**Proposed Agenda for January 27, 2025, Birchwood Village City Council Workshop**

    **City of Birchwood Village, Washington County, Minnesota**

                                        **6:30 p.m.**

Call to Order

Approve Agenda

Open Public Forum

Workshop Business

Old Business

1. Follow-up on CIP projects. (See draft). If we agree on where this plan is going, we need to pull in Marcus. Grants can’t be applied for until we have a detailed project and timeline. pp. 9-10
2. Maintenance schedule-nothing new to report.

New Business

1. Tree plan using tree inspector’s report and Steve Dean’s expertise. Background- According to Becky, there is $15,000 in the budget for tree removal. We need to use the tree inspector’s report along with Steve Dean’s input to put together a plan to remove dead city -owned trees.
2. Key Metrics- Bridget has assembled a draft key metrics document and is looking for council input. See attachment p.14
3. Administrative Appeals-pp. 15-23 ( apologies for the formatting)
4. Grant committee-There is a desire to establish a Grant Committee. Residents who would be interested in working on grants would be invited to join the Committee. This would alleviate some of the Council’s work and benefit the City.
5. Website access and content. See attachment pp. 6-7
6. Ice rink policy- A draft policy has been submitted to the parks’ committee to review and provide feedback to Council.-see attachment pp. 10-12
7. MNCIS-p.7-8
8. Radon mitigation for City Hall-see attachment p.8
9. City Planner Contract-see attachment -pp. 3-5
10. Lift station task force-see attachment-p.2
11. Social Events-In order to build community, quarterly events would be scheduled and advertised, encouraging participation. See attachment p.9

Adjourn

RESOLUTION NO. 2025-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA, ESTABLISHING A TASK FORCE FOR THE REPLACEMENT OF LIFT STATION #2 (WILDWOOD LIFT STATION)**

**WHEREAS,** the City of Birchwood Village has received two grants to fund the replacement of Lift Station #2, also known as the Wildwood Lift Station; and

**WHEREAS,** the City Council deems it necessary to establish a task force to oversee the project and ensure its successful completion;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BIRCHWOOD VILLAGE, MINNESOTA, AS FOLLOWS:**

1. Establishment of Task Force: A task force is hereby established for the purpose of overseeing the replacement of Lift Station #2 (Wildwood Lift Station).
2. Appointment of Council Members: Two members of the City Council are hereby appointed to serve on the task force. The appointed members are:
a) Council Member \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
b) Council Member \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. City Administrator Participation: The City Administrator is directed to attend meetings of the task force upon request.
4. Task Force Authority: The task force is authorized to establish its own bylaws for internal governance.
5. Duration: The task force shall cease to operate upon completion of all tasks related to the lift station construction and receipt of grant monies.

PASSED AND ADOPTED by the City Council of Birchwood Village, Minnesota, this 11th day of February, 2025.

Mayor

ATTEST:

City Clerk

To: Birchwood City Council
From: Ryan Hankins
Re: January Workshop City Planner Contract update

In April, 2023, Steve Thatcher, who had served as our city planner and engineer, retired and we hired a new engineer, Marcus Johnson and planner, Ben Wikstrom. Both are contractors. At the time he was initially hired, Ben proposed a rate for a retainer of $2,400 per month. The city requested that he consider a lower rate, and Ben agreed to accept $1,600 per month, and re-evaluate at the end of one year.

The goal of the city council at the time it hired Ben was to provide planning services with limited impact on taxes, and such that there was no direct hourly charge to residents. Through 2023 and some of 2024, the city paid Ben’s retainer out of tax levy dollars. $1,600 per month over 12 months is $19,200 per year. For 2024, the city budgeted only $5,000 of its tax levy to cover Ben’s services.

In 2024, the city council began to consider how it might recoup some of Ben’s retainer from zoning fees. An initial proposal was to increase the zoning fees that are charged based on the valuation (dollar cost) of a project. There were two difficulties with this proposal: first, city building inspector Jack Kraemer receives approximately 75% of those fees, so the majority of an increase would benefit him more than it would subsidize Ben. However, Jack agreed that the city could increase those fees without increasing the amount paid to him.

The proposal was to add an additional “planner fee” that was also based on project valuation, that would be separate line item from the permitting fee. However, the Jack calculates building permit fees currently, and this would have required administrative staff to calculate a fee based on valuation, which added complexity.

In June, 2024, the council adopted a proposal in which Ben would provide 30 minutes of advice and consulting to each resident (or that resident’s advisors). Beyond that point, he would require each resident to provide a $300 escrow to the city and report the amount of time spent with each resident beyond the 30-minute limit. The city would then bill the residents at a rate of $100 per hour, subsidizing the $1,600. Over approximately seven months since that informal policy has been in place, only one project has been billed, in the amount of $750.

When I talked to Ben about the lack of billing, he has indicated that residents often contact him directly without going through city hall, and that he is uncomfortable telling residents that they are “on the clock.” He also has delayed billing significantly for some residents, where they have not yet applied for a permit. Furthermore, Ben believes it is unclear where the 30-minute limit applies; on one property, he has dealt with multiple parties interested in purchasing the property.

About 6 months ago, Ben indicated that the amount he was receiving from the city for his services did not meet his expectations. He indicated that he believed his initial estimate of $2,400 was closer to fair to him than $1,600. He raised that staff use and the complaint and appeals processes result in significant use of his time that is difficult to bill directly to residents. On an annual basis, Ben requested an initial increase in his retainer from $19,200 to $28,800.

In light of the budgeted $5,000 for Ben’s services, the city sought to find means to increase his pay while minimizing the tax levy increase. Ben indicated that while he prefers a retainer, he would be willing to accept for the city to keep the $1,600 retainer the same, and to create a “pass-through” billing system, in which he would receive $130 per hour for each hour he spends reviewing plans, and for each hour beyond the 30 minutes he spends advising or consulting for residents.

For the 2025 budget, the city increased the amount for Ben’s services to $22,500; this created an increase in the tax levy. In previous council meetings, the city discussed increasing the costs of Ben’s services by a premium; for example, the city would charge $200 per hour for Ben’s time, while paying Ben $130 per hour. This would defray the amount of tax levy used for planning services.

The current arrangement with Ben has the following shortcomings:

1. Ben does not feel he is paid fairly. With Ben’s significant experience, his rate of $130 per hour is reasonable. A planner with 1-2 years of experience at Bolton and Menk would bill approximately $150 per hour.
2. It is unclear when the 30-minutes of provided consulting and advisory services apply.
3. The city escrow for planning is not being charged consistently or regularly.
4. The city is significantly subsiding private planning and zoning in general, and perhaps the most significant subsidy is our planning services. An increase in payment to Ben where we are removing the subsidy and paying it to him worsens this.
5. Residents are contacting Ben directly and are receiving no information about how his services are billed, leading to either underbilling or unexpected bills.
6. Ben has some bills that have been outstanding for months, and he is waiting for residents to submit a permit application before billing the city for those fees.

While it’s not clear there is any resolution in which we can assign most of our planning services to residents doing projects, I would propose the following path forward, involving updates to Ben’s contract, to our fee schedule, and to our administrative planning process.

**Updates to Ben’s contract**

* Updates take effect on March 1, 2025.
* Ben is asked to bill for all services by the end of the calendar month, following the month in which he provides services.
* Ben is asked not to provide services before an escrow has been paid.
* Ben will be paid only for hours billed to residents who have an escrow in place, and upon timely billing.
* The contract will clarify that the initial 30 minutes is for per street address, per year.
* City will pay Ben at a rate of $130 per hour for “Additional Hours” for advisory and planning services provided to residents, and for plan review services.
* Ben may not provide planning services for any street address in Birchwood, except through the city.

**Updates to City Fee Schedule**

* The city fee schedule will be updated to state Ben’s rate that is charged to residents is $200 per hour.

**Updates to City Processes**

* Ben’s email address and phone number will be removed from the City website.
* A “planner agreement” will be created that residents sign before receiving planner services, where they agree to pay the city’s hourly rate for planning, beyond 30 minutes.
* City administrative staff will provide Ben’s contact information to residents once the planner agreement has been completed, and the escrow paid.

Because we only received a proposed contract from Ben in the regular meeting agenda packet and significant updates to several documents are required, I don’t have the full documents available to review at this time. I know Ben is frustrated that this has taken a long time, but I expect we will be able to review the revisions at the regular council meeting in February. Alan should also review the proposed contr

RESOLUTION NO. 2025-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA, GRANTING WEBSITE ACCESS TO MAYOR JENNIFER ARSENAULT AND CITY COUNCIL MEMBER RYAN EISELE**

**WHEREAS,** the City of Birchwood Village maintains an official website to provide information to its residents and the public; and

**WHEREAS,** it is essential to keep the city website up-to-date with current and accurate information; and

**WHEREAS,** Mayor Jennifer Arsenault and City Council member Ryan Eisele have expressed willingness to assist in updating outdated information and adding current information to the city website;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA, AS FOLLOWS:**

1. Mayor Jennifer Arsenault and City Council member Ryan Eisele are hereby granted access to the City of Birchwood Village website for the purpose of updating outdated information and adding up-to-date information.

2. City Administrator Rebecca Kellen is directed to provide Mayor Jennifer Arsenault and City Council member Ryan Eisele with the necessary access credentials and permissions to perform these website updates.

3. Mayor Jennifer Arsenault and City Council member Ryan Eisele shall coordinate with the City Administrator to ensure all updates are consistent with city policies and guidelines.

4. Grantees shall contact the City Administrator to relinquish access when it is no longer needed.

**ADOPTED** by the City Council of the City of Birchwood Village, Minnesota, this 11th day of February, 2025.

Mayor

ATTEST:

City Clerk

**CITY OF BIRCHWOOD VILLAGE**

**RESOLUTION NO. [Insert Number]**

**A RESOLUTION TO ADD ORDINANCE 622, REGULATION OF SOLICITORS, TO THE MINNESOTA COURT INFORMATION SYSTEM (MNCIS)**

**WHEREAS**, the City of Birchwood Village has enacted Ordinance 622 to regulate solicitation activities within the City in order to protect residents from unwanted solicitation and ensure accountability of solicitors; and

**WHEREAS**, the City has received numerous complaints from residents about unwanted and improper solicitation practices; and

**WHEREAS**, in order for a solicitor to be cited immediately by the Washington County Sheriff for violations of Ordinance 622, the ordinance must be added to the Minnesota Court Information System (MNCIS); and

**WHEREAS**, inclusion of Ordinance 622 in MNCIS will enhance the enforcement of the ordinance and ensure timely handling of violations within the judicial system.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BIRCHWOOD VILLAGE, MINNESOTA:**

1. The City Council hereby directs the City Administrator, in coordination with the City Attorney, to take all necessary steps to ensure Ordinance 622, Regulation of Solicitors, is added to the Minnesota Court Information System (MNCIS).
2. The City Administrator shall provide an update to the City Council at the earliest opportunity following the successful addition of Ordinance 622 to MNCIS, not later than the regular April, 2025 council meeting.

Adopted by the City Council of Birchwood Village this [Insert Date].

**Approved:**

[Mayor’s Name]

Mayor, City of Birchwood Village

**Attested:**

[City Clerk’s Name]

RESOLUTION NO. 2025-xx RADON MITIGATION PRICE QUOTES WHEREAS, the City of Birchwood Village has conducted a long-term radon test in the basement of the Village Hall, where staff members work; and WHEREAS, the test results indicate a radon level of 6.2 picocuries per liter (pCi/L); and WHEREAS, the Environmental Protection Agency (EPA) recommends that homes be fixed if the radon level is 4 pCi/L or more; and WHEREAS, radon is the second leading cause of lung cancer overall and the leading cause among non-smokers, responsible for an estimated 21,000 lung cancer deaths every year; and WHEREAS, the health and safety of our staff members is of utmost importance; NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BIRCHWOOD VILLAGE: 1. The City Council acknowledges that the radon level of 6.2 pCi/L in the Village Hall basement exceeds the EPA's recommended action level. 2. The City Council directs staff to obtain at least two quotes from certified radon mitigation professionals for the installation of an active radon mitigation system in the Village Hall. 3. Staff shall present these quotes to the City Council for review and approval at the next regular council meeting. PASSED AND ADOPTED by the City Council of Birchwood Village on this 11th day of February, 2025. Mayor ATTEST: City Clerk

RESOLUTION NO. 2025-XX

Social Events

Winter

* Christmas Party
* Family skating party
* Rock painting for kids

Spring

* Family Treasure Hunt

Summer

* Family Beach Party
* Fourth of July Parade

Fall

Chili Cook-off and bonfire

Draft CIP

There are two budget categories: Operation and Maintenance (O&M) and Capital.

1. Operation and Maintenance expenses are vital to the success of the City and include employee wages and benefits, along with various items that are necessary to support residents and employees of the City. These expenses would also include things like: snow plowing, park maintenance, and office supplies.
2. Capital assets are items (i.e., land, buildings, equipment) with a useful life beyond a single reporting period. Capital infrastructure refers to things like roads, traffic lights, multiuse paths, and water and sewer systems. These are needed for the operation of the City and can be preserved for a significantly greater number of years.

The twenty year Capital Improvement Plan includes the capital aspects of the City’s budget as well as other items that don’t fit into the O&M budget like some of the programming, planning and development activities. The CIP projects are financed through the capital budget, which uses a variety of funding sources.

The City of Birchwood Village Five Year Capital Improvement Plan

The City of Birchwood Village’s 20 year Capital Improvement PLAN (CIP) plays a vital role in maintaining and improving the city’s infrastructure to meet the needs of its residents. The CIP facilitates the orderly planning of infrastructure improvements and helps maintain , preserve, and protect our existing system, while also providing for the construction of new projects.

The 2025-2045 CIP for Birchwood Village will focus on the replacement of water pipes and the replacement or mill and overlay of roads within the City.

The goal is to initiate the projects listed within the first year of the CIP on-time and within budget. However, the dates and amounts provided during the capital planning process are budgetary estimates and are not guaranteed until each project is under contract and eventually completed. Unpredictable factors may require schedules and/or budgets to change.

1. Replace approximately 1,000 feet of 8-inch cast iron water main (installed in 1965) located on E. Nawakwa Road, section 35 of the City. The Cast Iron water main will be replaced with ductile iron or high Density polyethylene (HDPE) pipe, depending on the installation method. Construction is planned to begin in 2026.

January 17, 2025

Dear Parks and Natural Resources Committee,

I would like to develop a City policy regarding the hockey and pleasure rinks. Included in this policy would be the answers to the following questions:

Who decides when the flooding begins?

Who is in charge of flooding?

What jobs are volunteers able to do?

What is the complaint procedure?

This is some information that I have compiled.

* The optimal time to start flooding your rink is usually in late November or early December. This timing is contingent upon consistent subfreezing temperatures, ideally around or below 20°F (-6°C) to ensure the water freezes properly and the ice forms a solid base.
* SNOW REMOVAL • Rink committee volunteers are responsible for clearing snow from the rink.

Notes from conversation with Jim Rydeen, City maintenance worker:

* Jim would like volunteer help with removing snow from rink.
* Jim said that flooding the rink can only be done by him or those he is comfortable with using the hydrant.
* Jim’s goal is to get the rinks ready prior to the kid’s being off school at the end of December.
* Jim waits until the temperatures are below 30 degrees for more than 7 days before beginning to flood.
* Jim relayed an observation that after flooding for two weeks this winter, when the temperatures rose, he counted 14 spots of asphalt on the surface of the rink (due to the black surface).

I have created a rough draft of a policy below. Would you as a committee be willing to look at the draft, add what you might think is appropriate and present a proposed policy to Council?

Thank you for your consideration,

Jennifer Arsenault

Hockey and Pleasure Rink Policy

Purpose

The purpose of this policy is to ensure the safe, effective and enjoyable use of the public outdoor hockey rink for all community members.

Roles and Responsibilities

1. Rink Maintenance
* Flooding the rink

The Maintenance Department is responsible for flooding the rink. Trained personnel will use appropriate equipment to ensure a safe ice surface.

* Daily Maintenance

Volunteers are welcome to assist with shoveling snow off the rink and other light maintenance tasks. All volunteers must fill out a release of liability form available at the City Hall.

1. Volunteer Guidelines
* Allowed Activities:

Shoveling snow off the rink

Reporting any damage or hazards to City Administrator

Other tasks that are approved by Maintenance supervisor and City Administrator

* Prohibited Activities:

Operation flooding equipment

Performing any maintenance without prior approval from the City

1. Complaint Management

All complaints regarding the rink, including maintenance issues, safety concerns, or incidents of misconduct, should be directed to City Administrator.

Safety and Conduct

1. Safety Measures
* Protective Gear

All users are encouraged to wear appropriate protective gear, including helmets, to reduce the risk of injury.

* Emergency Procedures

In case of an emergency, users should immediately call 911 and notify the City.

1. Code of Conduct
* Respect and Courtesy

Users are expected to treat each other with respect and courtesy at all times.

* No Bullying or Harassment

Bullying, harassment, or any form of misconduct will not be tolerated and may result in suspension or banning from the rink.

Conclusion

This policy is designed to create a welcoming and safe environment for all community members to enjoy the hockey and pleasure rinks. Adherence to these guidelines to ensure that the rink remains a valuable asset to the community.

To: Birchwood City Council From: Ryan Hankins

In light of recent zoning appeals and the resulting burdens and costs to the city, please consider this revision of our administrative appeals ordinance, with a corresponding update to our fee schedule. The intent of these ordinances is to reduce frivolous appeals and to recoup some portion of city costs deriving from appeals and to ensure appellants and staff provide sufficient information for the planning commission and council to decide matters.

For reference, other cities charge the following for administrative appeals. Mahtomedi $250 White Bear Township $35 fee + $150 escrow Dellwood $200 + 1000 escrow White Bear Lake $150 Stillwater $250

Thank you to the planning commission and Justin McCarthy for their work on the ordinance proposal. The planning commission reviewed the ordinance at its December meeting and may review the updated version in January.

For the benefit of a new council, the following requirements exist for amending our zoning code: 1. The planning commission must have the opportunity to review the ordinance. 2. The city council holds a “first reading” introducing the ordinance. 3. The city publishes notice of a public hearing on the ordinance in the White Bear Press. 4. The city council holds a public hearing and passes the ordinance. 5. The ordinance is published in the White Bear Press and takes effect.

102 ORDINANCE NO. 2025-01-01 CITY OF BIRCHWOOD VILLAGE WASHINGTON COUNTY, MINNESOTA AN ORDINANCE AMENDING ORDINANCE NO. 310 TITLED “ADMINISTRATIVE APPEALS.” The City Council of The City of Birchwood Village, Minnesota ordains: Section 1. Ordinance No. 310 and titled “ADMINISTRATIVE APPEALS” is amended to read: 310. ADMINISTRATIVE APPEALS 310.010 BOARD OF APPEALS AND ADJUSTMENTS. As stated in Section 304.005, the City Council shall serve as the Board of Appeals and Adjustments. These powers include hearing and deciding appeals in which it is alleged that there is an error in any administrative order, requirement, decision, or determination made by an administrative officer in the interpretation or enforcement of Chapters 200 and 300 of this code. 310.015 ADMINISTRATIVE APPEALS. A person who deems themselves injured by an alleged error in any order, requirement, decision or determination (hereinafter, “administrative decision”) made in the interpretation or enforcement of any provision of chapters 200 and 300 of this code, may appeals the order, requirement, decision, or determination to the Board of Appeals and Adjustments.

310.020 PROCEDURE FOR APPEALING AN ADMINISTRATIVE DECISION. A person who wishes to appeal any order, requirement, decision, or determination made in the interpretation or enforcement of any provision of chapters 200 and 300 of this code may do so by filing a written appeal with the City Administrator or his or her designee within 30 days after the date of such order, requirement, decision or determination.

 310.020.1 APPEAL REQUIREMENTS. For each order, requirement, decision, or determination appealed, a complete appeal shall include the following. 1. A completed appeal form provided by the City. 2. For each matter, a description of the decision made by the City. 3. For each matter, a detailed explanation of why the appellant believes the order, requirement, decision, or determination made by the City is in error. The explanation must be stated with particularity. An example explanation stated with particularity would be: “The building official approved a building permit for a house that was only nine feet from our shared property line in violation of the setback requirement of section 302.020.” An example statement that is not particular would be: “The building official approved a building permit for a structure that does not conform the building code.” The example statement that is not 103 particular fails to point out specifically why the structure does not conform to the building code. A determination of whether the particular matter is pleaded with particularity is wholly within discretion of City staff. 4. For each matter, a detailed explanation of how the appellant was injured by the City’s alleged error. The alleged injury must be a concrete and particularized injury that is actual or imminent and not hypothetical. The injury must be directly traceable to the decision of the City, and a favorable decision by the board of appeals and adjustments must be likely to remedy the injury. 5. All evidence supporting the appeal. 6. The fee and escrow required for the appeal. For each matter, the appellant may include a reference to the section of the City code, statute or other requirement that the appellant is appealing. If the appellant does not include such a reference, City staff may determine whether references apply and include them in the City’s response. When possible, specific numeric references shall be included. For example, if the appeal relates to whether a riparian buffer is sufficient, the reference to 302.050(6)(c)(b) shall be provided.

310.020.2 APPEAL COMPLETENESS. Upon submission of an appeal, City staff shall determine, within fourteen days, whether the appeal is complete. If the appeal is incomplete, City staff shall provide a written explanation to the appellant. The appellant shall then have ten days to complete and resubmit the appeal. If the appeal is not resubmitted or not complete, it shall be deemed abandoned and final.

310.020.3 APPEAL FEE. The appellant shall pay a fee in the amount specified in the City fee schedule. If specified in the fee schedule, the applicant shall provide an additional escrow for the City’s expenses in evaluating the appeal. If the appeal is substantially sustained by the Board of Appeals and Adjustments, the fee and escrow shall be refunded to the appellant. In all cases, any unused portion of the escrow shall be refunded to the applicant. Whether an appeal is substantially sustained will be determined in the sole discretion of the Board of Appeals and Adjustments and such determination is not administratively appealable.

310.020.4 CITY RESPONSE TO APPEAL. City Staff shall evaluate and respond to the merits of each requirement appealed and shall provide that response to the Planning Commission and Board of Appeals and Adjustments.

310.020.5 THIRD PARTY COMMENTS. A third party affected by the outcome of the appeal may, but is not required to, provide written comments relating to both the contents of the appeal and the City’s response. An example of a third party so affected includes, but is not limited to, a property owner whose building project is the subject of an appeal initiated by a neighbor.

104 310.025 CITY COUNCIL HEARING. Once the Planning Commission has had a reasonable opportunity to review and report to the Board of Appeals and Adjustments on the merits of the appeal, the Board of Appeals and Adjustments shall decide the appeal. Notice of the decision shall be mailed to the appellant and permittee explaining why the appeal was approved or denied. The Board shall maintain a record of its proceedings relative to the appeal, which shall include the minutes of its meetings and final order concerning the appeal. Where applicable, notice of the final order shall be sent to other government agencies such as the Minnesota Department of Natural Resources (DNR), as required by law. The Board of Appeals and Adjustments will provide notice to all affected parties and an opportunity to be heard during the hearing.

 310.025.1 APPEAL STANDARD. The Board of Appeals and Adjustments shall determine whether the appellant was injured by any matter appealed and, if so, shall determine whether the decision of the City was reasonable. The appellant shall bear the burden of proof to demonstrate that he or she was injured by the decision, and the decision was unreasonable.

310.025.2 EVIDENCE AND ARGUMENT DEADLINE. Appellants and Third Parties injured by the decision may not submit new arguments or evidence after the Planning Commission has held public hearings unless given express permission by the City.

310.030 NOTICE OF HEARINGS. A notice of hearings for appeals of administrative decisions shall be given to the appellant and shall be published in the official newspaper once at least ten days before the day of the Board of Appeals and Adjustments hearing. If City permits or permit applications are subject to the appeal, the City shall provide a copy of the appeal to the permittee or applicant within five days of the date the City determines the appeal is complete. Section 2. This ordinance becomes effective from and after its passage and publication.

Passed by the City Council of The City of Birchwood, Minnesota this 11th day of February 2025. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Mayor Attested: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City Clerk 105

ORDINANCE NO. 2025-01-02 CITY OF BIRCHWOOD VILLAGE WASHINGTON COUNTY, MINNESOTA AN ORDINANCE AMENDING THE CITY FEE SCHEDULE The City Council of the City of Birchwood Village hereby ordains that the fee schedule is amended by adding the following fee: PLANNING AND ZONING FEES, ESCROWS AND DEPOSITS Administrative Appeal Fee 310.020.3 $300.00 This ordinance becomes effective from and after its passage and publication. Passed by the City Council of The City of Birchwood, Minnesota this 11th day of February 2025. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Mayor Attested: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City Clerk

106 CITY OF BIRCHWOOD VILLAGE APPEAL OF ADMINISTRATIVE DECISION

207 Birchwood Ave., Birchwood, MN 55110 651-426-3403 • info@cityofbirchwood.com A. Appellant’s Name: B. Address (Street, City, State, ZIP): C. Appeal 1 Telephone: Home: Work/Cell:

1. Reference to the section of the City code, statute or other requirement.. The specific numeric sections shall be included where applicable (optional, but recommended). 2. Description of the decision made by the City.

3. Explanation of why the appellant believes the order, requirement, decision, or determination made by the City is in error.

 4. Explanation of how the appellant was affected by the City’s alleged error

D. Appeal 2 107

1. Reference to the section of the City code, statute or other requirement . The specific numeric sections shall be included where applicable (optional, but recommended). 2. Description of the decision made by the City.

3. Explanation of why the appellant believes the order, requirement, decision, or determination made by the City is in error.

4. Explanation of how the appellant was affected by the City’s alleged error [Include additional sections for each matter appealed] Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

310.020.1 APPEAL REQUIREMENTS. For each order, requirement, decision, or determination appealed, a complete appeal shall include the following.

7. A completed appeal form provided by the City.

8. For each matter, a description of the decision made by the City.

9. For each matter, a detailed explanation of why the appellant believes the order, requirement, decision, or determination made by the City is in error. The explanation must be stated with particularity. An example explanation stated with particularity would be: “The building official approved a building permit for a house that was only nine feet from our shared property line in violation of the setback requirement of section 302.020.” An example statement that is not particular would be: “The building official approved a building permit for a structure that does not conform the building code.” The example statement that is not particular fails to point out specifically why the structure does not conform to the building code. A determination of whether the particular matter is pleaded with particularity is wholly within discretion of City staff.

10. For each matter, a detailed explanation of how the appellant was injured by the City’s alleged error. The alleged injury must be a concrete and particularized injury that is actual or imminent and not hypothetical. The injury must be directly traceable to the decision of the City, and a favorable decision by the board of appeals and adjustments must be likely to remedy the injury.

11. All evidence supporting the appeal.

12. The fee and escrow required for the appeal.

108 CITY OF BIRCHWOOD VILLAGE APPEAL OF ADMINISTRATIVE DECISION 207 Birchwood Ave., Birchwood, MN 55110 651-426-3403 • info@cityofbirchwood.com

EXAMPLE APPEAL A. Appellant’s Name: Woody Birch B. Address (Street, City, State, ZIP): 123 Woodwild Ave., Birchwood, Minnesota, 55110 C. Appeal 1 Telephone: Home: 651-555-1234 Work/Cell: 612-555-1234 1. Reference to the section of the City code, statute or other requirement. The specific numeric sections shall be included where applicable (optional, but recommended). I applied for a permit to increase my impervious surface to 29%, and I am creating a riparian buffer. Under section 302.050(6)(c)(i)(a), “The buffer shall consist of trees, shrubs, or low ground cover of native plants and understory consistent with natural cover shorelines.” 109 2. Description of the decision made by the City. I used the native plant encyclopedia in the DNR Restore Your Shore guidance provided in the city code to choose to plant the black raspberry, but the city rejected that plant within my plans. 3. Explanation of why the appellant believes the order, requirement, decision, or determination made by the City is in error. When I talked to the city planner, he said he is allergic to raspberries and wouldn’t approve them because he can’t get near them. However, because the black raspberry is listed in the Native Plant Encyclopedia that the city code encourages for planning shoreline riparian buffers, I should be allowed to plant black raspberries. Proof that the black raspberry is included is available at: https://apps.dnr.state.mn.us/restore\_your\_shore Here is a screenshot of that website, showing the black raspberry. I believe the City planner’s decision is not reasonable because he is arbitrarily applying his own standard, not the standard that the City set in its code. 4. Explanation of how the appellant was affected by the City’s alleged error I harvest raspberries in the summer and I enjoy them. This decision reduces my right to enjoy my property. Signature \_\_\_\_\_Woody Birch\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Date \_\_\_\_\_\_\_\_12/2/2024\_\_\_\_\_\_ 110 310.020.1 APPEAL REQUIREMENTS. For each order, requirement, decision, or determination appealed, a complete appeal shall include the following. 13. A completed appeal form provided by the City. 14. For each matter, a description of the decision made by the City. 15. For each matter, a detailed explanation of why the appellant believes the order, requirement, decision, or determination made by the City is in error. The explanation must be stated with particularity. An example explanation stated with particularity would be: “The building official approved a building permit for a house that was only nine feet from our shared property line in violation of the setback requirement of section 302.020.” An example statement that is not particular would be: “The building official approved a building permit for a structure that does not conform the building code.” The example statement that is not particular fails to point out specifically why the structure does not conform to the building code. A determination of whether the particular matter is pleaded with particularity is wholly within discretion of City staff. 16. For each matter, a detailed explanation of how the appellant was injured by the City’s alleged error. The alleged injury must be a concrete and particularized injury that is actual or imminent and not hypothetical. The injury must be directly traceable to the decision of the City, and a favorable decision by the board of appeals and adjustments must be likely to remedy the injury. 17. All evidence supporting the appeal. 18. The fee and escrow required for the appeal. 111 MEETING MINUTES (Draft) Birchwood Planning Commission Regular Meeting City Hall - 7:00 PM Regular Meeting 12/19/2024 Submitted by Michael Kraemer – secretary COMMISSIONERS PRESENT: – Andy Sorenson - Chairperson, Michael Kraemer, Casey Muhm, Michael McKenzie, Michelle Maiers-Atakpu COMMISSIONERS ABSENT: None OTHERS PRESENT: City Building Official, Ben Wikstrom – City Planner, Joe Galatowitsch, Therese Galatowitsch, Len Pratt, Trevor Morehead, City Council Member – Ryan Hankins 1. CALL TO ORDER: Chairman Sorenson called meeting to order at 7:00 PM. 2. PUBLIC FORUM a. None 3. APPROVE AGENDA a. Motion by Maiers-Atakpu, 2nd by Muhm to approve agenda. Vote: Yes -5, No – 0. Motion passed. 4. REGULAR AGENDA a. Item A – Approve November 20, 2024 Planning Commission Meeting Minutes. i. Motion by Muhm, 2nd by Maiers-Atakpu to approve the minutes. Vote: Yes – 5, No – 0, Motion passed. b. Item B – 4 Five Oaks Concept Plan Review. i. Concept Plan Review 1. December 19, 2024 memo titled 4 Five Oaks Concept Plan (future variance discussion) from City Planning Consultant Ben Wikstrom was included in packets and reviewed. 2. Trevor Morehead home owner was present to discuss the revisions that had been made to the previous concept plan for an addition to home at 4 Five Oaks. a. Existing home appears to legal conforming structure meeting code. b. Proposed addition concept plan appears to be compliant with city code except for front yard setback from city street. c. Concept plans included: i. ii. iii. Scaled site layout. Scaled building elevation and concept drawings. Aerial photos of neighborhood. 112 d. Modifications of note to the previous plan for review at December 19, 2024 included following: i. ii. ii. The orientation and dimensions of the proposed addition were changed. The orientation was changed from running perpendicular to running parallel to the existing house. The resulting change in depth of the addition (due to the re orientation) to 24 feet resulted in reduction of the required front yard setback “variance” needed from 10 feet to 3 feet. (City code is 30 feet setback to structure from street right-of way. 27 foot setback is being proposed.) The orientation and the length of the addition at 30 feet parallel to the existing house achieves compliance with the 10-foot side yard setback requirement. Planning Commission Comments 1. Plan modifications appear to demonstrate effort to achieve most of the code requirements except the “front yard setback” variance which although reduced in magnitude will still be required. 2. Appears there are no unique site constraints other than the location of the existing house complicated by the size and layout of the addition proposed by the owner. 3. Appears the proposed addition is a reasonable approach consistent with limitations of the site and the nature of the neighborhood. a. As identified in the property owner’s submittal, it is noted that there are numerous existing neighborhood examples of structure’s failure to achieve side yard and front yard setbacks. 4. A survey will be required to determine the exact measurements at the time of application for the variance, along with calculations of the existing and proposed impervious surface on the lot to determine permitting requirements. c. Item C – 131 Wildwood Concept Plan Review i. Concept Plan Review 1. December 19, 2024 memo titled 131 Wildwood Avenue Concept Plan (future variance discussion) fromm City Planning Consultant Ben Wikstrom was included in packets and reviewed. a. Major points included 113 i. Lot is pre-existing non-conforming according to zoning ordinance. 1. The following code excerpts apply: C, A non-conforming pre-existing structure or non-conforming pre-existing use may not be moved or expanded except: a. If the expansion or move brings the non-conforming pre-existing structure or use into conformance with the zoning code: or b. The conforming portion of a non conforming structure may be expanded provided that such modification or expansion does not increase the portion of the structure that is non-conforming, and provided that the modification otherwise conforms to the provisions of the zoning code: or c. The non-conforming portion of the non-conforming structure may be modified so long as the modification does not increase the horizontal or vertical size of the non-conforming portion. ii. iii. iv. Both the existing house and garage had non conforming setbacks from property lines. Existing house with deck appeared to be non- conforming with setback from OHW of White Bear Lake. The plat of the existing site appears to indicate two lots which will need to be combined. 2. Len Pratt, builder for the property owners Joe and Therese Galatowitsch reviewed concept plans. a. Concept Plan packet included: i. ii. iii. Topographic survey of existing site prior to demolition. Concept plan of proposed structure replacement. Site photos of shoreline, pre- and post demolition 114 b. Previous dwelling had reached its useful life expectancy and replacement was the reasonable alternative. c. Proposed concept plan in general is to achieve the setbacks of the garage and the principal structures. This includes use of 6-foot-wide deck on lake side to achieve conformity to OHW set back. d. The concept plan proposes to increases the size of the home in areas where the setbacks are conforming and replaces the structure as allowed in areas of non conformity. ii. e. The concept plan makes reference to achieving impervious code goals and improving stormwater runoff treatment through the use of pervious pavers, bioswales, and raingardens. No details or examples were provided Planning Commission Comments 1. The proposed home concept plan appears to be reasonable and consistent with the scale and nature of the neighborhood. 2. The proposed house structure dimensions and placement should be adjusted to achieve side yard setbacks otherwise variance may be required. 3. The proposed garage reconstruction should be adjusted to achieve side yard and street set back requirements otherwise variance may be required. 4. Impervious surface and runoff code requirements must be complied with including establishment of Riparian buffer as required by City code if needed. IF code is not complied with, variance may be required. 5. A survey and final plans will be required to determine the exact measurements at the time of application for any variance, along with calculations of the existing and proposed impervious surface on the lot to determine permitting requirements. 6. Lots must be joined prior to construction. d. Item D – Discuss and Make Recommendations on Administrative Appeals. i. Planning Commission Review 1. The Planning Commission reviewed the following documents included in the packet: a. Administrative Appeal Fee. b. Ordinance No. 2024-XX, An Ordinance Amending Ordinance No. 310 and Titled “Administrative Appeals”. c. An Ordinance Amending the City Fee Schedule d. Appeal of Administrative Decision Form 115 ii. Planning Commission Comments 1. The Planning Commission discussed and unanimously supports the concept, ordinance, forms, and fees as presented in the example documents. ADJOURN 8:34 PM e. Motion by Kraemer, 2nd by Muhm to adjourn meeting. Vote: Yes - 5, No – 0. Motion passed.