APPROVED

City of Minnetonka Beach
REGULAR CITY COUNCIL MEETING
Monday, February 1, 2011
MINUTES

Roll Call
Mayor Joann Anderson, Council Members: Jill Bartel, Michelle Kroll, Linn Ferguson, and Mike Taylor. Absent: Treasurer Rick Skalla

City Council Agenda
1. Call to Order
Mayor Joann Anderson called the meeting to order at 7:08 p.m.

2. Approve Agenda
2.1 Council Meeting Action Notes- Reviewed and updated upcoming meeting dates.

The agenda was approved as written **(Bartel motion, Ferguson second; all ayes).**

3 Approve Minutes
3.1 Regular Meeting of January 3, 2011
(Taylor motion, Ferguson second to approve the minutes as written; all ayes).

4. Open Forum
No one requested to speak during the open forum.

5. Police Report
5.1 Police Report – January
Sergeant Tony Wittke reported:

- There were 23 calls for service in January, mostly traffic related, false alarms.
- There was a missing person report, but the person was found.

Sergeant Wittke reported that since the City required permits for parking at Ray Peters there have been no problems. He said officers spend time in their squad car parked at the location which may have also helped. Chief Farniok passed along that he is submitting grant request information for surveillance cameras at Ray Peters. If a grant is obtained and system purchased, the City will need to consider how will the data be stored and the data maintained. He mentioned that Lafayette Club has been calling about snowmobiles coming on their property and have requested extra patrol.

Sergeant Wittke also stated that regarding the deer management policy, Chief Farniok is in support of the DNR and whatever the City decides to do with the deer. He is concerned that no residents take action to remove deer on their own.

6. Public Hearing – Deer Management

Administrator Griffin provided a brief background on the problem which was staff and Park Commissioners were getting complaints on the number of deer, primarily in the Huntington Point/east side area of town and the deer were damaging property by eating city and resident plants. When the complaints started, the Park Commission did some research on what other communities have done and determined the first step would be to establish a deer population count and a deer management policy. Griffin introduced Bryan Lueth from the DNR who was present to speak about their role in deer management. Griffin reported that a surveillance fly-over occurred in Minnetonka Beach and council members were provided with a map of where the deer are in the lake area. The deer appear to have left Minnetonka Beach, however a deer management policy was still being brought forward. Council members were also provided photos of the damage to property that the deer had caused and were given a sample contract for a company that would remove the deer if that were deemed appropriate. The DNR prefers that cities get the public involved in deer management which is why a public hearing was called. Laura Inglis stated her concern was regarding the number of deer we have had this year. Mike Taylor asked how accurate and accepted the "fly-over" process for deer counting is. Bryan Lueth, DNR, stated the fly over is accepted as a best practice for counting deer populations. Taylor asked if it is common for them to move as a herd. Kroll said that due to the deep snow they are moving from their natural habitat and Mr. Lueth concurred. Kroll said Noerenberg Park had a deer harvest in November during deer hunting season.

Mayor Anderson asked Bryan Lueth to speak. Mr. Lueth stated his role at the Minnesota Department of Natural Resources was to work with communities all over the metro area to develop plans like the City is considering. Under the circumstances it is to be expected that the deer will come to where there is food and they will become abundant and exceed people's tolerance in communities. This type of problem is being faced in communities all over the country. Their goal is to help communities develop plans that deal with the problem of managing deer populations, yet he maintains that deer are a valuable part of the environment and contribute to the quality of life. They don't want to see them eliminated, but managed. The DNR is available as a technical resource to communities. The City's proposed plan was put together by staff and Park Commissioners and reviewed by Bryan Lueth who offered suggestions that were incorporated into the draft. The DNR suggests some basic components for deer policies; the population count/survey, how many deer can be tolerated, and community involvement. Mayor Anderson asked about the acceptable number of deer in our community. Mr. Lueth said their recommended guideline is not more than 20 deer per square mile of deer habitat. For Minnetonka Beach the area is .03 square miles, so the City can tolerate .06, or a fraction of a deer, so zero is a reasonable number for this community's deer habitat.

Sgt. Wittke asked about how the deer are removed, i.e. gun, bow and arrow, etc. Mr. Lueth said the DNR does not get involved in the removal process, and leave that up to the community. He said some communities use their police department sharp shooters, some hire contractors, within legal parameters. They prefer non-toxic ammunition since the meat may go to the food shelf.

Mayor Anderson asked about the removal goals section and how it is determined what the appropriate number is to start the removal process. Griffin said the policy gives Council flexibility to decide whether the deer are a problem or not and whether the City should take action. The policy is permissive and gives Council flexibility as to whether to take action or not. Park Commissioner Christiansen talked about Park Commission discussions and that they didn't agree on the correct number. He feels the policy is a good starting point, but the details needed to be worked out. His concern was regarding the zero tolerance number and how the City would manage that and find equilibrium. Based on the recent numbers of deer, the need for a policy became more crucial. Michelle Kroll said that due to the damage and complaints from residents, the City needs to have a policy in place to address concerns of the residents. The policy begins the process. Mr. Lueth said in order for the City to get a special removal permit from the DNR, the City needs to have a policy in place.

Mayor Anderson agrees with the policy, but she is concerned about the removal goals section and with who and how the determination is made to remove deer. Taylor suggested the policy might be worded such that while the guidelines state no deer are tolerable action to remove them would be based on the circumstances. His concern is what determines "as needed". Is it based on citizen complaints, accidents, or some other method of deciding triggering mechanism? Patty Rezabek said that due to the circumstances of this winter we have a problem that we have not had in the past. Taylor suggested the Park Commission could make a recommendation on whether the City should take action or not.

Mayor Anderson said there are three issues to consider when deciding if deer removal is necessary: 1) the number of deer, 2) the damage they are causing, and 3) how long it has been going on. Ben said they are around all summer long, at least six of them in Arcola Woods. Laura Inglis said the difference is that they stayed and the number grew. Her concern is that they are gone today, they may be back tomorrow. Resident Ann Brilley said the Park Commission should be commended for doing the research they have done. She has lived here 21 years and has never seen anything like the number of deer we had this year; if the City had a policy in place, some of the damage could possibly have been prevented.

Mr. Lueth explained that removal can take place during the regular hunting season and if this is the case the city doesn't need a permit or anything else from the DNR. The City can do whatever is in accordance with city ordinances. If it is not in open hunting season for either bow and arrow or firearm then a DNR permit is needed. Jill Bartel asked how long the process would take if we'd had a policy in place. Laura Inglis said if the herd is together it can done be very quickly. Contractors would come in at night and no one even knows they are there. Meat can be used for food shelves. Patty Rezabek talked about the City of Minnetonka Police department contracting with the City and she had a call in to them about this. Griffin said she spoke to the Minnetonka Police Chief and they are willing to talk to the city about helping, but they are not equipped to do the disposal and processing like a contractor would. Mayor commended Park Commission for taking

this on. Linn Ferguson asked if Orono PD wanted to get involved in any removal efforts. Sgt. Wittke said he didn't think the police chief would want to take on the responsibility.

Dave Christiansen said this is an exceptional winter, yet he thinks the City should be proactive which the policy allows for, but he is still concerned about the details, costs, etc. He said the damage is done now, but the policy allows the city to be prepared for future issues.

Taylor said the policy allows us to harvest outside of hunting season, and council would want to have the flexibility to harvest in or out of season.

Bartel asked about the permit process. Mr. Lueth said they are usually good for one year. The City of Minnetonka requests their permit to allow for removal from November through April to remove as needed. Helicopter surveying is almost always done in the winter. They try to issue permits with a large enough window so cities don't have to amend the permit.

(Taylor motion, Ferguson second to adopt Resolution 2011 – 15 establishing a Deer Management Policy; all ayes).

Griffin clarified that the action was only to adopt the policy. Mayor Anderson said if action was needed to remove deer, Council would still make that decision, and it may require a special meeting. Council would also need to decide who to hire, based on staff recommendations. There was discussion about who, if not Council, would have the authority to make the decision to proceed with removal. Bartel was concerned about how the policy will be executed. There was a suggestion to give that authority to the Mayor and City Administrator, in consultation with the Park Commission and DNR. Park Commission chair Patty Rezabek said she would not want to make the decision to remove deer without further discussion at the council level.

Mayor Anderson said she understood what Park Commissioners and the public in attendance were saying was that the policy should be adopted with elected officials making the final decision and the decision to expend funds.

Taylor said before that happens though there still needs to be more detail on when and how deer removal would occur. Park Commissioner Kevin Decker doesn't feel the Park Commission should decide if and when action needs to take place. Taylor suggested that staff should make recommendations to Council for the action and the recommendation would occur based on the circumstances.

Mayor Anderson suggested staff create a recommended procedure within the next 60 – 90 days to bring back to Council for approval. Council should consider approving a procedure that would include when and how the actual removal would occur.

Laura Inglis asked about how deer removal would be funded. Mayor Anderson said it would come out of the general fund budget or reserves since it may not be a budgeted expense. It would not be a Park budget item.

Mr. Lueth clarified that bow and arrow season is from mid-September to December 31st.

Mayor directed staff along with the Park Commission to draft a procedure within 60-90 days and bring it back to Council. The procedure should include who would implement the deer removal procedure.

7. Consent Agenda

7.1. Fire Report – January – No report available yet.
7.2. Resolution 2011-16 Club and Sunday On-Sale Liquor and Malt Liquor License for Lafayette Club
7.3. Resolution 2011-17 Consider Supporting Continuation of CDBG Funds for Western Communities Action Network (WeCan)
7.4. Resolution 2011-18 Approve Prosecuting Attorney Contract
7.5. Resolution 2011-19 Appoint Election Judges and Absentee Ballot Board for April 5, 2011 Special Election
7.6. Approve 2011 Pay Equity Report
(Bartel motion, Taylor second to approve consent agenda items 7.2-7.6; all ayes).

8. Treasurer's Report

8.1 2010 Financial Audit Report

Andy Berg and Matt Vos from Abdo, Eick and Meyers were in attendance. Mr. Berg stated that Matt Vos and others from their staff conducted the annual audit in January. He said there were no disagreements and they gave a "clean opinion". The only finding they issued was the production of the financial statements by them instead of the city. Mr. Berg said this was not unusual for small cities and does not reflect negatively. Berg said although their staff prepares the statements, they are reviewed by city staff.

Berg continued to review the management letter explaining the decreasing general fund balance. They recommend 50% of balance to budget and pointed out the downward trend of the general fund. He explained the different funds which are the general fund, the debt service fund, the CIP fund, and the water and sewer enterprise funds. Administrator Griffin explained why the 4M fund showed one amount and the general fund was different because the city's funds are broken down into the different funds and these funds make up the total cash balance of the city.

Bartel asked about the percentage of the decrease and whether it was due to legal fees which was likely. Mr. Berg said the city may wish to adopt a fund balance policy. Mayor Anderson stated she expects the Finance Committee to recommend such a policy, and asked staff to see that the audit report be reviewed with Finance Committee members so they understand the different funds and can make recommendation on fund balances.

Mr. Berg reviewed the remainder of the management letter which summarized receivables and comparisons with past years. The debt service fund has a balance of $130,805 and should be taken into consideration with any new bond proceeds. He said there is a small balance in the Capital Projects fund. They recommend funding it or closing it.

Mr. Berg discussed the issue of water pumped versus sold. There is a 30% difference between what is pumped and what is billed which is a high amount of unaccounted for water. Ben Young was asked to have the meter at the water plant calibrated. The next step would be to identify any leaks through a leak detection service. Council directed staff to follow up on this issue including preparing a quarterly report for pumped versus sold, and to include any unusual circumstances such a fires, hydrant flushing, etc.

There is one new accounting standard change on fund balances. GASB statement No. 54 will require breaking down fund balances into categories such as restricted, committed, assigned and unassigned.

Finally, Mr. Berg talked about low interest rates and the need and importance diversifying funds.

8.2 Approve Checks
Administrator Griffin asked Council to consider approval of the January checks that came in after the council meeting, and the February checks for bills received to date. In addition, staff is asking for authorization to process bill payments received through February 14th which would have been the February meeting date.

(Bartel motion, Taylor second to approve 30 checks from January, numbers 12613-12642 in the total amount of $ $27,815.56; all ayes).

(Bartel motion, Taylor second to approve 16 checks for February, numbers 12643-12658 in the total amount of $ $32,749.94; all ayes).

(Taylor motion, Bartel second to preauthorize staff to process for bill payments received through February 14th, with Council officially approving the checks at their next meeting; all ayes).

8.3 2011 Year to Date Budget Report
Council Members reviewed the data and had no questions.

9. Planning and Zoning
There were no items.

10. New Business
There were no New Business items.

11. Old Business

11.1. Water Improvement Project – Resolution 2011 – 20 Determining the Necessity for the Issuance of General Obligation Bonds and Calling for a Special Election

Administrator Griffin explained there were two versions of the resolution in the packet; one version numbered (381314**v2** JSB KG400-1) had one ballot question and the second version (381314**v3** JSB KG400-1) had the issue broken down into two questions; one being for the refunding and water improvements and the other being for a smaller amount for a Public Works vehicle and Street Reconstruction. The resolutions were drafted by Jenny Bolton, bond counsel from Kennedy and Graven, and were reviewed by the city's financial consultant Bruce Kimmel from Ehler's, city attorney Wally Hilke, city engineer, Darren Amundsen and city staff, Ben Young and Susanne Griffin. Bruce Kimmel, who was not at the meeting but emailed his recommendation which was that the city adopt the resolution with one ballot question. Jon North from Ehler's was present at the meeting and he reiterated that information stating if there were two questions and the smaller question did not pass, they would not recommend the city bond for such a small amount.

Jenny Bolton from Kennedy and Graven stated the City hired her firm to write the resolution and ballot question and provide general legal counsel for the bond issue. She stated there were two resolution options, but she recommended the version with one question, along with a resident education program about the issue.

(Ferguson motion, Kroll second to adopt Resolution 2011 – 20 (version with one ballot question noted with the following identifying number: 381314v2 JSB KG400-1) Determining the Necessity for the Issuance of General Obligation Bonds and Calling for a Special Election; all ayes).

Resident Ann Brilley stated she knows a lot of time was spent studying this issue, and money has been spent, but she feels the whole project took a twist when it was determined that it was necessary to put the issue before the voters. She feels the timing may not be right to ask residents for a tax increase. She isn't sure that residents know the project may not solve issues of water pressure and quality. She encouraged council members to get educational materials out to residents explaining the project's purpose and objectives, and information about absentee voting.

Taylor asked Mrs. Brilley what the message to residents should be because of the timing of the economy. She said it would more compelling to have all new 8-inch pipes installed in the Lafayette Road area which is not in the current plan, but the message to residents should be that this is better than doing nothing.

Mayor Anderson said the educational materials should focus on low interest rates and construction costs. She also pointed out the issue of replacing the more sections of water main has been referred to the Utility Committee for review and recommendation. There was discussion about including information about the loss of time for fire fighting when water trucks are brought in versus getting water direct from hydrants.

Taylor said he thought personal contact with the residents will be helpful in communicating with the residents. Ms. Bolton said elected officials could contact residents to let them know about the election and state their position on the project, however, materials prepared by staff on behalf of the city must contain only the facts and not advocate a position.

Ben Young said he thinks the project should happen in stages; it's important to let residents know this is not the end of the project and that the city can't afford to do everything at the same time. Replacing all the pipes at this time would double the cost. Taylor said there is more to do, but to be fiscally responsible the city is proceeding with the projects that give the city the best return on the investment at this time.

Staff will prepare a fact sheet with help from Treasurer Skalla and Council Member Taylor. Council Members should send staff any ideas they have for the fact sheet. Input will be sought from the city attorney, bond counsel and council members before a final version is sent to residents.

Mayor Anderson asked city engineer Amundsen about a back up plan if the city does not get the easement on the east side. Amundsen said if the city doesn't get the easement they would take a different approach and still get some improvement in hydrant flow. Getting the easement will give the city the most improvement in fire hydrant pressure.

Mayor Anderson clarified her meeting with city engineer Amundsen on February 2nd regarding the engineering contract.

Council discussed whether a March Council meeting would occur to review and approve the final language for the bond referendum brochure. It was ultimately decided that Taylor, Skalla and Griffin would draft the brochure, send it to council members and they will respond directly to Griffin with their comments, and to not have discussion amongst themselves. They ultimately decided to cancel the March meeting.

12. Staff Reports

12.1. Director of Public Works

Ben Young reported he is attending the annual conference with the Minnesota Rural Water Association, and he will talk to people there about the issue of unaccounted water. He reported on a property damage accident he had with the plow and a resident's vehicle.

12.2. Clerk's Report

City Clerk Marilyn Regnier will be back on March 4th.

12.3. Administrator's Report

City administrator Susanne Griffin reported she received a letter from the MN Department of Health on state and federal requirements for the city to have a wellhead protection plan. She and Ben Young are meeting with the Department of Health next week and will have more information on what this means for the city at the next meeting. It will be a multi-year process and the Department of Health will assist the city with

much of the initial work. There may need to be funds budgeted in 2012 for the wellhead protection plan. The plan must be completed by 2014.

Griffin reported that she has brought in a part time employee to help out during Marilyn's absence. The employee's name is Lynne Cullinan and she is working Mondays, Thursdays and Friday mornings. She is helping to get the city code book on the website.

She reported that the dock permit process is underway. The city is in the process of submitting the city's multiple dock license application to the LMCD with a new site plan for dock 11 based on the final settlement of the lawsuit on property lines of properties adjacent to the fire lane.

13. Council Reports

13.1. Mayor's Report

There was a brief update on the status of the easements for the water project. Preliminary Letters of Understanding regarding the easements have been informally agreed to by all properties affected with one exception. There will be some expense for the easements which is not uncommon, and there was some discussion about what to do if easements are not agreed to.

13.2. Council Liaison Reports

Bartel reported she will be attending a meeting regarding Old Crystal Bay road issue in Orono.

Taylor reported he will be attending the Fire Commission meeting tomorrow.

Kroll reported she will be attending the Police Commission meeting. Mayor Anderson wondered if other cities have brought up concerns about security at council meetings, and she asked Kroll to bring this up with Chief Farniok.

Kroll asked to clarify minutes from January 3, 2011 where she talked about deer falling into pools. She wanted the record to reflect that she meant this could happen in the summer.

14. Adjournment

(Taylor motion, Ferguson second to adjourn the meeting at 10:25 p.m.; all ayes).

Public Present: Ann Brilley, Patty Rezabek, Dave Christiansen, Kevin Decker, Laura Inglis, Andy Berg and Matt Vos from Abdo Eick and Meyers, Jon North from Ehlers, Jenny Bolton from Kennedy and Graven.

Note: The above list may be incomplete if not everyone signed in.

Staff Present:
City Administrator Susanne Griffin, Public Works Director Ben Young. Minutes recorded by City Administrator Griffin.