**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**January 11, 2011**

**MINUTES**

**MEMBERS PRESENT: Mayor Alan Mitchell; Council Members Barb Carson (@7:15), Jane Harper, Mark Peterson, and Tony Sampair**

**STAFF PRESENT: City Engineer Kristie Elfering; City Clerk Dale Richard Powers; Interim Assistant City Clerk/City Treasurer Cindie Reiter; and City Attorney Kevin Sandstrom**

**OTHERS PRESENT: John Lund, John McCormick, Shari Mitchell, Mary Sue Simmons, Mary Wingfield**

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

**OATH OF OFFICE:** City Clerk **Powers** administered the oath of office to incoming Mayor **Mitchell** and incoming Council Members **Peterson** and **Sampair**.

**APPROVAL OF THE AGENDA: *Peterson/Harper 4-0 (Carson absent) to approve the agenda with the following changes:***

* ***Removing Item # 1 (Approval of the December 14, 2010 Regular Meeting Minutes) from the Consent Calendar to discuss under City Business***
* ***Remove approval of the Animal Control appointment from the list of 2011 Appointments***

**OPENING REMARKS – MAYOR ALAN MITCHELL: Mitchell** introduced himself to those in attendance and also watching on television, and told about his family; educational and occupation background; how long he has lived in the City; previous Council experience; and some of the issues he would like to address during his term in office.

**OPENING REMARKS – COUNCIL MEMBER MARK PETERSON: Peterson** introduced himself to those in attendance and also watching on television, and told about his family and his desire to enhance the sense of community in the City. Peterson also wanted to recognize the efforts of Mary Wingfield, Jay Brunner, and Nino Nardecchia as elected officials the previous two years.

**OPENING REMARKS – COUNCIL MEMBER TONY SAMPAIR: Sampair** remarked that he shares the sentiments of Mitchell and Peterson, and advised those in attendance and watching on television that he is available any time to discuss citizen concerns.

**Carson** arrived at approximately 7:15pm,

**CONSENT CALENDAR: *Harper/Carson unanimous to approve the following Consent Calendar motions:***

* ***Approve the hiring of Kenneth Ronnan as Cablecaster, at a rate of $14.00 per hour.***
* ***Approve the hiring of Christopher Johnson, Chad Peterson, John Geier, and Tabor Wilde as Level 2 Rink Attendants, at a rate of $8.00 per hour, acknowledging that Chad Peterson’s employment ended on January 10, 2011.***
* ***Approve Resolution 2011-02: Abating the portion of an amount of an unpaid utility bill certified to Washington County erroneously as delinquent.***
* ***Approve Resolution 2011-02: Acceptance of Cash Donations***

**APPROVAL OF THE MINUTES OF THE DECEMBER 14, 2010 REGULAR MEETING: Harper** requested the following changes to the minutes:

* Insert the approved resolutions
* At line 238, change the wording to state “would draft a letter of engagement”.

***Harper/Carson unanimous to approve the minutes of the December 14, 2010 Regular Meeting as amended.***

**COMMUNITY EVENTS AND ANNOUNCEMENTS: Mitchell** made the following announcements:

* A water main has broken along Cedar Street between Birchwood Avenue and Hall Avenue. Mitchell had been advised that the main would be repaired by around 10:00 this evening.
* Hockey Day Minnesota will be celebrated at Ollie Washburn Hockey Rink on Saturday, February 12, 2011, from 11:00am to 2:00pm. There will be refreshments, games, and fun! This event is sponsored by the Parks and Natural Resource Committee.
* There will be a Dock Association Formation meeting on Saturday, January 22, 2011 at 9:30am, at City Hall.
* Also on Saturday, January 22, 2011, in the afternoon, there is a charity golf event on White Bear Lake to raise money for the White Bear Food Shelf.
* The United State Geological Survey (USGS) is proposing an extensive study of White Bear Lake, at a cost of $200,000, half of which is to be raised locally. State Representative Carol McFarlane is hosting a meeting to discuss this study on Thursday, February 10, 2011 from 6:30pm to 8:30pm at the Country Inn on US 61 in White Bear Lake. Each jurisdiction has been asked to send 2 representatives to this meeting, Mitchell asked the rest of the Council to consider attending this meeting, as he will be out of town that day.
* Monday, January 17, 2011 is Martin Luther King, Jr. Day, and there will be a breakfast at the Minneapolis Convention Center featuring Newark, NJ Mayor Corey Booker. If you are unable to attend that meeting, there will also be a NE Area Community Breakfast at the White Bear Unitarian Universalist Church in Mahtomedi at 7:00am in which the Minneapolis gathering will be televised. Cost is $5.00.

**OPEN PUBLIC FORUM: Wingfield** addressed the Council on concerns she had relative to the City’s bookkeeping records.

**APPROVAL OF DISBURSEMENTS: Reiter** reviewed with the Council the submitted disbursement list, and advised the new Council members on the difference between discretionary and non-discretionary disbursements. Non-discretionary disbursements – such as FICA, PERA, payroll, lights, sewer and water, and other utilities – are obligations of the City and are routinely paid on a timely basis prior to formal approval of the expenditure by the Council. Discretionary disbursements – such as vendor payments – are subject to approval by the Council before payment is made. **Harper** noted that there has been a concern about the spending policy that allows expenditures up to $500 without Council approval, as well as amending the City’s internal financial controls that need to be sent to the Office of the State Auditor no later than January 26, 2011. The clerk is drafting a spending policy for Council consideration and the internal financial controls will be reviewed at the January 25, 2011 Council meeting.

***Harper/Carson unanimous to approve the submitted disbursement requests.***

**CLOSING OF THE CONTRACT WITH SHELLY RUECKERT ON UTILITY BILL INVESTIGATIONS: Harper** commented that since the work for which the City contracted with Shelly Rueckert is complete, she felt the Council should take an affirmative action to formally close out the contract.

***Harper/Carson unanimous to close out the contract with Shelly Rueckert for the utility bill research.***

**DISBURSEMENT REQUEST FROM THE PARKS & NATURAL RESOURCE COMMITTEE:** The Council reviewed a request from the Parks Committee to spend $557.02 for the purchase of 3 heavy duty nets and 2 heavy duty shooter tutors. **Carson** advised the Council that the existing nets are in pretty bad shape, and the shooter tutors would be used in conjunction with the Hockey Day in Minnesota event at Ollie Washburn Hockey Rink in February. The funds would be coming out of the Parks Fund.

***Carson/Sampair unanimous to approve the expenditure of $557.02 for the purchase of 3 heavy duty nets and 2 heavy duty shooter tutors.***

**APPOINTMENT OF ACTING MAYOR:**  ***Mitchell/Peterson unanimous to appoint Jane Harper as Acting Mayor.***

**NAMING OF THE OFFICIAL DEPOSITORY: *Sampair/Harper unanimous to approve Resolution 2011-01 naming US Bank as the official depository of City Funds.***

**NAMING THE CITY’S OFFICAL NEWSPAPER: *Peterson/Sampair unanimous to name the White Bear Press as the City’s official newspaper.***

**ESTABLISHING REGULAR COUNCIL MEETING DATES AND TIMES: Mitchell** discussed with the Council adding a second regular meeting each month that can act as a workshop, as well as to address issues not covered at the first meeting.

***Mitchell/Peterson unanimous to set the 2nd and 4th Tuesday of each month at 7:00 PM as regular meeting dates and times.***

**ACKNOWLEDGEMENT OF 2011 CITY APPOINTMENTS: Mitchell** reviewed with the Council the following appointments:

CITY ENGINEER Elfering & Associates CITY ATTORNEY Eckberg, Lammers, Wolf & Vierling

WATER SUPT White Bear Lake Pub Wks CITY HISTORIAN Scott Freeberg

TREE INSPECTOR Steve Dean BOARD OF ADJUSTMENTS Planning Commission

PLUMBING, SEWER, WATER, HEATING, AND BUILDING INSPECTIONS Lake Area Inspections

WHITE BEAR LAKE CONSERVATION DISTRICT Debbie Harrod and TBD

ZONING ADMINISTRATOR Lake Area Inspections

PARKS AND NATURAL RESOURCE COMMITTEE Chair John Lund; Cynthia Tomlinson, Kathy Malles, Gene Ruehle, Debbie Harrod, Craig Aichele, TBD

CABLE COMMISSION Greg Donovan & Randy La Foy

PLANNING COMMISSION Chair Len Pratt; Members John Winters, Randy Felt, Don Hankins, Doug Danks

TRANSIT COMMISSIONER Milo Haus & Mark Peterson

BUDGET COMMITTEE Jane Harper, Larry Walker, Barb Carson

FINANCE COMMITTEE Jane Harper, Jay Brunner, Bob Manke, Clint Dixon

POLICE White Bear Lake Police Department FIRE White Bear Lake Fire Department

**APPROVAL OF MAYORAL APPOINTMENTS: Mitchell** reviewed with the Council the Mayor’s Committee assignments, as follows:

MAYOR ALAN MITCHELL Administration: Intercommunity Relations; Personnel Matters; Contracts; Rules of Procedure; Code of Conduct

COUNCIL MEMBER JANE HARPER Planning: Deputy Mayor; Budget, Finance, and Audit; Sewer and Water; Planning Commission Liaison; Comprehensive Plan and Capital Improvement Plan

COUNCIL MEMBER BARB CARSON Parks: Parks Committee Liaison; City Hall Maintenance; Assistant Weed Inspector; Invasive Species; Hockey Rink, Tennis Courts, Tighe Schmitz

COUNCIL MEMBER MARK PETERSON Public Works: Roads and Streets; Storm Water and Drainage; Rain Gardens; Public Lake Tracts; White Bear Lake Transit Commission

COUNCIL MEMBER TONY SAMPAIR Public Safety: Police and Fire; Civil Defense and Pandemic Planning; Hazardous Materials; Ambulance; Recycling

***Mitchell/Sampair unanimous to approve the Mayoral appointments.***

**ANNOUNCEMENT OF MAYOR AND COUNCIL PAY: Harper** advised the Council and attendees that one of the recommendations of the 2009 audit was to formally adopt the Council’s pay each year.

***Harper/Carson unanimous that the Mayor is to be paid $1500.00 per year and each Council Member is to be paid $600.00 per year for 2011.***

**APPOINTMENT TO THE BIRCHWOOD PARKS COMMITTEE:** The Council next reviewed the applications to fill a vacancy on the Birchwood Parks Committee. The City received three letters of interest: John McCormick, Katie Cavenor, and Karleen Corliss. **Mitchell** reviewed the letters and found each of them more than qualified to serve and recommends naming all three of them to the Parks Committee, expanding the Committee to 9 members.

***Mitchell/Carson unanimous to appoint John McCormick, Katie Cavenor, and Karleen Corliss to the Parks Committee, and to direct the Parks Committee to report back to the City Council confirming that the group’s organizational structure has been changed to allow for the additional members.***

**VACANCY ON THE WHITE BEAR LAKE CONSERVATION DISTRICT: Mitchell** announced that Joe Allaben, one of the two Birchwood representatives on the White Bear Lake Conservation District Board of Directors, will be moving outside the City in March. His term expires in March 2013. Discussion was held pertaining to the announcement of the vacancy, seeing as the term of the City’s other representative (Debbie Harrod) expires in July, and whether the City should solicit letters of interest for that upcoming vacancy, as well.

***Mitchell/Peterson unanimous to announce the two vacancies and solicit letters of interest for each vacancy, through an ad in the White Bear Press and also on the City’s website, with a deadline of Tuesday, February 15th for submission of the letter of interest.***

**ANNOUNCEMENT OF SOLICITATION FOM RICE CREEK WATERSHED DISTRICT CITIZENS ADVISORY COMMITTEE: Mitchell** noted this solicitation, and advised City residents to contact Dale at City Hall for application materials.

**OPEN MEETING LAW REVIEW:** **Sandstrom** presented a review of the state’s Open Meeting Law.

**DOCKET 2011-01-02 – RULES OF PROCEDURE ORDINANCE DRAFT:** **Mitchell** reviewed with the Council a draft ordinance pertaining to rules of procedure that would regulate Council meetings and the agenda formation process. **Mitchell** noted that the draft was largely based on a model ordinance developed by the League of Minnesota Cities, and stated that this is being presented to the Council for informational purposes only at this time. **Mitchell** concluded by stating that he wanted this item on the agenda for the January 25th meeting for the purpose of further discussion and to set a public hearing date.

**DOCKET 2011-01-03: APPROVAL OF EMPLOYMENT AGREEMENT FOR THE CITY TREASURER: Harper** noted that Cindie Reiter came to the City as clerk-treasurer with one week notice in January 2010 when the previous employee quit in December 2009. When Dale came on as clerk, Cindie stepped back to the treasurer position on a contract basis until 3 months ago when she was granted employee status on a interim basis through the end of January to get the City through the year and to have stable staffing through 2010. Her agreement ends in January 31. The current agreement would be maintained; just converting Cindie from interim to permanent. Cindie is still an “at will” employee, so she can be terminated if there are any issues. Cindie has over 10 years experience as clerk and treasurer, she has municipal clerk certification; she also serves as backup to Dale when he is not here. Cindie also has CTAS experience.

**Peterson** responded that, notwithstanding Cindie’s service to the City, and to acknowledge the Mayor’s earlier statement about process, that he would be more comfortable with extending Cindie’s interim status for 60-90 days to get her through the 2010 audit, and to post the position and review applications. **Harper** noted that while she shared Peterson’s sentiments as a general rule, in this case the City had gone through several recruitments for the clerk and treasurer positions and reviewed the qualifications of over 100 applicants, and could not find anyone with Cindie’s level of experience.

**Sampair** commented that he has concerns with the completion of the Financial Report and Disbursements List in a timely manner so that it can be inserted into the agenda packet when it is delivered the Thursday before the Council meeting. **Sampair** also inquired about how long it will take to get the audit completed once it is scheduled. **Reiter** responded that the audit should be completed within 4-5 weeks after commencement, once it is scheduled.

***Harper/Carson 4-1 (Peterson) to appoint Cindie Reiter City Treasurer according to the terms of the enclosed employment agreement.***

**DOCKET 2011-01-04: CREATION OF PERSONNEL COMMITTEE: Mitchell** noted that the City Council approved a motion at the December 14, 2010 meeting to create a personnel committee to deal with staff issues. **Mitchell** further stated that as Mayor he is assigned to the Personnel Committee, and he recommends that Council Member Harper, as Deputy Mayor and most senior Council Member, be also named to the Committee.

***Mitchell/Carson unanimous to appoint Mitchell and Harper as the Personnel Committee.***

**DOCKET 2011-01-05: CREATION OF INCIDENTAL SPENDING POLICY:**  **Mitchell** stated that the City Council approved a motion at the December 14, 2010 meeting to create an incidental spending policy to govern expenditures made by staff, committees, and Council Members.

***Mitchell/Sampair unanimous to direct the City Clerk to present a draft incidental spending policy to the Council for review at its February 8, 2011 Regular Meeting.***

**SET DATE FOR ACTION ON 2011 DOCK PERMIT APPLICATIONS:** Substantial discussion was held among Council Members on this matter. The White Bear Lake Conservation District has authorized an extension for the presentation of the City-approved dock permit applications to allow the City to get through the initial workings of the new Public Lake Tract Ordinance. **Mitchell** noted that there is going to be a Dock Association formation meeting on Saturday, January 22, 2011 – 9:30am – at City Hall.

***Mitchell/Carson unanimous to set a deadline of February 10, 2011 for submission of the application packet to the City for review and approval by the City Council at its February 22, 2011 Regular Meeting.***

**RICE CREEK WATERSHED DISTRICT – RFP 2011 URBAN STORMWATER REMEDIATION COST-SHARE PROGRAM: Powers** advised the Council that the City was awarded cost-sharing funds last year under this program that the City Engineer will be advising the Council later on in this meeting, and wanted direction by the Council on whether the City should apply for cost-sharing funds this year. The consensus of the Council is that the Parks Committee should review this program for potential projects and report back to the Council.

***Carson/Sampair unanimous to direct the Parks Committee to review the RFP and recommend a qualifying project to the Council at its February 22, 2011 Regular Meeting.***

**CITY CLERK REPORT: Powers** brought two issues to the Council’s attention:

* The City received a request from the Minnesota Association of Small Cities (MAOSC) to join. This was brought to the Council’s attention because, while the group’s target market seems to be small outstate cities, the Clerk noted that the Executive Director (former Afton Mayor Dave Engstrom) and chief lobbyist (former State Representative Peg Larson) are from Washington County and there may be some interest on the Council for joining MAOSC. The consensus of the Council was to not consider this expenditure.
* **Powers** shared with the Council the approved Sewer Maintenance Policy from 2005, and noted that the Council approved a motion at the December14, 2010 Regular Meeting to create such a policy. It appears that this matter was previously addressed.

**CITY ENGINEER REPORT: Elfering** commented that the 2009 catch basin project was awarded cost-share funding from the Rice Creek Watershed District for the installation of 3 sumps. A fourth sump location was identified and later approved by the Watershed District for funding as part of the previously-approved grant. The previous Council declined to authorize work on the project. The previous Mayor asked for further review by the Watershed District, which reiterated the need. The Council then went to Thatcher for independent review of the project. Thatcher found that three sumps were needed, but recommended waiting until the street was reconstructed. The Watershed District noted that the grant money is still there, but is requesting direction from the new Council on the matter. **Harper** asked whether this matter could be the subject of a future Council workshop. **Elfering** responded that the deadline for using the grant money is June 19, 2011, which means the project would need to be bid, completed, and billed prior to that date. **Harper** would like this matter put on the February 8th meeting agenda for further Council consideration.

**CITY ATTORNEY REPORT: Sandstrom** noted that he is drafting a letter of engagement to HLB Tautges Redpath, and asked if any Council Members wanted to review the letter prior to sending it out. **Mitchell** requested to review the letter. Also, **Sandstrom** noted that **Sampair** requested that a workshop on conflict of interest be held. Discussion was held among Council Members on contractual vs. non-contractual conflict of interest. A colloquy ensued between **Mitchell** and **Sampair** on this issue, ending with **Mitchell** asking **Powers** to pull together the following documents for Council review: Mitchell letter; Sandstrom letter; Assistant Attorney General Ken Raschke letter; LMC memo – all on conflict of interest.

**NEXT MEETING – JANUARY 25, 2011 – POSSIBLE TOPICS: Mitchell** noted the following items to be discussed at the January 25th meeting: rules of procedure; maybe conflict of interest; ,the animal control contract; ascertain who will be representing the City at the USGS meeting on February 10 (Harper, Sampair, and Peterson all expressed interest, schedules permitting); John Lund wanted to discuss tree removal at the tennis court; boat slip waiting list mechanics; individual Council goals for 2011.

**Harper** noted that the City’s 2009 audit revealed 27 findings of material weakness. The proposed workshop for the January 25, 2011 meeting would address those findings, the City’s response in addressing those findings, and review the City’s Internal Financial Controls Policy and approve any amendments to that document. **Harper** noted that the Office of the State Auditor requires the City to produce this document to it no later than January 26, 2011.

**ADJOURN: *Harper/Sampair unanimous to adjourn @10:07pm.***

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Mayor Alan Mitchell

ATTEST:

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Dale Richard Powers, MA, AICP

City Clerk