

MINUTES

Greenwood City Council Meeting

Thursday, July 14, 2022

339 Third Street, Excelsior, MN 55331



1. CALL TO ORDER | ROLL CALL | APPROVE MEETING AGENDA

Mayor Kind called the meeting to order at 7:00pm.

Members Present: Mayor Deb Kind, Councilmembers Bill Cook, Tom Fletcher, Rob Roy, Kristi Conrad

Staff Members Present: City Engineer Dave Martini (via Zoom), Assistant Administrator Shanda Wilhelmy (via Zoom), and Scott Richards City Zoning Administrator

Motion by Kind to approve the agenda. Second by Conrad. Motion passed 5-0.

2. CONSENT AGENDA

- A. Approve: 06.01.22 Meeting Minutes
- B. Approve: May Profit & Loss
- C. Approve: May Cash Summary
- D. Approve: May Certificates of Deposit Report
- E. Approve: Jun Check Detail
- F. Approve: Jul Payroll Report
- G. Approve: YTD Profit & Loss Budget vs. Actual
- H. Approve: Res 13-22 Appointing Election Judges and Absentee Ballot Board
- I. Approve: Insurance Liability Waiver Form
- J. ~~Approve: Ord 323 Eliminating Commercial Marina Licenses~~ (2J moved to 10 as summary ordinance is needed)

Kind asked to have item 2J moved to 10 for further discussion. Motion by Kind to approve items 2A-I and move item 2J to 10. Second by Roy. Motion passed 5-0.

3. MATTERS FROM THE FLOOR

A. Resident Jordan Hangel, 5600 Maple Heights Road, addressed the council on two issues.

- The first issue was in regards to a deteriorating retaining wall on his property that was in the process of being repaired and replaced without the necessary permits. The resident was unaware that the permits were needed at the time the City issued a verbal stop work order to this project.

Richards stated that a grading permit and a conditional use permit (CUP) would be required for this project. He asked if the council would allow relief to this resident to continue the project prior to the issuance of council approval of the CUP as this would not be until future council meetings. The grading permit and CUP permit applications and payments have now been submitted to the City. He also stated City Engineer Bob Martini has been consulted about the CUP for this property and is confident that it will be approved.

Cook was concerned that approving a CUP prematurely would set a precedence for other residents to do the same. He feels the resident should do the work at his own risk until the CUP is approved.

Motion by Fletcher to rescind the verbal stop work order, subject to the City Engineer having the ability to reissue the stop work order if he sees any issues or defects in the wall, and the applicant continue the full permit process. Second by Conrad. Motion passed 5-0.

- The second issue was addressing an old city road (Terrace Road) that divides the resident's property. He would like to work with his neighbor to improve this section of property since it is no longer a maintained city road.

Richards spoke with the City Attorney Bob Vose about this road. Vose submitted a letter regarding this issue which Richards read to the council. The letter advised that Greenwood not vacate the right-of-way (ROW) rights, although the roadway could be removed by the residents. The city could protect its rights to reestablish the road, make clear the road ROW is not being abandoned, and send a letter to the residents

to make this clear. Richards stated this would mean the city could in the future have the right to establish utilities or build a road there.

Resident Steve Grunewald, 5580 Maple Heights Road, addressed the council. He asked if the city could in the future rebuild a road there. Cook affirmed that yes, the city would retain the right to put in a road, storm sewer, water main etc. in the future. Fletcher was in favor with allowing this but asked the council to consider moving it to the agenda for the next meeting. Kind preferred that this is decided on at the current meeting. Conrad had questions about why the city would not consider vacating its ROW rights.

Motion by Cook that the council allow the property owners to maintain the ROW, including removal of the pavement, Greenwood does not give up ROW rights, authorize a letter to be sent to adjoining neighbors, and City Engineer to approve project. Second by Roy. Motion passed 4-1 with Conrad voting nay.

4. PRESENTATIONS, REPORTS, GUESTS, AND ANNOUNCEMENTS

A. City Engineer: Discuss 2022 Road, Sewer, and Stormwater Projects

Dave Martini from Bolton & Menk discussed further the 2022 engineering projects that were originally presented at the May council meeting. On June 30, 2022, bids were opened for the 2022 Street Improvements Project. One bid was received from Bituminous Roadway Inc. in the amount of \$225,555.00. The engineer's estimate for the project was \$280,000. The bid was reviewed and engineers recommend awarding the 2022 Street Improvements to Bituminous Roadways Inc. in the amount of \$225,555.00. The City of Shorewood's portion of the project is projected to be \$84,400.

Motion by Cook to award the bid from Bituminous Roadway Inc. for the road improvements on Sleepy Hollow Rd. and St. Albans Bay Rd. in the amount \$225,555 to be paid from the road fund with Shorewood paying \$84,400 of the project in 2023. Second by Fletcher. Motion passed 5-0.

B. Announcement: Budget & Fees Worksession, 6pm 08.03.22 (before regular council meeting)

C. Announcement: City Office Candidate Filing Period is August 2, 2022 until August 16, 2022 at 5pm

Councilmember Tom Fletcher will be running for city council in 2022. Councilmember Rob Roy will not be running for city council in 2022.

5. PUBLIC HEARINGS

A. NONE

6. ACTION RELATED TO PUBLIC HEARINGS

A. NONE

7. PLANNING, ZONING & SUBDIVISION ITEMS

A. Discuss: Allowing Accessory Buildings Without a Principal Structure

Owners of a lakeshore lot at 5170 Queens Circle have inquired whether they could place an accessory structure without first constructing a single-family dwelling. The lot is jointly owned by families that use it for lakeshore access. An accessory building would be used for storage of lakeshore equipment.

The definitions of structure including primary accessory, principal and secondary accessory are found as follows. Note that the definitions indicate that the accessory building is located on the same lot as a principal structure and subordinate to the principal structure, meaning that that the principal structure needs to be in place first.

Section 1102. Definitions

Structure (Primary Accessory) means an uninhabited subordinate building or other subordinate structure that has a footprint that is greater than 36 square feet, is located on the same lot as a principal structure, and the use is clearly subordinate to the use of the principal structure. Examples of accessory structures / uses include, but are not limited to, detached garages, sheds, and storage buildings.

Structure (Principal) means the structure or building which represents the primary building or use of a given lot as permitted under the zoning code.

Structure (Secondary Accessory) means an uninhabited subordinate structure, equipment, or personal property that is located on the same lot as a principal structure whose use or enjoyment is supplementary to the use of a principal

structure or a primary accessory structure. Examples of secondary accessory structures / uses include, but are not limited to, patios, decks, slabs, driveways, parking pads, sidewalks, air conditioners, generators, fire pits, outdoor fireplaces, outdoor kitchens, swimming pools, hot tubs, spas, tennis courts, sport courts, play structures, swing sets, monument signs (commercial properties), pergolas, arbors, trellises.

Staff recommends the City Council discuss this issue and determine if a Zoning Ordinance change is supported by the members. The question to ask is what is the issue of allowing accessory buildings without principal structure? What is the process to allow the structure, and what would be the limitations or conditions of this allowance?

Richards discussed that three families jointly own this lot and would like to put up an accessory building to store their lakeside equipment. Current code requires a principal building in order to have an accessory building on a lot, which many cities also require. Fletcher questioned if there was any downside to allowing the accessory building without a principal building. Cook answered that there was an example of a downside along Highway 19 where there are many accessory structures along the lake without principal buildings and it is a mess. Cook wants this issue to go through the variance process. Richards stated that the Planning Commission meets in August and this issue should be brought to them to make recommendations. Cook is concerned about the possibility of future owners to turn this property into a mini marina since this is a separate property and there is room for 3 boats to be docked here. Kind recommends to send this issue to the Planning Commission. No council action taken. Council consensus to send to the Planning Commission.

8. UNFINISHED BUSINESS

A. NONE

9. NEW BUSINESS

A. Hear & Discuss: Report on Location of Northern St. Alban's Bay Buoys

Resident Mike Bloom, 5120 Curve St., addressed the council regarding the removal of the north St. Albans Bay buoys at the June council meeting. Cook presented an update on the buoys in question. Bloom contacted the LMCD about the buoys. The LMCD then worked with the county to have 1 buoy moved south 80 feet and the buoy closest to the city dock was not moved, now allowing boat traffic to move faster.

Cook presented the LMCD report. LMCD has had public conversations about wake board boats, large cruisers and wakes on the lake. LMCD board met on 07.13.22 and will bring forward at their next meeting a draft ordinance that changes the setbacks from shorelines, parked boats, fishing boats, and docks from 150 feet to 300 feet and applying this to all boats. It is an interim step as the industry is in the process of studying waves and wave damage. After the draft ordinance is presented by the LMCD, public input will be sought. Following this process there may be action on this. Cook stated there are no setback requirements from buoys. Roy questioned how this would be enforced, and that more boater education is needed. No council action taken. Cook to follow up with Bloom.

B. Hear & Discuss: Report on Xcel Franchise Fees to Bury Power Lines

The council authorized Councilman Fletcher to look into the logistics of establishing Xcel franchise fees at the June council meeting. Fletcher contacted Xcel about costs associated with burying overhead utility lines. He did not hear back on specifics from Xcel yet. He stated it is not likely to work due to the costs being too much and suggested moving this topic to the August council meeting. Richards stated that costs are very expensive concerning burying overhead utility lines. Cook said it would have been over \$30,000 just to bury overhead lines on Greenwood Circle. No council action taken.

C. Consider: Letter of Support to League of MN Cities to Prioritize EMS Local Control Legislation

Councilman Fletcher requested that this topic be placed on the 07.14.22 council agenda for discussion. He provided background information. Greenwood currently utilizes Hennepin Health. One month ago, there was an emergency on Hwy 7 in which an Edina based ambulance responded to the emergency. The state legislature has to approve local control of EMS. Sending a letter of support to the League of MN Cities will help set the stage for this getting approved by the legislature. He stated it would be helpful if Greenwood is on the record that this is a priority for the city.

Motion by Fletcher that the city council authorizes the Mayor to send a letter to the League of Minnesota Cities expressing support for their Service Delivery Policies SD-14 Ambulance Service Cost and Liability and SD-15 Emergency Medical Services. The letter should specifically note that the council strongly

supports the SD-15 statement that local units of government should be allowed, “to designate which licensed ambulance service provider or providers may serve their communities and determine the appropriate level of service.” Motion amended by Cook that this letter also be sent to the County Commissioner and State Representatives. Second by Kind. Motion passed 5-0.

D. Consider: Treasury Bills for Greenwood Reserve Funds

The administrative committee (Councilman Fletcher and Mayor Kind) recommend the council consider authorizing the administrative committee to invest city funds in Treasury Bills to improve the city’s investment income. The committee had preliminary discussions with Lynn Cornwell of Moreton Capital Markets.

Fletcher stated since the Treasury Bills are from the Federal Government, it is a safe investment for the city. Currently the city is earning 0.2% right now in the money market account at Bridgewater Bank. Treasury Bills can be purchased at varying maturities. As of 07.13.22, rates were 1.78% for 1 month, 2.2% for 2 months, 2.39% for 3 months, 2.96% for 6 months, and 3.21% for 1 year. He also spoke with the City Auditor about purchasing the Treasury Bills, and the auditor was in favor of the purchase for the city.

Motion by Fletcher to move that the City Council authorizes the Mayor to execute the necessary documents to open a US Bank Custody Account and Moreton Capital Markets account to allow the City Administrative Committee (Mayor Kind and Councilman Fletcher) to purchase US Treasury Bills not exceeding \$800,000 with maturities not exceeding one year through Moreton Capital Markets with US Bank having custody of the Treasury Bills for the City. Second by Cook. Motion passed 5-0.

10. OTHER BUSINESS

A. Approve: Ord 323 Eliminating Commercial Marina Licenses (Item 2J from Consent Agenda)

Kind asked to have this item moved from the consent agenda for further discussion as a summary ordinance is needed.

Motion by Kind to approve the first reading of Ordinance 323 Eliminating Commercial Marina Licenses and direct staff to draft a summary ordinance for approval at the August council meeting. Second by Fletcher. Motion passed 5-0.

11. COUNCIL REPORTS

A. Conrad: LMCC

- LMCC – No report. Conrad expressed disappointment that the 4th of July celebration did not work out this year due to weather.
- Park – No report. Conrad still waiting on the pressure washing of the court. Kind stated public works has an employee shortage this year.

No council action taken. View report at LMCC-TV.org.

B. Cook: LMCD, SABLID, Public Works Committee

- SABLID – No report.
- LMCD – Report given in 9A.
- Public Works Committee – Kind to give public works report.

No council action taken. View report at LMCC-TV.org.

C. Fletcher: Planning Commission, Fire, Administrative Committee, Building Inspections

- Planning Commission – No report.
- Fire – No report.
- Administrative Committee – Reports given in 9B, 9C, and 9D.
- Building Inspections – There are still outstanding issues related to the Greenwood Market gas station.

No council action taken. View report at LMCC-TV.org.

D. Kind: Police, Administrative Committee, Public Works Committee, Mayors’ Meetings

- Police – SLMPD police reports were email to the council. There have been a few noise complaints in Greenwood recently. Chief Tholen recommends making revisions to Greenwood’s noise ordinances so that they are more enforceable. He recommends separating the construction hours from the list of items

triggered by the \$10,000 or more in projects costs. Then construction hours would apply to all construction projects and not just the ones that \$10,000 or more in cost. Police department will not know what the cost of the construction projects would be which makes it hard to know if there is a violation. Fletcher recommended to revise the noise ordinance so that Greenwood requires compliance with state statute 116.07 the specifies that the State Pollution Control Agency (PCA) sets noise standard and measurement procedures and prohibits cities from adopting stricter standards. The PCA also has daytime limits and measurements for noise. Typically, when the police are contacted regarding a noise complaint, they will give the potential noise offender a verbal warning which resolves the issue.

Motion by Fletcher to move that the City Council ask the Planning Commission to evaluate changing the code to reflect that the noise ordinance construction hours apply to all construction projects, and not just projects that are \$10,000 or more in cost, and to also work with the Zoning Administrator about updating Greenwood's noise ordinance. Second by Conrad. Motion passed 5-0.

- Administrative Committee –
 1. Fletcher and Kind attended a tax meeting with the county. Jim Atchison, County Assessor, has retired as of 06.30.22. Josh Hoogland is the new County Assessor. Kind and Fletcher expressed thanks to Jim for his service over the years.
 2. Tree Grant project – Emerald Ash tree removal process has been completed. Fletcher and Kind to discuss with Manuel about future tree grants.
 3. THC - Memo from the City Attorney was sent to the council. Greenwood to decide if THC should be regulated as a city or not. Fletcher stated the state just passed this and let the process play out since it is new.
 4. Election Canvassing Date – Canvassing is required between 11.14.22 to 11.17.22. Council selected 11.16.22 at 6:30pm.
- Public Works Committee –
 1. Issue of trimming of Arborvitae along the path on Minnetonka Blvd. Resolution will be that public works will work with the City Forester to trim the Arborvitae appropriately while ensuring that the full width of the path is available for the public. Cook worked on resolving this issue.
 2. Issue of curb project delays on Greenwood Circle. Kind stated again the problem of staffing shortages in public works, emergency tree removals, and drainage projects that have taken priority over curb projects.
 3. Second street sweeping related to the city's sealcoating project will be Monday 07.18.22, stripping shortly thereafter.
- Mayors' Meetings – No report.

No report. No council action taken.

E. Roy: Minnetonka Community Education

- Firecracker Run on July 4, 2022 – MCE decided only to run the 1-mile race, and not the 10k due to weather concerns.
- 17th Tour de Tonka on August 6, 2022 – volunteer still needed to help with this event.

No council action taken. View report at LMCC-TV.org.

12. ADJOURNMENT

Motion by Roy to adjourn the meeting at 8:15pm. Second by Cook. Motion passed 5-0.

This document is intended to meet statutory requirements for city council meeting minutes. A video recording was made of the meeting which provides a verbatim account of what transpired. The video recording is available for viewing at lmcc-tv.org for 1 year.