**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**March 13, 2012**

**MINUTES**

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

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

**OTHERS PRESENT: Joel Hanson, Kaitlyn Howe, Charles Kaufmann, John Lund, and John McCormick**

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

**AGENDA APPROVAL: *Harper/Sampair unanimous to approve the agenda for the March 13, 2012 Regular Meeting, as amended to take Item # 1 (Approval of the Minutes of the February 14, 2012 Regular Meeting) off the Consent Calendar and placed immediately before Item # 5 (Proposed Warming House and Ice Rink Renovation Grant>Approval of Resolution 2012-## Agreeing To Act As The Legal Sponsor For The Project), and also to add two items: Contract with Saint Paul Regional Water Service under Item # 10 (Council Reports) and Acceptance of the 2011 Annual Financial Statement under Item # 10b***

**COMMUNITY EVENTS AND ANNOUNCEMENTS: Mitchell** noted that the Birchwood Dock Association meeting will be held on Saturday, March 31st @ 9:30am at the City Hall. The entire community is invited to attend. **Harper** announced that the Finance Committee will be meeting on Saturday, April 21st at the Village Hall. **Mitchell** stated that the Personnel Committee will be meeting on Monday, March 19th @10:30pm at the City Hall.

**OPEN PUBLIC FORUM:**  **Kaufmann** addressed the Council and reiterated the concerns about the proposed warming house/ice rink improvement project that he stated at the February Council meeting.

**APPROVAL OF MINUTES OF THE FEBRUARY 14, 2012 REGULAR MEETING: Mitchell** noted that he wanted this item removed from the consent agenda, stating that in several places in the minutes the phrase “proposed warming house grant” is written he would like it re-stated as “proposed warming house (ice rink renovation project) grant”. **Carson** recommends the following language: “ice rink renovation/warming house grant”.

***Carson/Peterson unanimous to approve the minutes of the February 14, 2012 Regular meeting, as amended at Line 32 to replace the phrase “warming house” with the phrase “ice rink renovation/warming house project”, and at Line 111 to read “Warming House/Ice Rink Renovation Project Grant”.***

**CONSENT CALENDAR: *Harper/Peterson unanimous to approve the following consent calendar items:***

1. ***Acceptance of the Financial Report and Disbursements Register as prepared by the City Treasurer and presented to the City Council on March 13, 2012 in the amount of $25,567.24, including Check #’s 26978-26983, 27010-27017, 27027-27044, and Electronic Funds Transfers FED012012, MN012012, PERA021512, FED022012, MN022012, AND PERA022912.***
2. ***Approval of Resolution 2012-06 Establishing the City’s Precinct Boundary and Polling Location.***
3. ***Approval of Resolution 2012-07 Approving the 2012 Fee Schedule.***

**PROPOSED WARMING HOUSE & ICE RINK RENOVATION PROJECT GRANT>APPROVAL OF RESOLUTION 2012-08 AGREEING TO ACT AS THE LEGAL SPONSOR FOR THE PROJECT: Lund** shared with the Council the revised figures for the proposal. These revisions were generated by DNR’s preliminary review of the project and are as follows: (1) the proposed sidewalk is to be 5 feet wide, instead of 4 feet wide. This increased the cost of the path from $4900.00 to $6325.00; (2) the size of the pleasure rink was changed from 140’ x 100’ to 65’ x 110’; (3) adjust the donated labor hours for skilled labor from $12,900.00 to $12,400.00, and adjusted the donated labor hours for unskilled labor from $1,100.00 to $1,600.00; and (4) remove the portable bathroom from the cost breakdown at the request of the DNR. **Lund** continued by going over the overall costs of the project as follows: TOTAL COST>$65,200.00; GRANT REQUEST> $32,600.00; LOCAL MATCH> $32,600.00; DONATED LABOR>$14,000.00; CITY FINANCIAL OBLIGATION> $18,600.00 (which may include private donations).

**Harper** asked whether the DNR asked to reduce the size of the pleasure rink. **Lund** responded that he reduced the size of the pleasure rink in order to keep it out of the road right-of-way, not in response to a request by DNR.

**Mitchell** asked about the proposed schedule calling for building a berm, placing plastic down, and replacing the boards during 2012, and mentioned that the Council did not intend on budgeting any expenditures for 2012; on the other hand, if this work isn’t done this year the skating season will be lost. **Lund** indicated that there is money in the 2012 Parks budget to cover the cost for this work ($4,300, including painting).

**Lund** also mentioned that according to the County’s records, the location of the proposed warming house encroaches into the setback area adjacent to Lake Avenue; **Lund** mentioned that he had talked to Samantha Crosby, the City’s contract planner, who advised that a variance from the 40-foot setback requirement from the right-of-way line of Lake Avenue is required in order to place the warming house as proposed.

Discussion was held among the Council on the timing and mechanics of the variance process.

**Harper** expressed a concern that the costs of the project seem to be creeping up with each meeting. **Lund** responded that he has asked for revised estimates over the course of the last few months and the costs have gone up. **Harper** noted that the Council needs to determine a comfort level with the amount of financial obligation it intends to incur.

***Sampair/Carson unanimous to approve Resolution 2012-08 (Item 7 - Applicant’s Resolution as provided by DNR in the application packet).***

***Sampair/Carson unanimous to authorize the City Clerk to fill out the variance application for required approvals on behalf of the City.***

***Harper/Peterson unanimous to state that the City will accept any private donations to help fund the City’s share of the cost of the project.***

**REVIEW OF QUOTES FOR PAINTING THE INTERIOR OF THE CITY HALL, WINDOW CLEANING, AND REPAIR OF THE GROTTO AVENUE STEPS: Carson** reviewed with the Council quotes she received for painting the interior of City Hall, cleaning the City Hall windows, and repairing the Grotto Avenue walkway steps; and recommended to the Council that the bids be awarded to Suburban Window Cleaning for cleaning the City Hall windows, Acclaim Painting for the painting of the interior of City Hall, and JM Services for the repair and replacement of the Grotto Avenue steps.

***Carson/Harper unanimous to accept the bid of City & Suburban Window Cleaning for the cleaning of the City Hall windows.***

***Carson/Sampair unanimous to accept the bid of Acclaim Painting for the painting of the interior of City Hall.***

***Peterson/Carson unanimous to accept the bid of JM Services for the repair and replacement of the Grotto Avenue steps, to authorize the City Attorney to draft a contract for the work, and to authorize the Mayor to execute the contract on behalf of the City.***

**REVIEW OF DRAFT ORDINANCES RELATING TO INTERIM USE PERMITS, BUILDING CODE REVISIONS, COMPLAINTS, AND ENFORCEMENT>RECEIPT OF COMMENTS FROM THE PLANNING COMMISSION AND CALENDARING PUBLIC HEARINGS: Mitchell** stated that there are several draft ordinance revisions for Council review: 203 and 205 pertaining to the Building Code; 301, 305, and 306 establishing interim use permits; 618 pertaining to complaints; and 619 addressing penalties and enforcement. These drafts have been reviewed by the Planning Commission and their comments are included in the Council packet. In addition, City resident Bryan McGinnis provided comments and recommendations on the proposed interim use ordinance. McGinnis recommends that interim use logs and home occupation logs be established and maintained at City Hall. **Mitchell** noted that while he agrees with McGinnis’ idea, he doesn’t think it’s a good idea to put it in the ordinance.

**Mitchell** went over the Planning Commission’s recommendations, as follows:

* For the revisions to Ordinance 203, the Commission recommends referencing all fees under Ordinance 701 and deleting references to fees under Ordinance 203; conducting an annual review of permit systems fees to align with the City of White Bear Lake; maintaining the current plan review fee language in the ordinances with an exemption for minor work; publishing the fee language with the resolution; and posting the fee language on the City’s web site.
* No changes to the draft changes to Ordinance 205, 301, 306, and the draft ordinances 618 and 619.
* For the revisions to Ordinance 305, the Commission recommends correcting 305.170.1 to read “Interim Use Permit” instead of “Conditional Use Permit”; and to add language to 305.170.2 providing just cause before inspection of premises is undertaken. Possible just cause for inspection could include written complaint against the property owner or violation of requirements and standards for home occupations under 305.160.

**Harper** recommends keeping the authority to appoint a building official in 203.030, and noted that White Bear Lake has been appointed as the City’s building official, and the City needs to maintain that authority in case the relationship with White Bear Lake changes. **Harper** also asked what is the dollar amount that triggers the need for a permit; **Powers** responded that the fee schedule establishes the trigger at $1.00.

As it relates to proposed Ordinance 618, **Harper** asked why the Planning Commission would be charged with hearing appeals from notices of violation. **Mitchell** responded that the Planning Commission is experienced with conducting fact-finding hearings as a part of their overall responsibilities relating to conditional use permits and variances, and he didn’t know who else to use. **Harper** also noted that the draft says that staff can investigate the complaint but can’t issue the notice of violation. **Powers** added that 619.030 does not vest the staff with the ability to issue a notice of violation; staff can only investigate the complaint and report back to the Council the results of his investigation. **Sandstrom** noted that traditionally staff is vested with issuing the notice, and having the Council determine whether a complaint rises to the level of a violation is unusual. **Sandstrom** continued by saying if the Council made the initial determination that a violation exists and orders a notice of violation to be sent, and the property owner asks for a hearing, and the City Council is the body conducting the hearing, in effect the Council is ruling twice on the same issue. **Sandstrom** recommends vesting in staff the authority to issue a notice of violation in order to expedite the process and also to avoid having the City Council rule on its own ruling. **Mitchell** reiterated that he believes the City Council should be issuing the notice of violation, not the staff. **Sampair** noted that other cities allow staff to issue notices of violation. **Harper** said that she has an issue with the Planning Commission being the fact-finding body on appeals of notices of violation. **Mitchell** recommended that Council Members Harper and Sampair come up with amendments to 618 for review at the April public hearing. Harper and Sampair agreed to do that.

**Powers** alerted the Council to his misunderstanding that the statutory public hearing was to be held during tonight’s meeting, and stated that state law allows that if the Council announces at this meeting that the public hearing will be rescheduled for April 10th that the City will not be required to republish the notice. This was confirmed by City Attorney Sandstrom.

***Peterson/Harper unanimous to schedule public hearings for the draft ordinance revisions for the April 10th Council meeting, to reschedule the public hearing for the interim use permit for the April 10th Council meeting, and to amend the draft language in the proposed 305.040, subd. 1 to read as follows: “The proposed use will not adversely impact implementation of, or be in conflict with, the City’s Comprehensive Plan.”***

**UTILITY BILLING ISSUES WITH THE CITY OF LITTLE CANADA: Powers** reviewed with the Council the memo he prepared on this item, and stated that the City of Little Canada requested to amend the memorandum of understanding between the two cities as it relates to the utility billing services provided by Little Canada to the City. **Powers** noted that Little Canada informed the City that Little Canada’s cost to process the City’s utility bills (exclusive of stuffing and mailing costs) comes to $4.33 per account, while they are charging the City $3.65 per account, and stated that Joel Hanson, Little Canada city administrator, put together a proposal (included in the packet) that calls for an increase in the per account billing rate from $3.65 to $5.20. **Powers** said that Hanson’s memo also calls for the City to resume stuffing and mailing of the quarterly utility bills and the newsletters provides cost estimates from the vendors Little Canada uses for this service. **Powers** concluded his remarks by stating that Hanson’s memo indicates that Little Canada has lost $5,433.01 in providing utility billing and newsletter printing services to the City and poses to the City two alternatives to reimburse Little Canada for these losses: making quarterly payments of 25% of the amount due (discounted as an incentive), or increase the per account rate to $6.25 until the amount due has been paid.

**Hanson** addressed the Council by stating that since Little Canada Finance Director Shelly Rueckert resigned her position Little Canada has been reviewing the services provided to the City by Little Canada, and noted that Rueckert provided many services to the City –such as picking up bills and dropping off the utility bill financial statements – at no charge. **Hanson** also noted that it is not cost-effective for Little Canada to continue printing four-color newsletter copy and stuffing utility bills and newsletters, and shared with the Council the cost breakdown to provide those services. Finally, **Hanson** said that while the City is not legally obligated to reimburse Little Canada for losses incurred to date on performing the services included in the memorandum of understanding, it is something that Little Canada is requesting that the City consider.

Council Members Peterson and Carson volunteered to work with the City Clerk to come up with suggestions and recommendations on this issue and to report back to the Council on its findings.

**DRAFTING A PERSONNEL POLICY, CODE OF ETHICS, AND GRIEVANCE PROCEDURE: Mitchell** noted that the by-laws of the Personnel Committee call for the Committee to develop personnel policies. The City does not have a personnel policy, code of ethics, or grievance procedure, and thought it would be a good idea for the City to research this matter and come up with drafts of these documents. **Mitchell** stated that Jennifer Nodes, an attorney with Eckberg Lammers, has substantial experience in this area and believes she would be a good resource for the Personnel Committee; **Mitchell** said that Nodes indicated that she would be able to help the City in this regard; and could do this in the $500.00 range for cost. **Sampair** questioned why the City would pay for a service that it can get for free by the League of Minnesota Cities. Council discussion was held on the scope of Nodes’ services. **Mitchell** recommended that the Personnel Committee invite Nodes to the March 19th meeting for an hour to go over what she thinks the City needs. **Peterson** clarified that the Council is looking for clarity on what the City needs and the scope of Nodes’ services.

**COUNCIL REPORTS:**

**Harper** shared with the Council draft revisions to City Codes 611 (Public Works Reserve Fund) and 611A (Capital Improvement Fund), and noted that the drafts are being distributed for informational purposes only at this time for subsequent refinement at the April meeting and to schedule public hearings for the May meeting. **Harper** noted that this also includes a new Chapter establishing a Park Special Revenue Fund. **Harper** continued by stating that the code addressing the Public Works Reserve Fund is proposed to be renumbered as City Code 800 and the code addressing the Capital Improvement Fund is proposed to be renumbered as City Code 810. **Powers** noted that 618 is already proposed to be used for Complaints and will need to be renumbered; **Harper** agreed, stating that the Park Special Revenue Fund will need to be numbered in the 800 series.

**Harper** said the gist of the proposed revisions is to clean them up and eliminate the confusion between 611 and 611A, while the Parks Special Reserve Fund establishes the basis for the use of fees dedicated to parks capital improvements (e. g. dock permit fees). For 611 (800), this clarifies the use of dollars transferred to the City from Washington County for Hall/Cedar improvements. The amendment to 611A (810) establishes outer parameters for the use of capital projects funds.

**Harper** also noted another amended ordinance that did not make it in the packet – 612 Public Improvements Financing and Assessment. At this time, **Harper** recommends only renumbering that ordinance to the appropriate 800 series number and not to tamper with the text of the ordinance. **Harper** also requested that the City’s Fund Balance Policy be renumbered.

**Mitchell** discussed the contract the City is entering into with St. Paul Regional Water Services to provide the City with certified water operator services, and noted that there have been some bumps in negotiating the contract, and asked **Sandstrom** to draft a cover letter noting the contract terms that bother the City.

**Mitchell** acknowledged receipt of the City’s Annual Financial Report from the City Treasurer. **Reiter** went over the report with the Council. The Council requested the report be posted on the City’s website.

**Mitchell** also noted that for the last couple of months, the City Clerk has not prepared an executive summary, and asked the Council their thoughts on the document. **Peterson** found the document useful; **Sampair** doesn’t miss it; **Harper** likes it if there isn’t a cover memo with each agenda item. **Mitchell** finds it helpful, but it doesn’t need to be as elaborate as they have been.

**NEXT MEETING> APRIL 10, 2012: TOPICS: Mitchell** noted the public hearings and action on the interim use, building code, complaints, and investigation ordinances; as well as further review on the fund ordinances. **Elfering** said that if the agenda is light that she would like to start discussing sewer capital projects for the year. **Harper** noted that in May there should be a report of the Finance Committee on water utility fees.

**ADJOURN:**  Without a formal motion, the Council meeting adjourned @ 9:50pm.

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Dale Powers

City Clerk