**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**January 10, 2012**

**MINUTES**

**MEMBERS PRESENT: Mayor Alan Mitchell; Council Members Jane Harper, Mark Peterson, and Tony Sampair.**

**MEMBER ABSENT: Council Member Barb Carson**

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

**OTHERS PRESENT: Joann Haus and John Lund.**

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

**AGENDA APPROVAL: *Harper/Peterson 4-0 (Carson absent) to approve the agenda for the December 13, 2011 Regular Meeting, amended to add Item # 6a (Transfer of Funds from Parks to Capital Projects Fund for purchase of snowthrower, and Request for additional hours for the City Treasurer for completion of year-end reports)***

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

1. ***Approval of the Minutes of the December 13, 2011 Regular Meeting.***
2. ***Acceptance of the Financial Report and Disbursements Register as prepared by the City Treasurer and presented to the City Council on January 10, 2012, including Check #’s 26896-26897, 26907-26928, 26930-26944 and Electronic Funds Transfers SC122011 and PERA121511.***
3. ***Approval of hiring Corey Johnson as Level 2 Rink Attendant.***
4. ***Approval of the list of scheduled dates and times for monthly regular Council meetings.***
5. ***Approval of the list of observed 2012 City holidays.***
6. ***Approval of Resolution 2012-01 Implementing the Expected Sign Life Sub-Method of the Management Method of Maintaining Sign Retroreflectivity Per the Standards of the Federal Highway Administration.***

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

* Martin Luther King Jr. Day is January 16th, and there will be a breakfast commemorating the life of Dr. King at the Minneapolis Convention Center that day. Speaking at that event will be Nontombi Naomi Tutu, daughter of South African Archbishop and Nobel Prize winner Desmond Tutu. In addition, the 3rd annual NE Area Community Breakfast will be held at the White Bear Unitarian Universalist Church in Mahtomedi at 7:00am; tickets are $5.00 and a simulcast of the Minneapolis event will be shown.
* On January 21, weather permitting the annual golf tournament on White Bear Lake will be held, and noted that proceeds from the event go to the food shelf.
* On February 2, the Common Table returns, sponsored by the Birchwood Community Club. The guest speaker is Sarah Markoe-Hanson, Executive Director of the White Bear Lake Historical Society, and the topic is gangsters.
* January 21 is Hockey Day in Minnesota; there are no events in Birchwood, and the main event is on Lake Minnetonka.
* February 7 is Precinct Caucus night.

**OPEN PUBLIC FORUM:**  **Haus** addressed the Council with a concern about door-to-door solicitors, and noted that White Bear Lake has an ordinance requiring solicitors to get a license from the City. The Council directed staff to research this matter and bring it back to the Council.

**REQUEST FOR COUNCIL DIRECTION ON WHAT FUND TO PAY FOR THE SNOWTHROWER: Harper** shared with the Council the background on this item, and noted that last year the Parks Committee was funded through two sources: $13,000 from the general fund and $5,000 from the special revenue parks fund (dock fees, etc.). **Harper** continued by saying that when the Council discussed the Parks Committee budget for 2012, the Committee requested approval for a snowthrower; **Harper** noted that while the Committee was under the $18,000 total budget for 2011, it was over the $13,000 that comes from the general fund. **Harper** said that the $5,000 portion of the budget that comes from the special revenue parks fund is only to be spent on park improvements, and noted that there was discussion at that meeting on whether the snowthrower purchase is to be considered a park improvement. **Harper** related that the spending restriction for the $5,000 was established by motion by a previous Council with revenue coming from boat and dock fees; as a Council, there has been no discussion about defining what a park improvement is. **Reiter** shared with the Council a document on park expenditures and wanted it on the record that there are statutory regulations on park expenditures.

**Peterson** asked whether a snowthrower should be considered a capital expenditure; **Reiter** said she doesn’t consider it to be a capital expenditure, and **Harper** said that typically a capital expenditure involves something that lasts more than 1 year and costing more than $1,000; however, equipment is generally excluded. **Harper** noted that since there isn’t a good definition of park improvement for the Council to work with, she recommends that the expenditure to come out of the special revenue parks fund.

***Sampair/Peterson 4-0 (Carson absent) to direct the City Treasurer to take the cost of the snowthrower out of the Special Revenue Parks Fund.***

**CITY TREASURER REQUEST FOR ADDITIONAL HOURS FOR COMPLETION OF ANNUAL FINANCIAL REPORT: Harper** noted that Reiteris requesting an additional amount of hours to complete the year-end financial report as required by the Office of the State Auditor, and noted that this report was done in the past by the audit firm as part of the audit; since there is no audit this year, Reiter will be taking this on herself. When asked how many hours will be needed to complete this task; **Reiter** responded that a maximum of 40 additional hours between now and March 31, 2012 should be enough.

***Harper/Sampair 4-0 (Carson absent) to approve up to 40 additional hours, between now and March 31, 2012, for the City Treasurer to complete the annual financial reports.***

**WARMING HOUSE GRANT>CONSIDERATION OF AUTHORIZING A PUBLIC HEARING: Lund**, Parks Committee Chair, addressed the Council on this matter and noted that the Parks Committee held a public informational meeting on the proposed warming house grant in December. **Lund** added that 3 people attended the public informational meeting and that all liked the proposal. **Lund** related that the next step in the process, one that is required as part of the application process, is for the City Council to conduct a public hearing on the proposed warming house grant; the minutes from the public hearing are to be included as part of the application package.

**Lund** also noted that he had talked to City of White Bear Lake Chief Building Official Ben Eggan about this project, and Eggan advised Lund that the City won’t need a general contractor and will work with Lund on the project; no contractor’s license is needed.

**Harper** made the following comments:

* What is it we’re asking the public to comment on; there is no exhibit in front of me. What is it we’re going to put out there to the public?
* The Council had an extensive discussion on this matter a month or two ago, I haven’t seen anything brought forward that addresses the concerns we had at that time.
* When we set a public hearing usually there’s something that the Council is comfortable with and recommends for approval. The Council has not done that yet and perhaps it is premature to schedule a public hearing until that time.

**Lund** responded that the requested information will be ready for Council review at the February meeting; **Harper** responded that perhaps the public hearing should be held in March in order to give the Council time to review the proposal at the February meeting and recommend that the application go forward. **Mitchell** responded that the proposal was in the Council packet in November and asked Lund if that is the proposal; **Lund** responded in the affirmative. **Harper** asked whether there have been any changes made to the proposal since that time; **Lund** responded that there have not been any changes made since November. **Sampair** asked Lund if any of the attendee’s at the December public informational meeting recommended any changes to the plan; **Lund** replied that all of them like the proposal and did not recommend any changes to it. **Sampair** commented that perhaps the resolution authorizing the application and making the financial commitment to ½ of the cost be delayed until March in order to allow time for any changes recommended as a result of the public hearing to be incorporated into the plan. **Harper** noted that the Council was told in November that the warming house is part of a larger proposal and that so far she hasn’t see any details about the larger improvements; consequently, she is unsure of the scope of the entire project and asked Lund what is the scope of the project? **Lund** responded by saying that for now the warming house is the only part of the project clearly defined at this time; plans for parking lots or paths will not be firmed up before February. **Harper** also asked whether bids have been solicited for the work, in order to make sure the $40,000 figure is accurate; **Lund** said the bidding process is ongoing and the costs are going up. **Harper** asked Lund whether a budget will be ready a week or two prior to the public hearing; **Sampair** asked whether the submittal can be brought to City Hall by February 1 so that it can go up on the City’s website. **Lund** said he would try; he needed to talk to Katie Cavanor about that.

***Sampair/Peterson 3-1 (Harper opposed; Carson absent) to authorize a public hearing on the proposed warming house grant at the February 14, 2012 Council meeting, and that the application package is to be posted on the City’s website before February 4, 2012.***

**APPROVAL OF THE MAYOR’S 2012 COUNCIL APPOINTMENTS: Mitchell** reviewed with the Council the list of his Council appointments, and noted that he wanted to get Council Members Peterson and Sampair – since they are the only members guaranteed to be on the Council after this year – involved with the budget and personnel to provide some carryover and continuity. **Mitchell** noted that he proposes to appointed Peterson to the Budget Committee and Sampair to the Personnel Committee. **Peterson** commented that citizens should also be named to some of these committees, and noted the budget expertise of Larry Walker as an example. **Mitchell** responded that he thought that was a good idea that will need to be included when writing the by-laws for the Budget Committee.

***Peterson/Sampair 4-0 (Carson absent) to approve Mayor Mitchell’s 2012 Council Appointments as presented.***

**APPROVAL OF THE 2012 APPOINTMENTS AND ASSIGNMENTS: Mitchell** reviewed with the Council the lists of2012 appointments and assignments, and noted that the City is statutorily required to annually appoint the Acting Mayor, Official Depository, and Official Newspaper.

***Sampair/Peterson 4-0 (Carson absent) to approve the appointment of Council Member Jane Harper as Acting Mayor.***

***Harper/Sampair 4-0 (Carson absent) to approve the naming of US Bank, N. A. as the City’s Official Depository.***

***Peterson/Mitchell 4-0 (Carson absent) to approve the naming of the White Bear Press as the City’s Official Newspaper.***

**Mitchell** noted that the list of 2012 appointment and assignments contains an error in that the Personnel Committee consists of himself and Sampair instead of Harper and Sampair. **Harper** commented on the two vacancies on the White Bear Lake Conservation District and volunteered to serve on an interim basis on the District Board until a replacement can be found, preferring to take the seat expiring the soonest.

***Mitchell/Peterson 4-0 (Carson absent) to approve the appointment of Jane Harper as one of the City’s two representatives on the White Bear Lake Conservation District Board, on an interim basis for the term expiring in June 2012.***

**ORDINANCE RELATING TO INTERIM USE PERMITS>REVIEW OF DRAFT AND CONSIDERATION OF SCHEDULING A PUBLIC HEARING: Mitchell** reviewed the set of draft revisions to the City Code that, if adopted, establish Interim Use Permits in the City as an alternative to Conditional Use Permits, and recommends having the Planning Commission review the drafts and make a recommendation to the City Council.

***Harper/Sampair 4-0 (Carson absent) to refer this matter to the Planning Commission for review and comment.***

**ORDINANCE RELATING TO COMPLAINTS>REVIEW OF DRAFT AND CONSIDERATION OF SCHEDULING A PUBLIC HEARING: Mitchell** reviewed the set of draft revisions to the City Code that, if adopted, would establish a procedure for processing and investigating complaints, and recommends having the Planning Commission review the drafts and make a recommendation to the City Council.

***Harper/Sampair 4-0 (Carson absent) to refer this matter to the Planning Commission for review and comment.***

**ORDINANCE RELATING TO ORDINANCE ENFORCEMENT & PENALTIES>REVIEW OF DRAFT AND CONSIDERATION OF SCHEDULING A PUBLIC HEARING: Mitchell** reviewed the set of draft revisions to the City Code that, if adopted, would establish a procedure for enforcement of the ordinances of the City and provide the City an option for either civil or criminal action. **Mitchell** recommends having the Planning Commission review the drafts and make a recommendation to the City Council.

***Harper/Sampair 4-0 (Carson absent) to refer this matter to the Planning Commission for review and comment.***

**ORDINANCE RELATING TO FEES/APPROVAL OF 2012 FEE SCHEDULE>REVIEW OF DRAFT AND CONSIDERATION OF SCHEDULING A PUBLIC HEARING: Harper** reviewed the set of draft revisions to the City Code that, if adopted, would remove the fees from the ordinance and establish a separate fee schedule that could be amended by motion or resolution. **Harper** noted that it was almost a year ago that she worked with the City Attorney to get all of the fees into one location in the ordinance; currently fees are scattered throughout the code book or in various resolutions. Harper related that it is a good idea to review the fees at the January meeting, in concert with budget adoption. The City Attorney advised the Council that the City could adopt the fees by motion as opposed to ordinance. The City wouldn’t need to publish an ordinance every time a fee changed. **Harper** recommends scheduling a public hearing at the February council meeting.

***Harper/Sampair 4-0 (Carson absent) to schedule a public hearing at the Council’s February meeting on the proposed revised Chapter 701, as amended to remove 701.040, and the fee schedule as proposed, amended to remove the reference to Infrastructure Water Fee and Sewer Water Inspection per hour rate due to lack of a proposed fee for those services, and the inclusion of the fees currently in Section 617 (Public Lake Tracts).***

**REVIEW OF PROPOSALS FOR PROVISIONING OF SHARED SERVICES: Elfering** shared with the Council a memo she drafted on this matter, saying that she had met with White Bear Lake (WBL) to request a bid to go with the bid previously submitted by Saint Paul Regional Water Services (SPRWS). **Elfering** noted that the two bids are similar except as it relates to servicing the City’s hydrants; WBL would perform annual flushing of the hydrants; SPRWS would also perform annual maintenance of the hydrants in addition to the flushing. **Elfering** went over with the Council what SPRWS intends to do as part of the annual hydrant maintenance. **Peterson** asked whether WBL was aware of what SPRWS was proposing for annual hydrant maintenance; **Elfering** responded that WBL was aware, but could not commit the staffing to perform that level of maintenance. When asked by the Council for a recommendation, **Elfering** stated that each proposal has its merits and it’s up to the Council to choose which bid it is more comfortable with; each can respond to an emergency within a reasonable amount of time. **Peterson** noted that each bid is competitive and perhaps it makes sense for the City to not put all of its eggs in one basket, so to speak.

***Mitchell/Sampair 4-0 (Carson absent) to enter into a contract with Saint Paul Regional Water Services for certified water operator services.***

***Harper/Peterson 4-0 to authorize the Mayor to work with the City Attorney to draft and execute the contract with Saint Paul Regional Water Services.***

**CITY ATTORNEY’S REPORT: Sandstrom** discussed with the Council the open meeting law, data practices act, and the gift statute.

**CITY COUNCIL REPORTS: Mitchell** advised the Council that the White Bear Lake School District is hosting a luncheon on January 25th and elected officials and staff are invited to attend. **Mitchell** also noted that the next quarterly report from the United States Geological Survey on the lake level study will be presented at the February meeting of the White BearLake Conservation District.

**Sampair** noted that the hockey rink is being heavily used and volunteers can always come down and shovel snow and otherwise help keep the rink in good shape.

**NEXT MEETING>FEBRUARY 14, 2012: TOPICS: Mitchell** said that there will be 2 public hearings scheduled for February – one for the warming house grant and the other on the changes to the fee ordinance. **Mitchell** also noted that comments from the Planning Commission on the draft ordinances relating to interim uses, complaints, and investigations should be received for review at the February meeting.

**ADJOURN: *Harper/Mitchell 4-0 (Carson absent) to adjourn the meeting at 9:10pm.***

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Dale Powers

City Clerk