

**CITY OF BIRCHWOOD VILLAGE
207 BIRCHWOOD AVENUE
BIRCHWOOD, MINNESOTA**

**MINUTES OF THE CITY COUNCIL MEETING
FEBRUARY 14, 2023, 6:45 P.M.**

MEMBERS:

Margaret Ford	Mayor
Mark Foster	Councilmember
Ryan Hankins	Councilmember
Justin McCarthy	Councilmember
Katherine Weier	Councilmember

STAFF:

Becky Kellen	City Administrator
H. Alan Kantrud	City Attorney

GUESTS:

Mary Cahill	City Treasurer
Steve Thatcher	City Engineer

Minutes prepared by Anh Nguyen of Minutes Solutions Inc. from a video recording.

1. CALL TO ORDER

Mayor Ford called the meeting to order at 6:45 p.m.

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the agenda as presented. All in favor; motion carried.

4. OPEN PUBLIC FORUM (0:50:10)

Kevin Woolstencroft, 292 Jay Street, expressed concern regarding Barton Winter's conduct towards city staff due to grievances related to the skating rink.

Barton Winter, 1 Five Oaks Lane, reported poor ice conditions at the skating rink and expressed concern regarding the city's maintenance of the skating rink.

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to close the open public forum. All in favor; motion carried.

5. **ANNOUNCEMENTS**

- a. **City Planner and Engineer Request for Proposal (RFP):** The RFPs are due March 1, 2023.
- b. **Lift Station Bids:** The bids for the lift station will be posted in April 2023.
- c. **Permitting Software:** The permitting software is tentatively set for implementation in April 2023.

6. **CITY BUSINESS – CONSENT AGENDA (0:02:54)**

On a motion made by Councilmember Weier, seconded by Councilmember McCarthy, it was resolved to approve the consent agenda with the exception of Items A, B, C, F, and G. All in favor; motion carried.

a. **Approval of the Treasurer’s Report (0:04:22):**

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve the Treasurer’s Report for the period ending February 8, 2023, with the exception of checks No. 32272, No. 32273, No. 32274, No. 32275, and No. 32276 for Kevin Woolstencroft, Justin McCarthy, Mark Foster, Jon Fleck, and Mary Wingfield, respectively, and check #EFT12302022 for Mary Wingfield pending a response from the Attorney General’s office. All in favor; motion carried.

ACTION – Mary Cahill will investigate the freight cost for skid markers/street cones from MNM Transport Services, and whether the Council is required to sign off on electronic fund transfers.

The Treasurer’s report for the period ending February 8, 2023, was provided for the Council’s review and approval.

The city paid a state tax penalty because the city had historically been paying quarterly tax payments; however, it was confirmed that payments must be made monthly if a payment exceeds \$1,500 in a quarter. In this instance, the city exceeded \$1,500 in the third quarter of 2022. The city will continue to pay monthly moving forward to avoid future oversight.

The city is over budget for snow removal. Councilmember Hankins queried whether the Council is expected to authorize an increase in a budget when expected to be exceeded. Mary Cahill was unable to provide an answer.

The disbursement receipt registers are redundant due to several adjustments made in the reconciliation process of the city’s accounting backdating to December 2022 to ensure the city starts with no outstanding transactions in 2023.

H. Alan Kantrud reported following up with the Attorney General’s office regarding the Council pay raise initiated in 2020. The Attorney General’s office is aware of the Council’s query and a response is pending.

b. **Approval of the Regular January Council Meeting Minutes (0:22:08):**

On a motion made by Councilmember Hankins, seconded by Councilmember Weier, it was resolved to approve the minutes of the Council meeting held on January 10, 2023, as amended. All in favor; motion carried.

The minutes of the Council meeting held on January 10, 2023, were provided for the Council's review and approval. The Council referred to Section 12, Item G, and clarified that the Council was trying to work within, not around, the open meeting law.

c. Approval of the Closed January Council Meeting Minutes (0:23:58):

The minutes of the closed Council meeting held on January 10, 2023, were provided for the Council's review and approval. The Council requested that the active litigation matters are identified as Nicklaus v. City of Birchwood and Barthel v. City of Birchwood.

d. Approval of 2023 Meeting and Holiday Schedule

e. Approval of Resolution 2023-08 – Authorize Annual Summer Concert Series

f. Approval of Resolution 2023-09 – Authorize Two Laptop Purchases (0:25:00):

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve Resolution 2023-09 to authorize the procurement of two laptops for an amount not to exceed \$2,500 for the pair, as amended. All in favor; motion carried.

Councilmember McCarthy expressed concern regarding the specs of the proposed laptops for purchase, noting that 8GB RAM and 256GB SSD may become obsolete in the near future. The Council agreed to approve the resolution with an amendment to exclude the purchase of a Dell Latitude 5530 specifically, to allow city staff to explore alternative laptop options with higher specs.

g. Approval of Resolution 2023-10 – Permit Period Extension for Variance 22-01-VB (0:28:25):

On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to approve Resolution 2023-10 to authorize the extension of time to procure a building permit for the variances for the property at 469 Lake Avenue in variance case 22-01-VB as granted at the Council meeting held on March 8, 2022. All in favor; motion carried.

ACTION – Becky Kellen will request that Kyle Hunt, on behalf of the Barthel Team, provide a formal attestation that the variance application for 469 Lake Avenue will be withdrawn and converted to a building permit to be provided to the city by early March 2023 for approval at the next Council meeting.

The City Engineer, Steve Thatcher, reported that the plan submitted by Dr. Barthel's team, with the revised variance request showing the impervious surface to be less than 25%, showed the south side setback to be 7.8 feet, while the Council had approved a setback of 7.9 feet. He noted it may be a clerical error, but if not, it would be reasonable to expect that the plan be accommodated to meet the Council's approval, otherwise a new variance request for the additional 1/10th of a foot would be required.

Councilmember McCarthy expressed concern that the variance application for 469 Lake Avenue has not formally been withdrawn. He noted that, if no action is taken by the Council to approve or deny a variance request within 60 days, the variance request is approved by default as per Minnesota statute. The Council agreed that, if a letter is not provided by the Barthel team by early March 2023 to officially withdraw the variance application, the Council will take action on the variance application at the next Council meeting.

7. **CITY BUSINESS**

a. **Parks Committee (0:43:59)**

i. **Candidate Review and Selection:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to appoint all five candidates to the Parks Committee. All in favor; motion carried.

On a motion made by Mayor Ford, seconded by Councilmember Foster, it was resolved to appoint Councilmember McCarthy and Councilmember Weier to the Parks Committee. All in favor; motion carried.

The following individuals submitted their candidacy for consideration to the Parks Committee, to be comprised of five residents:

- Noel Hegedus
- Alan Mitchell
- Mary Sue Simmons
- Zachary Michalk
- Jennifer Arsenault

ii. **Approval of Bylaws:** This item was deferred to the Parks Committee for review.

iii. **Resolution 2023-11, Authorizing the Evaluation of and Possible Relocation of the Disabled Parking at Kay Beach:** This item was approved at the Council meeting held on January 10, 2023.

iv. **Resolution 2023-12, Authorizing the Parks Committee to Review and Recommend Code Revisions Related to Parks and Open Spaces:** This item was approved at the Council meeting held on January 10, 2023.

v. **Resolution 2023-13, Authorizing the Parks Committee to Review Potential Upgrades and Usages of Tighe-Schmitz Park:** This item was approved at the Council meeting held on January 10, 2023.

b. **Treasurer's Report on Reconciliation and Internal Controls (0:04:22):**

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to adopt the resolution authorizing the adjustment of several fund balances for 2023. All in favor; motion carried.

Mayor Ford and Mary Cahill reviewed the city's internal controls and a draft will be presented to Council upon review by the League of Minnesota Cities.

Mary Cahill reported that a Claims List for Approvals is required as confirmed by the League of Minnesota Cities. The Council will have an opportunity to review and dispute any charges on the Claims List. Final disbursement checks must be signed by Mayor Ford upon review and approval of the Claims List, to be distributed within 35 days as per Minnesota statute.

The reconciliation process is complete and discrepancies were identified in the city's favor that will require the city to increase the water, sewer, and general fund. Of the approximate \$40,000 discrepancy, \$2,000 of the missing transactions cannot be verified. Mary Cahill reported four checks that were overestimated utility payments. The checks, with the exception of one, were less than \$100.

Mary Cahill issued letters to the respective homeowners and responses are pending. Another check in the amount of \$60 was a payroll payment for an ice rink attendant that was voided and re-issued.

c. Designate the TH 120/Century Avenue Coalition Representative and Back-Up (0:57:00)

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to designate Mayor Ford as the TH 120/Century Avenue Coalition Representative. All in favor; motion carried.

d. Second Reading Ordinance 2022-10-02, Amending Section 605 Animals (1:01:25)

i. Public Hearing:

On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to close the public hearing. All in favor; motion carried.

ii. Council Deliberation and Approval:

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve Ordinance 2022-10-02, Amending Section 605 Animals, as presented. All in favor; motion carried.

iii. Resolution 2023-15, Summary Publication of Ordinance 2022-10-02:

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve a summary publication of Resolution 2023-15 for Ordinance 2022-10-02. All in favor; motion carried.

- e. **Second Reading Ordinance 2022-10-05, Amending Section 701 Fees (1:05:31)**
 - i. **Public Hearing:**

On a motion made by Councilmember Foster, seconded by Councilmember Hankins, it was resolved to close the public hearing. All in favor; motion carried.
 - ii. **Council Deliberation and Approval:**

On a motion made by Councilmember Hankins, seconded by Councilmember Weier, it was resolved to approve Ordinance 2022-10-05, Amending Section 701 Fees, as presented. All in favor; motion carried.
 - iii. **Resolution 2023-14, Summary Publication of Ordinance 2022-10-05:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve a summary publication of Resolution 2023-14 for Ordinance 2022-10-05. All in favor; motion carried.
- f. **Second Reading Ordinance 2022-10-07, Amending Section 407 Fees (1:08:14)**
 - i. **Public Hearing:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to close the public hearing. All in favor; motion carried.
 - ii. **Council Deliberation and Approval:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the second reading of Ordinance 2022-10-07, Amending Section 407 Fees, as presented. All in favor; motion carried.
 - iii. **Resolution 2023-06, Summary Publication of Ordinance 2022-10-07:**

On a motion made by Councilmember Hankins, seconded by Councilmember Weier, it was resolved to approve a summary publication of Resolution 2023-06 for Ordinance 2022-10-07. All in favor; motion carried.
- g. **Mitigation Plan for Washington County Sheriff’s Office (1:13:00)**

ACTION – Becky Kellen will investigate the cost associated with updating the AED in City Hall.

Birchwood’s mitigation measures as prepared by the previous mayor and previous city administrator were presented to the Council. The Council noted several of the city’s risk mitigation measures are outdated and should be reviewed offline throughout the year.

8. **CITY BUSINESS – PENDING BUSINESS**

A list of pending items was included in the meeting package but not discussed with the exception of the following items:

a. **Right-of-Way Code (1:16:55)**

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to defer the right-of-way code to the Planning Commission for review and feedback. All in favor; motion carried.

The Council noted that the right-of-way code is part of the planning and zoning section of the city's code and should be deferred to the Planning Commission for review and input.

b. **Firearms Code (1:19:57)**

The Council discussed whether to remove "Hunting Prohibited" from the firearms code citing concerns about removing the city's ability to offer permits for hunting if needed. The Council agreed to add that no person shall hunt any bird or animal by any means within the city "without a permit issued by the Council".

The Council reviewed the curfew for minors and noted that Washington County's curfew is stricter and would therefore supersede Birchwood's curfew. However, the Council expressed concern that Washington County's curfew is outdated, and was not in support of following the curfew. The Council noted the challenges of enforcing Washington County's curfew.

The Council agreed to prohibit smoking from city parks and open spaces citing concerns about littering and second-hand smoke. Councilmember Hankins reported that free no-smoking signage is available if the city adopts a smoking ordinance.

Further discussion was deferred to the next Council meeting.

c. **Building in the City of Birchwood Village (1:36:05)**

This item was deferred to the next Council meeting pending a review of additional documentation.

d. **Cancelling the Deer Hunt (1:38:56)**

Councilmember McCarthy expressed concern regarding the administrative time and effort to coordinate the deer hunt, and the ineffectiveness of the deer hunt. He suggested that the deer hunt be canceled for 2023.

e. **Leaf Pick-Up (1:39:25)**

Councilmember McCarthy expressed concern regarding the use of the city's administrative resources to handle the administrative work for Mow Joe, the leaf pick-up contractor. He suggested that contractors advertise their leaf removal services in the community newsletter instead.

9. CITY BUSINESS – NEW BUSINESS

a. Job Posting for Assistant Treasurer (1:40:50)

On a motion made by Councilmember Hankins, seconded by Councilmember Weier, it was resolved to authorize the City Administrator to re-post the job listing for an Assistant Treasurer with the dates listed as current. All in favor; motion carried.

10. CITY ATTORNEY UPDATES (1:43:00)

a. Water Management Plan

There was no update.

b. 310-312 Wildwood Avenue Run-Off

The Council suggested that potential buyers of the 310-312 Wildwood Avenue property be made aware of the ongoing nuisance issues with the property that must be addressed upon ownership. H. Alan Kantrud reported that such a notice would not be included in the chain of titles, therefore, potential buyers would not have access to this information unless disclosed by the sellers. H. Alan Kantrud noted a last resort would be to initiate a lawsuit against the property. Further discussion was deferred.

11. ADJOURNMENT

On a motion made by Councilmember Foster, seconded by Councilmember Weier and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 8:42 p.m. by Mayor Ford.

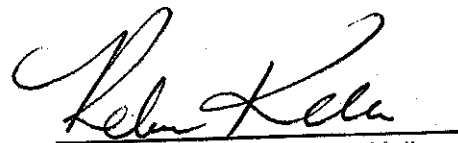
DISCLAIMER

The above minutes should be used as a summary of the motions passed and issues discussed at the meeting. This document shall not be considered a verbatim copy of every word spoken at the meeting.



Mayor Margaret Ford

3/14/2023
Date



City Administrator Becky Kellen

3-16-2023
Date

