

**MINUTES**

**1. CONVENE CITY COUNCIL REGULAR MEETING**

Mayor Labadie called the meeting to order at 7:10 P.M.

**A. Pledge of Allegiance**

**B. Roll Call**

Present. Mayor Labadie; Councilmembers Johnson, Siakel, 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: None

**C. Review Agenda**

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

**2. CONSENT AGENDA**

Mayor Labadie reviewed the items on the Consent Agenda.

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

**A. City Council Work Session Minutes of August 22, 2022**

**B. City Council Regular Meeting Minutes of August 22, 2022**

**C. City Council Special Work Session Minutes of August 29, 2022**

**D. City Council Special Work Session Minutes of September 6, 2022**

**E. City Council Special Work Session Minutes of September 7, 2022**

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

**G. Accept Quote and Award Contract for One Replacement 2,000 Gallon Tanker Truck**

**H. Set Truth-in-Taxation Meeting Date, Adopting RESOLUTION NO. 22-080, "Selection of the Truth-in-Taxation Public Meeting Date."**

- I. Approving an Encroachment Agreement for 23100 Summit Avenue, Adopting RESOLUTION NO. 22-081, "A Resolution Approving an Encroachment Agreement for the Property at 23100 Summit Avenue."
- J. Accept Final Improvements for Shady Island Bridge Forcemain Replacement, City Project 21-02, Adopting RESOLUTION NO. 22-082, "A Resolution Accepting Final Improvements and Authorizing Final Payment for the Shady Island Forcemain Project, City Project 21-02."
- K. Accept Final Improvements for Christmas Lake Boat Landing, City Project 22-02, Adopting RESOLUTION NO. 22-083, "A Resolution Accepting Final Improvements for the Christmas Lake Boat Landing Project, City Project 22-05."
- L. Approving Hiring of Light Equipment Operator
- M. Approve 2023 Lake Minnetonka Cable Communications Budget, Adopting RESOLUTION NO. 22-084, "A Resolution Approving the Proposed 2023 Lake Minnetonka Communications Commission Budget."
- N. Accept Resignation of Chris Pounder, Light Equipment Operator, Public Works
- O. Approve Hiring of Light Equipment Operator
- P. Revised Interim Ordinance (Moratorium) on Sale of Cannabinoids, Adopting RESOLUTION NO. 22-085, "A Resolution Approving a Summary Publication of Interim Ordinance 590 Regarding Prohibition on the Sale, Testing, Manufacturing, and Distribution of THC Products."
- Q. Authorize Expenditure for Public Works Equipment, One Power Broom for Skid Steer
- R. Accept Regular Appointment of Bruce Stark to Light Equipment Operator – Utilities, Public Works

All in favor, motion passed.

### 3. MATTERS FROM THE FLOOR

Cindy Becker, 6165 Strawberry Lane, read aloud an e-mail that she had previously sent to the Council and City Engineer Budde that outlined the reasons that she does not support the City plans to widen Strawberry Lane. She stated that Strawberry Lane is safe as it is and it is frequently used by families for walking and riding bikes and people are happy with that. She stated that the City needs to retain its trees and it shade and she feels that preservation is actually progress. She stated that if the City was interested, she has data on how many kids walk down the road and how long during the day the roadway is busy.

### 4. PUBLIC HEARING

5. **REPORTS AND PRESENTATIONS**

6. **PARKS**

7. **PLANNING**

8. **ENGINEERING/PUBLIC WORKS**

A. **Approve Plans and Specifications and Authorize Advertisement for Bids for Strawberry Lane Reconstruction**

City Engineer Budde stated that over a year ago the Council authorized preparation of final plans and specifications. He stated that based on the most recent direction from the Council, staff has put together the final plans and specifications for a twenty-six foot wide roadway, sidewalk on the east side, and an alignment that shifts the roadway west on the southern portion. He stated that the next step would be to go out for bids in order to get a good idea of the pricing for the project and be able to bond for it this year. He stated that if everything goes according to plan and comes in on budget, there is potential for tree removal to occur this winter with the project substantially completed and the roadway back open by the beginning of school in 2023. He stated that this project also addresses a number of drainage concerns along the entire corridor and also adds municipal water service. He noted that staff is still working to acquire easements and right of entries for some of the properties. He stated that the expectation is that they will be looking for an actual final decision about this project in about six weeks and noted that tonight they were just looking for approval of the plans and direction to proceed with bidding the project.

Mayor Labadie asked if the plans presented tonight also include the reconstruction of Peach Circle and reclamation of Strawberry Court.

City Engineer Budde confirmed that it does include plans for Peach Circle and Strawberry Court. He explained that this project includes addition of watermain and fire hydrants.

Councilmember Gorham asked for details on tree removal.

City Engineer Budde stated that if the Council approves the project they will then go mark out the final tree removal plans and attempt to get the 'final blessing' from the adjacent property owners, to make sure there is agreement on the expectations. He stated that for the tree removal crews he is not sure if it would be multiple crews or just a single crew because they are basically giving them all winter to complete the work. He stated that the deadline is March 1, 2023, which would be prior to any road restrictions would come on. He stated that he would think they will be out in the area for a month or two working on the tree removal.

Councilmember Gorham asked about the utility crews that will need to come in to the area as well.

City Engineer Budde stated that there are some overhead power and communication lines that need to be relocated. He stated that the first tree removal crew that will come out will actually be part of Xcel Energy because they will remove the ten feet around their wires before the City contractor and tree removal crew can do the next portion. He stated that the expectation is that they remove anything they have cut at the end of the day, but noted that there may be some times

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when they store some logs or larger lumber in piles in order to remove them at one time with a truck. He explained that the trees will be removed down to their stumps which would remain until spring time when they would either be ground down or dug out.

Councilmember Gorham asked if work plans would be available on the City's website so residents can know what is coming up. He noted times when kids need to get to school and asked if there may be crews working on both sides of the roadway that may cause a problem.

City Engineer Budde stated that is a good point and noted that they would add some language to the bidding documents in order to clarify that during school days that they have to accommodate those children and perhaps work only on one side of the roadway.

Councilmember Callies asked if there had been any substantial change in the circumstances around this project that the Council should be aware of since their last discussion.

City Engineer Budde stated that there had not been substantial changes and explained that his understanding is that in the areas where the City has not yet acquired the easements or right of entry, he would anticipate the possibility for subtle changes happening in those areas.

Councilmember Johnson asked about tree replacement plans when construction is completed.

City Engineer Budde stated that if the City needed to acquire an easement that opens up the discussion with the property owners to add some more trees and anyone who they do not have a right of entry or easement agreement with, the City's practice has been to offer up the value of about three hundred dollars' worth of trees through the City's tree sale, which equates to about two trees. He stated that those trees would be delivered to the property owners and it would be their responsibility to plant and maintain those trees. He stated that the City just asks that they be planted on private property and not on City right-of-way.

Councilmember Johnson asked if tree issues have been a major point of concern during the conversations for easements and right of entry.

City Engineer Budde stated that it has been on certain properties.

Councilmember Johnson stated that he was in favor of having a sidewalk in order to get to school. He stated that he has received a lot of feedback that a sidewalk is a desired amenity and noted that he understands the concerns of residents, especially those that will lose some of their trees, but noted that he felt the safety for this corridor was paramount.

Mayor Labadie stated that she was also in favor of the addition of a sidewalk because it will be useful and will benefit the community for generations.

Councilmember Gorham stated that he has children that attend Minnewashta Elementary and they do bike along the trail to get to school. He stated that he has heard from a lot of parents about the sidewalk and the street width and their safety concerns about being able to get the kids to school. He stated that he is in support of this project.

Councilmember Callies stated that she would agree and feels this is an appropriate project. She stated that there is a lot of public support for the water, the trail, and the street width so she also supports it, as proposed.

**Siakel moved, Gorham seconded, Adopting RESOLUTION NO. 22-086, “A Resolution Approving the Plans and Specifications for Strawberry Lane Reconstruction Project and Authorizing Advertisement for Bids, City Project 19-05.”**

Councilmember Johnson stated that he felt the community had done a good job in discussing this project. He stated that he understands that not everyone would agree with it, but he respects the fact that everyone on the street has had good, professional, courteous conversations about it and he is proud to call them ‘neighbors’.

**All in favor, motion passed.**

## **9. GENERAL/NEW BUSINESS**

### **A. Tobacco License Violations**

Public Works Director Brown noted that apparently they are still having trouble with the audio portion of Zoom so people may not have been able to hear what was going on during the meeting. He explained that Clerk/HR Director Thone has asked if City Attorney Shepherd and Interim City Administrator Shukle could fill in and present the items that she scheduled to present.

Mayor Labadie stated that she would ask if people found out about someone who had trouble hearing the meeting via Zoom that they let them know that the meeting was being recorded and will be available on the City website following the meeting.

City Attorney Shepherd stated that the license holder for this violation is Bakr Alkarkhi who holds a license to sell at Cowboy Tobacco at 19905 State Highway 7. He explained that the City received notification that there were four citations for selling to people under the age of twenty-one. Mr. Alkarkhi was sent a letter from the City informing him of these violations, his right to a hearing, and a fine amount. He explained that Mr. Alkarkhi paid the fine and did not contest or appeal the violations and had informed staff that he was in the process of selling his business. He stated that according to City Code after the third offense, the license shall be suspended for not less than seven days, which is what is before the Council now.

Councilmember Callies stated that the letter did not advise the license holder of the potential of suspension of their operations and asked if that would be an issue.

City Attorney Shepherd stated that he did not think it was an issue and explained that it is sort of an automatic thing under the Code. He stated that the license holder was advised of his appeal rights which he did not do and had simply paid the fines.

**Siakel moved, Johnson seconded, to Suspend Cowboy Tobacco License for the period of seven days as required by Shorewood City Code for violation of Shorewood’s Tobacco Code 302 Selling to a Person Under Twenty-One Years of Age. All in favor, motion passed.**

### **B. Approve 2023 Preliminary Budget and Levy**

Finance Director Rigdon gave an overview of the 2023 Preliminary Budget and Levy. He reminded the Council that this needs to be adopted before September 30, 2022 when it is due to

the County for certification. He stated that the City can change it anyway they like until September 30, 2022, however after it is certified through the County, it can only be decreased. He explained that the proposed General Fund budget is about a 2.4% increase from the 2022 budget. He reviewed the personnel related assumptions included in the budget. He explained that the City is budgeting to break even and not to have use of the reserve funds. He noted that the Council had discussed at the work session the option of paying off the 2017 EDA bonds which were used for the City Hall facility. He stated that there was a consensus during those earlier discussions to go ahead and pay off those bonds and eliminate about five or six years off the levy. He explained that it was an exceptionally unique year in relation to valuations of properties with about a 26% increase in market value for 2023 and the tax capacity increased 28% which he has never seen before. He stated that the proposal is for a property tax increase of 5.5% and noted that the previous number discussed at the work session was 8.9%. He reviewed examples of property taxes with no change in value as well as an increase in value and what they would mean to property tax bills. He explained that staff is asking for approval of the 2023 Preliminary Budget and Levy and reminded them that it needs to be certified by September 30, 2022.

Councilmember Gorham confirmed that the difference since the Council last discussed this information was the update to the police budget and to exercise the call option for the EDA bonds.

Finance Director Rigdon explained that they had increased the levy on the 2022 bonds that have to be issued to pay for the road projects.

Councilmember Callies stated that in looking at the resolution, the budget is set for more than the budgeted amount and asked why those were not exact.

Finance Director Rigdon explained that the levy for the General Fund is isolated from the other funds, so there are some debt services funds that they are levying directly for as well as some money for capital projects. He clarified that the General Fund is only one piece of the levy.

Mayor Labadie commended Finance Director Rigdon for doing a good job pulling this information together.

**Gorham moved, Callies seconded, Adopting RESOLUTION NO. 22-087, “A Resolution Adopting the Preliminary 2023 General Fund Operating Budget and Property Tax Levy.” All in favor, motion passed.**

**C. Accept Resignation of Director Public Works Larry Brown and Discuss Recruitment Process**

Interim City Administrator Shukle explained that Public Works Director Brown had submitted a letter of resignation on September 6, 2022 with his last day to be December 28, 2022 after twenty-seven years with the City. He noted that Public Works Director Brown had been instrumental in many important projects in the City and noted that his knowledge and experience will be greatly missed. He gave an overview of the history of his employment and various positions he has filled at the City and explained that staff and the Council wish him well in his retirement. He noted that since Public Works Director Brown has given the City such lengthy notice of his retirement, he believes it may be a good idea for the Council to take a look at the job description for this position in order to determine if any revisions may be necessary or if they would like staff to compare the description and duties to similar cities before the position is filled. He stated that he felt staff could have information from other cities by the next Council meeting.

Mayor Labadie stated that she likes the suggestion of comparing the job description to other cities of similar size. She stated that Public Works Director Brown is a licensed engineer and many cities do not have a licensed engineer on staff as the head of their Public Works Departments. She stated that she did not necessarily see that as something that would hinder the City but thinks it would be worth taking a look to see what other cities are doing and will also give them a good idea of the pay rates.

Councilmember Callies agreed that this is a good time to take a look at these issues. She stated that she appreciated that Public Works Director Brown gave lengthy notice, but did not feel it was a 'ton' of time. She stated that from what the Council has heard, this may be a very difficult position to fill and doesn't feel action should be delayed. She stated that taking a look at what other cities are doing and their pay scales may be a good idea, but would assume that many of the essential functions are somewhat standard.

Councilmember Siakel stated that she feels this is a good opportunity to review this job description. She stated that she thinks that Public Works Director Brown and his crew have kind of been the 'face of Shorewood' and have just done a ton of work. She stated that there are technical aspects of his job related to roads and water, but also aspects related to park and recreation. She noted that someone new coming in may not be able to take on everything that he has done, so it may be an opportunity to take a look and see if there is another role or some other ways the department could be organized. She stated that she would like to make sure that the City starts out strong and noted that they are also looking for a City Administrator right now, so this may not all be as easy as it sounds. She reiterated that she agreed that filling this position will not be easy and thinks the sooner they can get started, the better. She stated that she believes that Public Works Director Brown has done an outstanding job for the City and showed up many times and made the City look good. She expressed appreciation for his leadership in the Public Works Department and believes that there have been many times where it would have been appropriate for residents to come in and say thank you for the work they have done and unfortunately that was rarely done. She stated that this resignation is a big deal and she thinks this is an example of the importance of the City Council thanking their staff. She stated that the Council needs to stand up for staff and do what is right for the entire City and not just for a handful of residents that are speaking up. She reiterated her thanks for Public Works Director Brown for his service that she felt had been under recognized throughout the years.

Public Works Director Brown thanked the Council for their kind words and noted that it has been an honor to serve under many City Councils, alongside City staff, and the residents.

Councilmember Johnson stated that he wanted to thank Public Works Director Brown specifically for his mentorship. He stated that he was the first staff member that he met when he came in and Public Works Director Brown's insights and conversations have been fantastic and will be missed.

Mayor Labadie noted that in private, she refers to Public Works Director Brown as "LLB" which stands for the 'Legendary Larry Brown'. She stated that she thinks the Council has given staff direction that they would like for them to look at job descriptions from other cities of similar size and would like that information by the next Council meeting.

Councilmember Johnson stated that the City was working with Baker Tilly to fill the City Administrator position and asked if that same type of thing would be done for a Public Works Director position or if there were other ways to to advertise the vacancy.

Interim City Administrator Shukle stated that BakerTilly would be able to handle the recruitment of a public works director. Other firms as well can do this type of work. , However, he believes that the typical posting for this would go through our League of Minnesota Cities website and engineering associations within the State as well as across the country. He noted that he believed that would draw enough interest from potential applicants. **STAFF AND COUNCIL REPORTS**

**A. Administrator and Staff**

Public Works Director Brown stated that staff has received a number of comments regarding the Badger Park lacrosse field football lights. He stated that there appear to be some intermittent 'gremlins' in the system so they have been working with the designer of the system to figure it out. He noted that the system is still under warranty but there will be an electrician out some time this week and have notified football and lacrosse organizations to let them know.

City Engineer Budde noted that the contractor for the mill and overlay project will be back this week and within the next few weeks should be finishing up Covington, Christmas Lake Road, and the rest of the project. He stated that the contractor will also be out this week completing the Otta Seal on Enchanted Point and Wiltsey Lane.

City Attorney Shepherd explained that on the next meeting agenda, the Public Hearing section will be removed and be put into the body of the agenda, so the public hearing and the conversations about those items will happen under the same agenda items. He reminded the Council that there will be a closed session later during the meeting and noted that there are two attorneys from his office that were in attendance tonight. He introduced Cole Birkeland, a new associate, and Alina Schwartz and asked her to give a prosecution update.

Alina Schwartz, Campbell Knutson, explained that they started prosecution duties for the City in October of 2021. She stated that the transition with the court system has been smooth and feels that they have developed a good relationship with the South Lake Minnetonka Police Department. She gave a brief overview of the training sessions that they offer to police officers. She stated that they have also stayed in close contact with victim advocate programs. She noted that all the court sessions are in- person, except for minor traffic violations and gave a brief overview of some of the recent cases and actions that they have been involved in.

Councilmember Callies stated that she would like more specific, practical information about things like how many trials is the City having per month and what kind of trials they are.

Ms. Schwartz stated that it ends up being very case specific and she would not have that information immediately. She stated that they did have a lot of court trails which are typically moving violations or something similar. She stated that it could also be a disorderly conduct where the defendant chooses to forego the jury trail and instead have a court trial which just involves a judge. She stated that the City has a lot of DWIs which tend to be resolved without going to trial.

Councilmember Callies noted that she is a former prosecutor and explained that she is interested in getting the information about the numbers of cases that City is involved in. She stated that the Council gets a report from the Police Department about the number of stops but does not really



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get a sense for who is showing up in court and what the prosecution is actually doing in court. She explained that she would like to get a sense of specifics such as the type of cases.

Councilmember Siakel stated that she believed Councilmember Callies was asking for specific information related to prosecutions and noted that was one of the original reasons that the City selected this firm.

Councilmember Callies explained that she understood that not many cases go to trial in the County so she would like to know how many do go to trial.

Ms. Schwartz stated that information she is requesting is very data driven and is hard for any agency to pull together. She stated that the County pulls statistics for every City and used to do that yearly and explained that their data would be the most accurate but they would be at the mercy of when the County would pull this data and give it to them.

Councilmember Callies asked why Ms. Schwartz' office would not keep their own data because they know how many cases are going to trial and should not need the County to provide that information. She stated that she feels the City should be able to get a report from Campbell Knutson that outlines the number of trials they were involved in each month on behalf of the City.

Ms. Schwartz stated that they can certainly look into that.

Councilmember Siakel stated that she feels the information Councilmember Callies is asking for is simple, how many DWIs and of those, how many were pleaded out and how many went to court for the City. She stated that Campbell Knutson bills the City so they should have this information.

Ms. Schwartz clarified that they do know how many cases there are and the types of hearings they are. She noted that they have not had a single jury trial for the City since they began this work last year. She reiterated that they can look into the statistics and perhaps see if the new system that they are using can pull that information by specific data.

Mayor Labadie explained that one reason the City is interested in this information is because the City shares the Police Department and there are some contract discussions coming up related to the Joint Powers Agreement. She stated that the City is interested in seeing how many cases from the Police Department belong to Shorewood and what the end result of those cases are.

Councilmember Callies stated that she is also interested, beyond just the budget information and picking out this is how much Shorewood is spending. She explained that she would just like to know what is occurring, in terms of prosecutions, for the City because that would be good information for the City to have.

Ms. Schwartz stated that the cases would average between two to nine cases on Tuesdays and about three to six on Thursdays. She noted that the type of case does not necessarily dictate the amount of time they spend on it.

Councilmember Callies explained that she was not trying to track time or cost per minute that is spent in court, but would really like to try to get an understanding of what the cases are that are going through the court system. She reiterated that the Council sees the stops that are made by the Police Department in their reports, but they do not see how many are actually being prosecuted.

Ms. Schwartz stated that she will speak to her managing partner and figure out how to pull the statistics Councilmember Callies is interested in seeing.

Mayor Labadie suggested that the things the City is looking for is information on charges filed and the disposition. She stated that they are not looking for a treatise and are just looking for the crime that was charged and the disposition.

Councilmember Callies noted that Ms. Schwartz legal assistant has to be sending her to court with a list of cases so they should already have the information that the City is looking for.

Ms. Schwartz stated that was true but was unsure how to go back to October of 2021 and pull that information.

Councilmember Callies suggested that they provide this information going forward, rather than going back to the beginning.

Ms. Schwartz confirmed that she will begin tracking the type of cases/charge and their disposition.

Councilmember Siakel noted that during the interview process she believes that Campbell Knutson had informed that City that they had the ability to provide this information.

Councilmember Callies stated that she would also like to see this information on a more regular basis, such as once a month.

Mayor Labadie agreed that this information would be helpful to receive once a month and noted that they were not asking for Ms. Schwartz to appear before the Council each month, but to submit the data to them for review.

Interim City Administrator Shukle noted that he has been working with Baker Tilly to facilitate filling the City Administrator position and explained that he would also be working with City Clerk/HR Director Thone on applicants for the Park and Recreation Director position which currently has thirteen applicants. He noted that the Personnel Committee, which consists of Councilmembers Callies and Gorham, will be assisting in the interview process..

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

Councilmember Johnson stated that he wanted to call out the efforts of Councilmember Gorham, who was out last night in the dark when a tree fell across a neighbor's driveway. He explained that Councilmember Gorham rallied the neighborhood and made sure that this resident was able to get out and drive the school bus this morning.

Councilmember Gorham stated it was done thanks to some neighbors that had chain saws.

Mayor Labadie noted that she had spoken recently with First Student Transportation and was told that they can use any bus driver that they can get. She stated that right now they can hire up to twenty-two drivers for the local Minnetonka school district and will provide the necessary training. She explained that currently there is only busing for varsity and junior varsity sports. She expressed her appreciation to Communications Director Julie Moore and Park and Recreation Director Grout for organizing the Movie in the Park event which was unfortunately cancelled due

to weather. She noted that the event will not be rescheduled and will just resume next year. She stated that Oktoberfest will take place on October 1, 2022 from 5:30-7:30 p.m. at the Shorewood Community and Event Center. She noted that she attended the regional conference of mayors earlier today where there were about twenty-five other mayors in attendance.

**10. CLOSED SESSION**

- Alex and Elena Ugorets V. City of Shorewood, Civ. No. 21-1446 (D. Minn)
- Alan Yelsey V. City of Shorewood, OAH 5-0305-38230 (Office of Administrative Hearings)

Siakel moved, Johnson seconded, to move into Closed Session pursuant to Minn. State Stat. 13D.05, Subd 3.b for a confidential attorney-client privilege discussion of litigation matters. All in favor, motion passed. Closed session began at 8:41at p.m.


Mayor Labadie adjourned the Closed Session at 9:24 p.m. and reconvened the Regular Session meeting at 9:24 p.m..


Mayor Labadie explained that the Council had been in a closed session pursuant to Minn. State Stat. 13D.05, Subd. 3.b. for confidential attorney-client privilege discussions and was returning to their regular meeting at 9:24 p.m.

**11. ADJOURN**

Johnson moved, Callies seconded, Adjourning the City Council Regular Meeting of September 12, 2022, at 9:25 P.M. All in favor, motion passed.

**ATTEST:**

  
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Sandie Thone, City Clerk

  
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Jennifer Labadie, Mayor