**CITY OF BIRCHWOOD VILLAGE**

**REGULAR CITY COUNCIL MEETING**

**September 13, 2011**

**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, and City Attorney Kevin Sandstrom**

**OTHERS PRESENT: Kristine Goodrich, Jim Greeley, John Lund, Don Madore, and Gene Ruehle**

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

**AGENDA APPROVAL: *Mitchell/Peterson unanimous to approve the agenda for the September 13, 2011 Regular Meeting, provided that Item # 5 (Resolution 2011-18: A Resolution Naming Dale Powers as the Responsible Authority under the Minnesota Data Practices Act) be removed from the Consent Calendar and placed under Regular Order.***

**COMMUNITY EVENTS AND ANNOUNCEMENTS: Mitchell** noted the following announcements and community events:

* Music in the Park series has ended August 28, and by all accounts it was a success.
* The Fall Plant Exchange is Saturday September 24 at 10:00am at Village Hall.

**OPEN PUBLIC FORUM: Greeley** addressed the Council and stated that he saw John Lund erecting the “no parking” signs on Lake Avenue and that Lund was told by the Mayor to stop. **Mitchell** responded by saying that Brian Lind called that morning to say that Lund was installing the sign in front of his window. **Mitchell** said he would come over and take a look at the situation. **Mitchell** continued by saying that Lind told him that the sign was going up right outside his window and couldn’t the sign be put by the bushes instead? **Mitchell** advised Lind that the Council passed a resolution mandating the location of the sign, and invited Lind to speak at tonight’s Council meeting. **Mitchell** concluded his remarks by stating that Lind was not able to attend tonight’s meeting and left a written statement for the Council.

**Greeley** responded by stating that Lind has an issue with the esthetics of the sign, yet he (Greeley) has to put up with an esthetic problem with Lind’s property. **Sampair** noted that the Council made a decision to install the signs at locations determined with the assistance of the City Engineer and (White Bear Lake Police Officer) Rob Flick, and to stop now is ridiculous. **Carson** noted that Lind’s letter states that placement of the sign would pose a problem with using his parking pad in the winter, and recommends revisiting the issue to see if Lind can be accommodated while maintaining public safety. **Mitchell** stated that if the sign was placed behind the bushes, it would be 35 or so feet farther down the hill, and that Lind said he would be parking on the grass adjacent to the no parking area anyway. **Sampair** reiterated that the Council passed this in July and if the Council wants to revisit the issue it can be placed on an agenda for discussion. No motions were made and the discussion ended.

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

1. ***Approval of the Minutes of the August 9, 2011 Regular Meeting***
2. ***Approval of the Disbursements Register as prepared by the City Treasurer and presented to the City Council on September 13, 2011, including Check #’s 26740-26790 and Electronic Funds Transfers PERA073111, FED082011, MN 082011, and PERA081511***
3. ***Appointment of Anne Salo to the Parks and Natural Resources Committee for a 3-year term expiring September 13, 2014***
4. ***Approval of the assessing contract with Washington County***

**RESOLUTION 2011-18: A RESOLUTION NAMING DALE POWERS AS THE RESPONSIBLE AUTHORITY UNDER THE MINNESOTA DATA PRACTICES ACT: Mitchell** shared with the Council that the City is required by state statute to appoint an individual as the responsible authority for all requests for information under the state’s data practices act. **Mitchell** further noted that he wanted to pull this item off the consent calendar because the original version of the resolution appeared to make it mandatory that Dale charge fees for copies of data, when that should be discretionary on Dale’s part. As well, **Mitchell** noted that the resolution should make clear that Dale is the responsible authority for all data requests, not just for data on individuals. As a result, **Mitchell** presented to the Council an amended version of the resolution to address those two issues.

***Mitchell/Peterson unanimous to approve Resolution 2011-18 as amended by the Mayor.***

**PERSONNEL COMMITTEE REPORT OF THE CLERK’S PERFORMANCE REVIEW: Mitchell** reviewed with the Council a synopsis of the Clerk’s performance review and presented a revised employment agreement, a revised job description which includes a change in title to clerk-coordinator, a set of goals for Dale to work toward for the next year, as well as a 4% pay raise. **Mitchell** also noted that the City should cause a market study to be performed to see whether the salary structure of the Clerk is in line with other cities, and that the confidential personnel files for the City’s employees be kept with the City Attorney. **Mitchell** concluded by sharing with the Council some of his concerns about the Clerk’s interaction with the Mayor.

**Sampair** noted that he is satisfied with the work of the Clerk and said that Dale has been a good resource to him as a new council member.

**Harper** noted that the staff has consistently asked for clear direction, and the goals presented tonight are an attempt to establish a set of goals for the Clerk to achieve between now and July 2012. As it relates to the market study, **Harper** stated that she has been in contact with a vendor that will perform the service at no charge to the City.

**Peterson** noted that the Clerk has brought stability to the office, and said that the Executive Summary is very helpful. **Peterson** said the Council needs to sort through how it sees the position of the Clerk. **Peterson** concluded by saying that, since Dale is skilled in planning and zoning work and is willing to take on the additional responsibility, the Council should be open to utilizing Dale’s skills in those areas.

**Harper** stated that Paragraph 11 of the revised employment agreement, referencing professional development, has a blank to be filled in for the amount the City agrees to budget “up to” that needs to be addressed. **Harper** recommends that this section be revised to read “employer agrees to cover the cost of employees attendance in the amount authorized in the budget”. **Mitchell** commented that a previous iteration of this clause did not give any guidance as to a dollar amount to budget for, nor any indication as to what organizations are involved with professional development. **Mitchell** stated that the revised clause makes it clearer and lists a specific dollar amount.

***Harper/Sampair unanimous to adopt the new employment agreement which includes a 4% raise effective back to the first pay period after the clerk’s anniversary date in July; a new job title referred to as the city coordinator; a new job description; and funds up to $700.00 for professional development under Clause 11 of the new employment agreement.***

***Harper/Sampair unanimous to authorize Harper, on behalf of the Personnel Committee and the City Council, to engage a firm to conduct a market survey for the city clerk position at no cost to the City, and to bring the information back to the Council for consideration before the end of the year.***

***Harper/Carson unanimous that the City Council designate the City Attorney as the repository for the city staff personnel files.***

***Harper/Sampair unanimous to adopt the list of 21 performance goals for the Clerk to accomplish for 2012 dated August 2011(as amended to reflect early 4th quarter 2011 for the code book goal) and ask the City Clerk to report back to the Council in writing on a quarterly basis as a way for the Council to monitor these goals.***

**FISCAL YEAR 2012 PRELIMINARY LEVY & PROPOSED BUDGET> RESOLUTION 2011-17: A RESOLUTION ESTABLISHING THE PRELIMINARY LEVY CERTIFICATION FOR THE CITY’S GENERAL FUND: Harper** shared with the Council the three actions that need to be done tonight: certify a preliminary levy amount for 2012; approve a preliminary budget for 2012; and to set a date, place, and time for the Truth in Taxation (TNT) hearing when the public can comment on the preliminary levy and budget.

**Harper** reviewed the proposed all-funds (general, water, sewer) budget, noted that much of the detail was discussed at the August 23 workshop meeting, and called out the following particular items that need specific direction from the Council:

* Proposed sewer projects include manhole repairs, lift station pump replacement, and video were mains for cracks. The total anticipated expenditure is $49,200.00. The Council needs to determine how much of that cost is to be paid by current revenues and how much from new revenues such as a surcharge or a sewer fee.
* Proposed water projects include the hydrant replacement and maintenance project. The Council previously recommended funding the $22,000.00 expenditure entirely out of the Water Fund; however, there are insufficient funds in that account to cover the cost. The Council needs to determine whether to finance the project through an increase in water fees, an infrastructure surcharge fee, or a transfer from the General Fund. To fund the project through an increased fee or surcharge would result in a per account cost – based on 356 accounts – of about $62.00.
* The Parks Committee submitted a proposed budget increase of nearly $3,500.00 over its $18,000.00 budget for 2011. The Council kept the budget level, with $13,000 coming from the levy and $5,000.00 from the Park fund. Does the City Council want to increase the Parks budget and from which sources should the revenue come from?

**Harper** concluded her remarks by saying that the preliminary levy amount represents a 13% increase over last year’s levy. If the Council wants to reduce the 2012 levy, it could choose to (a) reduce expenditures; (b) transfer funds from the Park Fund for park expenditures; (c) transfer funds from the Capital Project Fund to fund city hall improvements; or use General Fund monies to cover the proposed expenditures.

**Peterson** observed that a 13% levy increase seems a bit aggressive, and that if the intent of the Council is to end up with a levy close to last year’s figure that we need to start paring the proposed budget down. **Peterson** noted that there are 52 line items that show increases from this year to next year. **Mitchell** responded that the budget format for 2012 reflects a higher level of detail than previous years. **Harper** agreed, stating that the new format allows for correlation with CTAS object codes that need to be entered into the City’s accounting system.  **Harper** also noted that, while there isn’t a need for a full audit, a desk audit is included at an expenditure of $4,000.00. As well, there are election costs to account for in next year’s budget.

***Harper/Carson unanimous to approve Resolution 2011-17 (Preliminary Levy), as amended to correct a typing error, that sets the 2012 preliminary levy at $365,282.00.***

***Harper/Carson unanimous to approve Resolution 2011-19 (Preliminary Budget) as amended to change the second “whereas” clause to read “the City of Birchwood Village will be holding a public hearing for the 2012 budget at 7:00pm on December 13, 2011 at City Hall” and to change the clause to a “be it further resolved” clause.***

**VILLAGE HALL PAINTING, REPAIR OF SIDING, AND STRIPING OF PARKING LOT: REVIEW OF $382.50 CHANGE ORDER: Mitchell** noted that the City received a change order from Cornerstone Construction and Management in the amount of $382.50 for materials and labor for the installation of 50 feet of siding during the painting of the exterior of the Village Hall, and noted that he walked around the building with Lund, Elfering and Carson earlier that evening to inspect the work. **Mitchell** stated that there is no one present from Cornerstone to address the Council, but the firm did leave correspondence at the table stating the contractor’s position.

**Lund** stated that the change order should not be paid due to carelessness by the vendor in removing the existing siding, as well as not using the required caulking material. **Peterson** asked Lund if he had witnessed the carelessness and if so, what did he observe. **Lund** replied by saying he witnessed the removal process, and stated that instead of carefully prying the siding away from the building and pulling out the nails, the vendor just crunched it down and knocked big holes in the piece below. **Lund** said he brought it to the vendor’s attention, and one of the workers was more careful while the other did not listen.

**Carson** noted that the contractor said he performed some tasks that were above and beyond the terms of the contract, specifically citing chimney flashing.  **Lund** responded by stating that the flashing was never installed. **Harper** said that some of the things being discussed are not required as part of the contract. **Powers** noted that the contract does not require flashing to be installed. **Lund** requested flashing be installed and that Vulkem caulk to be used. **Carson** stated that the contract does not require a certain kind. **Mitchell** said he drafted the contract and worked from the bid that was approved by the Council in 2010, and there was no reference to flashing nor a certain kind of caulk.

Several motions to resolve the matter were made by various Council members; none of the motions received a second.

***Sampair/Mitchell 4-1 (Carson) to deny payment of the change order.***

The Council was concerned about the condition of the chimney, and directed the work be done before winter.

***Harper/Sampair unanimous to authorize the Clerk to receive 3 quotes for flashing and tuckpointing of the Village Hall chimney and to bring the quotes to the City Council for review at the October 11th Council meeting.***

**CITY ENGINEER’S REPORT:**

**Shared Services with White Bear Lake: Elfering** updated the Council on her discussions with the City of White Bear Lake (WBL) on the draft list of public works services that could potentially be offered on a contract basis. WBL had no objection to doing tree inspection and locating services on a trial basis, but did not want to commit to anything long term. WBL did not want to get involved with tree removal. WBL approached her about combining the WBL and Birchwood water systems, which will allow WBL more time efficiencies since they will not have to test each system separately. **Elfering** stated that, in essence, this would involve giving the City’s water mains to WBL, with a separate joint powers agreement requiring Birchwood to pay for any water main breaks and infrastructure maintenance. WBL would be required to do all of the utility billing. WBL would like to know whether the City would be open to that idea, and realizes that the ultimate decision depends on whether it makes financial sense to the City to do so.

(Carson left the Council table at 9:35pm.)

The consensus of the Council was to not investigate further the idea of combining the two water systems, and directed Elfering to update the Council at the October meeting with a final WBL proposal.

**Elfering** also advised the Council that WBL informed her that it may not be able to respond in a timely manner to water main breaks and recommends the City obtain a backup provider for this service. **Elfering** asked the Council for permission to seek out a backup provider(s) and return to the Council with this information. The consensus of the Council was to direct Elfering to obtain this information and report back to the Council at the October 11th meeting.

**Nordling Park: Elfering** noted that she had talked to John Lund and that final grading should be completed soon with restoration work to be done on September 20, with seeding to follow. The water appears to be draining fine, but a foot of water will most likely remain standing. **Peterson** stated that he thinks we should watch what happens for now and if further drainage work needs to be done that it could be done later.

**COUNCIL MEMBER REPORTS: Mitchell** shared with the Council that he is working on the proposed interim use permit ordinance, and has found the issue to be more complicated than originally thought. **Mitchell** said he would try to get the draft ready for the October meeting. **Mitchell** also mentioned that he wanted to refresh the contracts for fire and police with White Bear Lake. Finally, **Mitchell** requested that the executive summary should be a summary of information in the council packets and not the only place where substantive information about agenda items is found. This will also make it easier to maintain the file for particular items.

**Harper** reported that she and Powers met with White Bear Lake Planning and Building to go over some issues of mutual interest, including fee schedules for building and zoning which should be on the website. On the issue of fees, **Harper** advised the Council that she will be working with Sandstrom on a revised fee ordinance for Council review later this year. Finally, **Harper** noted there are two trees – one at Tighe-Schmitz Park and the other hanging over Birchwood Avenue – that need to be removed. Steve Dean provided a quote of $60.00 each to remove the trees. The consensus of the Council was to authorize the Clerk to proceed with these types of expenditures after consulting with the Council liaison to the impacted department.

**CANCEL SEPTEMBER 27 COUNCIL MEETING:  *Mitchell/Sampair 4-0 (Carson absent) to cancel the September 27, 2011 Council meeting for lack of urgent business.***

**NEXT MEETING> OCTOBER 11, 2011: TOPICS: Mitchell** announced the following topics will be on the agenda for the September 13, 2011 meeting:

* The City Engineer’s report on shared services with White Bear Lake; and
* The bids for repair of the chimney flashing

**ADJOURN:** Without a motion, the Council adjourned the meeting @10:05 pm.

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Dale Powers

City Clerk