



City of Medicine Lake

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September 9, 2019

City of Medicine Lake Council Minutes

Present: Mayor Scott Marks; Councilors Jack Garberg, Ron Tomczik, and Chris Heim; Treasurer Craig Kile; City Clerk Nancy Pauly; Fire Chief Rich Halvorsen; Public Works & Parks Commissioner Chris Klar; Bassett Creek Watershed Commissioner Clint Carlson; City Planner Brad Scheib; Attorney Wynn Curtiss.

Absent: no one.

Miscellaneous attendees: Bert and Gail Martinez, Paul Samson, Ted Hoshal, John Stelzner, Susan Wiese, Bill and Kip Leonard, Kari and Wayne Hawkins, Les and Mary Anne Young, Hennepin County Sheriff Lieutenant Patty Strongitharm.

Mayor Marks called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

Minutes and Agenda

- **Motion to approve the agenda as presented forwarded by Mayor Marks and seconded by Councilmember Garberg. With all in favor, the motion carried.**
- **Motion to approve the August 5, 2019 minutes forwarded by Councilmember Garberg and seconded by Councilmember Heim. With all in favor, the motion carried.**

Open Forum

- Ted Hoshal reported the 75th anniversary celebration was fantastic and thanked City Council for access to the city office for the history exhibit.
- John Stelzner expressed his appreciation for all of the volunteers who worked on the 75th celebration. He suggested having a golf cart to bring people down Peninsula Road.

Hennepin County Sheriff – Lieutenant Strongitharm

- Reported there was an event at The Hutton House whereby cars were parked on Peninsula Road.

Dangerous Dog Request

- Attorney Wynn Curtiss said the City has adopted its own “Dangerous Animal” ordinance and that’s what should be used rather than the State statute on dangerous dogs. Independently, the City should look at the State statute and decide how to update the ordinance. The ordinance is both a civil document and a criminal document. The Council decides civil items. Criminal items result in a citation and if charged require a court appearance. The Council has an investigation, which was done by the Sheriff’s Office and by Mr. Curtiss to put together a report to the Council with the facts as we know them. Council has an initial hearing to determine whether the animal should be deemed dangerous under the ordinance. If the animal is deemed dangerous under the ordinance, then the Council notifies the animal’s owner saying because we’ve made this decision we have remedies and we’re going to take some further action to decide on what the remedy should be and if you want to have a hearing on that then you have to send a notice demanding a hearing. At the hearing the Council has to decide whether to reaffirm their original decision finding the animal dangerous. If they do, then they have to decide what the remedy would be and order that. Tonight’s meeting is to determine if the animal is dangerous.

- Attorney Curtiss presented police reports from July 2018 and May 2019 and communications from citizens. In July 2018 a dog owned by the residents of 127 Peninsula got out of the yard and bit a person running down the street. That person called the police. It was not prosecuted at the time. In May 2019 the same dog got out of the yard and attacked a neighbor's dog. The police were called. With this incident, there was additional discovery of additional times the dog has been out of the yard. The definition of a dangerous animal under the ordinance clearly includes a dog which is unprovoked, attacks or bites somebody. Based on the evidence and information provided it appears that this dog has done that on more than one occasion. Criminal charges have been filed for the May 2019 incident as well as the civil process.
- Councilmember Tomczik asked for Attorney Curtiss' opinion on how to proceed. Attorney Curtiss said the facts meet the definition of a dangerous animal. The more difficult question will be what should be an appropriate remedy.
- Mayor Marks said the bites bother him. But asked about the dog rushing because a lot of little dogs in the neighborhood rush people.
- Kari Hawkins said she had no idea of the amount of fear the dogs have put into people and she never had that intention. She said they don't let the dogs out the front but her daughter left the dog out the front and then a jogger came running by. The daughter called for the dog and asked the jogger to stop but the jogger did not stop. She said they are not letting the dog outside unless the shock collar is on his neck and someone is holding the shocker. She said they offered to put up a fence.
- Wayne Hawkins said his dogs are very gentle but may look ferocious and that any large dog can knock down a person. Attorney Curtiss said the dog doesn't need to be on a lease when in the yard but needs to be under control.
- Kari Hawkins said she is here to work with everyone on this.
- Councilmember Heim said he's frustrated that it's gotten to the point where the Council has to take the ordinance and make a determination as to whether the dog is a dangerous dog. What happens if a 2 pound dog in the city bites someone? Would that dog be a dangerous dog? He also said more work should be done between neighbors and it's more about containing the dog. It's not fair to any neighbor to not feel comfortable going out of their home if there is a dog that has a history of getting loose. Dog owners have a responsibility to contain their dogs. He further said the ordinance needs to be changed.
- Attorney Curtiss said the Council can give him direction on the remedy in the criminal case.
- **Motion to approve resolution 19-12 a resolution declaring dog as dangerous forwarded by Mayor Marks and seconded by Councilmember Heim. Mayor Marks, Councilmembers Tomczik and Heim in favor. Councilmember Garberg abstained. Motion carried.**
- John Stelzner said he's noticed dogs running through the city and requested that the city address the ordinance and require that dogs be licensed and require owners be aware of what the ordinance states. Mayor Marks responded that licensing of dogs stopped in the 1990's. Councilmember Heim said 911 should be called to enforce the ordinance.

Fire Department Report – Rich Halvorsen

- Reported the department supported National Night Out and the 75th anniversary celebration.
- Reported 3 calls for service in the past month and 22 for the year.
- Reported they are making sure they are part of lake response and had discussions with the head of water patrol.
- Reported he is keeping his eyes on statistics and the potential need for a light vehicle.
- Reported the department will be initiating a junior firefighter program.
- Assorted residents asked about the flow of traffic and information during emergency events so that residents can understand the risk to themselves and their family members. Mayor Marks will follow up with the Sheriff. Lieutenant Strongitharm said she will take the feedback back to the Sheriff's Office.

Bassett Creek Watershed Management Commission Report – Clint Carlson

- Brad Scheib reported on the process to move forward on the Jevene Park project. He said the funding for design and construction are watershed funds. There is a 2-3 year warranty and then the City is responsible for maintenance. The City's costs are limited to maintenance of the project. The concern expressed is about the impact of the project on other things outside of the project that may happen later on and were caused by the project. He said we are working with the watershed on establishing a contract with the watershed to oversee the design and construction of the project. Also, an RFP was issued for a design engineer. Three proposals were received. It was narrowed to one, which came in substantially under budget. This leaves room to bring in additional tasks to look into issues with the road to help us understand impacts and mitigations so that the road isn't impacted during construction. In addition, they met with SEH to talk about the impact to the roads. There may be two contracts brought forward in October.
- Mr. Scheib said the contract between BCWMC and the City is being reviewed. A clause for termination is being added. It should be ready for the October City Council meeting. He has told BCWMC that the City is 50-50 on whether to proceed with the project.
- Councilmember Heim said BCWMC said they don't have many projects in this area and it's our job at this point to help vet the design to figure out if it serves their need and also our needs. The next phase should answer a lot of unanswered questions.
- Mr. Carlson said BCWMC recognizes that of the nine cities, Medicine Lake is the only one that has never had its own project. We've gotten the benefit of other projects that were beneficial to the system and Medicine Lake. It's a cooperative environment. Medicine Lake is using volunteers whereas the other cities have staff. BCWMC wants to work with us. He further said we're trying to address the issues and solve them rather than shut down the project.
- Les Young said he was at the last City Council meeting where this project was discussed and afterwards he sent an email to Council and Mayor Marks. He said as far as he can tell, the project has two benefits. One is some benefit if there is a big rainfall event but no benefit if there is a really big rainfall. So basically no flood benefit. Second, the project will prevent 4 pounds of phosphorus from entering the lake. He researched the TMDL report and other information and it appears as though 1,000 pounds of phosphorus enters the lake annually, most from homeowners mulching grass and leaves. 4 pounds of phosphorus is equivalent to 20 bags of leaves. The project cost is more than \$400,000 and there will be ongoing maintenance costs as well as unknown costs for road damage. He recommended that the city vote down the project now so that no more money is spent by anyone on this project. Mayor Marks said he has received other emails in opposition to this project and he is looking at it and he and Councilmember Heim have talked about it.
- Bill Leonard said he managed the roads when he was a councilmember. The road is 51 years old. Plymouth typically gets 20-25 years out of a road and spends \$1M per mile. We've been able to maintain the road and have had weight restrictions. We could be putting \$500K of road damage at risk and he doesn't know if we have the capital set aside. Mayor Marks said the City is planning for road work and hoping to have the money in a road reserve account in 10 years but wants a road engineer to evaluate the road next year.
- Councilmember Heim said when this project first came to us it with the idea that it would be something that makes the park look nice, filters more water, and helps with the flood issue. As the project has progressed, more and more questions of uncertainty have come out and the benefits keep declining. It makes for a hard decision. We need to get some facts and then make an informed decision.
- Mr. Carlson said the project is minimal in terms of phosphorus, but there are other advantages. The salt, sand, and automotive runoff that go down Peninsula Road would get filtered before it goes into the lake.

- Councilmember Heim said the plan is to move forward with the next step to have engineering answer these questions.
- Mayor Marks said this issue will be discussed further next month.

Public Works and Parks Report – Chris Klar

- Reported he refreshed the chips in both parks.
- Reported he received a tree grant from Hennepin County and received 40-50 small trees. He is looking for volunteers to help plant in October.
- Recommended a new city engineer from FOCUS Engineering. They are more in tune with small communities.
- Council Heim said Sambatek will still be brought in for large projects.
- **Motion to authorize Mayor Marks to enter into a contract with Focus Engineering for provision of day to day municipal engineering services and to terminate the existing relationship with Sambatek for such services forwarded by Mayor Marks and seconded by Councilmember Heim. With all in favor, the motion carried.**

Treasurer’s Report – Craig Kile

- Receipts in reporting period: \$345
- Receipts year to date: \$263,739
- Disbursements in reporting period: \$43,343
- Disbursements year to date: \$221,403
- **Motion to approve the summary spending, receipts and cash balances through September 8, 2019 forwarded by Councilmember Heim and seconded by Mayor Marks. With all in favor, the motion carried.**

Officer Reports:

Councilmember Garberg

- Reported nothing to report.

Councilmember Tomczik

- Reported he received a check for \$1,004 from Hennepin County for organics recycling.

Councilmember Heim

- Reported nothing to report.

Mayor Marks

- Mr. Scheib reported the comp plan was officially approved by Met Council. There is nothing major that has to be done in the follow up with the exception of the some modifications to the shore land rules and wetland ordinance. We have nine months to make the changes. We need to adopt what we have and then at a subsequent time we can bring the other ones forward.
- **Motion to approve Resolution 19-13 a resolution adopting the 2040 Medicine Lake comprehensive plan update, a compilation of policy statements, goals, standards, and maps for guiding the overall development and redevelopment of the local governmental unit forwarded by Mayor Marks and seconded by Councilmember Garberg. With all in favor, the motion carried.**
- Mr. Scheib said there have been discussions with Plymouth about taking over our building inspections.

New Business

- Les Young reported everything is in order for the property casualty policy for October 1st.

- Les Young reported the City has a \$50,000 bond for embezzling money. An audit would be required to increase the amount.
- **Motion that the City of Medicine Lake does not waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04 forwarded by Mayor Marks and seconded by Councilmember Garberg. With all in favor, the motion carried.**
- Councilmember Garberg said the new house on Kaiser Avenue needs to be changed from 13 to 13 ½ Kaiser. Mr. Scheib will look into it.
- Mayor Marks will follow up on the Minnesota Department of Revenue request for construction and development fees.
- **Motion to approve the 2020 proposed budget in the amount of \$577,307 forwarded by Mayor Marks and seconded by Councilmember Heim. With all in favor, the motion carried.**
- **Motion to approve Resolution 18-14 2019 Proposed Levy Certification. Whereas, the following sums of money be raised by tax upon the taxable property in the City of Medicine Lake for the following purposes for the current year. Purpose is general revenue. Certified levy amount is \$527,907 with a total tax capacity based levy of \$527,907 forwarded by Mayor Marks and seconded by Councilmember Heim. With all in favor, the motion carried.**

Motion to adjourn forwarded by Mayor Marks and seconded by Councilmember Garberg. With all in favor, the motion carried at 9:27 p.m.

Respectfully submitted,

Nancy Pauly
City Clerk

Approved on October 7, 2019