



MINUTES OF THE SPECIAL MEETING OF
THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
July 25th, 2023
5:00 P.M.

PLEDGE OF ALLEGIANCE

Pledged

APPROVE AGENDA

Motion to Approve: McCarthy Second: Weier Vote: AA

CITY BUSINESS

- A. Attorney-Client privileged discussion regarding *Nicklaus v. City of Birchwood* with Paul Merwin, esq., LMCIT-appointed counsel, to discuss next steps in the litigation. Presenter: H. Alan Kantrud, City Attorney (introduction)
Materials: Handed-out at meeting

Discussion was held regarding the propriety and necessity of closing the meeting. Mayor Ford recognized the appointed litigation counsel, Paul Merwin, esq., at the podium and read the following statement provided by counsel into the record: " We will close the meeting for the purposes of the attorney-client privilege pursuant to Minnesota Statute 13D.05, subd. 3(b) in order to discuss the active lawsuit [involving the City] Nickolaus vs. City of Birchwood. Our attorney Paul Merwin is here to discuss the status of the case, and provide legal advice. A closed session balances the general requirements the city business should be conducted in public with the need for the council to get unbiased and candid legal advice that will help us fulfill our responsibility to act in the best interests of the City."

Motion to Close: Mayor Ford Second: Foster Vote: AA

Discussion was had over litigation posture and future steps. Closed session was ended and Council directed the City Planner to make a decision regarding a proposal presented by the litigants that was discussed during mediation. The Council noted that there is no formal application for a building permit pending and thus any decision would be communicated to the litigants and they could make a decision on their own regarding next steps for themselves. The City Planner was directed to do so. Materials were returned to Paul Merwin, esq.

- B. Discussion of current and future staffing issues.

* Denotes items that have supporting documentation provided

Presenter: Mayor Ford
Materials: no

Discussion was had regarding staffing, currently, and the desire to make sure the City has adequate staffing in the event of prolonged absences of key staff. While the expectation is that the City will return to 'normal staffing' next week, the concerns remain about whether and when additional staffing may be called for. Discussion was had about the need to offer some form of insurance for staff as well. The Mayor and Member McCarthy will coordinate with key staff to conduct a workshop to get the staff together on issues of delegation of duties and expectations.

Action: to authorize Mayor Ford and Council Member McCarthy to define and post a job description for administrative support if conditions warrant in the future and bring candidates to the Council for hiring if needed.

Motion: Hankins Second: McCarthy Vote: AA

C. Discussion of White Pine and Birchwood Avenue Street Repair Bids.*

Presenter: Mayor Ford
Materials: Attached Bids

Discussion was had regarding the bids received and due to the cost differential and the additional 1" of asphalt in the A.R.C. bid, the Council declared the A.R.C. bid superior.

Action: Approve A.R.C. bid/proposal as presented with funding in the following manner: \$1250.00 to be taken from the General Fund to address general pothole repair and \$6750.00 to be taken from the Water Fund to address the White Pine and Birchwood Avenue repairs (due to the causation of the issues (watermain break) it was decided that the water fund would be the better source of funding for those).

Motion: Hankins Second: McCarthy Vote: AA

D. Discussion of RFP for Audit.*

Presenter: Ryan Hankins, Council Member
Materials: Attached RFP

Discussion was had about the concept of audits in general and the need for them from time to time as a matter of good public administration and their frequency. Due to current budget concerns the Council was definitely in favor of doing them periodically but also supportive of budgeting for them. Conducting them in a 3 or 5 year interval was suggested.

Action: Authorize the Mayor and Council Member Hankins to finalize and advertise

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an RFP for Auditing Services.

Motion: Hankins Second: Weier Vote: AA

E. Discussion of Re-establishing Watermain Break Surcharge to keep fund balance viable.*

Presenter: Ryan Hankins, Council Member

Materials: Attached Resolution

Discussion was had regarding the ongoing costs to the City for watermain breaks and the dramatic frequency of them and the need for consistent funding sources for their repair. Reinstating the 'surcharge' on the residents' water bills (the language of the Resolution) was debated and the option of accumulating the bills and then making an annual/one-time billing for them was also considered. Concerns were raised about the negative impact a, "sizeable," bill being presented to the residents all at once instead of just periodically collecting a small amount to seed the fund with monies. It was agreed that that option may also be explored in the future.

Action: Approve the Resolution as Presented.

Motion: Hankins Second: Weier Vote: AA

ADJOURN

Motion to Adjourn: McCarthy Second: Hankins Vote: AA

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