

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

**MINUTES OF THE CITY COUNCIL MEETING
OCTOBER 11, 2022, 7:00 P.M.**

MEMBERS:

Mary Wingfield	Mayor
Jon Fleck	Councilmember
Mark Foster	Councilmember
Justin McCarthy	Councilmember
Kevin Woolstencroft	Councilmember

STAFF:

Becky Kellen	City Administrator
H. Alan Kantrud	City Attorney

GUESTS:

Greg Peterson	Fire Chief, White Bear Lake Fire Department
Paul Merwin	Attorney, League of Minnesota Cities
Ryan Hankins	Vice Chair, Planning Commission

Minutes prepared by Anh Nguyen of Minutes Solutions Inc. from a video recording.

1. CALL TO ORDER

Mayor Wingfield called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

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

Mayor Wingfield requested the addition of the following items to the agenda:

- Computer Security
- Emerald Ash Borer Management Program
- Letter to Rice Creek Watershed District (RCWD)
- RFP for City Engineer
- Water Meter Installation Update
- 15 Birchwood Lane
- Tree Removal Bids
- City Hall Update
- Excel Road Repair
- City Clerk Contract Correction

4. **OPEN PUBLIC FORUM**

Barton Winter, 1 Five Oaks Lane, requested that the corner boards at the rink be replaced before the upcoming winter season, and offered to flood the rink.

James Nelson, 256 Wildwood Avenue, expressed concern regarding the role of politics in the community and the city's complaints-driven policy.

5. **ANNOUNCEMENTS**

A. **Truth in Taxation Hearing:** The hearing is scheduled to be held at City Hall on December 13, 2022, at 7:00 p.m.

B. **Canvassing Board Meeting:** The meeting is scheduled in conjunction with the Council meeting to be held on November 15, 2022, at 7:00 p.m.

C. **City Engineer Retirement:** Steve Thatcher, the City Engineer, will be retiring effective April 26, 2023.

6. **ADMINISTRATIVE PRESENTATION**

A. **2023 TNT Summary Budget and Supplemental Mailing Info:** The \$15,000 dock fee revenue and \$10,000 for the emerald ash borers are non-levy items that were erroneously allocated as levy items due to a scrivener's error.

B. **Planning Commission Meeting Minutes:** *ACTION – The Planning Commission will review the Council's notes regarding the proposed code changes and present any implementations to the Council at the next Council meeting.*

ACTION – Becky Kellen will remove the Planning Commission meeting minutes from Council meeting packages moving forward and only circulate them to the Council for review via e-mail and for posting on the city's website for residents to view.

The minutes of the Planning Commission meeting held on April 28, 2022, were provided for the Council's review.

7. **CITY BUSINESS – CONSENT AGENDA**

On a motion made by Councilmember Woolstencroft, seconded by Councilmember McCarthy, it was resolved to approve the consent agenda except for items A and C, as amended. All in favor; motion carried.

A. **Approval of the Treasurer's Report:**

On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to approve the Treasurer's Report for the period ending October 6, 2022. All in favor; motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to approve the allocation of the American Rescue Act fund balance of \$524.15 to the deficit of \$2,317.31 for the water meter upgrade fees, with the remaining deficit to be covered by a transfer of funds from the general fund. All in favor; motion carried.

ACTION – Becky Kellen will clarify with the animal rescue service that cat pick-up is not included in the city’s contract and the city is not to be charged for any cat pick-ups.

ACTION – Becky Kellen will consult with Mary Cahill for clarification regarding the high sewer charge for White Bear Township.

B. Approval of the September Council Meeting Minutes: The minutes of the Council meeting held on September 13, 2022, were provided for the Council’s review and approval.

C. Approval of the 2023 Birchwood Dock Association (BDA) White Bear Lake Conservation District (WBLCD) Application:

On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to approve the BDA’s WBLCD application as presented. Mayor Wingfield opposed; motion carried.

The BDA held a meeting and agreed to continue with the docks at 128 feet; however, the Council approved the docks at 128 feet on the condition that the docks return to 116 feet in 2023. Councilmember Fleck suggested establishing guidelines to base the dock length on the lake water level.

Nick Nephew, 20 Birchwood Avenue, agreed with Councilmember Fleck’s suggestion regarding the lake water level. He reported that the docks can be reduced to 116 feet in 2024 as there are two boats with a one-year term remaining and the BDA does not have a process to eliminate boaters prematurely. He confirmed that the Birch dock will continue to be located 10 feet to the west as requested by Council moving forward.

Mayor Wingfield noted that the dock was extended in 2018, 2019, and 2020, to accommodate the two aforementioned boats and expressed concern regarding the Council rewarding a decision that was made by the BDA without the Council’s knowledge and consent. Mayor Wingfield was not willing to provide retroactive consent for one more year given that the dock was not originally authorized by Council.

D. Approval of the Snowplow Contract: The contract with BrightView Landscapes is effective during the winter season 2023.

E. Approval of Resolution 2022-13 – Birchwood Village November Election Judge Resolution: The resolution appointed election judges for the November 8, 2022, state general election.

F. Approval of Surveyor for Ash Path Property Survey: The Council approved the subcontracting of Lake and Land Surveying Inc. by Thatcher Engineering Inc.

8. CITY BUSINESS – REGULAR AGENDA

A. White Bear Lake Fire Department Update

Greg Peterson, the Fire Chief of the White Bear Lake Fire Department provided an update and highlighted the following:

- There was a 14% increase in call volume in 2021 and an 8% increase in call volume in 2022 with an estimated 5,312 calls for service in 2022.
- The call volume is expected to continue to rise year-over-year due to density and the aging population, with the majority of calls related to medical assistance.
- Staffing level is usually between four to eight people between firefighters, paramedics, captains, and chief officers. The fire department is continuing to hire full-time firefighters and paramedics.
- There is an average of 14 calls per day with an average response time of six minutes and 10 seconds.
- The fire department recently implemented a rule that the last available ambulance is reserved to provide service directly to the communities served.
- The fire department started a rescue training program.
- The Public Safety Facility renovation will replace the current fire station and add a police garage. Bids were opened on October 11, 2022, and construction will begin in March 2023 for completion in June 2024.

B. First Reading of Fee Schedule

ACTION – Becky Kellen will include the fee schedule for public hearing and second reading at the next Council meeting.

Mayor Wingfield suggested increasing the water utility user fee from \$25 to \$35 per quarter, as per Shelly Rueckert, to decrease the water main break surcharge fees. The Council agreed that the administrative fee for dog licenses will be \$25 to account for the city administrator's time.

The Council requested the following amendments to the fee schedule:

- Section 605.021.2, second paragraph, replace “every third year” with “on a three-year schedule starting 2022”.
- Section 607.490, remove “camping” as the city does not issue camping permits.

C. Tree Inspection Update

John Lund reported high volumes of emerald ash borers on the south side of Birchwood, which resulted in a stop to the tree inspections. Additional information from the Tree Task Force will be provided to Council at the next Council meeting.

D. 2023 RCWD Stormwater Management Grant Program

The RCWD has offered up to an additional \$100,000 to supplement the grant for the sewer lift station. Councilmember Mark Foster will spearhead the application.

E. Speed and Danger on Birchwood Streets

ACTION – Councilmember Fleck will reach out to the Minnesota Department of Transportation (MnDOT) to discuss Birchwood’s options to address speeding in small communities.

Councilmember Fleck reported that speeding on Wildwood Avenue is an ongoing issue that poses safety risks to children. Residents have expressed concern regarding pedestrians being unable to safely access city amenities such as the park and lake. The Council discussed whether to perform a traffic study to confirm a speeding and volume issue.

The Council agreed to remove all cones on Hall Avenue citing right-of-way for snowplows during the upcoming winter season and to ensure adequate space for vehicles to maneuver around pedestrians.

F. Feistner Beach Update

H. Alan Kantrud provided an update on the title project for Curt Feistner Memorial Preserve. The Council must undergo registration, which will likely include a court order.

G. Tree Inspector Resignation and RFP

This item was deferred as the next tree inspection will be in the spring or summer of 2023.

H. Approval of Hiring of Bookkeeper

ACTION – Becky Kellen will provide the Council with an update regarding the new bookkeeper’s onboarding process after two weeks.

A background check on the new bookkeeper was initiated and results are pending. The new bookkeeper’s contract with the city of Birchwood will take effect on October 13, 2022, and will include up to 24 hours of work per week at a rate of \$23 per hour.

The Council agreed to revert to open office days on Tuesdays and Thursdays only and by appointment.

I. Crack and Seal Partnership Opportunity

On a motion made by Mayor Wingfield, seconded by Councilmember McCarthy, it was resolved to authorize T.A. Shifsky & Sons to continue crack sealing at a cost not to exceed \$5,000. All in favor; motion carried.

The Council noted it would not partner with Washington County on its crack sealing program, citing higher costs through the county.

J. Computer Security

ACTION – Becky Kellen will work with Councilmember McCarthy to determine whether a third computer should be registered on the Metro-INET network.

Metro-INET does not prevent phishing scams and comparative cybersecurity is provided through Microsoft Office. Becky Kellen noted that Metro-INET offers technical support in addition to cybersecurity.

K. Emerald Ash Borer Management Program

ACTION – Mayor Wingfield will provide Becky Kellen with Lamberton’s management plan for the Council’s review for implementation while awaiting updates from the Tree Task Force.

The emerald ash borer grant is \$10,000 but requires a management plan. The grant money will be allocated to tree removal.

L. Letter to Rice Creek Watershed District

Ruth Jensen reported that the RCWD drafted a memorandum of agreement (MOA) stating that sediment from the entrance of Hall’s Marsh would be removed on the condition that the Council removes all objections to emptying Priebe Lake, and that the city will maintain the vegetation in the marsh; however, there was no mention of an easement and a maintenance agreement.

The RCWD stated that the water from Priebe Lake would be treated water that runs to Hall’s Marsh; however, Ruth Jensen noted that Priebe Lake is not large or deep enough to serve as a treatment facility, which the RCWD is aware of.

The Council reported that meeting minutes from the 1970s indicate that the RCWD assured Birchwood Village that it would maintain Hall’s Marsh in order to obtain permission to use the easement for Priebe Lake.

The Council noted that the RCWD is only focusing on sediment in the outlet and the chemicals found from the water testing. The RCWD intends to clear the source of the chemicals before clearing Hall’s Marsh of the chemicals. The MOA also includes a plan to clear sediment every five years. The Council expressed concern that the MOA includes an obligation for the RCWD to investigate the water issues but no obligation to take action to mediate the water issues.

The Council authorized Councilmember McCarthy, Ruth Jensen, and Bud Jensen to draft a proposed counter plan for the easement agreement between the RCWD and the city, to be reviewed by the City Attorney.

M. RFP for City Engineer

ACTION – Becky Kellen will obtain an RFP for a city engineer, and a planner if possible, from the League of Minnesota Cities in preparation for the Council to interview candidates in January 2023.

N. Water Meter Update

On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to approve issuing a letter to respective homeowners stating that the new Kamstrup water meters designated by the Council to transmit to the city's water towers must be installed by November 1, 2022, as per city code 201.080, failing which homeowners will risk a citation. All in favor; motion carried.

ACTION – Becky Kellen will confirm with John Manship as to how his fees are being charged to homeowners.

ACTION – Becky Kellen will issue a notice to homeowners with outstanding water meter installations that the new water meter must be installed by November 1, 2022, failing which the homeowner will be fined.

One resident is adamantly against the installation of the new water meter due to concerns of radiotelemetry waves. Mayor Wingfield reported that Shelly Rueckert confirmed the resident can install a generic water meter but must provide a picture every quarter. There will be an additional charge to accommodate the resident's request and the water bill will be processed separately from other resident bills.

The Council agreed that the basis for some of the fines will be the fees incurred for John Manship's time at a rate of \$110 per hour.

O. Impervious Surface Excess – 15 Birchwood Lane

The homeowner of 15 Birchwood Lane provided a certificate of survey; however, clarifications regarding the rip rap and the deck are required. Becky Kellen is in the process of drafting a letter to the homeowner of 15 Birchwood Lane regarding three issues, including the ponding on the road, unclear impervious surface calculations based on the certificate of survey, and two water meter issues. The letter will be sent by October 14, 2022.

P. Tree Removal Bids

ACTION – Councilmember Fleck will conduct a walk around with Steve Dean and John Lund to obtain bids to drop and stack, as well as drop and remove, the trees identified for immediate removal due to danger risks for presentation for approval to the Council at the next Council meeting.

John Lund is prevented by law, as a result of the emerald ash borer grant monies, to provide a tree removal bid.

Only the trees identified by John Lund as posing a danger to roads and pedestrians will be removed. The respective trees will need to be demarcated separately to distinguish from other marked trees.

Q. City Hall Update

The updates to City Hall have been well received by residents.

R. Xcel Energy Road Repair

ACTION – If road repairs are not completed by October 15, 2022, Becky Kellen will send a letter to Xcel Energy on October 17, 2022, advising that the city will charge a fine of \$100 per day for non-compliance until the road is repaired.

The road by Cedar Avenue has not been repaired since May 2022. Steve Thatcher informed Xcel Energy that the city will charge \$100 per day for non-compliance and that the permit issued by the city to the vendor has expired. Xcel Energy informed Becky Kellen that the repairs will be completed by October 15, 2022.

S. City Clerk Contract Correction

H. Alan Kantrud reported he is working on eliminating a specific federal declaration as by law it does not apply to the City Administrator.

9. CLOSED MEETING

On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to close the open Council meeting to recess to the closed Council meeting as permitted by attorney-client privilege to discuss active litigation pursuant to Minnesota Statute Chapter 13D subd. 3(b). All in favor; motion carried.

The closed meeting will include an update regarding the status of the lawsuit for a building permit request for the Nickolaus residence to build one foot away from the neighbor's property line, and a second lawsuit for a building permit request for the Barthel residence to exceed the impervious surface allowance.

Mayor Wingfield reported it is a closed meeting as the nature of privacy far outweighs the matter of keeping the meeting open in a balancing act. Actionable decisions that will affect any resident's property rights will be taken in the open meeting.


The meeting recessed to a closed meeting at 8:03 p.m. and reconvened at 8:33 p.m.

10. ADJOURNMENT

On a motion made by Councilmember Fleck, seconded by Councilmember Foster and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 10:23 p.m. by Mayor Wingfield.

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 Mary Wingfield

11/15/22
Date



City Administrator Becky Kellen

11/15/22
Date