has contracted with can’t make it to the site of the break, the City would be well served by having SPRWS available as a backup to make sure the City is always covered. **Wagner** clarified that the work that was summarized was under the certified water operator maintenance agreement, not the emergency water main break contract; there are two agreements in place. **Wagner** further commented that SPRWS provides emergency coverage for several communities, including Oakdale and White Bear Township, and believes his organization does a pretty good job of providing that service; **Woolstencroft** agreed, stating that SPRWS has been in business for a long time and the Council needs to take that into consideration.

**Wingfield** said she wants the Council to consider what its options are, and to analyze whether other alternatives would better serve the City. **Wagner** said that he believes SPRWS would be willing to take a look at the contract, and wants to avoid having it looked at on an annual basis.

Discussion was held between the City Council and the City Attorney on how best to handle this given the existing contract with SPRWS; **Sandstrom** stated that the contract states that if either party issues a notice of termination to the other party that there is an expectation that negotiations would continue during the 90-day notice period, and his understanding of the Council objectives is to state in the notice letter that the Council’s intention in investigating other options does not preclude a continued contractual relationship with SPRWS if it’s possible to lower its fee.

***Wingfield/Donovan 4-1 (LaFoy opposed) to direct staff to send a “Notice to Terminate” the City’s certified water operator agreement with SPRWS, pursuant to Paragraph 2.2 of the City’s agreement with SPRWS, in order to start the tolling of the 90-day notice requirements and for the City to have the right to seek bids from other parties without it being construed as a breach of the Agreement, subject to negotiation with SPRWS on ways to lower its fee to the City.***

**Wingfield** next talked about which Council member is to be assigned the task of developing an RFP for this service; **Hullsiek** said he would work on updating the previous RFP from 2010.

1. **REMARKS FROM COUNTY COMMISSIONER TED BEARTH: Bearth** addressed the Council as the County Commissioner representing Birchwood and pledged to work with the City on matters involving the City and County. **Wingfield** mentioned the issue of the old County Road 29 (Hall/Cedar), and the City has established a Roads Committee to look at options so as to avoid a costly rebuild of the road.  **Donovan** mentioned that the City would like the road to be built to state standards, and look at whether a “Rustic Road” or other instrument might be used to facilitate a transfer of the road back to the County. **LaFoy** noted that the reconstruction proposed in the past involved the removal of many trees, which creates an issue in a community that takes pride in its urban tree canopy. **LaFoy** also mentioned a need for additional senior activities in Birchwood; **Bearth** responded that he is the Washington County representative on the Metropolitan Council on Aging, an agency that can assist the City on senior issues.
2. **CITY TREASURER/FINANCE ITEMS**

**8a. REQUEST BY THE CITY TREASURER FOR ADDITIONAL HOURS TO COMPLETE THE YEAR-END AND ANNUAL FINANCIAL REPORTS PER STATUTORY REQUIREMENTS: Reiter** commented that the past Council recognized that the year-end and annual report, as mandated by the State, takes up additional time beyond the normal 12 hours per week she works and has routinely approved the additional hours. **Wingfield** noted that she doesn’t have an issue with the additional hours, as long as no additional hours are worked during the course of the work year.

***LaFoy/Donovan unanimous to approve up to 40 additional hours for the City Treasurer, before March 31, 2013, for completion of the year-end and annual financial reports, provided that any additional hours worked for this purpose be taken out of future hours worked in 2013 so as to keep the total number of hours worked on an annual basis average out the same, and to provide the Council with an accounting of what work is being is done during those additional 40 hours (via Wingfield/ Woolstencroft unanimous amendment).***

**8b. REQUEST TO INCLUDE THE NAMES OF ALL PAYEES ON THE DISBURSEMENT LIST:**  **Wingfield** noted that the Disbursement List has the names of all payees except for net payroll, where an aggregate total is shown, and stated that she would like the breakouts for net pay by employee. **Reiter** noted that data privacy prohibits the individual listing of net pay by employee, since the amount of deductions is considered to be private data. **Reiter** further noted that the City’s accounting software does not allow for individual listing of net pay precisely for this reason. **Wingfield** said she is aware of data practices issues, but notes that the City does not do an audit, and there are a lot of blanks on the disbursements list. **Wingfield** stated that she is aware that some people can be told of who the payees are and can receive these data although they are classified as private data, and to redact the private data from the list that is provided to the public. **Sandstrom** confirmed that was possible under the Minnesota Data Practices Act, as some Council members may need that information in the course of performing their roles as Council members.

***Wingfield/Hullsiek unanimous to direct the City Treasurer to attach the CTAS net pay account distribution ledger for payroll to the Treasurer’s Report as a separate item classified as private data.***

**8c. REVIEW NEED FOR ATTENDANCE OF THE CITY TREASURER AT COUNCIL MEETINGS: Wingfield** believes that there isn’t a need for the City Treasurer to attend Council meetings, and feels her time is better spent on accounting. **Reiter** believes that staff is a critical part of the process, and that it takes time for the City Coordinator to produce draft minutes and some action items may be delayed. **Reiter** said that she will be downstairs working during Council meetings and be available if needed.

***Wingfield/Woolstencroft unanimous to direct the City Treasurer to attend Council meetings only when needed.***

**Wingfield** raised an issue with the City Treasurer about a $6,000.00 error from 2009. **Wingfield** contacted the auditor about the issue, since they have a duty to investigate the matter. **Reiter** mentioned that she had made the correction on two separate occasions, the last time in error, and said she will contact the audit firm to guidance on how to handle the matter.

**9. SET TERMS OF APPOINTMENTS FOR THE WHITE BEAR LAKE CONSERVATION DISTRICT AND RAMSEY WASHINGTON SUBURBAN CABLE COMMISSION: Wingfield** informed the Council that the City has not established expiration dates for the terms of office of the City’s 2 representatives of the White Bear Lake Conservation District (WBLCD) and the City’s 2 representatives to the Ramsey Washington Suburban Cable Commission (RWSCC), and mentioned that she was informed by WBLCD that the City sets the terms of appointment. **Wingfield** recommended that the term of WBLCD Member Suzanne Donnell expire June 2015, and the term of WBLCD Member Jane Harper expire March 2013, and noted that there is no motion required for this action because those are what the terms are. In regards to the RWSCC , **Wingfield** proposes that the term of RWSCC Member Randy LaFoy expire January 2015, and the term of RWSCC Member Greg Donovan expire January 2017.

***Wingfield/Woolstencroft unanimous to set the term of RWSCC member Randy LaFoy to expire January 2015 and the term of RWSCC Member Greg Donovan to expire January 2017.***

**9a. 2013 POLICE CONTRACT WITH THE CITY OF WHITE BEAR LAKE: Wingfield** said the contracts were not presented to the Council for approval; **Powers** noted that the contracts themselves were not presented, just the bill for service. **Wingfield** asked the City Attorney for guidance on this issue; **Sandstrom** said that he recommends that the billing be approved pending review, approval, and execution of the revised contract by the Mayor.

**10. PLANNING COMMISSION> CONSIDERATION OF APPOINTING JOHN LUND TO FILL VACANCY: Wingfield** advised the Council that Planning Commission member Don Hankins submitted his resignation to the Council, effective December 31, 2012, and said that the vacancy has been publicized on the City’s website and in the quarterly newsletter, and only one individual – John Lund – has expressed a willingness to serve on the Planning Commission.

***LaFoy/Donovan unanimous to appoint John Lund to the Planning Commission.***

**11. WHITE BEAR LAKE CONSERVATION DISTRICT>CONSIDERATION OF APPOINTING JANE HARPER TO FILL VACANCY: Wingfield** noted that this is the seat previously held by Joe Allaben and has been filled on an interim basis by Harper, and stated that Harper has expressed a willingness to continue serving on the District board. **Wingfield** said that the City has traditionally had the two seats filled with one lake resident and one non-lake resident, and with Donnell being appointed and not living on the lake, the City should consider publishing this vacancy and soliciting interest . **Donovan** responded that while he agrees in the concept of “lake and non-lake”, in the past 10 years that has happened only once. **Donovan** said that the City has had that spot open for a year and believes Harper has done a good job and should be reappointed.

***LaFoy/Donovan unanimous to re-appoint Jane Harper to the White Bear Lake Conservation District Board for a three year term expiring March 2016.***

**14. CONDITIONAL USE PERMIT AND VARIANCE REQUEST> TERRY AND MARY O’LOUGHLIN – 27 BIRCHWOOD LANE > CUP FOR LAND DISTURBANCE ACTIVITY; VARIANCES FOR REMOVAL AND REPLACEMENT OF A RETAINING WALL, WIDER STAIRS, AND A PATIO AREA/LANDING: Powers** reviewed with the Council the minutes of the February 5th Planning Commission meeting where this matter was reviewed, and noted that this request has been changed so many times that the Commission believes the request should be denied so as to give the City and the applicant a fresh start. **Powers** also noted that due to several changes to the design of the work, the Commission has held several public hearings on the request, but the City has received only one application fee.  **Powers** concluded his remarks by stating that Resolution 2013-06, included in the agenda packet, gives the reasons for denial of the CUP and variances, as required by state law.

***LaFoy/Woolstencroft unanimous to approve Resolution 2013-06, which denies the Conditional Use Permit and Variance requests made by Terry and Mary O’Loughlin of 27 Birchwood Lane for land disturbance activity and removal and replacement of a retaining wall, wider stairs, and a patio area/landing.***

**15. SCADA PROPOSAL FROM BARR ENGINEERING/CITY OF WHITE BEAR LAKE> REVIEW OF ISSUE BY COUNCIL MEMBER HULLSIEK: Wingfield** reviewed this issue with the Council, stating that the City was informed late last year that the City of White Bear Lake will be replacing its lift station monitoring apparatus at all of its lift stations, and since White Bear Lake provides lift station maintenance that it is proposing to replace the monitoring apparatus in each of the City’s 3 lift stations. **Hullsiek** went over his memo regarding his analysis of this issue, and said the cost seems to be reasonable for the proposed SCADA replacement. **Hullsiek** said that looking at it from Birchwood’s needs, perhaps there are lower cost alternatives that still allow monitoring of the lift stations, but no control; another alternative would allow limited control over certain portions of the lift stations. **Hullsiek** further noted that these alternatives could allow the City to reduce the number of weekly lift stations inspections to once a week, and could save the City several thousand dollars. **Hullsiek** recommends that he investigate lower-cost remote monitoring systems and report back to the Council.

***Hullsiek/LaFoy unanimous to authorize Council Member Hullsiek to investigate low-cost alternatives to the White Bear Lake SCADA proposal.***

**16. CITY ENGINEER APPOINTMENT PROCESS> REVIEW OF MATRIX, DISCUSSION OF APPROACH TO THE SELECTION PROCESS, AND CONSIDERATION OF PROPOSED WORK PLAN BY COUNCIL MEMBER HULLSIEK: Hullsiek** reviewed the matrix used by the Council in 2010 when it last sought municipal engineering proposals, and believes that re-opening the search could take as long as a year to complete. Consequently, **Hullsiek** recommends that the Council identify a short list from the 2010 list and go forward with them. **Wingfield** noted that in 2010, the Council short-listed 3 firms for interviews – LHB, Bolton and Menk, and Thatcher - and the existing firm providing engineering services to the City was also chosen to interview. **Wingfield** stated that during the interview, it became apparent that LHB was not a good fit for the City. **Wingfield** also stated that the two municipalities that submitted proposals – Maplewood and White Bear Lake – have comparable experience and comparable rates.

***Wingfield/Woolstencroft unanimous to authorize Council Member Hullsiek to act on the City’s behalf on this issue.***

**17. PROSECUTION SERVICES> REVIEW OF PROPOSED RFP: Wingfield** brought this to the Council’s attention, stating that this is different from what Kevin Sandstrom does for us ; that there hasn’t been an RFP from the City on this for several years. **Wingfield** created an RFP document that was in the agenda packet for the Council’s review.

***Wingfield/LaFoy unanimous to authorize the RFP and to direct staff to place the RFP on the League of Minnesota Cities website.***

**18. ORDINANCE 703 (COUNCIL VACANCY – SPECIAL ELECTION)> REVIEW OF CITY ATTORNEY’S LEGAL OPINION: Sandstrom** reviewed with the Council his analysis and opinion of whether the recently-enacted ordinance requiring a special election can be made retroactively to the Sampair vacancy. **Sandstrom** noted that the intent of the City Council at the time the ordinance was enacted was to have the ordinance apply to the Sampair vacancy, and stated that the only way to legally get around the special election requirement was for the Council to repeal the ordinance.

***LaFoy/Woolstencroft 4-0 (Donovan abstained) unanimous to express the desire to repeal Ordinance 703 and to authorize staff to draft an ordinance repealing the special election ordinance for review at the March 2013 Council meeting.***

**19. MAYOR’S REPORT:**

**19a. DIRECTIVE TO FINANCE COMMITTEE> REVIEW SEWER AND WATER FUND REVENUES AND EXPENSES: Wingfield** noted that her review of these funds indicates that the City has enough dollars to make this year’s bond payments, but there isn’t a lot of extra dollars for future projects such as SCADA, and believes that the Finance Committee should review the Sewer and Water Fund revenues and expenses to find areas of cost efficiencies; without motion, the Council so directed.

**19b. DIRECTIVE TO PLANNING COMMISSION> ADDRESS PRE-EXISTING IMPERVIOUS SURFACE PERMIT ISSUES: Wingfield** said that there were 2 instances where there was difficulty in getting permits to resurface their driveways when their property already exceeds the 25% maximum impervious surface requirements and is thus a legal, nonconforming lot, and believe that the Planning Commission should look at this issue and investigate whether the permitting process can be speeded up.

***Wingfield/Donovan unanimous to direct the Planning Commission to review the ordinance as it relates to impervious surfaces with pre-existing conditions.***

**19c. REVIEW NEWSLETTER OPTIONS AND PROPOSED MISSION STATEMENT AND PARAMETERS: Wingfield** noted that she had heard from many residents that prefer the newsletter to be mailed to them, saying that’s “who we are” in Birchwood. **Wingfield** next went over a proposed mission statement for the newsletter, noting that the statement establishes the position of Newsletter Coordinator, of which Barb Brenny has agreed to do, and a policy that the draft newsletter be sent first to the Council for review and approval, and if 2 of more Council members object to any content in the newsletter that the content be removed or altered so as to satisfy the objection.

***Wingfield/Woolstencroft unanimous to approve the Newsletter Mission Statement and appoint Barb Brenny Newsletter Editor.***

**19d. LARRY WALKER – TEAM BUILDING SEMINAR IN MAY: Wingfield** said that City resident Larry Walker and his son runs a consulting business dealing with organizational team-building, and has offered to facilitate such a seminar for elected officials and staff sometime in May.

**20. COUNCIL REPORTS: LaFoy** commented that he had met with White Bear Lake Police Chief Lynne Banks, who is scheduled to retire in May, and with White Bear Lake Fire Chief Tim Vadnais. **LaFoy** also asked permission to hold conversations with those who can help the City in providing for the needs of the City’s senior citizens.

**Donovan** shared with the Council that he and LaFoy, as Cable Commissioners, will be working with City staff and RWSCC staff on a needs assessment for City Hall on Tuesday, February 19. **Donovan** also stated that the Personnel Committee will be meeting on Tuesday, February 19 to develop shared expectations of the Council and staff.

**21. FUTURE COUNCIL MEETINGS: Wingfield** reminded the Council of the workshop meeting to go over City finances and expenses on February 19, and preferred a round table discussion which does not lend itself to cable televising.

**2. ACCEPTANCE OF THE FINANCIAL REPORT AND APPROVAL OF DISBURSEMENTS: Wingfield** said she has a question on Check # 27615 in the amount of $2,358.09 payable to the City of White Bear Lake for the City’s share of the cost of the sediment removal and weir repair at the Riviera Drive stormwater pond. **Wingfield** commented that the City Council at its November 13, 2012 special meeting authorized payment of 2/9th’s of the cost of the project, not to exceed $2,040.00; the bill for $2,358.09 is too much.

***Wingfield/Woolstencroft unanimous to accept the Financial Report and Disbursements Register as prepared by the City Treasurer and presented to the City Council on February 12, 2013, including Check #’s 27608-27614, 27616-27631, 27634-27663, Direct Deposits 27632DD and 27633DD, and Electronic Funds Transfers FED122012, MN122012, PERA123112, EFT1302013, PERA011513, FED012013, MN012013, in the amount of $41,888.38; to not authorize payment of Check # 27615 in the amount of $2,358.09 payable to the City of White Bear Lake for the City’s share of the cost of the sediment removal and weir repair at the Riviera Drive stormwater pond, due to the amount of the payment exceeding the $2,040.00 authorized by the City Council at its August 23, 2012 special meeting; and to authorize payment of $2,040.00 payable to the City of White Bear Lake for the City’s share of the cost of the sediment removal and weir repair at the Riviera Drive stormwater pond per the direction of the Council at its August 23, 2012 special meeting; and to direct staff to investigate the nature of the cost overrun for the Council to review in considering payment of the $318.09 cost overrun for this project; total approved expenditure amount to equal $43,928.38.***

**3. APPROVAL OF $265.00 EXPENDITURE FOR THE CITY COORDINATOR TO ATTEND THE 2013 MUNICIPAL CLERKS AND FINANCE OFFICERS ANNUAL CONFERENCE MARCH 19-22 IN ST. CLOUD:**

***LaFoy/Donovan unanimous to approve the $265.00 expenditure for the City Coordinator to attend the 2013 Municipal Clerks and Finance Officers Annual Conference March 19-22 in St. Cloud.***

**4. APPROVAL BY THE CITY COUNCIL FOR THE CITY COORDINATOR TO BE A CANDIDATE FOR TREASURER OF THE MUNICIPAL CLERKS AND FINANCE OFFICERS ASSOCIATION:**

***LaFoy/Donovan unanimous to approve the candidacy of the City Coordinator for the position of Treasurer of the Municipal Clerks and Finance Officers Association.***

**8d. REVIEW OF RESOLUTION 2012-38: Wingfield** commented that this resolution, passed by the Council in December 2012, directed the transfer of $15,000.00 from the General Fund to the Sewer Fund due to what was thought to be a requirement by the bond holder to maintain a minimum $115,000.00 balance to said fund. **Wingfield** said she contacted Tim Myers of U S Bank on this matter, who told Wingfield that Briggs and Morgan (bond counsel for the debt instrument) notified him that the reserve requirement does not apply to the City’s outstanding bonds. **Wingfield** said that, based on this information, there was no need for the $15,000.00 transfer out of the General Fund nor an ongoing reserve requirement, and asked the City Attorney on how best to address this situation given the passage of Resolution 2012-38. **Sandstrom** commented that the action phrase of the resolution states that the transfer of fund is only for the retention of a “required” amount, and if the amount in reserve is not “required”, there is no need for the Council to amend or revoke the resolution.

**22. ADJOURN:  *Donovan/Woolstencroft unanimous to adjourn the Regular Meeting @ 9:02pm.***

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dale Powers

City Coordinator