

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

**MINUTES OF THE CITY COUNCIL MEETING
JANUARY 9, 2024, 6:45 P.M.**

MEMBERS:

Margaret Ford	Mayor
Mark Foster	Councilmember
Ryan Hankins	Councilmember
Justin McCarthy	Councilmember
Katherine Weier	Councilmember

STAFF:

Rebecca Kellen	City Administrator
Alan Kantrud	City Attorney

Minutes prepared by Rebecca Kellen from a video recording.

1. CALL TO ORDER

Mayor Ford called the meeting to order at 6:45 p.m.

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

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

The following changes were made to the consent agenda:

- Add H. 2024-09: Appointment of Election Judges
- Remove A, Approve Treasurers Report
- Remove G, Approve Resolution 2024-04: Mary Cahill Appreciation

4. OPEN PUBLIC FORUM (0:02:15)

Kevin Woolstencroft, 292 Jay Street commented that there was too much brine sprayed during the previous snowfall.

Barton Winter, 15 Oaks Lane, commented that he had concerns about response times, the Parks Committee and the ice rink.

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

5. ANNOUNCEMENTS

- a. **2024 Schedule:** 2024 Schedule of Meetings and Holidays is available on the website.
- b. **Welcome our New Treasurer Kathleen Hansen**
- c. **Planning Commission:** The planning commission is looking for volunteers. Interested applicants may contact the city clerk.
- d. **The 2024 Local Board and Open Book Meeting will take place April 9th 2024 at 6:00PM**

6. **CONSENT AGENDA (14:01)**

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve the consent agenda items B-F, and H as presented. All in favor. Motion carried.

a. **Treasurer's Report (0:14:22):**

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve the Treasurer's Report for the period ending January 2nd, 2024. All in favor. Motion carried.

Council member Hankins had some questions regarding the beginning and ending balances.

b. **Resolution 2024-04: Mary Cahill Appreciation (0:18:58)**

On a motion by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve resolution 2024-04: Mary Cahill Appreciation. The mayor and council expressed gratitude for Mary Cahill's many volunteer hours and generous service to Birchwood. All in favor. Motion carried.

7. **CITY BUSINESS**

a. **Halls Marsh Discussion (0:21:29):**

- i. **John Waller, Washinton County Manager for the Rice Creek Watershed District, Hugo, MN,** discusses the MOA between RCWD and Birchwood Village and communication gaps that he is trying to remedy.
- ii. Mayor Ford defers discussion of Resolution 2024-08 until its original place in the agenda.

b. **Replacement Boards for the Ice Rink (0:34:29)**

- i. Councilmember Weier discusses board replacements and donation from resident Barton Winters.

On a motion by Councilmember Hankins, seconded by Mayor Ford, it was resolved to approve resolution 2024-06: Authorizing replacement boards at the rink. All in favor. Motion carried.

Baron Winters, 1 Five Oak Lane, indicates that he has replaced 6 boards.

Council member Weier asks that Mr. Winters bring in the receipt so he can be reimbursed for anything over \$100.

On a motion by Councilmember Weier, seconded by Councilmember Hankins it was resolved to approve resolution 2024-05: Accepting Barton Winter's \$100 donation for boards at the rink. All in favor. Motion carried.

c. 23-05-VB 23 Birchwood Lane Variance (42:29)

- i. Planner Ben Wickstrom explains the variance request. The revised proposal indicated it is a 10 foot deck with a 7 foot encroachment into the 50 foot OHWM setback because the planning commission was not in favor of a 14 foot deck. Three of five commissioners were on board with a smaller deck. The applicants revised the plan to meet a 7 foot encroachment into the OHWM lakeside setback. The planning commission voted 3 to 2 to recommend the revised plan to the city council. The home was built in 1902. They could have a 3 foot deck without a variance. There are arguments that could be made for both approval and disapproval. Side yard encroachment is currently 3 feet. There may be a need for a variance for a legally nonconforming structure. Planner Wikstrom answers questions from the City Council members.
- ii. Greg Liengswangwong 23 Birchwood Lane expresses sentiment on why they want the proposed deck and his discussion with the neighbors and answers questions from the City Council Members.
- iii. Joe Becker, 3464 Savanah Ave White Bear Lake, deck builder addresses questions about the stairs. The proposed stairs will not go beyond the deck toward the lake. The support posts will be lined up with the edge of the deck. No plans for anything underneath the deck. It's a composite deck with grass underneath the deck.

iv. Council Discussion

1. Mayor Ford discussed the code that provides guidance for variances. She questions whether granting this deck variance encroaching into the OHWM will be the first time the city council allows such a variance. The city council agreed that this would be the first time such a encroachment has been allowed. She expressed concerns that if approved the code becomes ineffective . Councilmember McCarthy indicates that each case is individual and stated that this case is different than previous cases.
2. Council member McCarthy indicates that 50 foot OHWM setback requirement comes from the DNR and discussed run off. He suggests approval with conditions such as a riparian buffer and/or a raingarden. The addition of a riparian buffer would include filtration from natural plant materials in the shore impact zone. Conditions of granting a variance would include a riparian

buffer in the shore impact zone with native plants and grasses. There is a 42% impervious surface currently that could also be offset by a rain garden.

3. Council member Weier agrees with Council member McCarthy that she is on the fence about what she thinks.
4. Mayor Ford discusses that in the code, removed decks need to be replaced within a year.
5. Attorney indicates that the previous deck was only 3 feet deep. A deck of that size does not require a variance. Attorney advised that the applicant must state the practical difficulties.
6. Councilmember Foster indicates that applicants have jumped through a number of hoops already and he would support approval with conditions.
7. Councilmember Hankins supported a condition that the applicant establish a raingarden to reduce the impervious surface.
8. Council member McCarthy recommended approval of the variance, with the condition that a riparian buffer be established 10X24 (size of the deck) that is within the shore impact zone. This buffer consists of planting and restoring shore plants that filter rainwater to help the health of the lake. The condition also includes a maintenance agreement.
9. Storm Gregorich, 23 Birchwood Lane discusses her understanding of practical difficulty based on her knee problems.

- v. Councilmember McCarthy moves to approve the variance request with the condition of a riparian buffer of 10X24 (240 square feet) in accordance with 302.050.6 (with the exception of 050.6.c.1.b since this discusses the size requirements) The motion asks for approval of a variance of 7 feet setback from the OHWM and 3 feet side setback. Councilmember McCarthy stated as a practical difficulty that the house was built in 1902 and it fits within the character of the neighborhood and it is a nonconforming structure. Seconded by councilmember Foster.

vi.

Motion and second withdrawn and restated by Councilmember McCarthy who moves to grant a variance to 302.020 to allow for a 7 foot setback from the OHWM and a 3 foot side yard setback for a deck for the reasons given in the planner report that follow:

1. The construction date of the house listed on the County website is 1902; the age of the house predates current ordinances and setbacks and the structure was not built by the applicant.
2. A lakeside deck is a reasonable request that requires a variance to allow a size that becomes usable space.
3. The character of the neighborhood would not be altered with approval of the variance.
4. Neighborhood property values will not be diminished with approval of the variance and construction of the deck.
5. The proposed structure will be built with decking spaced sufficiently so as not to increase impervious surface on the property.
6. That applicants would mitigate the effect on the encroachment of the OHWM by adding a riparian buffer of 240 square feet and in compliance with 302.050.6 (with the exception of 302.050.6.c.1.b) Seconded by councilmember Foster. All in favor except Mayor Ford, Motion Carries.

d. First Reading ORDINANCE 2024-01-01 (701) Fees (1:45:08):

- i. Council member McCarthy explained the ordinance will provide a vehicle for the city to collect money owed from residents' use of city services.

- ii. Council members make suggestions to the proposed code changes and ask clarifying questions.
- iii. **On a motion by Councilmember McCarthy, seconded by Councilmember Weier it was resolved to move to a second reading for Ordinance 2024-01-01. All in favor. Motion carried.**

e. Financial Internal Controls (1:59:53):

- i. Mayor Margaret explains the changes to the document governing internal financial controls. The changes center around language that clarifies that two members from the administrative staff will review city financial actions.
- ii. Council members make suggestions to the proposed changes and ask clarifying questions.
- iii. **On a motion by Councilmember Hankins, seconded by Councilmember McCarthy it was resolved to adopt the Financial Internal Controls. All in favor. Motion carried.**

f. Lift Station Issues (2:01:58):

- i. Mayor Margaret explains the lift station issues in the emergency situation that required immediate authorization to repair. .

g. Fee Schedule Update (2:03:56):

- i. Mayor Margaret explains the Fee schedule revisions to align the costs of the planner with the services provided to residents. Other revisions were noted and council members provided suggestions and asked questions.
- ii. **On a motion by Councilmember McCarthy, seconded by Councilmember Weier it was resolved to pass the fee schedule revisions as a first reading. All in favor. Motion carried.**

h. Lift Station Updates (2:14:06):

- i. Councilmember Hankins updated the council on the lift station project progress.

i. Halls Marsh (2:16:17):

- i. Councilmember McCarthy explains the reasoning behind Resolution 2024-08, data request resolution. The data request aims to help discussions on actions taken by the RCWD that will affect Hall's marsh.
- ii. **On a motion by Councilmember McCarthy, seconded by Councilmember Hankins it was resolved to pass Resolution 2024-08, data request resolution with the change of the word "direct" to "authorize". All in favor, Motion carried.**

8. MEETING CLOSE (2:20:19)

On a motion duly made by Councilmember Justin McCarthy, seconded by Councilmember Foster, it was agreed that there was no further business of the Council to transact in an open session; the meeting was closed to the public at 9:05 p.m.

DISCLAIMER

The above minutes should be used as a summary of the motions passed and issues discussed at the meeting. This document shall not be considered a verbatim copy of every word spoken at the meeting.

Mayor Margaret Ford

City Administrator Becky Kellen

Date

Date