

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

**MINUTES OF THE CITY COUNCIL MEETING
JUNE 13, 2023, 6:45 P.M.**

MEMBERS:

Margaret Ford	Mayor
Mark Foster	Councilmember
Ryan Hankins	Councilmember
Justin McCarthy	Councilmember
Katherine Weier	Councilmember (via teleconference)

STAFF:

H. Alan Kantrud	City Attorney
Mary Cahill	Treasurer
Rebecca Kellen	City Administrator
Marcus Johnson	City Engineer

GUESTS:

John Waller	Rice Creek Watershed District Manager
Gail Nozal	MN Arborist

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 McCarthy, seconded by Councilmember Foster, it was resolved to approve the agenda as amended. All in favor; motion carried.

Mayor Ford requested the addition of the following item to the agenda:

- Presentation from John Waller, Rice Creek Watershed District

4. PRESENTATION FROM JOHN WALLER, RICE CREEK WATERSHED DISTRICT (0:01:19)

John Waller noted that he was speaking on his own behalf, and not in his official capacity as Watershed District Manager. He distributed a copy of the proposed taxes paid by the individual cities to Washington County, and noted that the total was approximately \$1 million. He also distributed a copy of a bill stating that 90% of the funds collected in Washington County must be spent in Washington County. He had requested data regarding how much of the money is being spent in Washington County in reality; however, he was told that the information was not available.

The Council thanked Mr. Waller for his assistance.

5. **OPEN PUBLIC FORUM (0:18:08)**

Ken Maas, 125 Wildwood Avenue, spoke on behalf of his mother who resides at 125 Wildwood Avenue, regarding the variance request at 127 Wildwood Avenue. He stated that his mother's home was properly set back, and the house at 127 was not. The addition of a deck or other structure as proposed by owner of 127 Wildwood Avenue would impede the sightlines of houses that are properly set back, and he requested that Council deny the variance request.

Barton Winter, 15 Oaks Lane, presented photos of various potholes around Birchwood Village and stressed the dangers for cyclists.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to close the open public forum. All in favor; motion carried.

6. **PRESENTATION BY GAIL NOZAL, NM ARBORIST (0:23:12)**

Gail Nozal was invited to speak about how to care for mature trees. She outlined the distinction between old growth and mature trees, and stated that Birchwood Village has primarily mature trees. Some of the major issues in Birchwood Village include drought, bur oak blight, oak wilt, and two insects: the two-lined chestnut borer and the emerald ash borer. The primary warning sign for these ailments is leaf loss.

Gail Nozal advised residents to contact an arborist at the first signs of canopy loss in the spring or summer. She also advised residents to water their trees. She noted that a certified arborist can be found using the website called treesaregood.org. The Council noted that emerald ash borer has been a problem in the past, and inquired what Council could require of homeowners to prevent the spread. Gail Nozal advised that emerald ash borer should be monitored, as well as the Asian longhorn beetle that attacks maple trees. She also advised using a local source for Christmas greenery, rather than purchasing from out-of-state. Removing infected trees can slow the spread of emerald ash borer.

The Council noted that they budgeted \$1,300 for a tree inspector, and inquired whether that amount was adequate. Gail Nozal advised that that amount could be adequate; however, she suspected that it may be slightly too low, depending on the level of service the City required. She provided information about the tiers of service and consulting services.

7. **ANNOUNCEMENTS (0:41:57)**

- a. **Welcome Deputy Clerk:** The new Deputy Clerk Therese Bellinger introduced herself and thanked Council for the warm welcome.
- b. **Storm Water Pollution Prevention Program:** It was noted that members of the public can comment on the website.
- c. **Music in the Park:** SCCTV will be doing a promotional segment on music in the park.
- d. **National MS Race:** The National MS Race concluded at Century College on June 11, 2023.

- e. **Birchwood Community Clean-Up:** Birchwood Community Clean-Up will take place on June 17, 2023, starting at 9:00 a.m., in front of City Hall. Volunteers with pickup trucks and trailers are needed.
- f. **Congratulations to Councilmember Mark Foster:** Congratulations on the birth of Councilmember Foster's child.

8. **CONSENT AGENDA (0:45:11)**

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve Consent Agenda items C, D, and F, as presented. Motion carried.

The following Consent Agenda items required further discussion:

a. **May Meeting Minutes (Consent Agenda Item A) (0:46:09):**

On a motion made by Councilman McCarthy, seconded by Mayor Ford, it was resolved to approve the meeting minutes from May 9, 2023, as presented.

Council discussed whether changes should be made to the May meeting minutes, and elected to keep the minutes unchanged.

- b. **Treasurer's Report (Consent Agenda Item B) (0:48:29):** Council noted there may have been a duplicate charge from Menards. Mary Cahill, Treasurer, clarified that a check was voided and reissued. Council noted they appreciated the reconciliation statements. The 4M Fundstatement will be included in future reports.

c. **Approve Parks Committees Request for \$5,000 from the Special Revenue Fund and to Obtain Bids for a Handrail at Owl Path (Consent Agenda Item E) (0:53:00):**

On a motion by Councilmember Foster, seconded by Councilmember McCarthy, it was resolved to authorize the Parks Committee to obtain bids for a handrail at Owl Path. All in favor. Motion carried.

The Council expressed concern that \$5,000 might be excessive for a handrail.

Councilmember Weier clarified that the estimate includes both labor and materials. It was noted that the amount of \$5,000 was an estimate, and that the Committee was seeking authorization to obtain quotes.

9. **CITY BUSINESS – NEW BUSINESS (0:57:56)**

a. **2023-04-VB (423 Wildwood Avenue) Variance (0:58:12)**

On a motion made by Councilmember Foster, seconded by Councilmember McCarthy, it was resolved to approve 2023-04-VB (423 Wildwood Avenue) variance, on the condition that the City Planner approve the pervious surfaces, and the variance include the height conditions imposed by the Planning Commission. All in favor. Motion carried.

The Applicant stated that he purchased the lot on 423 Wildwood Avenue in 2019 with the hopes of building a family home. The home design was based on the topography of the lot, which is very

challenging. He requested a setback variance. The Council reviewed the plan, and discussed whether a variance was required. The City Engineer stated that there were no concerns with the application, and that the application meets the pervious surfaces requirements.

b. 2023-02-VB (127 Wildwood) Variance (1:12:48)

On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to table variance request 2023-02-VB until the next meeting. Four votes in favor. Councilmember Hankins opposed. Motion carried.

Council agreed to provide the Applicant with a list of the documents they would like her to provide in advance of the next meeting.

The Applicant addressed concerns regarding sightlines by presenting photos with the proposed deck outlined. These photos indicated that the sightlines of the abutting property would not be affected by the installation of the proposed deck. Approval of the variance would also allow the Applicant to remove the existing deck from the water's edge and the removal of two side lot line violations. Ken Maas expressed concern about the structures that would be needed to support the new deck. The Council inquired about whether the Applicant obtained DNR approval. The Applicant responded that it was forwarded to Rice Creek and the DNR, and she did not receive a response from DNR; however, Rice Creek did not have any concerns about the application. It was noted that the total impervious surfaces were not consistent throughout the application, and Council requested more information.

It was noted that the Planning Commission denied the application; however, they did not have access to the photos showing location and size of the proposed deck and their effect on the abutting property's site lines. The Applicant noted they would continue to keep both the property line violations without approval of the variance.

Council requested deck and elevation plans that would show in more detail how the proposed changes would affect the neighbors. Ken Maas suggested changing the proposed location of the deck, and the Applicant expressed willingness to rework the plan. The Applicant requested a written summary of the Council's requests.

The Applicant requested to bring the plans to Council again at the City Council meeting to be held in July of 2023, provided that doing so will not affect her rights under Minnesota State statute 1599, and that the City provide her a complete list of items they would like her submit prior to the next meeting.

The homeowner agreed to an extension under Minnesota Statue 15.99.

c. Road Plan Proposal (2:06:42)

Mayor Ford noted that at the previous meeting, Council agreed to take a detailed look at the state of the roads to adequately budget for pothole and road repair in the future. Mayor Ford presented a first draft of her proposal. The City Engineer reviewed the plan and advised the inclusion of roads that have had frequent water main repairs in the plan and budget.

Council discussed creating a more long-term plan. They identified Wildwood Avenue and Cedar Hall as high priority streets. They also discussed seeking grant options. The City Engineer noted that there are some grants available, and he agreed to research and present some options at a

later date. The Council agreed to draft a plan including 2024 to 2034 as a target for the updated plan. The City Engineer advised that he may be able to provide approximate financial figures in approximately two weeks. Mayor Ford agreed to schedule a special meeting to discuss these figures. The City Engineer agreed to speak to Steve Thatcher, former City Engineer of City of Birchwood, to obtain more information about lift station federal funding. Mayor Ford suggested having a Town Hall to discuss the lift station location.

d. Second Reading Ordinance 2023-04-02 Fee Schedule (2:24:39)

Councilmember Hankins presented a summary of the proposed ordinance.

Public Hearing

Mayor Ford opened the public hearing. There were no comments from the public.

On a motion made by Mayor Ford, seconded by Councilmember Hankins, it was resolved to close the public hearing. All in favor. Motion carried.

Council Deliberation and Approval

On a motion made by Mayor Ford, seconded by Councilmember Hankins, it was resolved to approve the ordinance 2023-04-02. All in favor. Motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve RESOLUTION 2023-28 Approving Summary Publication Ordinance 2023-4-02. All in favor. Motion carried.

e. Second Reading ORDINANCE 2023-04-03 (615) Exterior Storage (2:27:39)

Councilmember Hankins noted that there was no summary document included in the meeting package. It was noted that the resolution was too short and not worthy of a summary document. Councilmember Hankins presented a verbal summary of the proposed ordinance.

Public Hearing

Mayor Ford opened the public hearing. There were no comments from the public.

On a motion made by Mayor Ford, seconded by Councilmember McCarthy, it was resolved to close the public hearing. All in favor. Motion carried.

Council Deliberation and Approval

On a motion made by Mayor Ford, seconded by Councilmember McCarthy, it was resolved to approve Ordinance 2023-04-03 as presented. All in favor. Motion carried.

f. Second Reading ORDINANCE 2023-04-04 (208/309) Regulating Public Rights of Way (2:29:57)

Councilmember Hankins provided a summary of the proposed ordinance. He cautioned that the resolution numbers may be in incorrect in the meeting package. City staff confirmed that the resolution number in the agenda was correct; however, there was a typographical error.

Public Hearing

Mayor Ford opened the public hearing. There were no comments from the public.

On a motion made by Mayor Ford, seconded by Councilmember McCarthy, it was resolved to close the public hearing. All in favor. Motion carried.

Council Deliberation and Approval

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve ordinance 2023-04-04 as a second reading. All in favor. Motion carried.

On a motion made by Councilmember Weier, seconded by Mayor Ford, it was resolved to approve resolution 2023-33 to approve summary publication ordinance 2023-04-04. All in favor. Motion carried.

- g. **Second Reading ORDINANCE 2023-05-05 Amending the Utility Availability Fees and Sections 201, “City Water Systems” and Section 202, “City Plumbing and Sewage System” (2:37:40, 2:56:16 and 3:25:20)**

Councilmember Hankins noted that the resolution is listed on the agenda, but there is no resolution for the summary publication in the meeting package. City staff then printed and distributed the summary, but they were not able to print and distribute the resolution.

Councilmember Hankins presented a summary of the proposed ordinance.

Public Hearing

Mayor Ford opened the public hearing. There were no comments from the public.

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to close the public hearing. All in favor. Motion carried.

Council Deliberation and Approval

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to approve ordinance 2023-05-05 as presented for second reading. All in favor. Motion carried.

On a motion made by Mayor Ford, seconded by Councilmember McCarthy, was resolved to table approval of RESOLUTION 2023-34 approving Summary Publication Ordinance 2023-05-05 to the next special Council meeting. All in favor. Motion carried.

- h. **Review CPA Bids (2:39:39)**

Councilmember Hankins explained that he had contacted several CPA firms with experience in municipal accounting. He acknowledged that City Treasurer Mary Cahill did an excellent job on

proposed policy together; however, Council did not have sufficient expertise to critique and approve it. Council discussed whether hiring a CPA would be an ongoing expense, or a one-time expenditure. Councilmember Hankins stated that some firms quoted for ongoing services; however, one firm offered a one-time policy review. Mary Cahill expressed concern about the cost of hiring a CPA, and advised that the expense be deferred in order to be included in next year's budget, as the City was already over-budget. Attorney Kantrud and some Councilmembers recommended performing an audit rather than hiring a CPA. Councilmember Hankins agreed to obtain quotes for an audit to present at the next Council meeting.

i. Council Salary Update (3:00:54)

Attorney Kantrud spoke with a state auditor and was informed that the City's obligations have been fulfilled. City Council may choose to direct him further, or could drop the matter altogether at this time. He will distribute a letter to Council and the County Attorney within the week. Council advised that the payment return letter have a 30- or 60-day deadline.

j. Permitting Fee Discussion (3:26:33)

Rebecca Kellen presented a proposal regarding how to include software and city planner fees in permits. Attorney Kantrud agreed to investigate how other municipalities have recouped these fees.

10. CITY BUSINESS – NEW BUSINESS

a. First Reading Ordinance 2023-06-01 (Solar Panels)

Councilmember Hankins presented a summary of the proposed ordinance. Council suggested the following changes:

- 3A: Height and Setback: the ordinance does not specify a height nor make reference to relevant codes or section number.
- The chimney and flue extension section requires clarification or removal.
- Visibility: Council suggested removal or changes to this section due to lack of objective standards and the fact that some properties are entirely visible from the right-of-way.
- Shoreline visibility: Council suggested removing or changing this section.
- Reflectors should be banned from glaring onto other properties altogether.
- Ground mount systems: it was questioned whether there are standards to judge whether a roof-mount system is feasible.

Councilmember Weier mentioned not ruining site lines with ground mount systems, and Councilmember Foster cautioned that Council should not function as an HOA by attempting to regulate the aesthetics of private property.

On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to approve to send ordinance 2023-06-01 to second reading as amended at the next meeting. All in favor. Motion carried.

b. Lake Links Trail Grant (3:37:44)

Steve Thatcher, The City Engineer, requested the timelines for Lake Links Trail plans. Mayor Ford suggested holding a town hall to garner public input. Council suggested to combine the Lake Links Trail project with the road improvement plan.

11. **ADJOURNMENT**

On a motion made by Councilmember Wier, seconded by Councilmember Hankins and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 10:25 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

City Administrator Becky Kellen

Date

Date