

CITY OF SHOREWOOD  
CITY COUNCIL REGULAR MEETING  
MONDAY, MAY 9, 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 7:13 P.M.

#### PLEDGE OF ALLEGIANCE:

##### A. Roll Call

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

Absent: Councilmember Siakel

##### B. Review Agenda

Mayor Labadie asked that item 2.D. be removed and item 2.G. moved to New Business.

**Johnson moved, Gorham seconded, approving the agenda, as revised. All in favor, motion passed.**

### 2. CONSENT AGENDA

Mayor Labadie reviewed the items on the Consent Agenda.

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

A. **City Council Work Session Meeting Minutes of April 25, 2022**

B. **City Council Regular Meeting Minutes of April 25, 2022**

C. **Approval of the Verified Claims List**

D. **~~Authorize Equipment Purchase, One Pickup Truck - REMOVED~~**

E. **Approval of Amendment to Excelsior Woods Development Agreement  
Location: 20325 Excelsior Boulevard, Applicant: Red Grant Construction.  
Adopting RESOLUTION NO. 22-044, "A Resolution Approving an  
Amendment to the Development Agreement for Excelsior Woods Located at  
20325 Excelsior Boulevard."**

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- F. Approval of Extension of Approvals for Car Wash Rehab – Location: 24245 Smithtown Road, Applicant: Reprise Design, Adopting RESOLUTION NO. 22-045, “A Resolution Approving an Extension for a Conditional Use Permit Variance and Site Plan Amendment Approval for Property at 24245 Smithtown Road.”**
- G. ~~Approve Contract with Interim City Administrator~~ – Moved to New Business**
- H. Approval Advertise for Public Works Lead Supervisor**
- I. Approve Revised Right of Entry Agreement for May Lake Outlet, City Project 19-09, Approving RESOLUTION NO. 22-046, “A Resolution Approving a Revised Agreement for the Mary Lake Outlet Project, City Project 19-09.”**

**All in favor, motion passed.**

**3. MATTERS FROM THE FLOOR**

Joe Lugowski, 24710 Glen Road, asked why the streets have not yet been swept because there is a lot of sand on the roadways. He expressed his concerns about the condition on various roadways, including Galpin Lake Road, with sand, debris, and pot holes.

Public Works Director Brown stated that as he had reported to the Council at the last meeting, that Public Works had begun sweeping, but the sweeper had a massive mechanical failure. He stated that the City immediately had it shipped to McQueen Equipment who is working to get parts and get it put it back together. He stated that the City tried renting a sweeper while it awaits the return of this one, but they have not been able to find one so as soon as they get it back, they will be out finishing up the streets.

City Engineer Budde noted that Galpin Lake Road is one of the poorest rated roadways in the City. He explained that it is slated for a mill and overlay tentatively in 2022 but noted that the City is going for State bond funding to try to get additional funds in order to be able to add a sidewalk. He stated that if this is successful, the road will then become reconstructed and will be a more robust project which will delay the project. He stated that even if the City does not get State funding it is possible this project will be delayed and not get completed this year.

Public Works Director Brown stated that there are a number of roadways, including Galpin Lake Road, that they were planning on patching on a temporary basis this week, however the rains have delayed those plans a bit. He stated that the official hot patch season has not started yet, but they do have a temporary cold mix that they have been working with.

Alan Yelsey, 26335 Peach Circle, expressed his concerns regarding the Council choosing to move forward without accurate information and communication on the agenda item related to the campaign and non-commercial speech signs. He cited items that he felt were errors or flaws that had been included in the packet related to this item and explained that he felt moving forward with this item would be unconstitutional.

**4. PUBLIC HEARING**

**5. REPORTS AND PRESENTATIONS**

**A. Photo Contest**

City Clerk/HR Director Thone gave an overview of the Ninth Bi-Annual Photo Contest winners. She reviewed the winning photos from: Fall Delights – Fishing on Christmas Lake submitted by Bob Wallace; Winter Wonder – Sunset, submitted by Catherine Turner; People, Pets, and Food – Ice Cream, submitted by Louise Tvedt; and Wildlife – Natural Camouflage, submitted by Al Whitaker. Thone thanked all participants for submitting the beautiful photos that will adorn walls at City Hall, the Community Center, and be used in the newsletter and on the website.

**6. PARKS**

**7. PLANNING**

**A. Zoning Text Amendment - Campaign and Non-Commercial Speech Signs**

Planning Director Darling explained the proposal, initiated by the City, for a small, targeted amendment to clarify one type of signage allowed under the current ordinance. She stated that the Planning Commission held a public hearing at their May 3, 2022 meeting where one person spoke. She noted that staff also received a number of letters prior to the meeting that have been included in the meeting packet. She explained that one letter was resent today with a new paragraph added that has been distributed to the Council. She explained that one of the primary concerns expressed in the letters which are that people will still have the right to put a sign in their yard with their non-commercial message. She stated that staff feels that this right will be more clearly permitted with these amendments than without them. She reviewed the two courses of action available to staff after they have investigated and found a violation. She explained that if these amendments are approved, the City will send out information to each candidate that files for election and will include an article in The Shore Report so residents will also have this information. The Planning Commission voted unanimously to recommend approval of the proposed amendments. She stated that staff feels it is clear that a full review of the sign regulations will need to be completed sooner than they had originally identified in their priority list.

Mayor Labadie asked City Attorney Shepherd to address some of the issues that have been raised including the recent court cases surrounding this issue.

City Attorney Shepherd noted that these are discrete ordinance amendments related to the campaign season and to make sure that the ordinance is consistent with State statute. He stated that the City is planning to take a significant look at the rest of the code to ensure that it is all in line with case law in Minnesota, as well as federal law. He noted that there had been a mention from a resident about a recent Minnesota Court of Appeals case with the City of Buffalo. He stated that case was about the City of Buffalo enforcing their sign code and applying it to a Trump flag that was flying from a commercial vehicle. He stated that they will take a look at that case before enforcing the code and reiterated that they are planning to look at the code holistically to ensure that when it is looked at, as a whole, that it works. He highlighted the proposed addition of the substitution clause and its intended design to make sure that anywhere that commercial speech is allowed, non-commercial speech can be substituted.

Councilmember Gorham stated that he believes there is some confusion that the substitution clause is somehow limited to election season and asked if it was limited to that narrow timeframe..

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City Attorney Shepherd stated that the substitution clause applies to the ordinance, as a whole and does not just apply to election signs.

Mayor Labadie stated that she also thinks there is some confusion regarding setback from the street. She noted that the proposed language would actually allow signs to be closer than the current language allows.

Planning Director Darling stated that this was correct and gave an overview of the current sign code setback requirements. She noted that this applies to non-commercial speech signs that are installed during the election period.

City Attorney Shepherd stated that he believed these proposed changes will allow the City to be 'good to go' for campaign season, but reiterated that there is some additional work to be done on other sections of the code following recent decisions, some of which have been cited by residents. He stated that the substitution clause is there to serve as a stop gap measure to ensure that non-commercial speech of all types can be substituted for other types of commercial and non-commercial speech.

Councilmember Callies stated that she thinks it is important to address the temporary non-commercial speech signs because the election season is coming up so she feels it is appropriate that the Council is handling this portion now and then will continue on the road to perfection with the remainder of the sign ordinance.

**Callies moved, Gorham seconded, Adopting ORDINANCE 588 " An Ordinance Approving an Amendment to Shorewood City Code Chapter 1201 (Zoning Regulations) Related to Signs." All in favor, motion passed.**

**Callies moved, Johnson seconded, Adopting RESOLUTION NO. 22-047, "A Resolution Approving the Publication of Ordinance 588 Regarding City Code Ordinance Amendments Related to Campaign and Non-Commercial Speech Signs." All in favor, motion passed.**

**8. ENGINEERING/PUBLIC WORKS**

**A. Accept Bids and Award Contract for the Smithtown Pond/Shorewood Oaks Drainage Project, City Projects 20-07, 20-04**

City Engineer Budde stated that at the March 14, 2022 Council meeting, staff had presented plans and specifications for the Smithtown Pond and Shorewood Oaks project and Council had authorized to advertise and opens bids. He noted that seven bids were opened on April 26, 2022 with the low bid from Meyer Contracting out of Maple Grove. He explained that with this bid, the Shorewood Oaks portion of the project would be completed by September 1, 2022, the larger ponding work would be completed March 1, 2023, and the trail connection by July 1, 2023. Staff recommends awarding the contract to Meyer Contracting.

Councilmember Gorham commended City Engineer Budde for his work on this project.

**Johnson moved, Gorham seconded, Adopting RESOLUTION NO. 22-048, "A Resolution Accepting Bids and Awarding Contract for the Smithtown Pond/Shorewood Oaks Drainage Project. City Projects 20-07 and 20-04." All in favor, motion passed.**

**B. Strawberry Lane Final Design Direction, City Project 19-05**

City Engineer Budde explained that in February of 2022, the Council and staff had a number of discussions about the Strawberry Lane project because staff was seeking final design direction. He stated that Council had directed staff to attempt to negotiate with property owners regarding necessary easements in order to shift the roadway. He stated that he has a signed Memo of Understanding with one of the property owners for an easement. He stated that he has attempted to contact the other property owner in various ways but has not been able to make contact with the property owner. He noted that this property would require an easement regardless of which scenario the Council approves. He explained that staff is recommending that they continue to pursue the western alignment which pushes the roadway closer to the west and was also the preferred alignment by many of the residents and continue to attempt negotiations with the property owner at 26420 West 62<sup>nd</sup> Street. He gave an overview of the alternate alignment and what easements were necessary with both scenarios.

Councilmember Johnson noted the property that he has able to obtain an MOU on was listed as 6170 in the packet and 6270 within the resolution.

**Johnson moved, Gorham seconded, Adopting RESOLUTION NO. 22-049, “A Resolution Providing the Final Design Direction for Strawberry Lane to Include the Western Alignment with the correction to the address listed to 6170 Strawberry Lane.” All in favor, motion passed.**

**9. GENERAL/NEW BUSINESS**

**A. Approve City Administrator Search Firm Proposal**

City Clerk/HR Director Thone explained that the City had solicited Requests for Proposal for an executive search firm to assist in finding a new City Administrator following the resignation of Greg Lerud. The City received two proposals from David Drown and Associates and Baker Tilly who the Council interviewed at their Work Session prior to this meeting.

Mayor Labadie gave an overview of the discussion points from the Work Session.

Councilmember Callies stated that based on their proposals, she would be more in support of Baker Tilly.

Councilmember Gorham stated that he felt that Baker Tilly was communication focused and explained that he was leaning towards supporting their proposal.

Councilmember Johnson stated that he was also on board with Baker Tilly.

Mayor Labadie agreed that she felt that Baker Tilly stood out based on their proposal.

**Johnson moved, Labadie seconded, Adopting RESOLUTION NO. 22-050, “A Resolution Authorizing Execution of an Executive Search Firm Agreement to Assist in Hiring a City Administrator for Baker Tilly” and Authorize the City Attorney to prepare a contract consistent with the terms outlined by the firm in their proposal. All in favor, motion passed.**

**B. Approve Contract with Interim City Administrator (formerly Item 2.G.)**

Councilmember Callies stated that she wanted to reiterate that she had both a professional and personal relationship with Shirley Schulte, one of the candidates for the Interim City Administrator, so she would abstain from voting on this item.

Councilmember Johnson stated that it has come to his attention that he had an unknown connection to the Interim City Administrator. He stated that he learned on the way to tonight's meeting that Mr. Shukle's daughter is his daughter's voice teacher. He asked City Attorney Shepherd if that unknown connection presented any complications.

City Attorney Shepherd stated that she did not see that situation as creating a conflict of interest and noted that there are no financial implications that go along with this decision.

Councilmember Johnson stated that he just wanted to make sure that he had full transparency in this situation.

**Gorham moved, Labadie seconded, to Approve the Contract with Interim City Administrator Shukle. Motion passed 3-0-1 (Callies abstained)**

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

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

#### **1. First Quarter 2022 General Fund Budget Report**

Finance Director Rigdon gave a brief overview of the first quarter general fund budget.

Councilmember Gorham asked if he was correct that the budget was a forecast and that Finance Director Rigdon was being fairly conservative with his forecasting.

Finance Director Rigdon agreed and noted that there are also some 'seasonalities' included because it can depend on what is going on during certain times of the year. He stated that the City does budget conservatively and explained that the City has generally made it under budget for the past several years.

Public Works Director Brown gave examples of 'seasonalities' in his department such as the expense of using de-icing chemicals and also when they are doing roadway patching.

Councilmember Gorham asked how staff forecasts for miscellaneous.

Finance Director Rigdon stated that the biggest component under miscellaneous is antennae rent, which is easy to predict because there are contracts in place with those entities.

Councilmember Johnson commended Finance Director Rigdon for presenting this information in an easy, digestible format.

**Gorham moved, Johnson seconded, to Accept the First Quarter 2022 General Fund Budget Report. All in favor, motion passed.**

#### **2. First Quarter 2022 Investments Report**

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Finance Director Rigdon explained that the investments report is mandated by policy that looks at what the City is invested in, how they are tracking, and what it looks like going forward. He reviewed the general objectives and noted that safety, liquidity and yield are the most important factors. He gave a brief overview of the first quarter 2022 investment report.

Councilmember Callies asked who manages the City's investments.

Finance Director Rigdon stated that he is managing the investments because there are so few, so it has not been difficult for him.

**Gorham moved, Labadie seconded, to Accept the First Quarter 2022 Investments Report. Motion passed 3-0-1 (Johnson abstained).**

### **Other**

Public Works Director Brown stated that the roadway closure on Eureka Road North for the connection of Walnut Grove utilities will need to be extended for a day because the rain has caused some delays. He stated that Public Works is planning to flush water mains on May 16, 2022 and will begin on the west side of the City. He noted that the Consumer Confidence Report issued by the Minnesota Department of Health has come out and the results will be communicated to residents via the City newsletter.

Councilmember Gorham asked if there was any new information on the Badger Park vandals.

Public Works Director Brown stated that South Lake Minnetonka Police have gotten involved and there is a camera in the area. He stated that the restrooms have been re-opened.

Mayor Labadie asked that staff inform the SLPMD, EFD, and First Student Transportation that the closure on Eureka Road North has been extended. She stated that she can personally let Tonka United Soccer know about the road closure.

City Engineer Budde noted that the Grant Street drainage project will begin in about two weeks and should be wrapped up by mid-summer.

Planning Director Darling updated the Council on an extension for compliance on a property on Hillendale. She stated that there has been significant improvement of the site and many of the largest contributions to code violations have been removed.

Interim City Administrator Shukle stated that he is very happy to be with the City and is looking forward to working with the Council in his role as Interim City Administrator.

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

Councilmember Gorham stated that he attended Burgers and Bingo last weekend which is always a fun event. He stated that in speaking with the volunteers, it was noted that the Fourth of July is right around the corner which got him to thinking that he has not heard anything about donations or fireworks. He stated that there was discussion last year about revising how funds are committed to fireworks and asked if there had been any additional discussion on that topic.

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Mayor Labadie stated that the Excelsior Chamber of Commerce typically sponsors the fireworks and seeks donations from outside agencies, including some of the cities in the area. She noted that the Chamber is under new leadership, with Tiffany King as their Executive Director. She explained that Ms. King is planning to come to the next Council meeting to introduce herself and share details about the direction the Chamber will be going. She noted that it is likely that Ms. King will come to another meeting to seek a donation from the City for the fireworks. She stated that City Attorney Shepherd had drafted a memo relating to donations for this type of event and the Council will thoroughly review of that information prior to this request.

Councilmember Johnson gave an update on activities at the Excelsior Fire District. He stated that the Board has authorized the purchase of a new fire boat and explained that the Fire Relief Association is contributing a significant amount of money towards the purchase of the boat, but there will also be fundraising for the fire boat and encouraged residents to either contact him and the Fire Department if they were interested in making a donation.

Mayor Labadie stated that at the last Coordinating Committee meeting for the SLMPD, they voted to approve the membership in the fencing consortium. She gave an overview of what is involved and the benefits of being in the fencing consortium.

Councilmember Gorham asked about the fence material.

Public Works Director Brown stated that he has some photos that he can distribute to the Council that show the fencing but noted that it is an anti-scalable style fence that is twelve feet high. He noted that it is expected that the public works departments in the lake area would train together as a rapid response team and explained that the goal is to have the fence erected within twelve hours of any event.

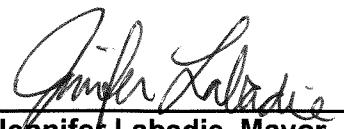
Mayor Labadie noted that she had attended the Regional Council of Mayors meeting earlier today with mayors from around the metro and outlying suburbs. She stated that their topic of discussion today was stormwater management, water management within the cities, and noted that the overall consensus was that cities need to think in advance of a crisis or flooding.

**11. ADJOURN**

**Johnson moved, Gorham seconded, Adjourning the City Council Regular Meeting of May 9, 2022, at 8:36 P.M. All in favor, motion passed.**

**ATTEST:**

  
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**Sandie Thone, City Clerk**

  
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**Jennifer Labadie, Mayor**