**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**February 14, 2012**

**MINUTES**

**MEMBERS PRESENT: Mayor Alan Mitchell; Council Members Barb Carson, Jane Harper, and Mark Peterson**

**MEMBER ABSENT: Council Member Tony Sampair**

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

**OTHERS PRESENT: Katie Cavanor, Doug Danks, Ken Johnson, Charles Kaufmann, Eric Larson, John Lund, and Mary Wingfield**

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

**AGENDA APPROVAL: *Harper/Peterson 4-0 (Sampair absent) to approve the agenda for the February 14, 2012 Regular Meeting as presented.***

**COMMUNITY EVENTS AND ANNOUNCEMENTS: Mitchell** noted the following:

* Richard Oni of Birchwood was awarded the Professional of the Year by the National Alliance for Mental Illness, Minnesota Chapter. **Mitchell** added that when other City residents receive awards, please let us know and we will acknowledge them at future Council meetings.
* February 18th is “Hockey Day in Birchwood”. Festivities start at 11:00am at Tighe-Schmitz Park. Treats and pizza will be served.

**OPEN PUBLIC FORUM:**  **Kaufmann** addressed the Council with the following concerns about the proposed grant application for the warming house/ice rink improvement project: preserving the original character and atmosphere of Tighe-Schmitz Park; the neighborhood should not have a carnival atmosphere. **Kaufmann** continued by saying that there needs to be compromise with the neighborhood around the park and those who want to intensify the use of the park need to be sensitive to those who would disrupt the charm and ambience of the area, and think about the necessity of increasing the amount of development at Tighe-Schmitz. **Kaufmann** concluded by saying that perhaps there should be a buffer zone between the park and the surrounding properties.

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

1. ***Approval of the Minutes of the January 10, 2012 Regular Meeting.***
2. ***Approval of $210.00 Expenditure for the City Clerk to attend the 2012 Municipal Clerks and Finance Officers Association Annual Conference March 20-23 in St. Cloud.***
3. ***Acceptance of the Financial Report and Disbursements Register as prepared by the City Treasurer and presented to the City Council on February 14, 2012 in the amount of $29,091.74, including Check #’s 26951-26970, 26984-27009, and Electronic Funds Transfers FED122011, MN122011, EFT013112, PERA011512, and PERA013112.***
4. ***Approval of hiring Maya Comfort as a Level 2 Rink Attendant at $8.00 per hour.***
5. ***Approval of Resolution 2012-02 Accepting a Donation of $575.00 from Writers Unlimited.***

**RESOLUTION 2012-03 AMENDING THE CITY FUND BALANCE POLICY: Harper** shared with the Council the background on this item, and noted that the proposed revisions to the City’s Fund Balance Policy are required in order to keep the policy in line with the definitions as changed by the Governmental Accounting Standards Board (GASB) Statement Number 54. **Harper** noted that the Policy’s current fund balance definitions are unreserved; unreserved, undesignated; unreserved, designated; and reserved. The proposed amendment changes those fund balance definitions to nonspendable, restricted, committed, assigned, and unassigned.

**Mitchell** agreed that the definitions need to be changed, but had a question about which entity the City is reporting to, as referenced in the policy’s guidelines. **Mitchell** also noted that there are 3 items (nonspendable, restricted, and assigned) that are reported at the end of the fiscal year, and 1 item (committed) that is reported prior to the end of the fiscal year, and wanted clarification on this. **Reiter** advised that the City reports to the Office of the State Auditor (OSA), as well as to our citizens. **Mitchell** recommends that Guidelines 5, 6, and 8 be amended to insert the phrase “in its annual financial statement” after the word “report”. **Harper** did not object to the amendment. **Mitchell** said he wasn’t sure how to amend Guideline 7 (“Committed Fund Balance”) to clarify to whom the City reports. **Harper** responded that “Committed Fund Balance” is when the City commits to setting aside funds over the course of several years for a project such as the tennis court and this category allows the City to report this activity to OSA and the City’s residents. **Reiter** advised the Council that the reporting is similar to the monthly Treasurer’s Report received by the Council and, as such, is reporting to the taxpayers. **Mitchell** also noted that Guideline 4 mentions reviewing the “spendable-unassigned fund balance” every 3 years and thought the entire Fund Balance Policy should be reviewed every 3 years.; perhaps a statement to that effect can be added to the end of the Policy. **Harper** did not object to the amendment. **Harper** clarified one of **Mitchell**’s recommendations as it relates to how definitions are portrayed in the policy by adding the name of the defined term at the beginning of the definition (e. g. “Nonspendable Fund Balance” means …). **Mitchell** also recommends adding the phrase “Fund Balance” to the term “Unassigned” under “Definitions”.

***Harper/Mitchell 4-0 (Sampair absent) to approve Resolution 2012-03 Amending the City’s Fund Balance Policy, amending the Policy as follows: (1) to change the format of definitions to include the term so defined at the beginning of the definition, making the definition a complete sentence; (2) adding the phrase “Fund Balance” after the word “Unassigned” under the “Definitions” section of the Policy; and (3) adding a clause at the end of the Policy stating that the Policy shall be reviewed every 3 years.***

**RESOLUTION 2012-04 APPROVING THE PAY EQUITY IMPLEMENTATION FORM: Powers** reviewed with the Council this matter, and noted that all public agencies are required to complete a report verifying their compliance with the Minnesota Pay Equity Act. **Powers** added that the report was last conducted by the City in 2009 and the information is stored in the state’s Pay Equity System; that, based on the small number of employees and the part-time status of the staff, the City is eligible to use the “alternative analysis test”; and due to the small amount of weekly hours by the City Treasurer, the state’s computerized system required the City Treasurer’s income to be annualized, resulting in the system reporting that the City Treasurer earns more money than the City Clerk. **Powers** continued by saying that, as a result, the City passes the alternative analysis test and is therefore in compliance with the Minnesota Pay Equity Act. **Harper** asked why the system didn’t ask for annualization of the Clerk’s salary; **Powers** responded that the state’s computerized reporting system did not ask for annualization of the Clerk’s salary. **Mitchell** said that he was uncomfortable with the 5th “whereas” clause stating that the City has passed the alternative analysis test because he wasn’t sure was that was and recommends amending the proposed resolution by changing the 5th “whereas” clause to state as follows: “WHEREAS, there is no compensation disadvantage for female classes as compared to male classes, therefore the City has passed the alternative analysis test”. **Mitchell** also noted a typing error in the 2nd “whereas” clause and the word “of” should be changed to “or”.

***Mitchell/Peterson 4-0 (Sampair absent) to approve Resolution 2012-04, as amended to (a) change the word “of” to the word “or” in the 2nd “whereas” clause; and (b) to change the 5th “whereas” clause to read “WHEREAS, there is no compensation disadvantage for female classes as compared to male classes, therefore the City has passed the alternative analysis test.”***

**WARMING HOUSE/ICE RINK IMPROVEMENT PROJECT GRANT> PUBLIC HEARING: Mitchell** opened the public hearing at 7:35pm.

**Parks Committee Presentation**

**Lund** shared with the Council that there has been a spike in prices and now the cost of the project comes to $52,635 for the warming house and $61,885 for the total cost of the warming house/ice rink improvement project, which includes repairing the boards of the rinks and other associated costs. **Mitchell** asked if all of these costs are grant –eligible; **Lund** responded that it is all grant-eligible. **Peterson** asked if the state pays ½ of the cost; **Lund** said this is correct. **Cavanor** said the Parks Committee is at the point where we have a complete proposed project, including repairing the boards and painting the floor of the hockey rink; renovating the pleasure rink, creating a berm around it and placing plastic on it to create a better ice surface; demolishing the current warming house and constructing a new facility with increased storage, warming house and a breezeway; and creating an asphalt sidewalk connecting the rinks and the warming house. **Harper** asked about handicap-accessibility to the hockey rink; **Lund** responded that a ramp would need to be installed and the boards would need to be taken out to allow accessibility. **Lund** noted that the Minnesota Department of Natural Resources (DNR) requires grant-funded projects to demonstrate handicap-accessibility. **Cavanor** also noted that the pleasure rink would need to be handicap-accessible. **Cavanor** noted that the state would pay $31,000 and the City would pay $31,000, and noted that of the City’s share, in-kind donations of labor would cover $14,000 of the cost, leaving the City with $17,000 of actual financial obligations. **Cavanor** concluded by saying the grant funds are reimbursed to the City after the City makes the initial expenditure; the funds are not released to the City ahead of time.

**Cavanor** and **Lund** went over with the Council the projected maintenance and utility cost projections over an initial 20 year time period.

**Peterson** asked whether the wet nature of the soil and periodic flooding have been taken into consideration; **Lund** responded that the elevation of the structure will be a foot above the catch basin, and explained the drainage situation. **Lund** said that soil borings are proposed to verify subsurface conditions. **Peterson** asked whether the city engineer has reviewed the proposal; **Elfering** said she hasn’t been authorized to do so at this point.

**Lund** also noted that the right-of-way of Lake and Park Avenues is such that a variance may be needed in order to properly site the proposed warming house structure.

**Public Comments**

**Kaufmann** addressed the Council on concerns he has about the proposal, and said that this project has thousands of dollars being spent on six acres of land, and is trying to figure out how many kids actually use the hockey rink. **Kaufmann** continued by stating there aren’t 20 kids that play hockey in Birchwood; also, there are 350 houses in Birchwood to pay for all of this. **Kaufmann** noted that the Council has a copy of the deed, so you know that the reason for the deed restriction is to preserve the park in its natural state, and now we have these groups that want to completely demolish what was meant to be a neighborhood park. **Kaufmann** went over the history of the park, stating that when he purchased his house 48 years ago the park area was a wetland nature park; within 3 years, they came in with fill and made a mess out of it, turning it into a recreational area. **Kaufmann** continued by saying over the years, many ideas have been talked about to further intensify the use of the park, and cited numerous examples.

**Danks** addressed the Council to advise that the proposed warming house structure can be used as a year-round facility and shouldn’t be viewed as only a winter structure.

**Mitchell** closed the public hearing @ 8:35pm, but left the record open for additional written testimony until such time that the Council makes a decision on the proposal.

**Lund** asked whether the City Engineer’s fees are to be paid for by the City; **Cavanor** mentioned that engineering fees are considered planning-related and not to be counted as part of the project costs. **Mitchell** advised the Committee to factor that in for future budgeting. **Peterson** asked if engineering costs can be part of the local match; **Cavanor** said she does not believe DNR will allow those costs to be included in the local match.

**Harper** commented that a lot of the questions that she has been waiting for answers have been answered, and the grant is an opportunity to get some cost-share dollars. **Harper** added that at this point she is not ready to commit to the project if the City doesn’t get the grant, and doesn’t believe the cost-benefit is there for the City to pay 100% for the project; perhaps, making the repairs to the hockey and pleasure rinks may be a higher priority. **Harper** concluded by saying that perhaps a smaller structure that would fit on the parcel without a variance may better fit the City’s needs.

**Peterson** noted that this project presents an opportunity for private fundraising from the users to raise 25-30% of the City’s portion of the project. **Peterson** also expressed a concern about the deed restriction. **Lund** said he is going to get signatures from the adjoining property owners, and **Mitchell** said that the City will get a legal opinion from the City Attorney.

**REVIEW OF PROPOSALS FOR GENERAL ROAD REPAIR, SIGN REPAIR AND REPLACEMENT, EMERGENCY TREE REMOVAL, PARKS MAINTENANCE, AND STREET SWEEPING: Mitchell** reviewed the items in the agenda packets as four proposals and a review of the proposals from the City Engineer. **Elfering** noted that the City requested bids for general road repair, sign repair and replacement, emergency tree removal, parks maintenance, and street sweeping, and noted that the bid was let as a package and cautioned the Council to keep that in mind if it wanted to take a piecemeal approach and select the low bid for each component part of the bid.

**Peterson** asked for a history of this matter; **Powers** noted that since the current contract with KEJ for these services expired on December 31, 2011, the Council requested quotes for these services going forward. **Powers** said that he asked Elfering to review the various bids and prepare a memo for the Council on her analysis. **Peterson** asked whether the City has received any complaints about the service provided by KEJ; **Powers** responded by saying that the City has received a few complaints about the service provided by KEJ, and he had contacted KEJ about the nature of the complaints and KEJ corrected the deficiencies. **Harper** noted that if we are trying to stay true to the bids and RFP, it looks like KEJ and Lauzon are so close; Lauzon has some additional bells and whistles and isn’t sure if those were requested or volunteered. **Peterson** said that a factor in his thinking is that it’s difficult to have one year contracts, and if the current vendor is competitive to give that vendor another year so the Council can further evaluate the service provided by the vendor.

***Peterson/Carson 4-0 (Sampair absent) to accept KEJ’s bid for the following contracted services: general road repair, sign repair and replacement, emergency tree removal, parks maintenance, and street sweeping; and to authorize the Mayor to draft and execute a contract to that effect on behalf of the Council.***

**ORDINANCE RELATING TO FEES/APPROVAL OF 2012 FEE SCHEDULE>PUBLIC HEARING: Mitchell** opened the public hearing at 9:05pm. **Harper** reviewed the draft resolution, ordinance, and fee schedule and noted that the drafts were approved for public hearing at tonight’s meeting. **Harper** noted that the ordinance updates Chapter 701 by removing the fees from the ordinance and establishes a separate fee schedule; this allows the Council to change the fees by motion or resolution and eliminating the need for an ordinance change. **Harper** continued by saying that one change from last month is that the previous iteration noted that the City was incorporating the City of White Bear Lake’s fee schedule by reference; that has been deleted from the latest draft on advice of the City Attorney. **Harper** concluded by saying that the dollar amount of the building permit fees are the same as those of the City of White Bear Lake.

**Mitchell** commented that while the fee schedule itself references “additional fees”, he believes the ordinance itself should also include these additional fees (late fee, additional fee, and fines). Consequently, these would become subsections 061, 062, and 063 of Section 701. **Harper** asked for clarification of “investigative fee”; **Powers** responded that the current fees for building and zoning permits are priced to assume a normal, set amount of inspection points, and there are times when the scope of the project changes so much that additional inspections are required to ensure that the project meets code requirements. **Mitchell** asked whether the term “investigative fee” should be renamed “additional fee”; **Harper** did not object and thought that was a better way to describe it. **Mitchell** noted that this language is similar to White Bear Lake’s language and the City has had it in its Code for some time.

**Mitchell** also noted that in Chapter 203 that is reference to a “plan review fee” that should be added to the fee schedule; apparently it has been inadvertently omitted. **Mitchell** also wanted to assure the public that the fees are not going up; they are just being removed from the ordinance and placed on as separate schedule.

Seeing that there were not any members of the public wishing to testify on this matter, **Mitchell** closed the public hearing @9:15pm.

***Harper/Mitchell 4-0 (Sampair absent) to approve Resolution 2012-05 approving Ordinance 2012-01 Amending Chapter 701 (Fees) of the Birchwood City Code, amended as follows: (a) in the ordinance, adding subchapters 061 (Late Fee), 062 (Additional Fee), and 063 (Fines); (b) adding “Plan Review Fee” and establishing that fee at 50% of the building permit fee, on Page 2 of the fee schedule to be inserted between “Inspection for which no fee is specifically indicated” and “Additional plan review required by changes, additions, or revisions to Plans”.***

**Mitchell** next brought up approving the fee schedule. **Powers** noted that the just-approved resolution and ordinance allows for adoption of the fee schedule by resolution; however, the ordinance doesn’t take effect until publication, and it hasn’t yet been published. The consensus of the Council was to approve the resolution approving the fee schedule at the March meeting, and to direct staff to delay publication of the just-approved ordinance to coincide as close as possible to the March 13th meeting.

**PEDDLER’S ORDINANCE: REVIEW OF THE CITY OF WHITE BEAR LAKE’S ORDINANCE:** In response to an issue brought up by a City resident at the January meeting, the Council directed staff to research the City of White Bear Lake’s peddler’s ordinance and present said ordinance to the Council for review and comment. **Powers** reviewed the material he had provided to the Council on this issue. The consensus of the Council was not to pursue this matter at this time.

**AMENDMENT OF PERSONNEL COMMITTEE BY-LAWS: Mitchell** reviewed this matter with the Council, and stated that the Council appointed Council Member Sampair to the Committee, yet the by-laws as written call for two-year terms for Committee members; the by-laws needed to be amended to reflect this change. Also, Paragraph V has been added to address Committee responsibilities.

***Harper/Mitchell 4-0 (Sampair absent) to approve the revisions to the by-laws of the Personnel Committee.***

**CITY CLERK’S REPORT:**

**Records Retention Project Update: Powers** reviewed with the Council his work on the City’s Records Retention project, and related that the City adopted the 2008 version of the Records Retention Schedule produced by the Minnesota Historical Society. **Powers** noted that the Schedule details the retention time for a wide range of classifications of documents, and explained that he has been precisely following that schedule. **Mitchell** expressed a concern that since the Schedule establishes minimum retention periods, the Council may want to adopt a more restrictive schedule. Discussion was held amongst Council members on a review procedure for the City to follow before destruction of documents. The consensus of the Council was to direct Powers to maintain records proposed for destruction and either to provide a list of documents proposed for destruction to the Council for review and approval, or to alert the Council of the existence of documents proposed for destruction, and to allow individual Council members to review the documents before they are destroyed.

**Washington County All-Hazard Mitigation Plan: Powers** reviewed with the Council the data in the City’s portion of the County’s All-Hazard Mitigation Plan and asked for input on updating the data. Additionally, **Powers** noted that the City’s Emergency Operations Plan, absent updating the responsible individuals in the document as they change, has not been substantively updated since its initial adoption in 1994. **Mitchell** noted that there are references throughout the Emergency Operations Plan to “Emergency Management Director”, but that position has not been adopted by the City. **Powers** responded that the current document has the former Mayor’s phone number, so perhaps the Mayor is also Emergency Management Director. The consensus of the Council was to have Council Member Sampair review the Emergency Operations Plan and make recommendations to the Council. **Harper** suggested that the “Lifeline Utility Systems” in the All-Hazard Mitigation Plan should be updated to state “update sewer system” and the phrase “old water systems” should be added to reflect the condition of the hydrants. **Powers** advised the Council that CodeRED was added to the plan, and also recommended to the County that the percentage of building stock should reflect that the community is 100% single-family.

**CITY ENGINEER’S REPORT:**  **Elfering** reviewed with the Council the details of the recent water main break on Cedar Street near East County Line Road, which was the first time that Saint Paul Regional Water Service responded as an emergency water break provider. Cedar Street will need to be patched in the spring. **Harper** asked if whether CodeRED can be used in the future to alert the community on future water main breaks; **Powers** assured the Council that he will investigate whether that can be done in the future.

**COUNCIL MEMBER REPORTS: Mitchell** noted that the warming house grant proposal illustrates how we need to be more cognizant of engineering and architectural fees, and thought that maybe in April we should spend a little time on how we factor in those costs; there may be some upfront fees that would be lost if the Council decides not to take on the project or if the grant application is denied. **Harper** noted that in April there will be a draft ordinance on better defining what the Parks Special Revenue Fund can be used for, and asked the Parks Committee to discuss this draft at its March meeting and get comments back to the Council for consideration at the April meeting.

**NEXT MEETING>MARCH 13, 2012: TOPICS: Mitchell** advised that the following matters are scheduled for the March meeting: resolutions on the proposed fee schedule and the warming house; and public hearings on the proposed ordinance changes pertaining to the building code, interim use permits, complaints, and enforcement.

**ADJOURN:  *Harper/Peterson 4-0 (Sampair absent) to adjourn the meeting @10:22pm.***

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Dale Powers

City Clerk