

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

**MINUTES OF THE CITY COUNCIL MEETING  
JULY 11, 2023, 6:45 P.M.**

**MEMBERS:**

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

**STAFF:**

H. Alan Kantrud	City Attorney
Marcus Johnson	City Engineer
Therese Bellinger	City Staff

**GUEST:**

Heather Gustafson                      State Senator (from 6:45 p.m. to 6:57 p.m.)

Minutes prepared by Angela Fracassi 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 (0:00:33)**

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

Council added the following item to the agenda:

- Suggested Birchwood improvements
- Sand removal from streets
- Deer hunt
- Water utility user fees
- Water main break surcharge
- Pothole filling
- Construction site erosion

4. **OPEN PUBLIC FORUM (0:02:36)**

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. **PRESENTATION FROM STATE SENOR HEATHER GUSTAFSON (0:03:35)**

State Senator Heather Gustafson introduced herself and stated that the purpose of her visit was to openly communicate with City Council. She highlighted some of the achievements in the last legislative session, which included education and public safety funding for cities. She was the vice-chair of education finance. She opened the floor to questions.

**Councilmember McCarthy** inquired about additional funding for roads, as the City of Birchwood village has a budget of \$500,000 for road repairs, and the cost of rebuilding one road can be over \$1 million.

**Senator Gustafson** responded that a bonding session is coming up, and advised Council to inform her of any proposals or any information related to bonding.

**Councilmember Foster** asked when the public safety funds would be made available.

**Senator Gustafson** responded that the fund will be available in the fall of 2023 and do not have an expiration date.

With no further questions, Senator Gustafson departed the meeting.

6. **ANNOUNCEMENTS (0:13:11)**

- a. **City Cleanup:** Mayor Ford thanked those to volunteered to help with the City Cleanup.
- b. **Fourth of July Parade:** Mayor Ford noted that the Fourth of July parade was successful and thanked the volunteers for their hard work.

7. **CONSENT AGENDA (0:14:22)**

On a motion made by Mayor Ford, seconded by Councilmember McCarthy, it was resolved to approve Consent Agenda items B, and E, as presented, and to table Consent Agenda Item A to a later meeting. All in favor; motion carried.

8. **CITY BUSINESS – OLD BUSINESS (0:15:45)**

- a. **2023-02-VB (127 Wildwood Avenue) Variance (0:15:51):**

On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to deny the variance application for the following reasons:

- 1) The decision of the Planning Commission to deny the Application based on its findings;
- 2) The reasons for denial as detailed in the Memorandum provided by the City Engineer;

3) The lack of a ‘practical difficulty’ as defined in State and City Code as evidenced by the following:

a) Plans for the deck were originally contemplated but abandoned by applicant to move the project forward, proving that the project was not dependent on the presence of the deck;

b) The property already has an existing deck “structure”;

c) The property clearly has a structure on it that forecloses any argument that the failure to obtain a variance would render the property useless and the structure sat in non-conformity when acquired (legal non-conforming) and thus the limitations came with the property;

4) Additionally, the strong opposition to the Request by the affected neighboring property owners and;

5) That the City may not authorize any variances that would expand a non-conforming use unless the requirements of Minn. Stat. 462.357 Subd. 1(e)(f) and(g) are met.

**All in favor. Motion carried.**

The Applicants, Al and Sue Reece, addressed Council. They provided Council with various handouts with renderings of the proposed deck and its potential effects on the abutting property’s site lines. The Applicant claimed that a new plan was made and distributed, and that no feedback from abutters was received. The designer’s blueprint and a floorplan were included in the handouts. Ms. Reese provided further explanation of the floorplan, and highlighted the changes from the previous plan to ensure that site lines are not obstructed. She presented various artistic renditions of the site lines after the proposed deck’s construction. She provided and outlines documentation stated that the impervious surfaces will not change and were immaterial to the variance request. She noted that the house was in a pre-existing, non-conforming location.

Mayor Ford opened to floor to public comment.

**Len Pratt, 301 Wildwood Avenue**, noted that the proposed deck does not meet the high-water setback regulations. In order for a variance to be issued, the Applicant has to show that the variance was necessary and that no other option exists.

**Ellen Maas Pratt** commented that no new construction projects have received waivers from the 50-foot setback requirement, and that variances for structures already built have been grandfathered in. She also submitted some photos of the property and noted that she reviewed the documents that were part of the original application and prepared a summary of the issues with the application.

**Lucy Maas Holtz** noted her opposition to the application and noted that the proposal was incomplete. She also presented a timeline for the project and pointed out some inconsistencies.

b. **Ordinance 2023-05-05 – Amending the Utility Availability Fees (1:27:45):**

**On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to approve Resolution 2032-35, approving of summary publication ordinance 2023-05-05. All in favor. Motion carried.**

Councilmember Hankins presented a summary of the ordinance. He noted that the resolution number should be changed to 35 because he believed that resolution 34 had already been used.

Mayor Ford opened the floor to public comment.

**Naja Gail, 419B Wildwood Avenue**, thanked the Council for the clarification on the Code and stated that the ordinance would affect her. The contractor installing her plumbing lines has already applied for a permit and asked if he would need to apply again.

**Councilmember Hankins** clarified that the ordinance would go into effect on the day that it is published. He advised the resident to wait approximately two weeks and to apply for a new permit without paying for the old one.

c. **2023 Year-End Financial Audit RFP Publication (1:34:00):**

**On a motion made by Mayor Ford, seconded by Councilmember Weier, it was resolved to table the 2023 financial audit RFP publication to the Council meeting to be held in August of 2023. All in favor. Motion carried.**

Mayor Ford suggested tabling discussion to the next meeting, in order to learn more about the scope of work and what to consider when selecting a firm.

d. **Ordinance 2023-06-01 Solar Panels (1:36:36):**

**On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to table approval of Ordinance 2023-06-01 to a later date. All in favor. Motion carried.**

**On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to schedule time to workshop the conditions for ground-mounted solar panels at a later date. Motion carried.**

Councilmember Hankins provided a brief summary of the ordinance and recommended tabling approval to a later date; however, he welcomed Council's suggestions.

Councilmember McCarthy expressed concern regarding the language around the height and setback requirements. He also recommended removing the language regarding visual impacts because they are subjective.

Councilmember Wier suggested that ground-mounted systems be reviewed by the Planning Commission as a variance, because it may have an impact on impervious surfaces, site views, and height.

Mr. Kantrud suggested that Council wants to encourage solar panels; however, making residents go through the variance applicant process can be discouraging. He suggested opting for a Conditional Use Permit instead, which is a simpler process. Councilmember McCarthy advised that roof-mounted units should be approved as soon as possible, and the conditions around ground-mounted units could be workshopped at a later date.

9. **CITY BUSINESS – NEW BUSINESS (1:48:26)**

Mayor Ford elected to return to the following Consent Agenda Items:

a. **Approve Treasurer's Report (Consent Agenda Item C) (1:48:30):**

**On a motion made by Mayor Ford, seconded by Councilmember McCarthy, it was resolved to approve the Treasurer's Report, as amended. All in favor. Motion carried.**

Councilmember Hankins highlighted some plumbing claims and advised that some of the more costly items should go through Council for approval in the future. He also noted a \$120 curb stop fee that should be paid by the homeowner and removed from the report.

**b. Approve Mower Damage Claim (Consent Agenda Item D) (1:52:13):**

**On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to deny payment of the damage claim and to forward it to the insurance company. All in favor. Motion carried.**

**c. First Reading of Ordinance 2023-07-01 – Building Height (1:54:58):**

**On a motion by Mayor Ford, seconded by Councilmember Hankins, it was resolved to table the first reading of ordinance 2023-07-01. All in favor. Motion carried.**

**d. Request for Purchase of City Personal Computer (1:55:23):**

**On a motion made by Mayor Ford, seconded by Councilmember Foster, it was resolved to approve the desktop computer purchase for \$629 so everyone in the office has a working computer, and to revisit overall IT fees at a later date. All in favor. Motion carried.**

Theresa Bellinger explained that the City staff require one additional desktop computer which would allow all City staff to work at the same time. This computer would replace the desktop that is currently inoperable.

**e. Road Repair Bid from T.A. Shifsky (2:00:53):**

**On a motion made by Mayor Ford, seconded by Councilmember McCarthy, it was resolved to obtain an additional bid for road repairs which includes miscellaneous pothole repair and water main break repairs at White Pine Road and City Hall, and that Council schedule a special session to review the bid should it be received within two weeks. All in favor. Motion carried.**

**f. Street Sweeping (2:12:13):**

**On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to include street sweeping in the road repair bids to be reviewed at the special meeting. All in favor. Motion carried.**

Councilmember Weier noted that she received several e-mails from residents concerned about street sweeping. Mayor Ford agreed to contact the contractor to verify whether street sweeping was completed. Councilmember McCarthy suggested that the road repair bids include street sweeping. Councilmember Hankins suggested that the contractors completing construction on Wildwood Avenue should be billed for a portion of the street sweeping.

**g. Hourly Permit Fees (2:15:34):**

**On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to table the approval of the proposed changes to hourly permit fees. All in favor. Motion carried.**

Theresa explained that the intention of the proposed changes is to process permit fees more efficiently. Mr. Kantrud advised Council to table the item so that the City Planner could be included in the conversation.

**h. Staff Leave (2:24:36):**

**On a motion made by Councilmember Weier, seconded by Councilmember McCarthy, it was resolved to grant Rebecca Kellen up to 12 weeks of FMLA time, effective July 5, 2023. All in favor. Motion carried.**

Council agreed to hold a special meeting to discuss hiring additional staff during Ms. Kellen's absence.

**i. Suggested Improvement Work (2:31:34):**

**On a motion by Councilmember Weier, seconded by Councilmember McCarthy, it was resolved to organize volunteers to install board on the ice rink and remove fallen trees and branches from the right-of-way. All in favor. Motion carried.**

**j. Deer Hunt (2:42:15):** Councilmember Weier agreed to recruit volunteers to work on the deer hunt. She also agreed to present a proposal at the special Council meeting. It was noted that there have been significant records requests in the past regarding the deer hunt.

**k. Water Main Break Surcharge (2:44:15):** Councilmember Hankins expressed concern about the cost of the water main breaks, and suggested including a proposal at the special Council meeting. Council expressed support for the idea.

**10. ADJOURNMENT**

**On a motion made by Mayor Ford, 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 9:31 p.m. by Mayor Ford.**

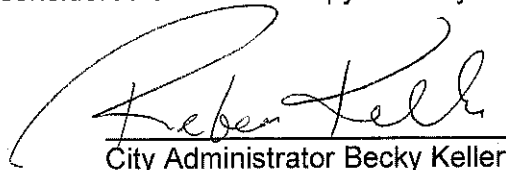
**DISCLAIMER**

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

10-10-23  
Date



City Administrator Becky Kellen

10-10-23  
Date

