

**CITY OF SHOREVIEW
MINUTES
REGULAR CITY COUNCIL MEETING
June 16, 2014**

CALL TO ORDER

Mayor Martin called the regular meeting of the Shoreview City Council to order at 7:00 p.m. on June 16, 2014.

PLEDGE OF ALLEGIANCE

The meeting opened with the Pledge of Allegiance.

ROLL CALL

The following members were present: Mayor Martin; Councilmembers Johnson, Quigley, Wickstrom and Withhart.

APPROVAL OF AGENDA

MOTION: by Councilmember Wickstrom, seconded by Councilmember Johnson to approve the June 16, 2014 agenda as submitted.

VOTE: Ayes - 5 Nays - 0

PROCLAMATIONS AND RECOGNITIONS

There were none.

CITIZEN COMMENTS

There were none.

COUNCIL COMMENTS

Mayor Martin:

The County Road E and Victoria railroad crossing will be closed for at least the next two weeks for railroad work and completion of the realignment for County Road E. One result will be the establishment of a Quiet Zone at that rail crossing when the work is completed. The Lexington and Victoria Street crossings will also become Quiet Zones by the end of the summer.

GENERAL BUSINESS**RESOLUTION ORDERING PREPARATION OF AND ESTABLISHING COST PARTICIPATION POLICY FOR A PRELIMINARY ENGINEERING REPORT FOR TURTLE LAKE AUGMENTATION****Presentation by Public Works Director Mark Maloney**

In 2010, the City hosted a meeting regarding lake levels with an expert agency panel that included representatives from the DNR, Rice Creek Watershed District and Ramsey County. Approximately 200 Shoreview riparian residents attended.

In 2011, the Turtle Lake Homeowners Association (TLHA) began a dialogue with the City regarding management of the lake level on Turtle Lake. A Concept Report was completed. After the Concept Report was completed, the City asked TLHA to help the City assess the amount of support from residents on the lake for further action.

In March and April 2014, the City Council held workshop meetings with TLHA regarding lake level management. A formal request for a Preliminary Engineering Report/Feasibility Report was received from TLHA. Study concepts and scope as well as potential cost-sharing between TLHA and the City were discussed. In May 2014, the Council tabled action to proceed with a Feasibility Study pending receipt of possible state funding and election of a new TLHA Board.

If a Feasibility Study were done, it would build on the Concept Study done in 2011, looking at specific options for augmenting lake levels. The Feasibility Study would take into account recent state agency perspectives with a focus on water quality, and invasive species. The City would develop stages for a study with input from TLHA and relevant agencies. If it were determined that augmentation would not be permitted, the study would not continue to save on the full cost. The estimated cost is \$100,000. There are legislative provisions for a \$75,000 grant from the Metropolitan Council to the City for this report. With maximum City participation of 25%, the city would then incur a cost of \$6,250; the TLHA would pay the remainder of \$18,750. There would be no study without a cost-sharing agreement between the City and TLHA. Certain criteria and public hearings are required in order to create a Lake Improvement District (LID). It is very optimistic to say that a LID for Turtle Lake could be created by June 2015. If it is not created by June 2015, it could be in 2016 or 2017.

City Manager Schwerm noted that not knowing what the bid will be for the Feasibility Study, the City's share of cost would still be a maximum of 25%.

Councilmember Withhart asked if the cost of \$100,000 includes meetings with the DNR, Rice Creek Watershed District and other agencies as to whether a LID should move forward. Mr. Maloney responded the \$100,000 estimate includes the Feasibility Study and all meetings with agencies that would move toward a permit for a LID.

Councilmember Johnson asked when the City would know whether the study would be completed at full cost. Mr. Maloney stated that by the time one-third of the work is done, the

City will be aware if there is a possibility to create a LID. City Manager Schwerm added that once the bid is received, the City will know a precise dollar amount and will be able to determine a more accurate estimate for the cost split between the City and TLHA. The Council will need to approve a cost-share agreement before the work proceeds.

Councilmember Quigley noted that the TLHA has requested an open bid. The \$100,000 estimate is based on the estimate of SEH. His support is based on the SEH estimate. Mr. Schwerm responded that the TLHA Board has expressed concern about a competitive bid process. The fact that the City will receive a \$75,000 grant makes the Association comfortable using SEH because of their expertise.

Councilmember Wickstrom suggested instituting a no-wake zone for Turtle Lake now due to high water and erosion. She stated that if a study is done on augmenting the lake, the study should include what to do if the lake level is too high. There is a lot of regional concern about water and the possibility of a water shortage in the Twin Cities within 20 years. If Turtle Lake is augmented, would it be possible to use Turtle Lake as a reservoir for drinking water if there is a shortage of water? The previous suspension of augmentation to Turtle Lake was because of a shortage of ground water. The City needs to know if a future shortage would mean no further augmentation. Also, currently, Turtle Lake does not have a TMDL (Total Maximum Daily Load). This is a provision under the Clean Water Legacy Act. Each lake has an acceptable limit of pollutants that can be in the water with a plan to reduce pollutants if necessary. Currently, Turtle Lake is impaired for mercury, and at some point will have a TMDL identified. The City needs to know the impact on augmentation with a TMDL. Further, Councilmember Wickstrom noted that the City already has a significant amount of time into this work. She asked if that time would be considered in the City's share of cost.

Mr. Schwerm stated that he does not believe Turtle Lake would be used as a ground water reservoir. The Mississippi River is more likely, similar to what Roseville and the St. Paul Water Utility are doing now. If there is a shortage of water, the City would be asked to stop augmentation. Staff costs are not being calculated in the cost-share of a study. If a LID is created, staff costs would be taken into account and charged to the LID.

Councilmember Wickstrom stated that accounting for staff time under a LID is operational costs. This is the study stage. If the City receives a \$75,000 grant, she would like to see the City reimbursed for costs incurred to do a study. Mr. Schwerm stated that engineering costs could be charged that would be revenue to the General Fund, but it would not be a higher cost to TLHA because that would be very different from the process for Snail Lake.

Councilmember Wickstrom noted that the reasons for augmenting the two lakes are totally different. If Snail Lake had not been augmented, there would be no lake. The reason for augmenting Turtle Lake is to keep it at a certain level.

Mr. Maloney noted that just identifying the optimal lake level could take a year. A TMDL could initiate any number of requirements or regulations.

Mayor Martin stated that Councilmember Wickstrom's questions need to be addressed by the Feasibility Study.

MOTION: by Councilmember Quigley, seconded by Councilmember Johnson to adopt Resolution 14-25 directing the preparation of and determining the cost-sharing for a preliminary engineering report for Turtle Lake Augmentation.

Mayor Martin opened the discussion to public comment.

Ms. Marsha Soucheray stated that she is a member of the TLHA Board, but she is speaking as a citizen. She noted that the grant for the City begins in 2015. She asked what that means for this resolution. Mr. Maloney stated that FY 2015 begins July 1, 2014. If the City begins the study and incurs costs, the City could claim those costs against the grant. Mr. Schwerm added that the funds need to be spent between July 1, 2014 and June 30, 2015.

Ms. Soucheray stated that the TLHA Board has not established a level of cost participation at this time. There needs to be more discussion on the need for augmentation. Now the lake level is very high. Action was initiated two years ago when the lake level was much lower, and there was discussion that the lake would not rebound on its own.

Councilmember Wickstrom stated that a climatologist opinion is needed on the number of years augmentation would be used. In her rough calculation, she estimates that over the past 20 years there would have been augmentation six of those years. If the infrastructure for augmentation is \$2 million, the question becomes how often it will actually be used. This project is a want, not a need. The lake clearly has rebounded. She finds it difficult to justify this project when there are ponds with scum and homeowners from those neighborhoods who have come to the City to see what can be done. She stated that she will vote no on moving forward with a feasibility study for an augmentation system for Turtle Lake.

Mayor Martin stated that, although unlikely, it is possible the lake level could go down again. This is an opportunity to study the issues and find out if an augmentation project is even possible. She would like to have the study, as money has been granted by the state. She further stated that until the TLHA cost-share is in escrow, the study cannot begin.

Councilmember Quigley stated that the outcome of the study will have an impact regionally which has broader value and support is valid.

Councilmember Withhart asked if it would be possible for the study to show whether ground water can recharge the aquifer. Mr. Maloney responded that the Metropolitan Council is currently wrestling with that issue. When ground water and surface water are removed to use in the drinking water system, it becomes municipal waste, which is discharged downstream. This is causing a water deficit. Costs of being able to use gray water are being studied.

Councilmember Johnson stated that with receipt of the grant, she would favor moving forward. Without the study, the City will not have answers. She is concerned about the 200 homeowners

on Turtle Lake and the dissension this issue has caused. With an estimated City investment of \$6,200 as opposed to \$25,000 without the grant, she is in favor of moving forward.

ROLL CALL: Ayes: Johnson, Quigley, Withhart, Martin
 Nays: Wickstrom

AMENDMENT TO AGREEMENT WITH SEH, INC. - RAILROAD QUIET ZONES

Presentation by City Planner Kathleen Castle

The City has an agreement with SEH to establish a railroad Quiet Zone on the East/West Corridor, which is at Victoria Street and at Lexington Avenue. The amendment would be an agreement with SEH for railroad quiet zones in the North/South Corridor. The crossings are at Jerrold Avenue and North Owasso Boulevard. A funding grant was received through the state bonding bill in the amount of \$500,000 to establish a Quiet Zone that would be coordinated with Little Canada.

The cost of SEH services would be \$9,000 and would include: 1) executing a Grant Agreement with the State; 2) preparing plans and specifications for the required improvements; 3) submitting notice of intent to affected agencies; 4) finalizing construction plans and assist with construction activities; and 5) submitting the Notice of Establishment of a Quiet Zone.

The improvements required on the North/South Corridor are more complex than the East/West Corridor. New or upgraded signalization and signage are required. Canadian Pacific Rail will do the actual signal work. As North Owasso Boulevard is a county road, the project must also be coordinated with Ramsey County. It is anticipated that the improvements will be completed by the fall of 2016.

MOTION: by Councilmember Withhart, seconded by Councilmember Quigley to adopt Resolution 14-35 pursuing the implementation of a 24-hour railroad quiet zone for the north-south corridor (St. Paul Subdivision) at the Jerrold Avenue and North Owasso Boulevard crossings, subject to the rules and regulations of the Federal Rail Administration and amend the professional services agreement with SEH, Inc. adding this corridor to Phase 2 of the Railroad Quiet Zone Study.

Discussion:

Councilmember Wickstrom asked if the \$500,000 grant will cover the improvement costs. Ms. Castle stated that it is expected that money will be sufficient.

Mayor Martin noted that unless Little Canada also participates, nothing will happen. She commended State Representative Isaacson who worked so hard for this funding.

Councilmember Quigley noted that Little Canada has five crossings and asked if that would hinder their participation. Ms. Castle responded that Little Canada is actually ahead of Shoreview with its preparation to establish quiet zones.

ROLL CALL: Ayes: Quigley, Wickstrom, Withhart, Johnson, Martin
 Nays: None

COMPREHENSIVE PLAN AMENDMENT - SURFACE WATER MANAGEMENT

Presentation by City Planner Kathleen Castle

The Planning Commission reviewed and held a public hearing. Minor changes were made in response to comments, and the Amendment was approved at the May 27th Planning Commission meeting.

The Amendment relates to Chapter 9, *Community Facilities and Services*, Section D, *Surface Water Management*; and to Chapter 11, *Natural Resources*. The amendment addresses changes regarding surface water management that have gone into effect since 2008. One change is to delete reference to Grass Lake Watershed Management Organization, as it has dissolved and been replaced by the Ramsey Washington Metro Watershed District (RWMWD). All references have been updated to designate RWMWD as the Local Government Unit to administer the Wetland Conservation Act for the Vadnais Lake and Grass Lake Watershed. Maps Nos. 9D1 and 9D5 have been amended.

In 2010, in accordance with a requirement by the Federal Emergency Management Agency (FEMA), the City has updated its flood insurance and revised the flood insurance rate map. The City's ordinance was amended in 2010, and Map 9D7 is now updated and will be incorporated into the proposed change.

The Surface Water Utility Fee is also updated. The Planning Commission held a public hearing with legal notice published April 9, 2014. No comments were received. Staff is recommending adoption of the Amendment, subject to approval by the Metropolitan Council.

MOTION: by Councilmember Johnson, seconded by Councilmember Wickstrom to adopt Resolution 14-34 approving the amendments to Chapter 9, Section 9D, *Surface Water Management* and Chapter 11, *Natural Resources* related to surface water management, subject to the following condition:

1. Said approval is contingent upon the Metropolitan Council's approval of the Comprehensive Plan Amendment.

The recommendation is based on the following finding:

1. The proposed amendment updates the City's practices related to surface water management.

Discussion:

Planning Commissioner Proud stated that many comments from the Commission were incorporated into the Amendment. Other comments will be considered for the Surface Water Management Plan. The process has been a good cooperative effort.

ROLL CALL: Ayes: Wickstrom, Withhart, Johnson, Quigley, Martin
 Nays: None

WEED ABATEMENTS:

1729 Lois Drive
417 Majestic Court
348 Lilac Lane
1066 Carlton Drive
4711 Laura Lane
4476 Lexington Avenue North
169 Demar Avenue
5977 Grotto Street North
4324 Snail Lake Boulevard
625 Mound Avenue

Presentation by City Planner Kathleen Castle

A weed abatement order is requested for the above 10 listed properties. The City's ordinance requires that properties be kept free of noxious weeds and that grass height not exceed 9 inches. The abatement procedure to address these issues includes written notification with a time frame to complete the work. If the work is not done, a notice of public hearing is sent. Owners, mortgage companies and/or attorney have been notified in writing.

Although some of the properties on the list have been mowed, staff is seeking an abatement order for all 10 that are listed in order to address any future recurrence of the problem and allow staff to monitor the properties through the 2014 and 2015 growing seasons. She noted that five of the properties are in foreclosure; two are rental properties with a history of such issues; and two of the properties are vacant.

Mayor Martin opened the public hearing to comments. There were none.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Withhart to adopt Resolution 14-37, pursuant to Section 210.020(A), approving the abatement of vegetative growth for the properties located at:

1729 Lois Drive
 417 Majestic Court
 348 Lilac Lane
 1066 Carlton Drive
 4711 Laura Lane

4476 Lexington Avenue North
 169 Demar Avenue
 5977 Grotto Street North
 4324 Snail Lake Boulevard
 625 Mound Avenue

and to charge the property owners for the cost of the abatement, including administrative costs. The City Manager is authorized to monitor the property throughout the 2015 and 2016 growing seasons and to abate any vegetative growth on the property that does not comply with City regulations.

Discussion:

Councilmember Johnson noted a mistaken reference to 325 Mound Avenue. All references should be 625 Mound Avenue.

Councilmember Withhart noted that the motion should be corrected to state the 2014 and 2015 growing seasons.

ROLL CALL: Ayes: Withhart, Johnson, Quigley, Wickstrom, Martin
 Nays: None

CABLE FRANCHISE - RESOLUTION 14-36 ADOPTING A PRELIMINARY ASSESSMENT THAT THE COMCAST OF MINNESOTA, INC. CABLE FRANCHISE SHOULD NOT BE RENEWED

Presentation by City Manager Terry Schwerm

The franchise renewal process is in process, as the cable franchise expired in November 2013. The franchise was extended to November, 2014 with the consent of the City and Comcast. The Council is being asked to adopt a preliminary assessment that the franchise with Comcast not be renewed.

Shoreview, with nine other cities, is part of the North Suburban Communications Commission (NSCC), which is negotiating with Comcast to renew the cable franchise. The City has been a member of the NSCC since 1982. The NSCC is a joint powers organization of 10 cities for the purpose of monitoring operations and activities of the cable system, administering the franchise; and developing community television programming. Community programming is done through the North Suburban Access Corporation, a sister organization to NSCC.

The NSCC is authorized to negotiate the franchise renewal on behalf of the City. A needs assessment and performance review were completed. Negotiations began a year ago in an informal process with direct negotiations between the two groups. However, with lack of progress and significant differences, NSCC voted to move to a formal negotiating process, which has triggered certain time frames and deadlines. Formal proposals have been submitted by both parties. The City must either accept the Comcast proposal or deny it by June 20, 2014. NSCC

has recommended a preliminary denial based on the determination that Comcast does not adequately address cable needs of the community. If the proposal is preliminarily denied, Comcast would have the right to seek an administrative hearing. The result of the hearing could be appealed to state or federal court by either side.

Staff concurs with NSCC that the Comcast formal proposal is not in the best interest of the City at this time. Protections to the City and consumer that were in the previous proposal are not included in the current Comcast proposal. Staff is, therefore, recommending preliminary denial to allow time to negotiate a franchise that is in the City's best interest.

Mr. Schwerm noted that in the last three to four weeks, Mr. Mike Bradley, Attorney for NSCC, has made significant headway in the informal negotiations that are occurring. Although the recommendation is for preliminary denial, staff believes an agreement can be reached before there is an administrative hearing.

Councilmember Wickstrom expressed her disappointment that this decision has to be made. She believes there has been plenty of time to reach agreement. She requested the motion be clear that if no agreement is reached by the August 18 deadline, the City will drop its membership from the NSCC. She does not want the City involved in a court matter. She asked how realistic it is that an agreement can be reached by August 18. Mr. Schwerm stated that he believes a framework for an agreement can be completed. A meeting among other mayors and city managers regarding Shoreview concerns was held, and there are changes underway regarding governance and provisions in the joint powers agreement.

Mr. Mike Bradley, Attorney for NSCC, stated that he believes negotiations can be completed by mid-August. There have been good productive discussions, but there are still some disagreements.

Councilmember Wickstrom asked what potential legal costs there will be to the City once preliminary denial has been approved by all member cities. **Mr. Bradley** responded that all cities except Shoreview and Roseville have voted for preliminary denial. Roseville also votes tonight. Comcast will then have the right to request an administrative hearing and has begun the steps for that process. NSCC has been given counsel through the Minnesota League of Cities Insurance Trust. The administrative law findings will be sent to NSCC, which will then send the findings to member cities. The cities will then have another opportunity to vote for renewal. Comcast also may seek judicial relief.

Councilmember Withhart stated that he is pleased to hear that negotiations are more reasonable on the part of the NSCC. He is also pleased that other cities are supporting Shoreview and working together on a change in governance. If an agreement is not reached or there are no changes in governance, he would also support the City leaving membership in the NSCC.

Mayor Martin agreed with Councilmember Wickstrom that it is not a good position for the City to have to vote to deny. However, there really is no choice because the current proposal is not one that is good for the community. She is not in favor of going to court, and if there is no

resolution by August, she, too, would favor withdrawing from the NSCC. The City previously tabled withdrawal until August 16, 2014, so that specific provision is not needed in this motion.

Councilmember Wickstrom emphasized the need to include language in the motion that the City will leave NSCC if there is no agreement by mid-August, so that there is no misunderstanding by other cities receiving and reading the motion.

Mayor Martin stated that other cities are very aware of Shoreview's position.

MOTION: by Councilmember Johnson, seconded by Councilmember Withhart to approve Resolution No. 14-36 adopting a Preliminary Assessment that the Comcast of Minnesota, Inc. Cable Franchise should not be renewed.

Discussion:

Councilmember Quigley stated that the City's participation in the NSCC does not make sense for the value being received. He is pleased to note there will be an option to withdraw, if there is no progress.

ROLL CALL: Ayes: Johnson, Quigley, Wickstrom, Withhart, Martin
Nays: None

ADJOURNMENT

MOTION: by Councilmember Quigley, seconded by Councilmember Wickstrom to adjourn the meeting at 8:37 p.m.

VOTE: Ayes - 5 Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 7TH DAY OF JULY 2014.

Terry Schwerm
City Manager