



**MINUTES
CITY COUNCIL MEETING
September 5, 2017**

CALL TO ORDER

The meeting was called to order at 6:30 pm.

Present: Mayor: Marty Schneider; Council: Tim Hultmann, Tom Skjaret, Jahn Dyvik, and Michelle Jerde

Staff Present: City Administrator: Scott Weske; City Attorney: John Thames; Fire Chief: James Van Eyll; and City Clerk: Jeanette Moeller

Absent: None

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENTS - LONG LAKE NEWS, MEETING REVIEW AND UPDATES

Mayor Schneider offered the following comments and updates:

In a work session prior to the regular meeting, the City Council discussed the preliminary budget and operating levy for the coming year; and reviewed a counter offer for the wireless communications tower at 445 Willow Drive, with provided to the City Attorney regarding preparation of a draft lease to replace the current lease expiring November 1.

On August 16, a County Road 112 construction update meeting was held at City Hall. The meeting was well attended by the business community. Paul Backer, senior project engineer, offered a presentation outlining the next three to six month period and construction highlights, and discussing traffic switch preparations as lane shifts begin. Backer indicated the plan is for surface area construction to be substantially complete from Willow Drive to Mill Street by Thanksgiving, weather permitting. Good progress continues to be visible in the project area.

Veterans Day is November 11, 2017. An anonymous donor has offered to financially participate in helping host a reception for veterans on Veterans Day. Mayor Schneider encouraged veterans to contact City Clerk Moeller to have their names and information added to a registry so that an invitation list can be assembled.

As a follow up to the 1st Annual Long Lake Garden Contest held in July, April Wysocki of the Country Cake Cupboard will also be organizing a holiday decorating contest, to include divisions for both Long Lake and Orono.

APPROVE AGENDA

A motion was made by Jerde, seconded by Skjaret, to approve the Agenda as presented. Ayes: all.

CONSENT AGENDA

The Consent Agenda consisted of:

- A. Approve Minutes of August 15, 2017 City Council Meeting
- B. Receive Unofficial Draft Minutes of August 22, 2017 Park Board Meeting

- C. Approve Vendor Claims and Payroll
- D. Resolution No. 2017-34 Accepting the Donation to the Long Lake Fire Department in the Amount of \$100.00 From Tour de Tonka
- E. Authorize the City Administrator to Send a Letter of Support to the MCWD Recognizing Their Updated 2018-2027 Water Management Plan

*A motion was made by Skjaret, seconded by Jerde, to approve the Consent Agenda as presented.
Ayes: all.*

OPEN CORRESPONDENCE

No one was in attendance to address the City Council during Open Correspondence.

BUSINESS ITEMS

Presentation of Long Lake Fire Relief Association Request for Fire Pension Benefit Level Change

Fire Chief Van Eyll reported that an earlier policy established by the Council in 2004 attempted to provide pension benefit increases at 3% level in future years. The 3% increases in the pension benefit were intended to be related largely to average annual pay increases provided by the three cities to their various employee groups. In 2008, the Fire Relief Association investment portfolio took a severe downturn with a related material reduction in pension plan assets. By 2009, it was apparent that the automatic 3% pension increase policy was not sustainable. During the years 2009 through 2011, the pension investment portfolio had largely recovered from the 2008 major losses and was once again in a position of having pension assets exceed pension liability. In 2012 state legislators enacted special funding that increased the 2% state aid given to municipalities to fund their fire departments relief associations' pensions. The 2% state aid is a percentage of the fire insurance premiums on commercial properties. Special legislation increased this aid by about 30% for all municipalities. The result of this increase was a large jump in our funded ratio. We went from 111% to 129% even after a 1% increase in the benefit level.

In 2014, the Long Lake Fire Relief Association Board of Trustees worked with their auditors and approached the Council to request an approximate 15% increase. Action was taken by the City Council in 2014 ratifying the proposed increase, which brought the benefit level up to \$3,400.

In 2015, the Long Lake Fire Relief Association Board of Trustees worked with their auditors again to request an increase. Action was taken by the Long Lake City Council to ratify a 11.7647% increase to the benefit level. This brought the benefit level to \$3,800.

In 2016, the Long Lake Fire Relief Association Board of Trustees chose not to approach the City for an increase due to the rate of return being negative and our funding ratio dropping below 110% at the end of 2015. The year 2016 turned out to a good one for the markets and 2017 is looking well also.

The Long Lake Fire Relief Association Board of Trustees has again worked with their auditors to create a Benefit Projections worksheet and analysis. They are asking the City Council to discuss the first projection scenario, which would increase the benefit level from \$3,800 to \$4,350, representing an increase of a little over 14%.

Van Eyll explained that the City is the guarantor of whatever benefit level is approved. Should the fund take a downturn and there not be enough funds available to pay out pensions, the City would be liable for any shortfall to do so; however, would be doing so over a 10 year amortization period. He reflected that during the economic challenges of 2008, some cities had needed to do so. Kelly

Shaughnessy and the Fire Relief Association Board did a great job of managing the situation in 2008, and Long Lake did not find itself liable for a pension contribution in that year.

Kelly Shaughnessy, firefighter and Long Lake Fire Relief Association Board member, indicated that the association recently made a change and their investment portfolio is now being managed by the State Board of Investment versus being managed independently. The SBI is the same board that manages the PERA fund. The SBI's rate of return has proven to be approximately one to two percent better than private sector returns for some years. Shaughnessy indicated that their appearance before the Council and requested increase represents a rebalancing to a funding ratio of 110%, representing protection and due diligence to the City, while being a fair benefit level increase for firefighters. He also explained how the dynamics of firefighter years in service impact the pension fund, clarifying that firefighters must remain in service 10 years before becoming vested at which time scaled pension benefit percentages become effective. He further presented information about how retirements are trending and impacting the fund.

Steve MacDonald of auditing firm Abdo Eick & Meyers explained the pension benefit level scenarios detailed in the projection report, and noted that only scenario one was being presented for consideration. He indicated the other two scenarios were included for the purpose of serving as a "stress test" for the funding level. He added that in preparing the scenarios, he had received input from Shaughnessy projecting anticipated retirements over the next eight year period as part of the worksheet preparation considerations. He clarified that if the market were to tank, that may not necessarily be the biggest driver of funding levels. The revenue created by investment interest and state aid is anticipated to be enough to weather the way the formula as proposed would experience a loss.

A motion was made by Schneider, seconded by Jerde, to accept scenario one establishing a pension benefit level change for the Long Lake Fire Relief Association from \$3,800 to \$4,350 per year of service with no escalation factor. Ayes: all.

Shaughnessy also requested the Council consider setting the interest rate for deferred members at 5%. Deferred members are Fire Relief Association members who have retired from service but are not permitted by state statute to collect their pension until they are over 50 years of age. Currently this would impact three retired firefighters who have retired but are ineligible to receive their pensions until age 50. He added that it is not anticipated any of these three retirees will return to active service prior to the age they are eligible to collect their pensions; however, in a circumstance where a retired member did do so, if they already had 10 years of service in, the new pension benefit level would be retroactive for that member.

A motion was made by Schneider, seconded by Jerde, to approve setting a pension benefit level interest rate for deferred members at 5% for 2018, applying to those members who are under 50 years of age but eligible for pension benefits due to years of service. Ayes: all.

Lake Minnetonka Communications Commission (LMCC) 2018 Budget

Administrator Weske informed the Council that the Lake Minnetonka Communications Commission (LMCC) operates as a joint powers organization between the Lake Minnetonka communities including Long Lake. LMCC bylaws require a majority of member cities to approve the proposed annual budget before the budget can proceed as adopted. The budget is funded by franchise and PEG fees paid directly to the LMCC by Mediacom Communications through customer charges.

The 2018 budget was approved by the LMCC at their August 10 meeting. The budget increased to \$377,503.76 from \$376,530.67, representing a \$973.09 increase and a balanced budget.

Council member Skjaret credited the LMCC for developing a favorable and very well thought out budget. He further complimented the organization on their responsiveness and willingness to intercede on behalf of individuals who are having difficulties working with Mediacom to address their cable or internet issues.

A motion was made by Skjaret, seconded by Hultmann, to approve the proposed 2018 Lake Minnetonka Communications Commission (LMCC) Budget and to direct the City Administrator to forward a certified copy of meeting minutes of this Long Lake City Council action to the LMCC Executive Director. Ayes: all.

Reschedule November 7, 2017 City Council Meeting Date

City Clerk Moeller indicated Tuesday, November 7 is an election day for some Hennepin County jurisdictions and for Orono School Board elections. As State Statute dictates that government meetings should not be held on election days and November 7 falls on a regular City Council meeting night, the Council's first meeting in November must be rescheduled.

A motion was made by Schneider, seconded by Jerde, to reschedule the regular November 7 City Council meeting to be held on Wednesday, November 8. Ayes: all.

County Road 112 / Wayzata Boulevard W Reconstruction Project Updates

Weske offered the following updates relative to the County Road 112 reconstruction project:

- Traffic is now driving on the new roadway surface between Lake Street and Willow Drive.
- Open excavation sewer replacements between Lake Street and Brown Road have been completed.
- Earlier today, the boring crew began fusing sewer pipe which will be bored underneath Brown Road over the next few days.
- After sewer replacement is complete, water main work will begin and is expected to last a few weeks.
- The temporary bypass road along the lake is at its final grade and should be paved sometime in September.
- Pavement crushing operations have begun at the Public Works facility and so far, Public Works Director Goehring reports that everything is going smoothly.

Mayor Schneider commented on the nice retaining wall installation completed at Nelson Lakeside Park, and stated he anticipates Dexter Park watermain work will take place soon.

Weske noted that he and Public Works Director Goehring had been exploring opportunities for Eureka Construction to relocate some extra dirt to a site, and were considering the idea of placing the dirt at Dexter Park in an area that could be leveled and then striped for a future soccer field.

Discuss "In God We Trust" Initiative (Mayor Schneider)

Mayor Schneider indicated that the "In God We Trust" initiative was brought to his attention three weeks prior, and he had invited John James to discuss the matter before the Council.

John James, owner of the property at 1605 Wayzata Boulevard W, stated that the "In God We Trust" initiative begins with recognizing that "In God We Trust" is our national motto since

introduced on currency as approved by President Dwight D. Eisenhower in 1956. James recommended visiting the Wikipedia website entry regarding "In God We Trust" for a good background source on the subject. He noted that there are a number of states that feature "In God We Trust" license plates. Regarding the "In God We Trust" initiative, he is requesting the City Council consider placing a plaque some place in City Hall stating the "In God We Trust" motto.

Council member Skjaret questioned how doing so would benefit the community and inclusiveness of Long Lake.

James stated that the initiative is not about being exclusive, and that God accepts everybody. A fair amount of US representative offices, cities, and states have displayed "In God We Trust" since it came down from our forefathers to our monetary bills. The motto is displayed in state capitols. He indicated he can't see how that would be a negative on the City of Long Lake.

Council member Skjaret reflected that in 1861 when the US Treasury was asked to include the motto on coins, it was instituted from a perspective of religious sentiment and as a show of moral superiority on the southern states during the Civil War era. He opined that the motto has continued to be used in a "we against them" manner. In 1955 when law was passed to place the motto on paper currency, it was during the cold war and was a measure to discourage "godless communists" sending a message to keep away from the United States. The motto was also employed again following the events of September 11, 2001. He sees "In God We Trust" as often being used to exclude those who do not believe in God or who hold a different religion. He commented it is his opinion that the "In God We Trust" initiative is not inclusive, and that the City would be excluding people by installing the motto on City buildings. He added that the "In God We Trust" initiative references the country as being based on Christian religion, but he believed most of the founding fathers were deists and saw a state sponsored religion as being a bad thing. He noted he had done some research on the subject for familiarity.

Council member Dyvik recalled that the phrase first came into being through Francis Scott Keyes when it was incorporated in the Star Spangled Banner. It is a fact that the founding fathers stated our rights come from God. God's name is invoked in the Pledge of Allegiance, and references to God were made a part of the Declaration of Independence in 1776. He added that separation of church and state has been overused and was not meant to suggest that mention of God should never be made in a public square.

Council member Skjaret stated that the big item for discussion would be where to stop. Which religion do you stop at, because inclusivity must be maintained.

Council member Dyvik and Mr. James responded that the motto is not a Christian statement or saying.

Council member Skjaret noted that he had not seen it featured in a Buddhist religion.

Council member Dyvik replied that an article he had viewed showed references to Buddhism and Judaism. The motto is on the country's coins. The subject has been reviewed by the Supreme Court. "In God We Trust" is the national motto.

Council member Skjaret personally found posting the motto to be of offense.

James noted he had not been prepared with research background because he did not perceive that something that is wholly American would be offensive to a red blooded American.

Council member Skjaret asked whether Mr. James was questioning his patriotism.

Mayor Schneider indicated he did not think anyone was questioning anybody's patriotism, and that one of the beautiful things about this country is the ability to share and have differing opinions.

James felt that if a poll of citizens were taken, the majority would be in favor of the initiative. He ultimately stated that the "In God We Trust" initiative has been opted for by cities and counties, noting that Congressional buildings include postings of the motto.

City Attorney Thames stated that his take on it begins with the idea that congress is not tasked with favoring one religion over another, and that to do so is unconstitutional. The initiative is not a black and white issue, and use of the motto has been ruled on by the Supreme Court. At every turn, the justification for accepting the motto has been that its use is a tradition rather than a religious expression. If the point of placing the motto on a wall is that most believe in God, that would be inadvisable. But if the intent is to follow a tradition akin to the Pledge of Allegiance and consider its use to follow in that vein, then that is more acceptable. The follow up question he would pose though would be whether the Pledge of Allegiance is sufficient to honor the tradition by itself. What needs to be asked before taking action of the nature under discussion is whether the constitutional controversy this can cause is worth the effort of undertaking the initiative. There may be people who are offended by posting of the motto and the City could be subject to challenge at that point. Whether a city can or should install the motto are essentially two different questions, and would be related to the city's willingness to defend the action. It is his understanding that some have undertaken this initiative in order to assert their right to talk about God in a public building. Again, the courts have recognized that the motto may be used for a tradition or a tone setter, but not to take a position on Christianity. The Council would need to ask themselves why they would hang the plaque, and what purpose doing so would serve. The Lemon Test, a result of a 1971 court case, should be considered to be met. Following the Lemon Test, it should be asked whether there is a secular intent to the action to be taken. If the purpose is to show preference to God, that would fail the test; where if the purpose is to set the tone, it should be asked whether the Pledge of Allegiance is sufficient to do so. Secondly, the primary action must be one that neither advances nor inhibits religion. The action being taken should not show preference or disfavor to religions. Last, the action must not foster excessive government entanglement with religion. The Supreme Court has upheld use of the country's motto and it could be applied at lower levels of government; however, the purpose should be that its use is ceremonial, traditional, and not intended to display a preference in God or to state that most people in town may believe in God. He did not believe the motto's display would be an issue for the purpose of continuing to use City Hall as a polling place, but reiterated that the intent of displaying the motto is of importance.

Administrator Weske noted that while it would not cost the City anything to not have the motto displayed, the City could incur cost to defend posting the motto if displayed.

James added that he believes the "In God We Trust" initiative group has attorneys available to defend challenges at the organization's expense. He also indicated that if displaying the plaque were to be an issue during polling time, the plaque could be covered up or taken down during that time.

Council member Hultmann suggested tabling the matter to the Council's next work session in order to move forward with the regular Council meeting, and to allow Council members to research the matter further.

A motion was made by Hultmann, seconded by Dyvik, to table discussion of the "In God We Trust" initiative request until the next City Council work session on October 3, 2017. Ayes: all.

Discuss Plans for Veterans Day Commemorative Activities (Mayor Schneider)

Mayor Schneider reiterated that an anonymous donor has offered to financially participate in helping host a reception for veterans on Veterans Day, November 11. Mayor Schneider encouraged veterans to contact City Clerk Moeller to have their names and information added to a registry so that an invitation list can be assembled. He indicated that the intent is to hold a similar function to those that have been held in the past on Memorial Day, likely beginning at the Long Lake Veterans Memorial and Nelson Lakeside Park pavilion, possibly followed by moving to a restaurant afterwards. Council discussed opportunities available to publicize that the City is seeking veteran contact information in advance of a commemorative event.

OTHER BUSINESS

New Business, Dance Unlimited – Council member Hultmann reported that a sign is up and remodeling is underway for a new business, Dance Unlimited, to move into the Napa building on the west end of town. He was excited to see a new business coming to Long Lake.

Long Lake Rowing Crew (LLRC) – Council member Hultmann congratulated the LLRC on winning 14 medals at a recent competition, and expressed appreciation to the Council and property owners of the Birch’s site for making their location possible. The organization has become a great neighbor and has allowed kids the opportunity to move on in their schooling with scholarships to rowing colleges.

Beach Closures – City Clerk Moeller explained the sampling results that had led to the City’s swimming beach being closed and reopened with some frequency over the past weeks.

Approval of Advertising Opportunity – Following up on an item briefly discussed at the work session prior to the regular meeting, Mayor Schneider stated that the Laker-Pioneer annually publishes a West Lakes Community Guide, which typically includes information about Long Lake at no charge to the City. They have offered to make a half-page advertising space available at a cost of \$500 to specially highlight the City’s business area in the next edition.

A motion was made by Schneider, seconded by Hultmann, to approve a \$500 expenditure for advertising space in the West Lakes 2017-2018 community guide. Ayes: all.

ADJOURN

A motion was made by Jerde, seconded by Hultmann, to adjourn the meeting. Ayes: all. Mayor Schneider adjourned the meeting at 7:45 pm.

Respectfully submitted,

Jeanette Moeller
City Clerk