

MINUTES

1. CONVENE CITY COUNCIL REGULAR MEETING

Mayor Labadie called the meeting to order at 7:00 P.M.

The Council recited the Pledge of Allegiance.

A. Roll Call

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

Absent: None

B. Review Agenda

Callies moved, Siakel seconded, approving the agenda as presented. All in favor, motion passed.

2. CONSENT AGENDA

Mayor Labadie reviewed the items on the Consent Agenda.

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

- A. City Council Work Session Minutes Meeting Minutes of March 14, 2022**
- B. City Council Regular Meeting Minutes of March 14, 2022**
- C. City Council Special Meeting Minutes of March 23, 2022**
- D. Approval of the Verified Claims List**
- E. Authorize Professional Service Agreement with MNSPECT, Adopting RESOLUTION NO. 22-030, "A Resolution Authorizing Execution of a Professional Service Agreement with MNSPECT."**
- F. Approve Hire of LEO, Public Works**
- G. Notification of the 2022 Open Book Meeting**
- H. Accept City Administrator Resignation**

- I. **Accept Proposal for Safety Consultation Services from SafeAssure, Adopting RESOLUTION NO. 22-031, "A Resolution Accepting the Proposal for Safety Consultation Services by SafeAssure Consultants, Inc."**

All in favor, motion passed.

3. MATTERS FROM THE FLOOR

Alan Yelsey, 26335 Peach Circle expressed his various concerns with the Smithtown Ponds project, access to meetings via Zoom, and the proposed amendments to the sign ordinance.

Councilmember Callies noted that she would like to respond to a few things stated by Mr. Yelsey. Mayor Labadie suggested that the response be very limited since this is Matters from the Floor.

Councilmember Callies stated that one of things she would like to comment on is in relation to Zoom and Mr. Yelsey's comment that he was 'denied' access. She stated that similar to tonight when there were initially technical difficulties, that situation would apply to everyone and not just Mr. Yelsey. She stated that she also finds it interesting that Mr. Yelsey is concerned about Zoom for City meetings when they were both in attendance at a very large convention this week where there was not Zoom capabilities and he did not seem to have any problem attending that meeting in close proximity with about two-hundred fifty other people. She noted that at tonight's City Council meeting, there are only two other individuals in the audience besides City staff members and yet Mr. Yelsey appears to be suggesting that the City is violating his rights to attend meetings. She stated that she feels it is audacious of Mr. Yelsey to be bringing that type of claim against the City when he has no qualms about attending other types of meetings.

Greg Larson, 25535 Orchard Circle, expressed concern about the lack of analysis, data, cost, engineering firms profiting from the project, and the necessity of the Smithtown Ponds project. He urged the Council to pause this project until an independent body can do a cost-benefit analysis of the project.

Councilmember Siakel stated that she would like to comment briefly on this issue. She stated that Bolton and Menk came on board long after this project had begun. She stated that implying that they have a direct benefit or will prosper from this project is false. She noted that the City has had four engineering firms involved in this project in addition to the watershed district and the Army Corps of Engineers.

Mr. Larson stated that the watershed district did not look at this project from a cost-benefit analysis point of view, but only from a technical standard that it would not cause water issue problems downstream.

Councilmember Siakel explained that she was replying to Mr. Larson's specific point that implied that Bolton and Menk had a financial interest in this project. She stated that she had corrected Mr. Larson on that point and explained that there have been four engineering firms involved and Bolton and Menk was not the engineering firm of record when this project was started. She stated that Mr. Larson's statement that they have a vested interest is not accurate.

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Mr. Larson clarified that he is looking for a cost-benefit statement about the project. Mayor Labadie asked that Mr. Larson feel free to contact City Engineer Budde if he has any specific questions about the project.

Chris Rotunno, 5525 Howards Point Road, expressed his frustration with the repeated attempts by certain residents to come and counter anything the City is doing. He noted that he appreciated that Councilmembers Callies and Siakel were able to correct some of the incorrect statements that were made tonight by the two individuals who spoke this evening. He stated that allowing these individuals to say the same thing week after week is wasting everyone's time and requested that they not be continued to allow time on the floor to speak.

Mayor Labadie stated that this City Council meeting is a regular business meeting and demonstrations such as holding signs up, clapping, and cheering are inappropriate behavior in this setting because they disrupt the meeting and are an attempt at intimidation. She explained that she would like to respectfully request that people refrain from that type of behavior.

Guy Sanschagrín, 27725 Island View Road, shared his agreement with the statements made by Mr. Yelsey and Mr. Larson regarding the Smithtown Ponds project and the wisdom of getting a second opinion on such a large expenditure. He expressed disappointment regarding how the recent appellate court case findings had been communicated and asked that the City work with them to explain what happened in a factual way and everyone can learn from their mistakes. He expressed his willingness to serve on a resident task force in order to review the code and identify areas that lack clarity.

4. PUBLIC HEARING

5. REPORTS AND PRESENTATIONS

6. PARKS

A. Approve Food Trucks for Tonka Football Events

Planning Director Darling explained the request from Tonka Youth Football for a special event permit to have a food truck at Badger Park on Saturdays from August 27, 2022 through October 31, 2022 from 9:30 a.m. to 9:00 p.m. She noted that the food truck would take up about two parking spaces and clean up of the site will be the responsibility of the food trucks and Tonka Youth Football. Staff recommend approval subject to the conditions listed in the staff report.

Mayor Labadie noted that the application for this special event permit indicated that they are planning to serve non-alcoholic drinks during the games.

Councilmember Callies noted that the resolution language indicates that the applicant is responsible for certain things and asked if the anticipation was that there would be a subsequent agreement that indicates the things noted about indemnity and their agreement to pick up the site. Planning Director Darling stated that they had not been planning to have a separate agreement, but could put one together if that would be the Council's preference.

City Attorney Shepherd stated that the resolution is one sided with just the City adopting it and would recommend the Council add an additional condition that staff will draw up this agreement, as suggested by Councilmember Callies.

Callies moved, Siakel seconded, Adopting RESOLUTION NO. 22-032, “A Resolution Approving a Food Truck for Minnetonka Youth Football Events, as amended adding a condition regarding drafting an agreement.” All in favor, motion passed.

B. Approve Estimate for Christmas Lake Boat Landing Improvements

City Engineer Budde explained that the City had been working with the Christmas Lake Homeowners Association on making improvements to the landing area and noted that earlier this year, the City approved relocating the invasive species boat cleaning equipment to create an additional parking stall. He explained that during the project design there was an additional request to add riprap at the bottom of the boat ramp as erosion and soil displacement has occurred in that area. The City received three quotes with the low quote being from Valley Paving out of Shakopee and noted that the goal is to have this work completed by May 6, 2022 just prior to the fishing season opener, but in order to do this the City would have to waive the weight restrictions on a few local roadways. The project was originally funded from the Park Improvements Fund for \$20,000, however the riprap improvements were not included in the estimate so the additional scope of riprap now has the project estimated at \$66,000. Staff is proposing to reallocate funds from the Freeman Park trail resurfacing project and award the project to Valley Paving as the low bidder.

Gorham moved, Johnson seconded, Adopting RESOLUTION NO. 22-033, “A Resolution to Award the Christmas Lake Boat Landing Improvements to the Low Quote, City Project 22-05.” All in favor, motion passed.

C. Accept Bids and Award Contract for Silverwood Park Improvements, City Project 21-05

City Engineer Budde explained that as the City has completed improvements to the Silverwood Park playground, there are additional site improvements that need to occur prior to final installation of the remaining equipment. He stated that the City has received three quotes with the lowest from Blackstone Contractors out of Loretto and noted that it was about \$4,000 above the estimate which are due to inflationary and supply chain pressures. He noted that the City had originally budgeted for this project at \$265,000 and the overall project cost is currently estimated at \$300,200 and explained that the City had received a grant which brings the City cost down to \$275,200. Staff recommends awarding the contract to the low quote from Blackstone Contractors.

Councilmember Callies asked for details of the grant the City had received. Planning Director Darling stated that the grant was through Hennepin County for youth sports. Councilmember Gorham commended staff for going down every avenue in a way to reconfigure this project and keep costs down.

Johnson moved, Callies seconded, Adopting RESOLUTION NO. 22-034, “A Resolution to Award Contract to Low Quote for Silverwood Park Improvements, City Project 21-05.” All in favor, motion passed.

7. PLANNING

A. Urban Farm Animals Ordinance Amendments

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Planning Director Darling stated that last September, the Council adopted standards for urban farm animals but had asked staff to research additional standards that may reduce the negative impacts on neighborhoods. The Planning Commission held a public hearing on the proposed amendments and recommended approval subject to minor grammatical changes and to the setbacks for urban farm bird shelters or enclosures. She gave a brief overview of the proposed amendments recommended for approval by staff and the Planning Commission.

Siakel moved, Johnson seconded, Approving Ordinance 587 and Adopting RESOLUTION NO. 22-035, “A Resolution Approving the Publication of Ordinance 587 Regarding City Code Ordinance Amendments Related to Urban Farm Animals.” All in favor, motion passed.

8. ENGINEERING/PUBLIC WORKS

A. Stream Restoration Project

Location: 26245 Smithtown Road and Freeman Park

City Engineer Budde explained that during the design and permitting of the Smithtown Pond project, the Army Corps of Engineers claimed jurisdiction of the adjacent stream channel. He noted that while this claim delayed the permitting process, it may have also created an opportunity for the City. He stated that the Army Corps of Engineers have recently started enforcing a federal law under the Clean Water Act that looks at streams the way they have been looking at wetlands and gave a brief explanation of how wetland bank credits has worked and how streambank credits could work. He stated that staff thinks it may be possible that this project could produce streambank credits but they won't know until they begin the conversation with the Army Corps of Engineers to see if it may be a good fit. He stated that this would be a long term project for construction and permitting, but staff feels that there is a potential for profit if this goes through. He explained that the City had budgeted \$500,000 to begin scoping the project and staff is requesting authorization to progress with steps one and two of the process.

Councilmember Gorham stated that he has heard of wetland bank credits but not for streams. He stated that his general understanding is that the credit program is supposed to motivate cities to upgrade their stream bank. He asked if the entities that would want to buy credits from the City would have to be local. City Engineer Budde stated that was the correct understanding of the program and noted that typically they like to stay as close as possible in proximity with the banking credits, but some of those details are yet to be figured out.

Councilmember Siakel asked for a brief explanation of the benefits to the community and why they should proceed. City Engineer Budde stated that it would take a stream that is a low quality stream and make it a high quality stream that addresses the ecological aspects, creates a lot of habitat for many different species, and provides an amenity to the City long-term. He stated that there could also be an educational component and have placards along the stream to help teach about stream restoration. He explained that the Army Corps of Engineers would require a conservation easement over the stream channel.

Councilmember Callies asked questions about the potential revenue this may create and noted that it was also possible that there would not be a market for this banking.

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City Engineer Budde explained details of the potential revenue and noted that staff is not pushing this idea, but did see it as an opportunity because they want the City to make a good economical decision in this situation.

Gorham moved, Johnson seconded, Adopting RESOLUTION NO. 22-036, “A Resolution to Begin Scoping a Stream Restoration Project in Smithtown Ponds and Freeman Park Parcels.” All in favor, motion passed.

**B. MOU on Stream Restoration Project
Location: 26115 Smithtown Lane**

City Engineer Budde explained that this item is directly related to the previous item regarding scoping a stream restoration project. He explained the location of the stream in reference to the abutting property and their existing garage. He noted that in order to provide maximum flexibility for the City they would potentially need to encroach onto this property in order to pull the stream channel fully onto City property which in addition to preventing the stream from causing any problems to his garage, the City could then protect the stream with a conservation easement. He stated that he had reached out to the property owner who is looking to do some site improvements. He explained that he saw this as an opportunity for the City to ask for a five year temporary construction easement in exchange for completing the Storm Water Management Plan, some of which has already been completed as part of the Smithtown Pond design. Staff recommends approval of the MOU.

Johnson moved, Callies seconded, Adopting RESOLUTION NO. 22-037, “A Resolution for a Memo of Understanding with Property Owner of 26115 Smithtown Lane.”

Mayor Labadie noted one additional grammatical change necessary in the first ‘whereas’ statement.

Johnson amended his motion to include the change, Callies seconded, Adopting RESOLUTION NO. 22-037, “A Resolution for a Memo of Understanding with Property Owner of 26115 Smithtown Lane, as amended.” All in favor, motion passed.

C. Lift Station Rehabilitation Bid Award

City Engineer Budde stated that at the February 28, 2022 Council meeting, staff presented the final specifications and plans for the Lift Stations #7, #9 and #10 rehabilitation project. He noted that bids were opened on April 5, 2022 with the low bid submitted by R&R Excavating from Hutchinson. He explained that there will need to be some cultural resource monitoring at Lift Station #7 because of the proximity of some culturally sensitive items, including an Indian burial mound. He noted that there is about a \$300,000 short fall in what was budgeted for this project and the actual costs.

Public Works Director Brown noted that there are adequate funds available in the Sanitary Sewer Fund to make up the difference.

Councilmember Gorham asked what the first bids had come in at. Public Works Director Brown stated that they were roughly about 35% over what was estimated. He gave an overview of the bid climate at the moment with the uncertainty of supplies and noted that some vendors are stating that they will only hold prices for one day. He stated that it is a gamble and noted that there are

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some projects that will not be done because they just cannot get the materials needed. He stated that this type of increase is not unreasonable in this type of bidding climate. Councilmember Gorham stated that to only come in 4% over the estimate, in this climate, is great news.

Siakel moved, Labadie seconded, Adopting RESOLUTION NO. 22-038, “A Resolution to Award Contract for the Lift Stations 7, 9, and 10 Rehabilitation Project, City Projects 20-12 and 21-08.” All in favor, motion passed.

D. Public Works Mutual Aid and Equipment Sharing Agreements

Public Works Director Brown gave an overview of the proposed mutual aid and equipment sharing agreements between Public Works agencies. He noted that it is similar to the mutual aid agreements that exist with fire departments across the State and reviewed the advantages and disadvantages of having mutual aid agreements. Staff is recommending approval.

Emergency Management Coordinator, Chief Tholen gave an overview of the security fencing situation that arose with the civil unrest in the past when law enforcement agencies were being targeted. He stressed the importance of having the mutual aid agreement in place so they can get the necessary fencing in place within twenty-four hours. He stated that there is a different environment these days where there is the need to work across borders in both law enforcement and public works, so he is in full support of entering into these agreements.

Johnson moved, Callies seconded, Adopting RESOLUTION NO. 22-039, “A Resolution Approving the Public Works Mutual Aid Agreement and Equipment Loan Form of Agreement.” All in favor, motion passed.

9. GENERAL/NEW BUSINESS

10. STAFF AND COUNCIL REPORTS

A. Administrator and Staff

1. Shorewood Licensed Refuse Haulers

City Clerk/HR Director Thone noted that there has been a lot going on with the City’s refuse haulers and explained that the City had been receiving a lot of calls, so staff thought it would be a good time to provide an update on the City’s licensed refuse haulers. She reviewed the five current licensed haulers: Waste Management; Republic Services; Randy’s Sanitation, A Republic Services Company; Republic Services (former Blackowiak); and Curbside Waste. She noted that all the pertinent information regarding haulers is located on the City’s website if residents have any questions.

Other

Public Works Director Brown stated they have not forgotten about signage for up and coming roadway projects and will be bringing that to the Council at the next meeting.

City Engineer Budde stated that they held the Birch Bluff neighborhood open house meeting last week which was well attended.

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City Administrator Lerud noted that the audit has been completed and will be presented at the next Council meeting.

B. Mayor and City Council

Councilmember Gorham stated that he felt City Engineer Budde did a great job at the Birch Bluff neighborhood meeting.

Councilmember Siakel noted that she will be unable to attend both Council meetings in May because of conflicts with her work.

Mayor Labadie stated that she met with Congressman Dean Phillips who meets quarterly with the mayors in his district. She encouraged residents to sign up for My Water Pledge which is a program that helps encourage residents to save water.

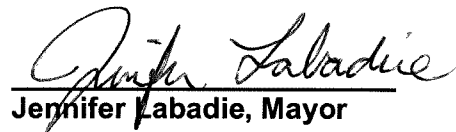
11. ADJOURN

Gorham moved, Johnson seconded, Adjourning the City Council Regular Meeting of April 11, 2022, at 8:37 P.M. All in favor, motion passed.

ATTEST:



Sandie Thone, City Clerk


Jennifer Labadie, Mayor