

**CITY OF SHOREWOOD  
CITY COUNCIL REGULAR MEETING  
MONDAY, FEBRUARY 28, 2022**

**5755 COUNTRY CLUB ROAD  
COUNCIL CHAMBERS  
7:00 P.M.**

## **MINUTES**

### **1. CONVENE CITY COUNCIL REGULAR MEETING**

Mayor Labadie called the meeting to order at 7:01 P.M.

#### **A. Roll Call**

Present. Mayor Labadie; Councilmembers Johnson, Siakel, Gorham, and Callies; City Attorney Shepherd; City Administrator Lerud; City Clerk/HR Director Thone; Finance Director Rigdon; Planning Director Darling; Director of Public Works Brown; City Engineer Budde; and Kendra Lindahl, Planning Consultant

Absent: None

#### **B. Review Agenda**

**Gorham moved, Siakel seconded, approving the agenda, as presented.**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

### **2. CONSENT AGENDA**

Mayor Labadie reviewed the items on the Consent Agenda.

**Siakel moved, Gorham seconded, Approving the Motions Contained on the Consent Agenda and Adopting the Resolutions Therein.**

- A. City Council Work Session Minutes of February 14, 2022**
- B. City Council Regular Meeting Minutes of February 14, 2022**
- C. Approval of the Verified Claims List**
- D. Approve 2022 Concession Operation Agreement**
- E. Approve T-Mobile Lease Amendment East Tower, Adopting RESOLUTION NO. 22-020, "A Resolution Approving a First Amendment to Water Tower Space Agreement with T-Mobile Central, on the City's Water Tower located at 5500 Old Market Road."**
- F. Approve Hiring for Planning Technician Position**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

**3. MATTERS FROM THE FLOOR**

Mayor Labadie noted that she wanted to make sure everyone knew that agenda item 7C was a variance application made by her and her husband. She stated that she will turn the meeting over to Mayor Pro-tem Johnson for that item and will not be participating in any of the discussion, nor participating in the vote for that particular item.

Kristine Sanschagrin, 27725 Island View Road, explained that the activity locally and globally over the last few weeks has inspired her to remind the City Council of the truth and make sure residents have the facts. She stated that spreading disinformation causes division and mistrust. She explained that she and her husband along with their neighbors, legally purchased a tax forfeiture property which was forty feet of shoreline on Lake Minnetonka. She stated that a month after they installed their dock on that property, the City cited them with a code violation because permanent and floating docks were prohibited on empty lots. She stated that they appealed this decision because the City Code did not prohibit a seasonal dock. She noted that the City withdrew the citation and amended the Code to eliminate the modifiers 'permanent' and 'floating' so all docks are prohibited on empty lots. She stated that in 2017, the City cited them under the new Code and they filed an appeal under the prior Code language because they were grandfathered, however the City did not allow for discussion, mediation, or a variance request. She stated that after the City denied their appeal, the City charged them criminally, which were later dropped after the Supreme Court sent the case back to the District Court. The City at that time pursued civil litigation against them which they are now awaiting the decision from the Court of Appeals and noted that a decision is expected sometime in mid-March. The City has spent tens of thousands of dollars charging two families for putting a dock on a property where they had followed the Code. She stated that she would like to contrast her experience with that of Mayor Labadie's multiple Code violations for her dock. She outlined the process thus far for the variance request and noted that the City has received nine letters in opposition to the request, but none were made public prior to or during the recent Public Hearing on this item. She asked the Council why some citizens are treated differently than others when it comes to Code compliance and why they are allowing false information to be used as evidence of support for Mayor Labadie's variance request.

Councilmember Siakel noted that Matters from the Floor are intended for things that are not on tonight's agenda.

Councilmember Johnson agreed and noted that asked for guidance from City Attorney Shepherd. City Attorney Shepherd confirmed that Matters from the Floor are reserved for matters that are not on the agenda for tonight's meeting. He stated that as mentioned by Mayor Labadie, she is recusing herself from the discussion on item 7.C. and Councilmember Johnson will be serving as 'Chair' for that portion of the meeting and he can speak to whether or not further comment will be allowed.

Councilmember Johnson asked if the Council should wait on other comments until they get to that agenda item. Councilmember Siakel stated that she thinks the Council should move on and reiterated that Matters from the Floor is for discussion about things that are not on tonight's agenda.

**4. PUBLIC HEARING**

**5. REPORTS AND PRESENTATIONS**

**6. PARKS**

**A. Report by Commissioner Gallivan on February 8, 2022 Park Commission Meeting**

Park Commission Gallivan gave a brief overview of the February 8, 2022 Park Commission meeting as outlined in the minutes.

**7. PLANNING**

**A. Report by Commissioner Maddy on February 15, 2022 Planning Commission Meeting**

Planning Commission Chair Maddy gave a brief overview of the February 15, 2022 Planning Commission meeting as outlined in the minutes.

Councilmember Callies commended Planning Commission Chair Maddy for his handling of the meeting on February 15, 2022.

**B. Request for Time Extension to Correct Code Violations  
Location: 5885 Hillendale Road**

Planning Director Darling explained that this item was continued from the February 14, 2022 Council meeting to allow staff time to prepare a resolution approving the request for additional thirty days in order to correct Code violations.

**Callies moved, Siakel seconded, Adopting RESOLUTION NO. 22-014, "A Resolution Approving a Request for an Extension to Correct A Code Violation for Property Located at 5885 Hillendale Road."**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

**C. Variances for Dock  
Applicant: Jennifer and David Labadie  
Location: 5510 Howards Point Road**

Mayor Labadie reiterated that she would not be presiding over this matter or participating in any of the discussion. She explained that Mayor Pro-Tem Johnson would be handling this item until its conclusion and she will resume participating in the meeting with Agenda item #8.

Mayor Pro-Tem Johnson explained that as mentioned by Planning Commission Chair Maddy, the staff report will be presented by Planning Consultant, Kendra Lindahl and not City staff.

Kendra Lindahl explained that there are two variance requests for property located at 5510 Howards Point Road. The first is for a variance to allow a dock greater than four feet wide and the second is to allow the dock to branch out within eight feet of the Ordinary High Water (OHW) level. She made not of two typographic errors that have now been corrected that were included in the staff report. She reviewed photographs of the existing condition and a drawing of the dock configuration. She explained that the Planning Commission reviewed this at a public meeting on February 15, 2022 where nine residents spoke and were a mixture of those in support and those

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in opposition. She explained that written comments received before the meeting, were sent to the Commission and were entered into the record. She noted that the Planning Commission had voted 4-0 to recommend approval of the variance requests. She stated that notice of the request was sent to all property owners within five hundred feet of the property and explained that the City received fifteen letters and e-mails regarding this request. She noted that many of the comments were unrelated to the facts of the variance requests and explained that the Council must review the variance that is in front of them and no other options. She shared some background information regarding the dock which was installed on or before April of 1985. In 1989, the property owners at that time, not the applicants, obtained a MNDNR permit to dredge the channel to provide access to the upper lake. She noted that in 2000 the existing home was demolished and a new home was built, also not by the applicant. She stated that the current ordinance was adopted in 2006 and the property was purchased by the applicant in 2010. The applicants were notified of the dock violation in October of 2021. She stated that as a result of this notice, they submitted the variance requests that are being considered. Staff and the Planning Commission are recommending approval of the variance requests based on the findings in the attached resolution.

Councilmember Gorham stated that there seemed to be some confusion at the Planning Commission and in the application as to whether this was a 'grandfathering' administrative decision or a variance request. He stated that it is coming before the Council as a variance request and asked how that determination was made.

Ms. Lindahl explained that the applicants made an assertion in the application that it was a legal non-conforming structure, but that would have to be part of an administrative appeal and they missed that deadline. She stated that because they missed that deadline they chose to proceed with the variance requests which is a tool that can be used to resolve a Code enforcement complaint.

Councilmember Gorham asked how the deadline works. Ms. Lindahl stated that within the Code, there is a timeline in Section 104.03 that requires the applicant to submit an appeal under the 'grandfather' clause within a certain number of days. City Attorney Shepherd stated that he believes it is within fourteen days. Councilmember Gorham stated that the applicants had missed the deadline for the administrative appeal and asked if there was a decision made that they would be appealing.

Ms. Lindahl explained that to her knowledge, there was not, but noted that she was not involved at that time. She stated when she was brought on board, the appeal period had passed and it was proceeding as a variance application.

City Attorney Shepherd explained that the decision they would have been appealing was the Code violation and would have been related to the assertion that there was a lawful non-conforming use that would negate the Code violation. He stated that there are assertions of that included in the application, but the timeframe for an administrative appeal is shorter and the applicant missed the deadline to appeal so this was processed by staff as a variance application.

Mayor Pro-Tem Johnson stated that over the past week, he had communicated with City Administrator Lerud to ensure that all Councilmembers had the video of the Planning Commission meeting made available to them or had been present for the discussion. All council members indicated they had watched the meeting video or were present at the meeting. He stated that the

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Council will open this item up for public comments but asked that the comments be kept to specific to the variance request in front of the Council and that comments be kept to under three minutes.

Councilmember Callies stated that there has been a public hearing on this item and the entire Council has been able to watch the public hearing and have also read all the comments that are attached in the packet. She stated that she did not feel like the Council needed to take additional public input on this matter. She stated that she feels this matter has been thoroughly vetted.

Councilmember Siakel stated that she agreed with Councilmember Callies and would request that the Council not take additional public comment on this item. She stated that she cannot imagine that the comments will be much different than what has already been presented. She stated that this is an opportunity for the City Council to conduct the business of the Council. She stated that this item has had a Public Hearing and everyone was heard and given ample time to share their input. She stated that the entire Council has either had the opportunity to participate, sit in and listen, or watch the recording of the Public Hearing that was held at the Planning Commission meeting. She stated that she is not sure the Council will gain much more out of rehashing what has already been presented.

Councilmember Gorham stated that he thinks that normally that approach is a good way to proceed, but this item is ultra-sensitive. Councilmember Siakel stated that the Council should not be treating this any differently than they would for anybody else. She reiterated that they are here to conduct the business of the City Council and not to rehash things that have already been given and the community has had the opportunity to speak on this item already.

Councilmember Callies gave the example of the last Council meeting where they were considering Strawberry Lane, they did not take additional public comment because they had already had several meetings and this, to her, seems similar. Councilmember Gorham stated that he would disagree with that assertion.

Mayor Pro-Tem Johnson stated that the Council had one individual during the Matters from the Floor portion of the meeting and the Council indicated that he would be given the opportunity to speak during the agenda item. He stated that he would like to allow that individual to have a few minutes, if he had any new, pertinent, information to share with the Council, that they do not already have in the packet.

Councilmember Gorham stated that he feels the Strawberry Lane issue was beaten to death with multiple Public Hearings. He stated that he thinks that this feels like an important issue where the Council should hear from residents. Councilmembers Siakel and Callies stated that they disagreed.

City Attorney Shepherd stated that it is accurate that on a variance application, the Council does not need to allow public comment, nor is there a Public Hearing requirement within State statute at the Planning Commission level. He stated that the City Code allows for and requires public comment at the Planning Commission level. He stated that the Planning Commission took extensive public comment on this application which it appears that all of the Council has seen. He stated that with that said, as pointed out by Mayor Pro-Tem Johnson, an individual was told that he would be able to make comment later on the agenda and he would suggest that the Council at least give that individual the ability to make a quick comment on the record. He stated that the Council could then proceed with not taking any further public comments other than this individual which would be consistent with Code and State law.

Mayor Pro-Tem Johnson asked Councilmember Gorham if he would be comfortable with that approach. Councilmember Gorham stated that he would not be comfortable with that approach and stated that he believes there are people here to speak and he would not mind asking some follow up questions on their letters. He stated that even though the Council has the right to approach it that way, it does not make it a good idea.

Mayor Pro-Tem Johnson stated that what he does not want to have happen is just a complete rehash of the last meeting and noted that is not fair to the individuals who are waiting for the future agenda items.

Councilmember Siakel stated that she did not believe this individual was at the Planning Commission meeting, so she does not object to giving him the opportunity for input, but feels the rest would be redundant and their input has already been heard.

Mayor Pro-Tem Johnson asked that Mr. Greg Larson be given the opportunity to address the Council but asked him to keep his comments brief and specific to the variance requests in front of the Council.

Greg Larson, 25535 Orchard Circle, stated that he is neither for or against this variance request. He explained that he would argue that the City should not be in the lake ordinance business at all and would help the Council avoid a decision that will result in accusations of hypocrisy and favoritism. He stated that he is asking that these laws be rescinded. He noted that in 2016, Councilmember Callies gave well-reasoned arguments on why the City should scrap lake ordinances entirely, in a letter she wrote to the City. At the conclusions of the letter she stated, "The City's Zoning Ordinances stop at the shoreline." He noted that he believes that was good advice in 2016 and is good advice today. He stated that Mayor Labadie also seems to agree that these laws are unneeded and noted that the reasons behind the variance requests are so broad that they apply to every dock on the lake. He stated that an ordinance in which everybody is, by precedent, allowed a variance, is an ordinance that needs to be dumped. He stated that if the purpose of the law is to protect the lake from the incursion of docks, he felt that cow left the barn years ago. He stated that tossing these ordinances will not leave the lake unprotected because the Lake Minnetonka Conservation District is charged by the legislature for regulating the lake and they have a reputation of fairness and also has technical expertise and resources to do so. He stated that he believes dumping lake and dock ordinances will save the City money and explained that the City has spent over \$100,000 on legal fees associated with prosecuting a family for an alleged violations that is no more serious than this violation. He reiterated his request that the City ditch these laws and devote the City's resources to doing real City business such as plowing snow, fixing pot holes, and enforcing speeding or reckless driving laws. He stated that it appears as though the City is on one-hand spending more than \$100,000 to enforce this law on one family and twisting themselves in knots in an attempt to justify a variance for someone else. He stated that if the inconsistencies cannot be explained, he feels that makes his case. He stated that the best argument for scuttling this unneeded law is that nobody cares if a dock is three feet or four feet wide and noted that there are probably very few individuals who know about the law and more than a few are likely in violation of it. He asked why it was okay for the City to waste time and money for laws that nobody cares about, do not contribute to the common good, are expensive to regulate, and unfairly enforced.

Mayor Pro-Tem Johnson reiterated that he had asked that comments be kept very specific to the variance requests before the Council and asked that the conversation come back to the Council.

Councilmember Callies stated that the letter referenced by Mr. Larson, was one she wrote as an individual in 2016, and is completely unrelated and irrelevant to the current situation. She stated that she does not know the individual who presented the letter and if they had looked into this further, they would see that she, in fact, lost that argument. She clarified that although she is an attorney, the letter referenced by Mr. Larson was not advice, nor was the letter written on official attorney letterhead.

Councilmember Gorham explained that one of the reasons he had asked a question in the beginning of this discussion was because there is a lot of noise in the application about the 'grandfathering' status of the dock. He stated that he did not think any of that really mattered and wanted to focus the discussion on the variance requests in order to eliminate all the noise. He stated that he would like to understand a bit more about the hardship of moving the dock out and does not understand the hardship of the width of the middle section. He stated that it does not appear as though the minimum is being done.

City Attorney Shepherd stated that the standard for the variance is 'practical difficulty' and not 'undue hardship', which was a previous standard that is no longer in place. He stated that references to undue hardship are not applicable. Councilmember Gorham confirmed that a practical difficulty cannot be an economic hurdle. City Attorney Shepherd agreed that the practical difficulty cannot be primarily economic.

Mayor Pro-Tem Johnson explained that, in this case, extending the dock would go into substandard soils and would extend into the dredged area that allows other residents to get their boats in and out of the lagoon. Councilmember Gorham asked where the dredged area was located. Councilmember Siakel stated that the dredged area is in the center of the lagoon.

Councilmember Gorham asked why the applicant would not just move the sides that are in violation up further. Ms. Lindahl explained that the information from the dock experts that was provided by the applicant is that the location of the slips that are near the shoreline is located there due to the soft shoreline and shifting those back in order to meet the setback from OHW, will require it to be shifted into unstable soils which would make the dock unsafe.

Jennifer Labadie, applicant, stated that she thinks the substandard soils are described thoroughly in the affidavits that were attached to the staff report. She stated that these were submitted by two dock experts who have decades of experience in the dock installation and removal industry who both stated that, in their opinion, moving the dock backwards would potentially compromise the stability and safety of the dock. She stated that they have relied on their expertise and explained that they had installed and done repair work. She explained that this dock is not one that a regular person could install, remove, or perform repair work on and noted that a crane and a barge would be required.

Councilmember Callies stated that one of the issues that has come up is the question of whether this request is unusual other than that the applicant happens to be the Mayor of the City. She stated that the issue of a variance being applied for in response to an enforcement action she does not believe is all that unusual and asked for input on that from staff and Planning Commission Chair Maddy.

Ms. Lindahl stated that this is correct. She noted that she has been a planner for thirty years in a number of cities and it is very common to apply for a variance to try to resolve a code issue. She

stated that she cannot speak specifically to how frequently it has been done in Shorewood, but can state that it is a tool that is very frequently used in other cities.

Planning Commission Chair Maddy stated that nine years ago, the Planning Commission did not give many variances because they were under the 'undue hardship' State laws and not practical difficulties. He stated that since that time, it has been changed and they have recommended more variances for situations like this. He gave the example of a variance that was granted for the home being too narrow according to the Code, but it made sense to allow it for the same reasons in this case, because it is a unique situation.

Councilmember Siakel agreed that the City has given variances and does not see why the Council would deny this request. She stated that if you look at most of the people who spoke on this issue at the Public Hearing as well as the individual who spoke tonight, very few of their comments pertained to the issue at hand. She stated that most of the comments have been philosophical, emotional, personal, and to a certain degree, been kind of nasty. She stated that many of the comments are about other issues that are completely unrelated to the question in front of the Council which is whether this request meets the practical difficulty to issue a variance. She stated that the soils are unstable in the lagoon area, there is a dredged channel, and they would have to take the dock out into a dredged channel which would impede traffic for everyone else in the area. She stated that this issue has become emotional, personal, and appears to be retaliation from people who did not get their way on a different issue. She stated that if the Council is truly looking at the facts at hand and the request, she does not see how the Council would deny it because it meets the State statute of practical difficulty. She suggested that the Council remove the emotion from the question that is in front of them. She stated that she believes this requests meets the State statute of practical difficulty.

Councilmember Callies stated that she agreed and this is talking about use of the property in a reasonable manner. She stated that she feels it would be ridiculous to say that the dock has to be removed or that they cannot have a dock there. She stated that the criteria for approving the variance have been satisfied in this case, based on her review of all of the information that has been provided.

Councilmember Gorham stated that it seems like there could be a practical difficulty in this situation, but for him, it is a bit unclear as to the nature of the soils and where they are within the dock area. He stated that he would like to hear from the experts on this issue and reiterated that it does not appear that the minimum has been done.

**Siakel moved, Callies seconded, Adopting RESOLUTION NO. 22-021, "A Resolution Approving Variances for an Existing Dock on Property Located at 5510 Howards Point Road."**

**Roll Call Vote:** Johnson, Siakel, Callies, voted Aye. Gorham voted Nay. Labadie abstained. **Motion passed 3-1-1.**

## **8. ENGINEERING/PUBLIC WORKS**

### **A. Strawberry Lane: Final Design Direction, City Project 19-05**

Mayor Labadie returned to the meeting.



City Engineer Budde gave a presentation regarding the final design direction for Strawberry Lane. He gave a brief overview of the timeline of activity related to this project and noted that during the in-person Open House meeting in November of 2021, there was consensus for a need of a six-foot wide sidewalk against the eastern curb, minimizing impacts to yards and trees by reducing the proposed street width by two feet. He noted that staff is still recommending the twenty-six foot road width, and shifting the alignment on the south end. He noted that through the months of March and April, staff will try to negotiate for the easements in order to shift the alignment and plan to return to the May 9, 2022 Council meeting if they are unable to come to a reasonable negotiation which would require direction from Council on pursuit of the other alignment, going through condemnation, or to adjust the project schedule. He gave an overview of the properties affected by the alignment and the difference between a roadway easement and drainage and utility easements. He noted that the City would like to acquire some roadway easement as a kind of sight triangle to allow for the curve radius of the roadway at the south end of Strawberry, but there are other areas along this section where a drainage and utility easement could be acquired rather a roadway easement. He explained that there are two properties that he will need to negotiate easements and noted that he has reached out to one who seems to be willing to discuss the issue. He noted that for the other property, he has been able to speak to some of the property owner's grandchildren, but not the property owner. He noted that Alternate 1 and Alternate 2 would require an easement and if they were unwilling to negotiate could eventually lead to condemnation. He noted that in addition to the properties he has mentioned on the south side, there are other properties that the City has to pursue easements and could also potentially end in condemnation. He stated that staff is recommending proceeding with pursuit of the six foot wide sidewalk, a twenty-six foot wide roadway with curb and gutter, and with Alternate 2, which is the western alignment on the south end and plan to update the Council at their May 9, 2022 meeting for final direction. He stated that the resolution was not worded as precisely as he would like and suggested a language change, deleting the last sentence of the last 'whereas' and the final 'whereas' would be to state it that if condemnation is required, staff shall provide an update on the final alignment of the area south of Lake Minnetonka Trail by May 9, 2022.

Councilmember Callies asked if pursuing the drainage and utility easements rather than roadway easements was adequate and if it was a good idea. City Engineer Budde stated that it is a compromise and is to minimize as much of the impact as possible for the property owners. He stated that it is in the best interest of the City to acquire some permanent easement and a drainage and utility easement would satisfy that need from the City. He stated that if something permanent is not done, the City would still need temporary easements or right of entry from those property owners in order to be able to construct the project.

Councilmember Callies stated that it is unfortunate because that option, it kind of pits neighbor against neighbor and noted that in order to complete this project, the City will have to acquire easements. Councilmember Siakel thanked City Engineer Budde for coming back with more information for the Council. She noted that she is comfortable with what has been presented.

Councilmember Johnson stated that his only concern is whether the Council is leaving themselves enough time and does not want the City to paint itself into the proverbial corner. Councilmember Siakel stated that was how she felt in the past, but is at the point now where she thinks the Council needs to put some trust in staff to go out and get the details done in order to pull it all together

City Engineer Budde explained that what he is trying to do is set things up so there could be tree removal done in the fall of 2022 along with some utility relocations so that when construction

season starts in 2023, the City will be able to really make progress and get this project done by the start of school.

The Council discussed the adjusted resolution language and potential other adjustments so they do not absolutely commit to the western alignment.

City Engineer Budde stated that his understanding is that the Council is directing him to pursue the western alignment up to the point where things would have to move to condemnation. He explained that if it gets to that point, he will come back before the Council to discuss the options, including pursuit of condemnation, moving forward with the eastern alignment, or changing the project schedule.

**Siakel moved, Johnson seconded, Adopting RESOLUTION NO. 22-022, “A Resolution Providing Final Design Direction for Strawberry Lane, City Project 19-05, with the adjustments as recommended by City Engineer Budde.”**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

**B. Birch Bluff Road: Draft Scoping Document and Communication Plan, City Project 21-01**

City Engineer Budde gave an update on the Birch Bluff Road project and reviewed the project timeline activities. He noted that the drainage is fairly challenging in this area and gave an overview on the storm sewer, ponding, watermain, street reconstruction, and possible sidewalk/trail plans. He reviewed the next steps of holding a public informational meeting in mid-March or early April and noted that he is also happy to meet with any residents who would like to discuss the project. He stated that ideally staff will be back in front of the Council to finalize the scoping document in April, with final design approval in mid to late April. He stated that staff has created a document that helps track the project process and decision chart and their intent is to help manage expectations on the decision timeframes for staff, Council, and residents. He stated that it also shares what information they know and what information they do not know and identifies when resident engagement is most effective.

Councilmember Gorham asked what the current street width is for Birch Bluff Road. City Engineer Budde explained that it is rural and is about twenty-two to twenty-four feet wide. Councilmember Gorham asked why staff was recommending twenty-six feet in this case. City Engineer Budde stated that it is being recommended for many of the same reasons as they are for Strawberry Lane. He gave examples of trying to provide fire and emergency access, that twenty-six feet is the current standard for road width, allows a balance and some on-street parking.

Councilmember Siakel stated that City Engineer Budde has been very active in engaging residents in beginning to talk about this project. She stated that she lives on this street and welcomes these proposed improvements. She stated that a number of her neighbors are in favor of City water and the improvements that come along with it. She asked if there were areas of Birch Bluff where the road may have to be narrower than twenty-six feet because of the topography and geographical constraints.

City Engineer Budde stated that meeting status will be discussed later on tonight's agenda, on whether this meeting would be an in-person event or virtual.

Mayor Labadie asked if City Engineer Budde preferred how the Open House meetings are to be held and if either way has a benefit or drawback. City Engineer Budde stated that he felt that the face-to-face meetings help residents engage with each other a bit better and is more neighborhood building. He noted that it also seems to help create a consensus by having people in the room talking to their neighbors. Councilmember Johnson stated that he felt the comments coming out of the in person meeting versus the virtual meeting were much more positive.

Mayor Labadie suggested that the Council table this decision and bring it back for discussion after item 9.C.

**Labadie moved, Siakel seconded to table Agenda Item #8.B. with the intent to discuss it later in the meeting following item #9.C.**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed**

**C. Approve Plans for Lift Stations 7, 9, and 10 and Authorize Advertisement for Bids, City Projects 20-12 and 21-08**

Public Works Director Brown explained that the City has three lift stations that are being combined this year to be bid. He explained that the pandemic caused the City to postpone work on Lift Stations 10 and 7. He stated that because they were postponed, they ended up incorporating them into the 2022 Capital Improvement Program. He gave a brief overview of the locations of Lift Stations 7, 9, and 10 and explained the function of a Lift Station. He noted that the City had received bids in July of 2021 for Lift Stations 7 and 10, however, they were rejected because they appeared to be inflated. He stated that the plans and specifications have already been approved for Lift Stations 7 and 10, so only Lift Station 9 needs that approval.

**Siakel moved, Labadie seconded, Adopting RESOLUTION NO. 22-023, "A Resolution Approving Plans and Specifications and Authorize Bidding for the Lift Stations 7, 9, and 10 Rehabilitation Project, City Projects 20-12 and 21-08."**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed**

**9. GENERAL/NEW BUSINESS**

**A. Accept Quote for Integrated Pest Management Plan**

City Administrator Lerud explained that at the conclusion of the January 24, 2022 work session, the Council directed staff to contact firms to assist the City in development of an Integrated Pest Management Plan. He explained that staff put together an RFQ and sent it out to nine entities and the City received three quotes. Staff is recommending that the City accept the quote and alternate quote from IPM Institute and noted that if approved, staff will bring back a contract for consideration at a future meeting.

Councilmember Gorham explained that one of the things he liked about the quote from Bolton and Menk was the training that they included and they appeared to know the City the best. He stated that if the City accepted IPM, he asked how much training there will be. He stated that he believes the critical piece in making this successful is the relationship with the consultant and Public Works.

City Administrator Lerud explained that part of their proposal is that they will come to the City and do an audit of all of our sites. He stated that each site will be graded and from that information they will bring recommendations. He stated that he has confidence that both Davey Resource Group and Bolton and Menk could also do the work but staff felt that since they work with the City in other capacities they wanted to keep this separate from those duties.

Councilmember Gorham asked if IPM would continually be reporting back to the City. He explained that he wants to make sure that seven years from now the City does not have another letter saying that this was never really implemented. He stated that he does not want to have a report with no follow up. City Administrator Lerud assured Councilmember Gorham that there will be follow up and it is part of the program and noted that he will handle things from the City side.

Councilmember Callies stated that one of the things she thought was interesting from the IPM report was the discussion of the City's goals in terms of pesticide reduction and considering the trade-offs and costs. She stated that she thinks this is a balanced approach to achievable goals and best management practices.

City Administrator Lerud stated that the long-term emphasis is to minimize and, if possible, eliminate the use of systemics or other pesticides.

**Callies moved, Johnson seconded, Accepting the quote from IPM Institute for an Integrated Pest Management Program and direct staff to bring back and agreement to a future Council meeting.**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

Mayor Labadie reminded the Council that the best practices for pollinators workshop runs March 1-3, 2022. She noted that she is planning to attend and can give updates for those that are unable to attend.

## **B. COVID Testing Policy**

City Administrator Lerud explained that earlier this year, the Council directed that a COVID testing policy be brought to this meeting for Council consideration. He explained that the policy included in the packet was drafted after reviewing similar policies from several larger organizations. He gave an overview of the policy and noted that, at this time, staff is recommending against adopting the policy. He stated that there are few, if any, cities that are the size of Shorewood who have a testing policy in place and many that have been adopted in larger cities have expired.

Councilmember Callies stated that she would be in favor of a vaccination requirement as opposed to a testing policy. She stated that she understands the issues that were raised in the memo, but in her mind, the vaccine is the first step in terms of this, and felt that this was coming a little late. She stated that she is concerned about how quickly the City would be able to act if the situation were to change. She stated that she does not really see a point in doing anything right now.

Councilmember Siakel stated that she agreed with Councilmember Callies and agreed that this feels a little late. City Administrator Lerud asked the Council if they would like staff to come back with a policy that states this so the Council can be ready to adopt it should things change, rather than doing nothing.

***There was consensus of the Council to direct staff to bring back the policy so they are ready if the situation changes, so it can be implemented more quickly, if needed in the future.***

**C. Review Status of Meetings**

City Administrator Lerud stated that at the January 10, 2022 meeting the Council adopted a resolution which called for meetings in the City to be held virtually in response to the COVID-10 Omicron variant. He explained that resolution will expire on February 28, 2022 if the Council takes no further action. He stated that staff is recommending that the Council adopt version two of the proposed resolution that extends virtual meetings to March 5, 2022.

Councilmember Siakel stated that she would be in favor of leaving virtual meetings in place through the month of March and move to in-person meetings beginning in April. Mayor Labadie stated that she is anxious to get back to in-person meetings. Councilmember Gorham stated that he feels the meetings are more effective in person but would support beginning them in April.

Councilmember Siakel suggested that the Council just say that anything that takes place after April 1, 2022 takes place in-person. City Administrator Lerud stated that if this is what the Council would like to do, they would be adopting the second resolution but changing the date from March 5, 2022 to April 1, 2022.

**Siakel moved, Johnson seconded, Adopting RESOLUTION NO. 22-024, "A Resolution Resuming In-Person Meetings of the City Council and Advisory Commission, with the effective date changed, as discussed to April 1, 2022"**

City Attorney Shepherd noted that there are two versions of the resolution that were included in the packet and suggested that the Council adopt the first version with the date change, as discussed.

**Amended motion by Siakel, seconded by Johnson, Adopting RESOLUTION NO. 22-024, "A Resolution Acknowledging the Omicron Variant Surge of the COVID-19 Health Pandemic Impacting In-Person Meetings of the City Council and Advisory Commission, with the effective date amended to April 1, 2022."**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

**Item #8.B. Birch Bluff Road: Draft Scoping Document and Communication Plan, City Project 21-01 – continued....**

Mayor Labadie noted that if the City wants to hold an Open House they now need to respect the motion that was just made to begin in-person meetings starting April 1, 2022. She stated that it could be held virtually earlier than that, but City Engineer Budde has stated that, in his opinion, Open House meetings are more effective when done in-person.

**There was consensus to hold the Birch Bluff Open House on April 6, 2022.**

Councilmember Callies stated that at the retreat, the Council had talked about putting signage up on project areas and asked if the City was still thinking about doing that. Public Works Director

Brown stated that he and City Engineer Budde have been talking about those signs and once the frost is out of the ground, they will be come back with signs for Council approval which will be put up for several upcoming projects. He stated that the Council should see a draft sign at their next meeting.

## **10. STAFF AND COUNCIL REPORTS**

### **A. Administrator and Staff**

Public Works Director Brown stated they are ready to place an order for the reviewed City signs that shows the census numbers. He stated that they have talked about going back to the standard signs that are seen in most communities that have the name of the city and the population. He reviewed the locations throughout the City where these signs will be placed. He reiterated that they are getting ready to make the order and asked if the Council had any opinion on the removal of the tag line. He stated that the City has opted to follow the State guidelines for the seasonal weight restrictions and noted that the weight restriction map is posted on-line.

City Engineer Budde stated that the City has heard back from the Army Corps of Engineers on the Smithtown Pond project and have essentially permitted the project, which means that project will be coming before the Council sometime in the next month.

City Clerk/HR Director Thone stated that the Council had tabled item 8.B. and continued, however the Council did not make another motion on that item and asked City Attorney Shepherd if a motion would be required.

City Attorney Shepherd stated that a motion was not required because it was a consensus matter regarding setting a date.

City Clerk/HR Director Thone stated that they are in the final stages of redistricting and have submitted the proposed plan to the County which will come before the Council on March 14, 2022. She stated the legislative district was split so there is now 45A and 45B which will require the City to make a precinct for 45B. She stated that they are also proposing to decrease from four precincts to three precincts.

### **B. Mayor and City Council**

Councilmember Gorham noted that he is planning to attend the pollinators workshop virtually. He congratulated the Minnetonka Girls Hockey Team for finishing second place in the State tournament.

Councilmember Johnson congratulated the Minnetonka Men's and Women's Alpine Skiing Teams because they both won the State tournament.

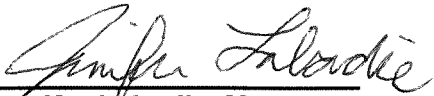
## **11. ADJOURN**

**Gorham moved, Johnson seconded, Adjourning the City Council Regular Meeting of February 28, 2022, at 9:21 P.M.**

**Roll Call Vote:** Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

ATTEST:

  
\_\_\_\_\_  
Sandie Thone, City Clerk

  
\_\_\_\_\_  
Jennifer Labadie, Mayor