**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**February 8, 2011**

**MINUTES**

**MEMBERS PRESENT: Acting Mayor Jane Harper; Council Members Barb Carson, Mark Peterson, and Tony Sampair**

**MEMBER ABSENT: Mayor Alan Mitchell**

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

**OTHERS PRESENT: Richard Galena, Jim Greeley, Randy LaFoy, John Lund, Bryan McGinniss, Gene Ruehle, and Tom Delmont**

**Harper** called the regular meeting to order @ 7:02pm, and the Pledge of Allegiance was recited.

**AGENDA APPROVAL:**

***Carson/Sampair unanimous to approve the agenda for the February 8, 2011 Regular Meeting, excepting that Item # 1 (Approval of the Minutes of the January 11, 2011 Regular Meeting) be removed from the Consent Calendar for further discussion under City Business.***

**CONSENT CALENDAR:**

***Sampair/Carson 4-0 (Mitchell absent) to approve the minutes of the January 25, 2011 Workshop and Regular Meeting.***

***Sampair/Carson 4-0 (Mitchell absent) to adopt Resolution 2011-05 authorizing Council Member Barbara Carson to sign time cards for the seasonal rink attendants.***

**APPROVAL OF THE MINUTES OF THE JANUARY 11, 2011 REGULAR MEETING: Peterson** commented that he would like the minutes to reflect that Chad Peterson, who was approved for hire as a seasonal rink attendant, actually ended his employment with the City on January 10. **Peterson** did not want anyone thinking there was a “quid pro quo” going on. **Peterson** also noted some typing errors in the document.

***Peterson/Sampair 4-0 (Mitchell absent) to approve the minutes of the January 11, 2011 Regular Meeting as amended.***

**COMMUNITY EVENTS AND ANNOUNCEMENTS: Harper** noted the following community events:

* Hockey Day Minnesota is this coming Saturday (February 11). Birchwood Village is participating in Hockey Day Minnesota with an event at Ollie Washburn Rink from 11-2.
* State Representative Carol McFarlane is hosting a meeting on February 10th from 6:30-8:30pm to discuss a proposed study by the United State Geological Survey (USGS) of White Bear Lake. Representing the City at this meeting are Council Members Harper and Sampair.
* The City’s Finance Committee will be meeting at 9:00am on Saturday, March 5, 2011 at City Hall.

**OPEN FORUM:** No public comments were made.

**FINANCIAL REPORT AND APPROVAL OF DISBURSEMENTS: Reiter** reviewed with the Council the financial report and disbursement requests, noted that the last page of the report is a summary of the 2010 budgeted vs. actual expenses. **Reiter** went over the City’s investments in the general fund as well as the enterprise funds (sewer, water). **Harper** asked whether this information could be put on the City’s web site; **Reiter** recommends waiting until the audit is complete as the numbers may change between now and then. **Reiter** further stated that state law requires the audit to be presented to the State Auditor by March 31, and HLB will present their audit report at the March 22nd Council meeting.

**Reiter** advised the Council that year to date costs for snow removal are $6,151.00, but most cities are having an issue with that with the snowy winter. As well, **Reiter** noted that the City has not received all of the bills from the water main break, specifically Capra and the City of White Bear Lake. **Harper** noted that she had asked staff to provide comparisons between budgeted and actual expenses to the Council on a monthly basis, and to watch the expenses for snow removal particularly.

**Peterson** asked whether the Council will be receiving year to date comparisons of this year’s expenses vs. 2010. **Harper** responded that staff will be providing Council with current year actual vs. budgeted expenditures. **Reiter** further noted that it is a goal to provide the Council with a 3-year time horizon for budget comparisons and find trends that may be considered by the Council when budgeting in the future.

**Sampair** asked staff about the costs for the water main break of last month. **Reiter** responded that the City hasn’t received all of the bills yet and so can’t give an exact total. **Powers** noted that the City experienced a major break and the costs will be in the low five figures. **Elfering** noted that the leak most likely had been going on for a period of time before it hit the surface, and generated a lot of water. **Sampair** asked whether the City’s budgeted $15,600 amount for water main breaks would be exhausted. **Reiter** said it would; **Powers** noted that there will be additional work to be done later on – such as filling in the hole in Cedar Street – that are ongoing that will be charged against the water main break and paid for by the Water Fund.

***Harper/Carson 4-0 (Mitchell absent) to approve the submitted disbursement requests.***

**ADDITIONAL HOURS FOR THE CITY TREASURER TO WORK ON CITY AUDIT: Harper** noted that the City Treasurer’s employment agreement is for 12 hours a week. During the audit season, however, the audit team will need Cindie available for consultation when they are onsite at City Hall the week of February 28 – March 4. In addition, the audit team at HLB Tautges Redpath has communicated with Cindie on required documents to be pulled for review by the audit team. **Reiter** noted that there are two reports to be submitted, as the audit firm submits its report and the City also submits a report. **Harper** said that these additional duties are beyond the scope of Cindie’s regular duties and can’t be performed within the confines of 12 hours a week. **Peterson** asked Cindie how many additional hours in total does she feel she will need, and **Reiter** responded that 40 total additional hours should be sufficient.

***Harper/Carson 4-0 (Mitchell absent) to approve up to 40 additional hours for the City treasurer in preparation for the 2010 audit.***

**INCIDENTAL SPENDING POLICY: Powers** reviewed the draft policy, and related its genesis as coming from a concern of former Mayor Wingfield that, other than a general $400.00 per incident limit on incidental expenses, there are no policies further regulating these types of expenditures. The draft policy defines “incidental”; appoints the City Clerk as the authorized agent to approve incidental expenditures; details the mechanism for approval and denial of requests; provides for an appeal process; provides for Council approval of the incidental expenses at its next meeting where other disbursements are reviewed; and addresses remedies for abuse of the authorized agent’s discretion. **Powers** recommends changing the phrase “City Clerk” to “authorized agent” in Sections 3 and 4 of the policy.

**Harper** asked about how this policy impacts the section of the City’s financial internal control procedures that deals with the petty cash fund. **Powers** responded that while some expenditures governed under this policy would be paid for from the petty cash fund, there are other expenditures regulated by this policy that would be invoiced. In effect, **Powers** noted, the proposed policy is broader than the petty cash fund. **Harper** noted that she has requested staff to develop a policy for the petty cash fund for presentation at the March 8, 2011 Council meeting.

**Harper** wanted clarification on Section 1 (d) that the proposed expenditure is within the City’s adopted budget for that category. **Powers** suggested rephrasing the sentence to clarify as follows: “There are sufficient budgeted funds in the fund subaccount for the expenditure.”

***Carson/Peterson 4-0 (Mitchell absent) to approve the draft Incidental Purchasing and Spending Policy, amended to change the words “City Clerk” with “authorized agent” in Sections 3 and 4, and by rewording Section 1d to read “There are sufficient funds in the budgeted fund account for the expenditure.”***

**REVIEW OF TREE REMOVAL PROPOSAL:**  **Carson** reviewed the proposal from Steve Dean, and asked if there were any questions from the Council. **Peterson** asked whether some money should be set aside for planting of shrubs to act as a sound and visual barrier. **Carson** mentioned that was a good idea and she can bring the matter up at the next Parks Committee meeting.  **Harper** asked about whether grinding of the stumps was part of the bid; **Carson** confirmed that it was, but can’t be done until spring. **Harper** asked whether the trees to be removed will be marked; **Carson** confirmed that they will be marked. **Harper** finally wanted confirmation that the expense was in the budget; **Carson** confirmed that the funding will need to come out of the Parks budget because the trees are not dead.

***Carson/Peterson 4-0 (Mitchell absent) to approve of the expenditure of $1,874.69 to take down and remove debris of large ash, large boxelder, small boxelder and clump of buckthorn, grind stumps and remove debris from the western edge of the tennis courts; and to trim and remove branches from four oaks overhanging the fence, removal of a small boxelder from the northeastern corner of the tennis courts, all as bid by Steve Dean.***

**DOCKET 2011-01-02: DRAFT POLICY ON RULES OF PROCEDURE> APPROVE DRAFT LANGUAGE AND SET A PUBLIC COMMENT PERIOD DATE: Harper** mentioned that this is a policy that Mayor Mitchell has developed and would like a public comment period at the March 8, 2011 meeting. **Harper** noted that tonight is an opportunity for Council Members to comment on the draft. **Sampair** would like to remove discussion on conflict of interest and save it for a later time.

Hearing no other comments from the other members, **Harper** made the following suggestions:

* Page 2, Section 2.08: Add (e) as follows-> “On an annual basis, at the January meeting, acknowledge the pay of the Mayor and Council Members”, per the recommendation of the 2009 audit.

**Sandstrom** noted that increases in Council pay cannot take place without an intervening general election, and recommends that the Council address this at the organizational meeting each January after the general election.

* Page 6, Section 4.05: Add language granting the Council the authority to remove items from the agenda.
* Page 8, Section 5.04, subsection (d): Thinks the last sentence ”Only two amendments may be made to an original motion, in order to avoid confusion” is confusing, but will leave it in there until Mayor Mitchell gets back to explain his reasoning for the language.
* Page 8, Section 5.05: Add language referencing variance and conditional use permits, and also add a sentence stating that the resolution shall be complete enough to serve as the record of findings to support the action taken.

**Powers** commented that the Council is placing a heavy burden on that resolution and should be written or at least reviewed by the City Attorney. **Sandstrom** noted that while that level of burden is a worthy goal, statute allows for reliance on the entire record as a basis for findings leading to its decision.

* Page 10, Section 6.04: Strike the word “video”.
* Page 10, Section 7.02, subsection (b): Strike the reference to 20 days as a notice requirement.

**Reiter** asked about Section 6.06, which addresses data retention, and mentioned that for most small cities, adoption of the full retention schedule is rare. Instead, smaller cities use bits and pieces of the schedule. **Harper** noted that she would like to see the city move toward a more comprehensive approach to records retention. **Powers** asked the City Attorney whether it can adopt the Records Retention Policy with this policy. **Sandstrom** responded that a records retention policy should be adopted by resolution separate from this policy. **Harper** directed staff to research this matter and bring its findings back to the Council prior to adoption of this policy.

**Powers** asked whether the words “public hearing” should be replaced with “public comment period” so as not to confuse the public. **Harper** agreed with that suggestion.

**Sampair** made the following suggestions:

* Page 12, Section 8.03, subsection (g): Strike the second sentence-> “No comment period shall be longer than twenty days from the close of the hearing.”
* Page 12, Section 8.04: Insert “or City Council” between “officer” and “may”.

***Harper/Sampair 4-0 (Mitchell absent) to approve the draft language as amended and to schedule a public comment period for this policy at the March 8, 2011 regular meeting.***

**DOCKET 2011-01-07: BIRCH STREET> CHANGING THE NAME OF LOWER BIRCH STREET TO OWL STREET: COUNCIL DIRECTION**: **LaFoy** presented his request to change the name of lower Birch Street – that part of the street conjoining with Wildwood Avenue – to Owl Street, and mentioned that there are occasions that motorists attempt to access upper Birch Street from Wildwood Avenue, only to be frustrated by the lack of access. **LaFoy** shared maps with the Council that exhibit differences in access. Some of the maps show Birch Street as a through street, including MN/DOT.

**Peterson** asked when the City is required to change out the signs; **Powers** said that 2015 is when the mandate takes place. Powers also noted that, in addition to the $80.00 sign cost, there are public hearing , survey, and recording costs. In response to Peterson’s question about whether the residents can change the sign themselves, **Elfering** mentioned that as long as the change is in conformance with existing regulations, there is nothing prohibiting them from changing the sign themselves. **Sandstrom** noted that the change would require an ordinance, which requires publication of notice and the ordinance itself, as well as recording costs and perhaps survey costs. **Sandstrom** confirmed that the City has the authority to pass the costs onto the applicants and a contract should be drafted to effect that request. **Peterson** noted that if there are public safety concerns, the applicants should not be required to pay the entire cost.

The Council directed staff to find out what the costs are for the change and meet with LaFoy and McGinniss to see whether there is continued interest in proceeding with the request.

**DOCKET 2011-01-08: AMENDING THE EMPLOYMENT AGREEMENT OF THE CITY CLERK: Harper** noted the following changes to the city clerk’s contract:

* Attendance at city council meetings is to count toward “normal office” hours, not “out of office” hours.
* Changing from 4 to 6 the number of hours accrued each month for vacation, as well as from 4 to 6 the number of hours of paid time for each legal holiday.
* Changing who reviews the Clerk’s time sheet from the Council to the Mayor or Deputy Mayor.
* Change “personnel director” to “deputy mayor”.
* Delete reference to a start date for the agreement.

***Harper/Sampair 4-0 (Mitchell absent) to approve the amended employment agreement with the City Clerk.***

**CITY CLERK’S REPORT: Powers** reviewed with the Council the program materials for the Municipal Clerks and Finance Officers (MCFOA) Annual Conference in St. Cloud on March 15-18. The cost of the conference has been budgeted for at $220.00; however, for first time attendees the cost is reduced to $180.00. There is a seminar on Microsoft Publisher that costs $45.00, bringing the total cost of attendance to $225.00. **Powers** noted that since he is responsible for creating the newsletter, using Microsoft Publisher as the platform for the newsletter would be beneficial to the City.

***Sampair/Peterson 4-0 (Mitchell absent) to approve the $225.00 expenditure for the City Clerk to attend the MCFOA Annual Conference and the Microsoft Publisher seminar in St. Cloud.***

VOLUNTEER ACCIDENT COVERAGE: **Powers** reviewed with the Council the enclosed materials relating to volunteer accident coverage offered by the League of Minnesota Cities Insurance Trust (LMCIT). This coverage was approved last year as part of the annual renewal of the City’s insurance policies; however, staff was not diligent in adding the coverage in a timely manner. The coverage is in force at this time and will be part of the renewal package for Council review and consideration in June.

NEWSLETTER DEADLINE: **Powers** announced that the deadline for getting items in the March newsletter is Friday, February 18.

POSTING OF COMMUNITY EVENTS AND ANNOUNCEMENTS ON THE COMMUNITY ACCESS CHANNEL: **Powers** informed the Council that the Ramsey Washington Suburban Cable Commission (RWSCC) has the ability to post community events and announcements on the City’s community access channel. The City’s cablecaster, Kenny Ronnan, has offered to come in and post these items on the access channel, and Kenny’s pay is reimbursable to the City similar to his pay for cablecasting Council meetings.

**CITY ENGINEER’S REPORT: Elfering** reviewed with the Council materials relating to the proposed installation of three catch basins, and mentioned that this item has been on the City’s radar screen since 2009 when the City applied for a 50% cost-share grant from the Rice Creek Watershed District (RCWD) for installation of these catch basins to remove some of the suspended solids from the stormwater before it entering White Bear Lake. The grant was approved, but the City hesitated in proceeding with installation due to a concern about whether other pollutants could be removed with these catch basins. **Elfering** noted that catch basins are not designed primarily to remove pollutants from the stormwater. **Elfering** advised the Council that the City is facing a deadline of June 19, 2011 to complete the project. In speaking with RCWD, the District indicated that since this is a relatively small project that it would not extend the deadline for project completion.

**Peterson** mentioned that he has reviewed the engineering reports from Thatcher and Houston, and that the Thatcher report cited that to remove phosphorus from the storm water that rain gardens are the preferred way to do that, and how does that square with this project. **Elfering** responded that these catch basins are only a part of the solution to the issue, and alluded that rain gardens are an integral part of the solution, but without the catch basins the rain gardens would be overrun with water, forcing some pollutants to bypass the rain gardens. **Elfering** noted that at this time, she is requesting approval to prepare construction bid documents and put the project out for bid with a 10-day window to respond. **Elfering** concluded that she intends on having the bids reviewed at the March 22, 2011 regular meeting.

***Peterson/Sampair 4-0 (Mitchell absent) to authorize the City Engineer to prepare construction bid specifications and to receive the bids; and to present the bid results at the March 22, 2011 regular meeting.***

**NEXT MEETING – FEBRUARY 22, 2011 – POSSIBLE ITEMS:** The Council discussed topics for the February 22, 2011 workshop meeting. **Harper** noted that there will be an action item at that meeting, as the Council will be reviewing the dock permit application and by-laws at the workshop and approving them that night. In addition, **Harper** would like to discuss fees for storage of canoes and small watercraft on the public lake tracts (the City already charge fees for boat storage). **Carson** indicated that she would like to talk about Nordling Park at the workshop; **Harper** asked if Nordling Park can be discussed at the March 8th meeting, since the dock matters will most likely dominate the February workshop meeting. The consensus of the Council was to discuss Nordling Park and the building inspection report at the first March meeting and the parks work plan at the second March meeting; and a meeting with White Bear Lake police and fire at the April workshop.

**ADJOURN:  *Sampair/Carson 4-0 (Mitchell absent) to adjourn the meeting @ 9:05pm.***

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

Acting Mayor Jane Harper

ATTEST:

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

Dale Richard Powers, MA, AICP

City Clerk