

# Greenwood City Council Meeting

7 PM, Tuesday, September 7, 2010  
20225 Cottagewood Road ~ Deephaven, MN 55331 ~ 952-474-6633

## AGENDA

*Welcome to the Greenwood city council meeting. We are glad you are here! Members of the public are invited to address the council regarding any item on the agenda. If your topic is not on the agenda, you may speak during Matters from the Floor. And as a friendly reminder, please turn off your cell phones.*

- 7:00 PM 1. CALL TO ORDER ~ ROLL CALL ~ APPROVE AGENDA
- 7:00 PM 2. CONSENT AGENDA  
*Council members may request removal of consent agenda items for further discussion. Removed items will be placed under Other Business.*
- A. Recommendation: Approve 08-05-10 Council Minutes
  - B. Recommendation: Approve 08-05-10 Work Session Minutes
  - C. Recommendation: Approve July Cash Summary Report
  - D. Recommendation: Approve August Payables
- 7:05 PM 3. MATTERS FROM THE FLOOR  
*This is an opportunity for the public to address the council regarding matters not on the agenda. The council will not engage in discussion or take action on items presented at this time. However, the council may ask for clarification and may include items on a future agenda. Comments are limited to three minutes.*
- 7:10 PM 4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS
- A. Hennepin County Commissioner Jan Callison
  - B. Chief Scott Gerber: Excelsior Fire District Update
  - C. City Attorney Mark Kelly: Junk, Debris, and Nuisance Enforcement
  - D. Zoning Administrator / City Clerk Gus Karpas: Georgetown Manor Update
- 8:10 PM 5. PUBLIC HEARINGS
- A. 2010 Greenwood Ordinance Code Book
- 8:10 PM 6. UNFINISHED BUSINESS
- A. None
- 8:15 PM 7. NEW BUSINESS
- A. Discuss: Traffic Calming on Sleepy Hollow Road
  - B. Consider: Resolution 17-10, 2011 Preliminary Tax Levy Amount of \$645,919 (-3.05% reduction from 2010 tax levy)
  - C. Discuss: Possible Vacation of Unpaved Road Right of Way Between Stafford and Conrad Properties Along Fairview Street
  - D. Consider: Three Rivers Park District Permit for Winter Trail Activities
  - E. First Reading: Ordinance 186 Enacting a Code of Ordinances for the City of Greenwood
  - F. Discuss: Minnesota Supreme Court Decision Regarding Variances and Nonconforming Structures
  - G. Consider: Lake Minnetonka Communications Commission Budget
- 9:30 PM 8. OTHER BUSINESS
- A. None
- 9:30 PM 9. COUNCIL REPORTS
- A. Fletcher: Planning Commission, Lake Minnetonka Communications Commission, Milfoil
  - B. Kind: Police, Administration
  - C. Page: Lake Minnetonka Conservation District
  - D. Quam: Roads & Sewer, St. Alban's Bay Bridge, Minnetonka Community Education
  - E. Rose: Excelsior Fire District
- 9:45 PM 10. ADJOURNMENT

*Agenda times are approximate. Please be ready 10 minutes prior to your agenda topic. Every effort will be made to keep the agenda on schedule.*

**GREENWOOD CITY COUNCIL MEETING**  
**Tuesday, August 5, 2010 7:00 p.m.**  
**Council Chambers 20225 Cottagewood Road Deephaven MN 55331**

**1. CALL TO ORDER- ROLL CALL - APPROVAL OF AGENDA**

Mayor Kind called the meeting to order at 7:00 p.m.

Members present: Mayor Deb Kind, Councilmembers Tom Fletcher, Kelsey Page, Bob Quam, and William Rose

Others present: Zoning Administrator / City Clerk Gus Karpas, City Attorney Mark Kelly, and Recording Secretary Clare Link

Councilmember Quam moved to approve the agenda. Fletcher seconded the motion. Motion carried 5-0.

**2. APPROVE CONSENT AGENDA**

Councilmember Quam moved to approve the following Consent items.

- A. Recommendation: Approve 07-06-10 Council Minutes
- B. Recommendation: Approve 07-06-10 Worksession Minutes
- C. Recommendation: Approve June Cash Summary Report

Councilmember Rose seconded the motion. Motion approved 5-0.

**3. MATTERS FROM THE FLOOR**

- A. Eric Stafford, 21880 Fairview Street asked if he would be able to get a road vacation in order to build a house. Kelly stated a petition to the city is needed with signatures from a majority of the property owners on the street. It is at the city's discretion whether to consider the request. Kind stated that the council may include this topic on a future agenda.

**4. ANNOUNCEMENTS, PRESENTATIONS & STAFF REPORTS**

**A. Proposals: Associated Insurance Group and Northern Capital Insurance Group**

Kind stated she talked to the city's current insurance agent who would like to keep the city's business. A proposal was also received from Northern Capital Insurance Group who would like the city to switch carriers. Carl Bennetsen from Northern Capital was present to answer questions and discussed his company's services.

Councilmember Fletcher moved to change insurance carriers to Northern Capital Insurance Group. Rose seconded the motion. Motion carried 5-0.

**B. Chief Bryan Litsey: SLMPD Budget**

Chief Litsey reviewed the proposed 2011 SLMPD budget and discussed the process utilized to have the budget reviewed and approved by the Coordinating Committee. He discussed staffing levels and future needs.

In response to a question from Councilmember Rose, Litsey discussed changes in health insurance coverage for many of the staff who have changed from single to family coverage.

Councilmembers discussed their role when giving their input on the proposed budget.

Kind stated that the SLMPD Coordinating Committee approved the budget on a 2-1 vote and that she was the one who voted nay. She stated that the line item for undesignated funds could be deleted and the funds could come from the police reserve fund if needed. Doing this would reduce the budget from a 4.8% increase to a 3.8% increase. Kind stated that she believed that a 3.8% increase would have a better chance of being approved by all 4 cities.

Councilmember Quam moved to approve the 2011 SLMPD budget. Fletcher seconded the motion. Quam stated he hasn't heard anything that has given him any indication that this isn't the best possible budget. Councilmembers discussed their concerns about salaries. Motion carried 3-2. Rose and Kind voted against the motion.

**C. Meet City Prosecutor Greg Keller**

Mark Kelly introduced Greg Keller, the city's prosecuting attorney. Keller introduced himself to the city council and discussed his background.

**5. PUBLIC HEARINGS**

None

**6. UNFINISHED BUSINESS**

**A. Second Reading: Ordinance #185 Regulation of Adult Establishments, Code Section 1178**

Kind stated the first reading was approved at the July meeting with no changes.

Councilmember Fletcher moved to approve the second reading of

Ordinance #185 regulation of adult establishments, Code Section 1178.  
Page seconded the motion. Motion carried 5-0.

**B. Consider: Resolution #12-10 Summary of Ordinance #185 for Publication**

Councilmember Fletcher moved to adopt Resolution #12-10 Summary of Ordinance #185 for publication. Quam seconded the motion. Motion carried 5-0.

Councilmember Fletcher moved to amend Ordinance #185 so the last two sections are renumbered correctly. Quam seconded the motion. Motion carried 5-0.

**7. NEW BUSINESS**

**A. Consider: Resolution #14-10 Regarding Voting Procedure**

Kind reviewed a resolution designating Hennepin County as the absentee ballot board.

Councilmember Page moved to adopt Resolution #14-10 regarding voting procedure. Fletcher seconded the motion. Motion carried 5-0.

**B. Consider: 2011 Contract for Assessor Services from Hennepin County**

Kind reviewed the 2011 contract for assessing services from Hennepin County through the year 2014. A second option has been provided for a contract through 2012. The council concurred the two-year option was preferred.

Councilmember Quam moved to approve the two-year 2011 contract for assessor services from Hennepin County. Rose seconded the motion. Motion carried 5-0.

**C. Consider: Beaver Dam Removal Options**

Kind stated the beaver trapper has recommended the beaver dam be closed down. She stated if the council wishes to pursue this suggestion, quotes will be pursued and brought back to the September meeting. Quam stated there is some concern the beavers are tunneling under Minnetonka Boulevard which is a good reason to authorize the work.

Councilmember Fletcher moved to authorize Quam to spend up to \$5,000 to remove the beaver dam. Rose seconded the motion. Motion carried 5-0.

**D. Consider: Resolution #16-10 Vintage Waste Recycling Contract Renewal**

Kind stated Vintage would like to extend their contract for an additional year at no increase.

Councilmember Page moved to adopt Resolution #16-10 to renew the Vintage waste recycling contract for an additional year. Fletcher seconded the motion. Motion carried 5-0.

**E. Consider: Excelsior Fire District Budget**

Kind stated the proposed 2.02% budget increase includes both the operating and facility/capital budgets. The actual increase is 4.68% for the operating budget and 1% for the facility/capital budget. Because Greenwood's share is calculated by tax capacity these numbers translate to 7.04% increase and 1.23% increase to the operating and facility/capital budgets respectively.

Councilmembers reviewed the proposed budget which included salary increases for staff and volunteer firefighters. Kind was concerned about treating the firefighters equally with what we are giving the police.

Councilmember Fletcher moved to approve the 2011 Excelsior Fire District operating budget. Quam seconded the motion. Motion carried 5-0.

Councilmember Fletcher moved to 2011 EFD capital expenditures/building budget. Quam seconded the motion. Motion carried 5-0.

**F. Set Date: Budget Hearing and Final Budget/Levy Approval, Recommendation 12/7 @ 7 p.m.**

Kind suggested the budget hearing and final budget/levy approval be held on December 7 at 7 p.m.

Councilmember Quam moved to set December 7 as the budget hearing and final budget/levy approval recommendation meeting. Rose seconded the motion. Motion carried 5-0.

**8. OTHER BUSINESS**

**A. Approve July Payables**

Councilmember Fletcher moved to approve the July payables with the exception of the payment to Civic Systems. Rose seconded the motion.

Fletcher stated we need to find if this is a legitimate expense. Karpas suggested the payment to Ohmann Brothers also be held until a signed agreement is received. Motion by Fletcher and seconded by Rose to amend the motion authorizing the mayor to approve payables to Civic Systems and Ohmann Brothers. Fletcher stated someone from Greenwood should review payments to Deephaven before they are made. Motion carried 5-0.

**9. COUNCIL REPORTS**

**A. Fletcher: Planning Commission, Lake Minnetonka Communications Commission, Milfoil, and Minnehaha Creek Watershed District**

Fletcher reported on the Planning Commission meeting. He will not be able to attend the next LMCC meeting. The MCWD approved the shoreland and wetland rules in July despite objections from some cities. He noted it would not impact Greenwood but would impact other cities. Fletcher stated that he questioned the validity of the agricultural studies supporting the rule changes for non-agricultural properties.

**B. Kind: Police, Administration Transition Report**

Kind stated two officer vacancies have been filled. There were over 200 applicants. She reported all is going well with Deephaven, and we will save over \$50,000 in administrative costs.

**C. Page: Lake Minnetonka Conservation District**

Page discussed the recent infestation of zebra mussels in Lake Minnetonka. He stated that experts believe they have been in the lake for one year.

The Council recessed at 9:00 p.m. and reconvened at 9:05 p.m.

Page continued his report. He noted they almost are done with the new LMCD logo. He discussed a proposed development in Halstead's Bay in Minnetrista that will request 144 dock slips.

**D. Quam: Roads**

Quam reported on Night to Unite on Tuesday, August 3. Road projects have been completed and came in within budget. He stated the Tour de Tonka is Saturday, August 7 beginning at Minnetonka High School.

**E. Rose: Fire**

Rose had no further report.

**10. ADJOURNMENT**

There being no further business, it was moved by Page to adjourn the meeting at 9:20 p.m. Rose seconded the motion. Motion carried 5-0.

Respectfully submitted,

Clare T. Link  
Recording Secretary

## Greenwood City Council Work Session

5:30 PM, Thursday, August 5, 2010

Council Chambers ~ 20225 Cottagewood Road ~ Deephaven, MN 55331

### MINUTES

1. Call to Order ~ Roll Call ~ Approve Agenda

Mayor Kind called the meeting to order at 5:34 PM.

Council present: Mayor Deb Kind, Councilman Tom Fletcher, Councilman Kelsey Page (6:35 PM), Councilman Bob Quam, and Councilman William Rose

Others present: City Attorney Mark Kelly (6:30 PM)

Quam moved to approve the agenda. Second by Rose. Motion carried 4-0.

2. Budget Discussion

The council discussed the 7/25/10 draft of the 2011 budget. Changes will be made to the following items for the preliminary budget approval at the 9/7/10 council meeting: Meals/Lodging, Assessor Contract, Street Sign Project, July 4th Fireworks, and the Contingency Fund. After these changes are made, the preliminary 2011 tax levy amount is projected to be approximately -3% compared to 2010.

3. Code Book Discussion

Kelly briefed the council on the recent Minnesota Supreme Court decision regarding variances and nonconforming structures. A discussion of possible code book revisions will be included on the 9/7/10 council agenda.

Quam moved to recess the work session at 6:55 PM. Second by Fletcher. Motion carried 5-0.

Kind reconvened the work session at 9:25 PM.

The council discussed additional code book changes. Further revisions to chapters 11 and 12 will be discussed at the first reading at the 9/7/10 council meeting. At the 9/7 meeting the council also will review revisions to section 425 with the intent to make it clear that if a boat is not in a city dock space by June 15, the space will be given to the next person on the waiting list for the current and future boating seasons.

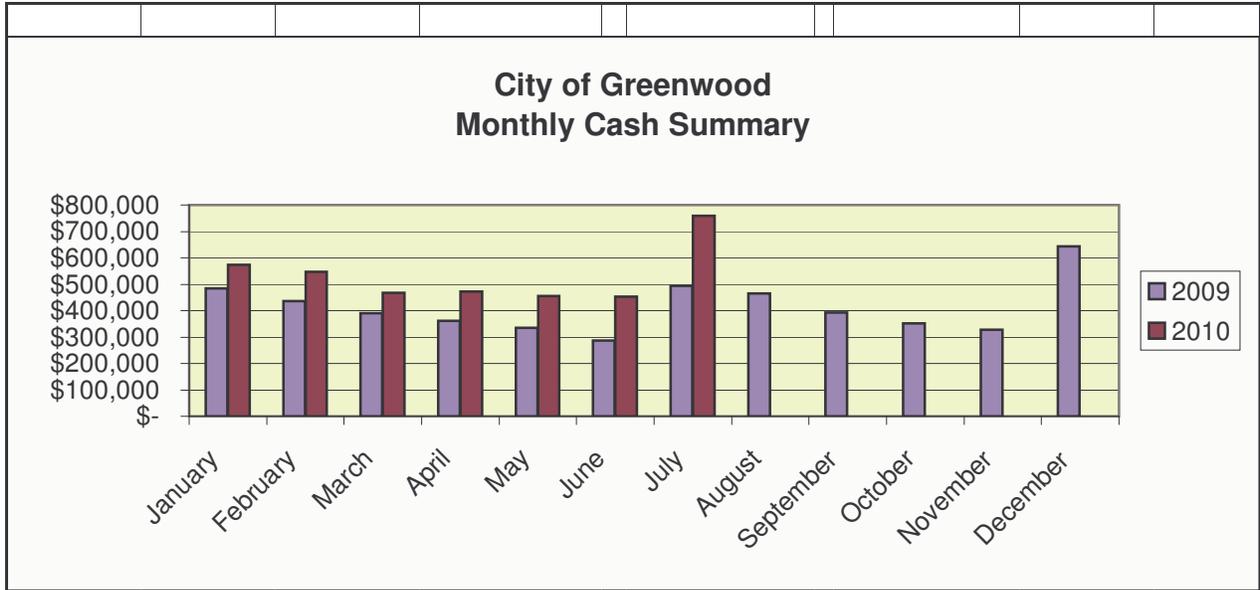
4. Set Date for Next Work Session

The council decided that there was no need for a work session in September.

5. Adjournment

Rose moved to adjourn at 9:40 PM. Second by Fletcher. Motion carried 5-0.

*Respectfully submitted by Deb Kind*



Month	2009	2010	Variance with	Variance with
			Prior Month	Prior Year
January	\$ 484,702	\$ 573,056	\$ (69,158)	\$ 88,354
February	\$ 437,334	\$ 545,897	\$ (27,159)	\$ 108,563
March	\$ 391,150	\$ 466,631	\$ (79,266)	\$ 75,481
April	\$ 360,843	\$ 472,069	\$ 5,438	\$ 111,226
May	\$ 334,929	\$ 454,955	\$ (17,114)	\$ 120,026
June	\$ 286,999	\$ 453,487	\$ (1,468)	\$ 166,488
July	\$ 495,051	\$ 759,701	\$ 306,214	\$ 264,650
August	\$ 465,300	\$ -	\$ (759,701)	\$ (465,300)
September	\$ 393,080	\$ -	\$ -	\$ (393,080)
October	\$ 351,022	\$ -	\$ -	\$ (351,022)
November	\$ 327,615	\$ -	\$ -	\$ (327,615)
December	\$ 642,214	\$ -	\$ -	\$ (642,214)
Bridgewater Bank Money Market:		\$ 555,012		
Bridgewater Bank Checking:		\$ 4,349		
Beacon Bank Money Market		\$ 200,340		
		\$ 759,701		

Check Issue Date(s): 08/04/2010 - 09/07/2010

Per	Date	Check No	Vendor No	Payee	Amount
08/10	08/31/2010	10034	586	VOID - CIVIC SYSTEMS, LLC	1,918.00 -M
08/10	08/16/2010	10050	660	CLARE T. LINK	200.00
09/10	09/07/2010	10051	51	BOLTON & MENK, INC.	3,891.50
09/10	09/07/2010	10052	9	CITY OF DEEPHAVEN	6,807.72
09/10	09/07/2010	10053	586	CIVIC SYSTEMS, LLC	959.00
09/10	09/07/2010	10054	765	GUS KARPAS	82.14
09/10	09/07/2010	10055	3	KELLY LAW OFFICES	1,253.00
09/10	09/07/2010	10056	99	LAKE MTKA CONSERVATION DISTRIC	1,586.00
09/10	09/07/2010	10057	742	Marco, Inc.	528.76
09/10	09/07/2010	10058	105	METROPOLITAN COUNCIL ENV SERV	3,007.42
09/10	09/07/2010	10059	764	OMANN BROTHERS PAVING	19,674.82
09/10	09/07/2010	10060	701	Popp Telecom	144.36
09/10	09/07/2010	10061	38	SOUTH LAKE MINNETONKA POLICE	12,688.00
09/10	09/07/2010	10062	136	Sun Newspapers	300.31
09/10	09/07/2010	10063		Information Only Check	.00 V
09/10	09/07/2010	10064		Information Only Check	.00 V
09/10	09/07/2010	10065		Information Only Check	.00 V
09/10	09/07/2010	10066	145	XCEL	780.40
09/10	09/07/2010	10072	745	Vintage Waste Systems	1,568.40
Totals:					<u>51,553.83</u>

## Report Criteria:

Invoice.Voided = false

GL Acct No	Vendor	Vendor Name	Description	Invoice No	PO No	Inv Date	Amount
101-41200-372	GENERAL FUND - COUNCIL - ELECTIONS - MEALS/LODGING						
	765	GUS KARPAS	ELECTION JUDGE MEALS	081010		08/10/2010	82.14
101-41400-202	GENERAL FUND - COUNCIL - ADMINISTRATION - DUPLICATING						
	9	CITY OF DEEPHAVEN	COPIES	090110		09/01/2010	15.90
101-41400-310	GENERAL FUND - COUNCIL - ADMINISTRATION - CLERKS CONTRACTURAL						
	9	CITY OF DEEPHAVEN	Clerk Services	090110		09/01/2010	2,370.40
	660	CLARE T. LINK	Council Minutes	080610		08/06/2010	200.00
							2,570.40 *
101-41400-311	GENERAL FUND - COUNCIL - ADMINISTRATION - OFFICE-RENT						
	9	CITY OF DEEPHAVEN	RENT & EQUIPMENT	090110		09/01/2010	855.36
101-41400-313	GENERAL FUND - COUNCIL - ADMINISTRATION - PROF SVC-ACCTG/S WARE SUPPORT						
	586	CIVIC SYSTEMS, LLC	Semi-Annual Support Fee	CVC7628		08/31/2010	959.00
101-41400-321	GENERAL FUND - COUNCIL - ADMINISTRATION - COMMUNICATIONS-TELEPHONE						
	701	Popp Telecom	Local, Long dist. & DSL	109		07/31/2010	144.36
101-41400-322	GENERAL FUND - COUNCIL - ADMINISTRATION - POSTAGE						
	9	CITY OF DEEPHAVEN	Postage	090110		09/01/2010	190.60
101-41400-351	GENERAL FUND - COUNCIL - ADMINISTRATION - PRINTING-LEGAL NOTICES						
	136	Sun Newspapers	Primary Election Notice	1002012		07/29/2010	53.63
	136	Sun Newspapers	RESOLUTION	1006968		08/19/2010	78.65
	136	Sun Newspapers	RESOLUTION	1006971		08/19/2010	71.50
	136	Sun Newspapers	Ordinances	1008356		08/26/2010	96.53
							300.31 *
101-41400-411	GENERAL FUND - COUNCIL - ADMINISTRATION - RENTALS-OFFICE EQUIP & COPIER						
	742	Marco, Inc.	Copier lease	157900036		08/14/2010	528.76
101-41600-304	GENERAL FUND - COUNCIL - LEGAL SERVICES - LEGAL SERVICES-GENERAL						
	3	KELLY LAW OFFICES	GENERAL LEGAL	5776		08/30/2010	908.00
101-41600-308	GENERAL FUND - COUNCIL - LEGAL SERVICES - LEGAL SERVICES-PROSECUTIONS						
	3	KELLY LAW OFFICES	LAW ENFORCE PROSECUTION	5777		08/30/2010	345.00
							<u>6,899.83</u>
101-42100-310	GENERAL FUND - LAW ENFORCEMENT - LAW ENFORCEMENT - LAW ENFORCEMENT-CONTRACT						
	38	SOUTH LAKE MINNETONKA POL	OPERATING BUDGET EXPENSE	090110		09/01/2010	12,613.00
101-42100-439	GENERAL FUND - LAW ENFORCEMENT - LAW ENFORCEMENT - PUBLIC SAFETY-OTHER						
	38	SOUTH LAKE MINNETONKA POL	Hennepin Co. Processing Fees	081610		08/16/2010	75.00
101-42400-308	GENERAL FUND - LAW ENFORCEMENT - ZONING - ZONING CONTRACT						
	9	CITY OF DEEPHAVEN	ZONING	090110		09/01/2010	222.58
101-42600-303	GENERAL FUND - LAW ENFORCEMENT - ENGINEERING - ENGINEERING FEES						
	51	BOLTON & MENK, INC.	ENGINEER FEES	134062		07/28/2010	3,861.50

GL Acct No	Vendor	Vendor Name	Description	Invoice No	PO No	Inv Date	Amount
Total LAW ENFORCEMENT							16,772.08
101-43100-381	GENERAL FUND - CONTRACT UTILITY AND ROADS - CONTRACT UTILITY AND ROADS - S&R-UTILITY SERVICES-ELE						
	145	XCEL	SIREN	072610		07/26/2010	3.35
	145	XCEL	Street Light -Meadville	072610		07/26/2010	8.46
	145	XCEL	Sleepy Hollow Road	072610		07/26/2010	8.48
	145	XCEL	LIGHTS	072610		07/26/2010	361.83
	145	XCEL	4925 MEADVILLE ST	082510		08/25/2010	8.56
	145	XCEL	SIREN	082510		08/25/2010	3.44
							394.12 *
101-43200-229	GENERAL FUND - CONTRACT UTILITY AND ROADS - ROAD IMPROVEMENT - MAJOR ROAD IMPROVEMENTS						
	764	OMANN BROTHERS PAVING	ROAD PAVING	083010		08/30/2010	19,674.82
101-43900-313	GENERAL FUND - CONTRACT UTILITY AND ROADS - PUBLIC WORKS - WEED/TREES/MOWING						
	9	CITY OF DEEPHAVEN	WEED/TREE/MOWING	090110		09/01/2010	2,047.86
	9	CITY OF DEEPHAVEN	PARK MAINTENANCE	090110		09/01/2010	78.76
							2,126.62 *
Total CONTRACT UTILITY AND ROADS							22,195.56
101-49000-310	GENERAL FUND - MISCELLANEOUS - MISCELLANEOUS - RECYCLING CONTRACT						
	745	Vintage Waste Systems	City Recycling Contract	083010		08/30/2010	1,568.40
101-49000-436	GENERAL FUND - MISCELLANEOUS - MISCELLANEOUS - LMCD						
	99	LAKE MTKA CONSERVATION DIS	3rd QTR LEVY PMT	080510		08/05/2010	1,586.00
Total MISCELLANEOUS							3,154.40
Total GENERAL FUND							49,021.87
502-43200-310	STORMWATER FUND - STORMWATER FUND - STORMWATER FUND EXPENSES - STORMWATER-PUBLIC WORKS						
	9	CITY OF DEEPHAVEN	STORM SEWERS	090110		09/01/2010	78.76
502-43200-319	STORMWATER FUND - STORMWATER FUND - STORMWATER FUND EXPENSES - EQUIPMENT MAINTENANCE-OTH						
	9	CITY OF DEEPHAVEN	JET VAC CLEAN STORM SEWERS	090110		09/01/2010	735.00
Total STORMWATER FUND							813.76
Total STORMWATER FUND							813.76
602-43200-303	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - ENGINEERING-SEWER						
	51	BOLTON & MENK, INC.	ENGINEER FEES	134060		07/28/2010	30.00
602-43200-309	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - METRO WASTE						
	105	METROPOLITAN COUNCIL ENV	Monthly wastewater Charge	937867		08/03/2010	3,007.42

GL Acct No	Vendor	Vendor Name	Description	Invoice No	PO No	Inv Date	Amount	
602-43200-310	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - SEWER - PUBLIC WORKS							
	9	CITY OF DEEPHAVEN	SEWER	090110		09/01/2010	212.50	
602-43200-381	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - UTILITY SERVICES-ELECTRIC							
	145	XCEL	LIFT STATION #6	072610		07/26/2010	75.23	
	145	XCEL	LIFT STATION #1	072610		07/26/2010	32.78	
	145	XCEL	LIFT STATION #2	072610		07/26/2010	34.75	
	145	XCEL	LIFT STATION #4	072610		07/26/2010	33.71	
	145	XCEL	LIFT STATION #3	072610		07/26/2010	23.74	
	145	XCEL	LIFT STATION #1	082510		08/25/2010	30.75	
	145	XCEL	LIFT STATION #2	082510		08/25/2010	32.77	
	145	XCEL	LIFT STATION #3	082510		08/25/2010	22.28	
	145	XCEL	LIFT STATION #4	082510		08/25/2010	31.88	
	145	XCEL	LIFT STATION #6	082510		08/25/2010	68.39	
							386.28 *	
Total SEWER FUND EXPENSES							3,636.20	
Total SEWER FUND							3,636.20	
Grand Total:							53,471.83	

Dated: \_\_\_\_\_

Mayor: \_\_\_\_\_

City Council: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City Recorder: \_\_\_\_\_

City Treasurer: \_\_\_\_\_

Report Criteria:

Invoice.Voided = false

---

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Amount
09/01/10	PC	09/01/10	10067	Debra J. Kind	34	277.05
09/01/10	PC	09/01/10	10068	Fletcher, Thomas M	33	84.70
09/01/10	PC	09/01/10	10069	H. Kelsey Page	35	184.70
09/01/10	PC	09/01/10	10070	Quam, Robert	32	184.70
09/01/10	PC	09/01/10	10071	William Rose	36	184.70
Grand Totals:						<u>915.85</u>

---

**KELLY LAW OFFICES***Established 1948*351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)(952) 474-5977  
FAX 474-9575**M E M O R A N D U M**

**TO: Mayor and Greenwood City Council Members**

**FROM: Mark W. Kelly**

**DATE: August 24, 2010**

**RE: Regulatory Authority of the City of Greenwood Regarding Nuisances and Related Concerns**

---

**Facts**

The City Attorney has been asked to consider the City's legal regulatory authority regarding diseased trees, dead trees, brush piles, dog feces, unlicensed watercraft, buckthorn, and noxious weeds on a private property. The question is posed whether or not the City has legal authority to address these items.

**1. Diseased Trees**

Greenwood Ordinance Code Section 1040, Prevention and Control of Shade Tree Diseases, establishes the City has a policy regarding Dutch Elm and Oak Wilt diseases. The ordinance goes on to provide that any living or standing elm tree infected harboring elm bark beetles or any dead or dying elm tree (including logs, branches, etc.) from which bark has not been removed, and any living or standing oak tree infected to any degree with oak wilt are nuisances. It is unlawful for any person to permit such a nuisance on their property. The City has the authority to engage a City Tree Inspector who can direct an infected tree to be removed or burned.

If the City determines that there is a nuisance tree under the Code, notice is to be sent certified mail to the owner requesting its removal. The City has the authority to charge the individual with a violation (a misdemeanor) if the diseased tree is not removed within twenty (20) days.

**Recommendation**

Authorize the City Tree Inspector to inspect diseased trees when properties containing such

are brought to the attention of the city clerk. If it is determined that a diseased tree is an elm or red oak, the City may proceed under Section 1040. If the trees in question are of another variety, the City has no authority to proceed under section 1040.

## **2. Dead Trees, Brush Piles, Feces, and Abandoned Watercraft**

Greenwood Ordinance Code Section 1020:20 prohibits a property owner from keeping upon his premises trash, debris, equipment no longer safely usable for the purpose for which they were manufactured, noxious weeds (as defined by state statute), fallen trees, fallen tree limbs, dead trees, dead tree limbs, garbage and other foul or unhealthy material. Again, the remedy is a notice to the property owner describing matter to be removed and demanding that within ten (10) days the offensive matter be removed. Violation of that code section is a misdemeanor.

### Discussion

The City has authority to demand removal of items found on a property which are otherwise enumerated under Section 1020:20. Those items that are not specifically named are probably not prohibited. Feces, however, while not listed are arguably within the prohibition against foul or unhealthy material. An unlicensed watercraft is not necessarily abandoned or discarded. Unless it has a large hole, it is probably not possible to prove that watercraft, such as an aluminum canoe, is no longer an operating watercraft or that it is no longer safely usable for the purpose for which it was manufactured.

### Recommendation

The City should issue a letter to the owner demanding the removal of items listed in Section 1020:20 when properties containing such are brought the attention of the City Clerk.

## **3. Noxious Weeds**

Noxious weeds are defined by the Commission of Agriculture for the State of Minnesota. For our discussion purposes they are largely thistles. The Commissioner's list is attached. Buckthorn is not listed as a "prohibited noxious weed", rather it is a "restricted noxious weed" (see attached). Sale and transportation of it are illegal. The City may elect to interpret its ordinance prohibition of noxious weeds (Section 1020:20) to include Buckthorn.

### Discussion

If the City makes the determination that buckthorn is a prohibited noxious weed and requires removal, the public should be informed of the prohibition and removal requirement. There may then be need to remove Buckthorn from City lands.

## Recommendation

The City Council should determine if buckthorn is a noxious weed under Code Section 1020. Then the public should be informed of the prohibition against noxious weeds and the requirement of removal by memo in the newsletter. The City should then send notices to property owners whose land is known to have prohibited noxious weeds requiring their removal.

### **4. Public Nuisances**

Quite apart from the specific prohibitions under Greenwood Ordinance Code Section 1040 and 1020, the City has a general prohibition against public nuisances. These are defined to be the maintaining or permitting of a condition which unreasonably annoys any considerable number of members of the public or whoever permits real property under their control to be used to maintain a public nuisance (Section 910:60).

This Ordinance prohibition mirrors Minnesota Statutes Section 609.74. The Code section allows the City to issue a misdemeanor charge. If the City wishes to pursue a charge of “public nuisance”, the known facts must support a finding that an activity and/or material endangers the safety, health, etc. of any considerable number of members of the public. At trial, (which we should assume may follow), the City must be prepared to prove to a jury that the activity or material constitutes a public nuisance.

### **5. Public Nuisance v. Private Nuisance**

As can be seen from the foregoing, a public nuisance must annoy a considerable number of members of the public. Recognizing that not all matters disgusting or annoying affect a considerable number of the public, the law permits citizens to bring an action in court for relief from a “private nuisance”. Thus, while the City may not have a legal claim to remedy a situation, a neighboring property owner may, in fact, have standing to bring such a claim in civil court. A claim of private nuisance would be one seeking an Order of the Court directing a property owner to correct the situation. A complaining private property owner should consult with legal counsel of their choice, but typically need only show that there is a threat or annoyance to his/her reasonable use and enjoyment of his/her property. The burden of proof is substantially lower than the City’s burden of proving that the situation threatens the general public health, safety, and welfare beyond a reasonable doubt.

### **6. Equal Protection Arguments**

Most cities enforce ordinances when issues are brought to their attention, and not more actively. When brought to their attention, cities craft a response accordingly. Citizens who receive notice of a violation may, on occasion, believe that they are being singled out. The City has a constitutional obligation to treat all citizens equally, and its enforcement process and

follow-up on all matters should therefore be similar. To the extent that the citizen might identify other properties that are similarly out of conformance with City Code, the City will then have an obligation to give notice to those property owners as well.

The need to treat all persons equally extends to the City itself, thus to the extent the City also is maintaining conditions that are arguably in violation of City Code, it has an obligation to correct them.

### **Conclusion**

The City has specific regulatory authority under Sections 1020 and 1040 to make demand for removal of code enumerated items. When considering enforcement options, the City should enforce those Code sections and avoid using a charge of public nuisance.

In the event a written demand to remove debris or prohibited material is issued, but ignored by the citizen, the City should use its Civil Citation process follow-up and hopefully induce compliance.

---

## **SELECTED MINNESOTA STATE RULES**

---

### **1505.0730 PROHIBITED NOXIOUS WEEDS.**

Subpart 1. **State prohibited noxious weed list.** The plants listed in this part are prohibited noxious weeds because they are injurious to public health, the environment, public roads, crops, livestock, and other property. Prohibited noxious weeds must be controlled or eradicated as required in Minnesota Statutes, section 18.78.

Common Name Botanical Name

Field Bindweed *Convolvulus arvensis* (L.)

Hemp *Cannabis sativa* (L.)

Loosestrife, purple *Lythrum salicaria, virgatum*, (L.) or any combination

Mustard, garlic *Alliaria petiolata* (Bieb.) (formerly *alliaria officinalis*)

\*Poison Ivy *Toxicodendron radicans* (Ktze.) (formerly *rhus radicans*)

Spurge, leafy *Euphorbia esula* (L.)

Sow thistle, perennial *Sonchus arvensis* (L.)

Thistle, bull *Cirsium vulgare* (Savi) Tenore

Thistle, Canada *Cirsium arvense* (L.) Scop.

Thistle, musk *Carduus nutans* (L.)

Thistle, plumeless *Carduus acanthoides* (L.)

\*Native species to Minnesota

Subp. 2. **Federal noxious weed list.** For the purpose of this part, the parasitic and the terrestrial plants listed in the Code of Federal Regulations, title 7, section 360.200, are also prohibited noxious weeds.

**Statutory Authority:** *MS s 18.181; 18.79*

**History:** *24 SR 299*

**Posted:** *July 24, 2008*

### **1505.0732 RESTRICTED NOXIOUS WEEDS.**

The plants listed in this part are restricted noxious weeds whose only feasible means of control is to prohibit the importation, sale, and transportation of them or their propagating parts in the state except as provided by Minnesota Statutes, section 18.82.

Common Name Botanical Name

Buckthorn, commonor European *Rhamnus cathartica* (L.)

Buckthorn, glossy,including all  
cultivars

\**Rhamnus frangula*, (L.) (*columnaris*, tallcole,  
*asplenifolia*, and all other cultivars)

\**Rhamnus frangula* is a restricted noxious weed effective December 31, 2000.

**Statutory Authority:** *MS s 18.79*

**History:** *24 SR 299*

**Posted:** *July 24, 2008*

**KELLY LAW OFFICES**

*Established 1948*

351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331

MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)

(952) 474-5977  
FAX 474-9575

**M E M O R A N D U M**

**TO: Mayor and Greenwood City Council Members**  
**FROM: Mark W. Kelly**  
**DATE: August 24, 2010**  
**RE: Regulatory Authority of the City of Greenwood Regarding *Fences* and Related Concerns**

**Facts**

The City Attorney has been asked to consider the City’s legal authority regarding fences, informal fences and signage on fences. The question is posed whether or not the City has legal authority to address these items.

**1. What is a Fence?**

Fences are regulated under Greenwood Ordinance Code Section 1140:25. The word “fence” is not a term defined under Zoning Code definitions (Section 1110). In the absence of a specific code definition, the law will look to common parlance. Webster’s New Universal Unabridged Dictionary, Deluxe Second Addition, Simon and Schuster, New York, New York, 1983 defines “fence” as follows:

“A structure erected around or by the side of any open space to prevent passage in or out; especially, a structure enclosing or separating yards, field, etc. The term is commonly applied to the various forms constructed of posts carrying boards, rails, pickets, or wire, or to iron structures consisting of vertical or horizontal bars or of open work. A wall, hedge, or bank, however, may constitute a fence.”

It is the opinion of the City Attorney that this common definition is one that would be accepted by a Court.

**2. Yellow Tape as a Fence**

It has been brought to the City's attention that a private property owner has installed "bright yellow tape" stretched between stakes at the property line and that the tape has words on it. The complaining property owner notes that the yellow tape functions like a fence, and in their opinion is therefore a violation of the fence ordinance for the reason that it needs to be six inches off the property line.

### Discussion

Your writer has not seen the tape and has no personal knowledge as to the purpose of the yellow tape in question, or its intended function. If its purpose is to delineate a property line in the same manner that surveyors flagged lath is employed, it is not a fence. In the opinion of this writer, however, the tape, as described, does not conform to the common definition of a fence set forth above. The fact that it does not conform to the common definition of a fence, in this writer's opinion, means that a Court would likely be reluctant to find that yellow tape so placed is, in fact, a fence within the meaning of the City Code as that term is known and understood in common parlance. For that reason, your writer would recommend against any prosecution effort, on the part of the City, to bring a zoning code enforcement action related to the yellow tape and its current placement relative to the requisite yard setback under Greenwood Ordinance Code, Section 1140:25, Fences.

As a prosecuting authority, the City must cautiously exercise its prosecutorial authority and proceed only when it can make a good faith, up-front showing that there is probable cause to believe a criminal violation has occurred. Your writer believes that a Court would find there is no probable cause for such a prosecution and dismisses the case. Even if the City were to survive that legal challenge, I do not believe that a jury, confronted with a request by the City to find yellow tape constitutes a fence and as placed is in violation of our fence setback requirements, would be sympathetic. It is my view that a jury would find such a claim over-reaching by the City, and at a minimum, they would be reluctant to vote for a criminal conviction based on the placement of such tape. Juries simply do not like to convict people for crimes that they deem marginal or insignificant activities.

### Recommendation

No prosecution related to fence code violations is appropriate.

### **3. Labeling on Tape**

The complaining property owner points to words on the tape and asserts a violation of the Sign Ordinance. The complaining party observes that Code allows no more than a 2-square foot sign with street address and name of property owner thereon.

## Discussion

Because the yellow tape, as placed and employed, does not meet the definition of a “fence”, the restriction on the type and size of signage on a fence, under the Sign Ordinance, in your writer’s opinion does not apply.

### **4. Does tape with a label on it constitute a “sign”?**

Greenwood Ordinance Code Section 1140:40:03, Subd 54 defines a sign to be “any letter, word, or symbol ... reading matter or representation in the nature of an advisement, announcement, message, or visual communication whether painted, posted, printed, affixed, or constructed, including all associated brackets, braces, supports, wires, and structures which is displayed for informational or communicative purposes”.

And,

Under General Provisions of the Sign Ordinance, “Symbols, flags, pictures, wording, figures, or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures suspended by balloons or kites, or on persons, animals, or vehicles or placed within a structure and visible from outside the structure shall be considered a sign ...” (Greenwood Ordinance Code, Section 1140:40:09(c).” This definition appears to encompass labeling on the tape.

## Discussion

Your writer does not know the message on the yellow tape. The first question for the City, however, is whether the message, whatever it might be, is displayed for informational or communicative purposes? If it is not, if it is strictly incidental to the tape, it probably does not meet the definition of a sign. In that event, the Sign Code does not apply. If, however, the message on the tape, is displayed for informational or communicative purposes, the presence of words and reading matter thereon then meet the definition of a sign, and the City can then consider whether or not the alleged tape-sign is lawful.

### **5. Signs Permitted as a Matter of Law**

Greenwood Code allows the following signs without permit first obtained:

Section 1140:40:05

(b) Signs less than six square feet by six square or less than size approved by Zoning Coordinator

(c) Political Signs. Free-standing political signs not exceeding a sign surface area of 12 square feet each displayed for a period of not more than eight weeks prior to the

pertinent election date and not more than one week after that election date.

(g) Temporary Signs. Temporary signs (other than political signs) pertaining to drives or events of civic, philanthropic, educational, or religious organizations, provided permission of the Council, must be obtained to erect signs upon or over streets ...”.

(The other subsections of Section 1140:40:05 do not appear to apply in the present discussion.)

## **6. Signs that are *Prohibited as a Matter of Law***

Greenwood Ordinance Code Section 1140:40:06 list a number of signs that by their very nature are barred as a matter of law. A review of that list finds the following prohibitions may apply:

“(k) signs which have a structural member or other portion closer than 10 feet to a side lot line.”

“(p) signs constructed so that the message or communication is not flat against the sign structure.”

(The other subsections of Section 1140:40:05 do not appear to apply in the present discussion.)

## **7. Temporary Sign Permit Required**

Greenwood Ordinance Code Section 1140:40:07 authorizes the Zoning Coordinator to issue temporary sign permits provided the sign is in keeping with the character and development of the property on which it is located, is reasonably necessary for the proposed use of the property on which it is located and not likely to have a detrimental effect on values of the property in the surrounding area.

It is your writer understands that no application for temporary sign permit has been made.

## **8. Commercial v. Political Signs**

The Sign Ordinance is largely designed to regulate commercial signage. The First Amendment to the United States Constitution guarantees to the citizen freedom of speech. That reference is typically understood broadly to include all political speech and related signs. It is a question of law and fact, whether the labeling on the tape constitutes political speech. If the language on the tape seems irrelevant to any known fact or event associated with the property, then the labeling is incidental and it is controlled by the Sign Ordinance. If it has a political message, the City can expect to be confronted with a legal defense that the message is protected by the United States Constitution and prosecution is, therefore, barred.

## **9. Enforcement Options**

If the City determines the tape is a “sign”, Greenwood Ordinance Code provides that the violation of the Sign Ordinance is a petty misdemeanor and each day a violation exists shall constitute a separate offense. Petty misdemeanors can be enforced by the civil citation process and may be fined up to \$300 per event.

### **Recommendation**

Whether the facts presented support the issuance of a complaint or civil citation is a legal decision for the City Attorney. The City Council can offer guidance to the City Attorney in the form of interpreting existing city code, but it is not appropriate for the City Council to direct a prosecution or effectively determine that a prosecution should be pursued. That decision must be deferred to the Prosecutor.

Under the Rules of Professional Conduct a prosecuting attorney is directed to refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause. (R.P.C 3.8) If the City Attorney determines that the facts support probable cause that a violation has occurred, then the Rules of Professional Conduct and the Rules of the Criminal Procedure will control. If prosecution is determined appropriate, the prosecutor may elect to issue a civil citation in the alternative to a criminal complaint.



20225 Cottagewood Road  
Deephaven, Minnesota 55331  
(952) 474-6633  
Fax (952) 401-7587

August 17, 2010

John Klinkner  
3100 Raleigh Avenue North #103  
St. Louis Park, MN 55416

Dear Mr. Klinkner,

It has come to my attention that you have not been working in a timely manner to address the concerns raised by the city's Building Inspector and Fire Inspector. There have been a number of issues raised by each that need your immediate attention.

I am aware that the Building Inspector and Fire Inspector are seeking to re-inspect the premises and you have continually asked to reschedule scheduled inspection dates. This letter is to inform you that the city will ask that the Fire Inspector to apply all fees available to her and in addition, the city will issue an Administrative Citation as permitted by city code if all corrections have not been made by September 15<sup>th</sup>.

These issues originally came to your attention on January 5<sup>th</sup>, the fact that they have not been addressed by now is unacceptable and the city will use all means available to bring your property into compliance with all relevant codes.

Sincerely,

Gus Karpas  
Zoning Coordinator

Cc: File  
Mayor Kind and City Councilmembers  
Don Dudycha, Building Inspector  
Kellie Murphy-Ringate, EFD  
City Attorney Mark Kelly

**Excelsior Fire District**  
Code Enforcement & Safety Inspections  
24100 Smithtown Road  
Shorewood, MN 55331

☎Kellie Murphy-Ringate ☎952-960-1692 ☎ kmurphyringate@excelsiorfire.org

August 30, 2010

Garden Village Apartments  
Attn: John Klinkner  
3100 Raleigh Ave N #103  
St. Louis Park, MN, 55416

Re: 5205 Greenwood Circle, Greenwood, MN 55331

Dear Mr. Klinkner,

On Tuesday, August 9 2010 a Minnesota Sate Fire Code and Excelsior Fire District re-inspection was scheduled. I received a call from you and the contractor that the items listed on the fire code inspection had not been completed and I would receive a call when the items were complete. The message left by the contractor indicated the items should be done with in a week. When I returned your call I asked that you call me with a re-inspection date. Since I did not hear from you for two weeks I called on 8-25-10 and 8-26-10 and left you a message about a re-inspection date. As of today's date I have not received a return message from you and I have also not had contact from the contractor since 8-9-10. This has left me with no choice, but to set a re-inspection date. Per the voice mailed I left on telephone number 952-922-9595 the fire code and building code re-inspection for 5205 Greenwood Circle will be on Tuesday September 7, 2010 at 10:00 am.

The inspection process has taken considerably long and has required letters and several calls for follow up. According to the Excelsior Fire District Inspection Policy, inspections that require additional time and effort to complete are a Special Inspections and a \$100.00 fee is applied to the inspection. If the inspection process for Georgetown Manor requires anymore time and effort it will become a Special Inspection.

I have enclosed a copy of the Excelsior Fire District Inspection Policy. The fees on the Inspection Policy did increase on June 3, 2010. Please contact me on receipt of this letter to confirm the date and time of the re-inspection.

Respectfully submitted,

Kellie Murphy-Ringate – Fire Inspector  
Excelsior Fire District  
Office: 952.960.1692  
Cell: 952.217.2351  
[kmurphyringate@excelsiorfire.org](mailto:kmurphyringate@excelsiorfire.org)

C.c. Minnetonka Building Inspector, Don Dudycha  
Zoning Coordinator, Gus Karpas





# BOLTON & MENK, INC.

## Consulting Engineers & Surveyors

2638 Shadow Lane, Suite 200 • Chaska, MN 55318-1172  
Phone (952) 448-8838 • Fax (952) 448-8805  
www.bolton-menk.com

August 25, 2010

City of Greenwood  
Attn: Deb Kind, Mayor  
20225 Cottagewood Road  
Deephaven, MN 55331

RE: Sleepy Hollow Road

Dear Mayor Kind:

As we have discussed, controlling speeds on residential streets can be difficult to accomplish. Generally, traffic calming is achieved by manipulating the physical environment of the roadway corridor in an effort to make drivers feel uncomfortable enough to slow down. Elements such as curves in the roadway, narrowing the driving surface, and side friction such as boulevard trees and landscaping can help to create an environment that naturally slows traffic.

Unfortunately, Sleepy Hollow road already has most, if not all of these elements and it is my opinion that if the existing 20 mph signs are not slowing drivers to the desired speeds, attempting to lower the posted speed limit will not help. However, the City may wish to consider installing the following signs at each end of Sleepy Hollow Road. These signs are consistent with the Minnesota Manual on Uniform Traffic Control Devices.

- HIDDEN ENTRANCES AHEAD
- 15 MPH

Although advisory speed limits are not enforceable and additional signage is not typically an effective traffic calming measure, these signs may draw attention to the limited sight distances that exist on the roadway and help to slow traffic. As always, I would recommend that you get the Police Chief's opinion on this matter.

We estimate the cost of these signs to be approximately \$540 each (\$1,080 total). In the event that the City chooses to move forward with this option, I will provide you with the specifications for the signs to ensure that they are consistent with the Minnesota Manual on Uniform Traffic Control Devices.

Please let me know if you have questions or need additional information.

Sincerely,  
BOLTON & MENK, INC.

David P. Martini, P.E.  
Principal Engineer

---

**Subject:** RE: Traffic Calming on Sleepy Hollow  
**Date:** Saturday, August 28, 2010 4:54 PM  
**From:** Bryan Litsey <blitsey@southlakepd.com>  
**To:** Debra Kind d.kind@mchsi.com  
**Cc:** Dave Pierson dpierson@southlakepd.com

Deb,

There is no problem installing an advisory sign stating, "Hidden Entrances Ahead." However, I would not recommend posting the speed lower than what is lawful for that stretch of roadway. Hope this helps out.

Bryan

**From:** Deb Kind [mailto:d.kind@mchsi.com]  
**Sent:** Thursday, August 26, 2010 2:56 PM  
**To:** Bryan Litsey  
**Subject:** Traffic Calming on Sleepy Hollow

Our city engineer Dave Martini recommended that I get your opinion regarding traffic calming on Sleepy Hollow. Attached is Dave's report. Please review and call or e me with your comments before the 9/7 council meeting. Thank you!

**Deb Kind** | Greenwood Mayor | 952.401.9181 | d.kind@mchsi.com | www.greenwoodmn.com

**CITY OF GREENWOOD  
RESOLUTION NO. 17-10**

**A RESOLUTION APPROVING PROPOSED 2010 TAX LEVY, COLLECTIBLE IN 2011.**

**BE IT RESOLVED** by the council of the City of Greenwood, County of Hennepin, Minnesota, that the below sum of money is the amount proposed to be levied for the current year, collectible in 2011, upon taxable property in the City of Greenwood for the following purpose: General Fund

Total levy: \$645,919

The city clerk is hereby instructed to transmit a certified copy of this resolution to the county auditor of Hennepin County, Minnesota.

**ADOPTED** BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

Ayes \_\_\_\_\_, Nays \_\_\_\_\_.

CITY OF GREENWOOD

\_\_\_\_\_  
Debra J. Kind, Mayor

Attest:

\_\_\_\_\_  
Gus E. Karpas, City Clerk

# 2011 Greenwood PRELIMINARY Budget

7B

		2009 Actual	2009 Budget	2010 7/10 YTD	2010 Budget	2011 Budget	% Change	% Op. Budget	% Total Budget
<b>GENERAL FUND REVENUE</b>									
1	<b>TAXES</b>								
2	101-31010 General Property Tax	671,619	687,057	328,471	666,243	645,919	-3.05%		
3	101-31020 General Property Tax - Delinquent	0	1,000	24,601	1,000	0	-100.00%		
4	101-31040 Fiscal Disparities	4,923	2,200	2,432	2,200	0	-100.00%		
5	101-31800 Surcharge Revenue	23	25	5	25	0	-100.00%		
6	101-31910 Penalties	342	100	225	50	0	-100.00%		
7		<b>676,907</b>	<b>690,382</b>	<b>355,733</b>	<b>669,518</b>	<b>645,919</b>	<b>-3.52%</b>		<b>88.95%</b>
8	<b>LICENSES &amp; PERMITS</b>								
9	101-32110 3.2 Beer, Liquor, Cigarette License	3,250	2,965	0	3,250	3,250	0.00%		
10	101-32180 Other Business Licenses / Permits (Rental, Peddler, Comm. Marina, Trash)	2,134	1,600	3,455	3,355	3,400	1.34%		
11	101-32210 Building Permits	17,393	28,000	7,766	12,000	12,000	0.00%		
12	101-32211 Electric Permit	2,107	2,000	557	1,200	1,200	0.00%		
13	101-32215 Management Review - Bldg	0	200	0	0	0	#DIV/0!		
14	101-32240 Animal License	200	0	725	100	200	100.00%		
15		<b>25,084</b>	<b>34,765</b>	<b>12,503</b>	<b>19,905</b>	<b>20,050</b>	<b>0.73%</b>		<b>2.76%</b>
16	<b>INTERGOVERNMENT REVENUE</b>								
17	101-33402 Homestead Credit (Market Value Credit)	0	0	0	0	0	#DIV/0!		
18	101-33423 Other State Grants / Aids (Recycle Grant)	2,549	2,000	0	0	0	#DIV/0!		
19	101-33610 Hennepin County Road Aid (CAM)	1,722	1,675	0	0	0	#DIV/0!		
20	101-33630 Aid from Other Local Government (LGA)	0	0	0	0	0	#DIV/0!		
21		<b>4,271</b>	<b>3,675</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>#DIV/0!</b>		<b>0.00%</b>
22	<b>PUBLIC CHARGES FOR SERVICES</b>								
23	101-34103 Zoning & Subdivisions (Variances)	1,300	1,500	0	2,500	1,500	-40.00%		
24	101-34207 False Alarm Fee	200	50	300	50	200	300.00%		
25	101-34304 Load Limit Fees	2,175	3,500	450	1,000	2,000	100.00%		
26	101-34409 Recycling Fees	15,100	13,478	13,089	18,819	18,819	0.00%		
27		<b>18,775</b>	<b>18,528</b>	<b>13,839</b>	<b>22,369</b>	<b>22,519</b>	<b>0.67%</b>		<b>3.10%</b>
28	<b>FINES, FORFEITURES &amp; PENALTIES</b>								
29	101-35101 Court Fines	<b>6,737</b>	<b>5,300</b>	<b>2,864</b>	<b>5,000</b>	<b>4,500</b>	<b>-10.00%</b>		<b>0.62%</b>
30									
31	<b>MISC. INCOME</b>								
32	101-36100 Special Assessments (Sewer & Recycling)	560	1,500	6,694	0	0	#DIV/0!		
33	101-36102 Investment Income	3,664	7,000	3,248	5,000	5,000	0.00%		
34	101-36230 Misc. Income (Copies, Donations, Refunds, Etc.)	1,253	50	75	25	0	-100.00%		
35	101-39201 Interfund Operating Transfer: From Marina Fund	20,100	20,100	0	15,000	15,000	0.00%		
36	101-39202 Interfund Operating Transfer: From Sewer Fund (10% of Sewer Rev. to Offset Adm. Costs)	0	0	0	0	11,500	#DIV/0!		
37	101-39203 Interfund Operating Transfer: From Stormwater Fund (10% of Stormwater Rev. to Offset Adm.)	0	0	0	0	1,650	#DIV/0!		
38		<b>25,577</b>	<b>28,650</b>	<b>10,018</b>	<b>20,025</b>	<b>33,150</b>	<b>65.54%</b>		<b>4.57%</b>
39									
40	<b>Total Revenue</b>	<b>757,351</b>	<b>781,300</b>	<b>394,958</b>	<b>736,817</b>	<b>726,138</b>	<b>-1.45%</b>		

# 2011 Greenwood PRELIMINARY Budget

		2009 Actual	2009 Budget	2010 7/10 YTD	2010 Budget	2011 Budget	% Change	% Op. Budget	% Total Budget
<b>GENERAL FUND EXPENSES</b>									
41	<b>COUNCIL</b>								
42	101-41100-103 Council Salaries (Gross)	13,200	13,200	7,700	13,200	13,200	0.00%		
43	101-41100-122 FICA Contributions (6.2%)	818	975	490	818	818	0.00%		
44	101-41100-123 Medicare Contributions (1.45%)	191	220	115	191	191	0.00%		
45	101-41100-371 Training / Conference Registration (League of Minnesota Cities Training)	855	1,325	135	600	600	0.00%		
46	101-41100-372 Meals / Lodging	0	110	0	50	100	100.00%		
47	101-41100-433 Misc. (Dues, Subscriptions, Supplies, Etc.)	0	200	0	150	150	0.00%		
48		<b>15,064</b>	<b>16,030</b>	<b>8,439</b>	<b>15,010</b>	<b>15,060</b>	<b>0.33%</b>	<b>2.23%</b>	
49	<b>ELECTIONS</b>								
50	101-41200-103 Election Salaries (Part-Time Election Judge Salaries)	0	0	0	1,500	0	-100.00%		
51	101-41200-214 Operational Support - Forms (Ballots, Voter Reg. Rosters)	0	0	0	300	0	-100.00%		
52	101-41200-219 Election Operations / Support (Deephaven Public Works)	0	0	0	350	0	-100.00%		
53	101-41200-319 Equipment Maintenance (ES&S Maintenance Agreement / Programming)	161	400	301	400	200	-50.00%		
54	101-41200-372 Meals / Lodging (Election Judge Snacks)	0	0	0	75	0	-100.00%		
55	101-41200-439 Misc. (Supplies, Postage, Etc.)	55	40	0	325	50	-84.62%		
56		<b>216</b>	<b>440</b>	<b>301</b>	<b>2,950</b>	<b>250</b>	<b>-91.53%</b>	<b>0.04%</b>	
57	<b>ADMINISTRATION</b>								
58	101-41400-101 City Administrator Salary	63,587	71,000	27,078	57,681	0	-100.00%		
59	101-41400-121 PERA Contributions (7%)	4,286	4,795	1,718	4,038	0	-100.00%		
60	101-41400-122 FICA Contributions (6.2%)	3,942	4,410	1,679	3,576	0	-100.00%		
61	101-41400-123 Medicare Contributions (1.45%)	922	1,030	393	836	0	-100.00%		
62	101-41400-139 City Administrator Insurance (LTD \$99, STD \$14, Life \$5.55 = \$118.55/mo.)	1,283	1,440	579	1,423	0	-100.00%		
63	101-41400-201 Office Supplies	0	800	439	600	600	0.00%		
64	101-41400-202 Duplicating	292	500	16	400	200	-50.00%		
65	101-41400-204 Stationary, Forms, Printing	442	575	562	525	525	0.00%		
66	101-41400-309 Professional Services - Other (ISP, Website, Email)	2,015	3,500	689	3,500	1,000	-71.43%		
67	101-41400-310 Clerk's Contractural (\$2,400 Minutes, \$31,740 Deephaven Admin Services)	2,477	8,500	4,373	3,250	34,141	950.49%		
68	101-41400-311 Office - Rent / Equipment	10,369	11,500	6,075	11,580	6,800	-41.28%		
69	101-41400-313 Professional Services (Civic Accounting)	3,760	3,900	1,918	4,100	1,920	-53.17%		
70	101-41400-321 Communications - Telephone	1,517	1,500	856	1,500	700	-53.33%		
71	101-41400-322 Postage	1,198	1,400	1,046	1,400	1,400	0.00%		
72	101-41400-351 Newspaper Legal Notices	6,406	2,000	947	2,500	2,000	-20.00%		
73	101-41400-372 Meals / Lodging	0	50	0	50	0	-100.00%		
74	101-41400-411 Rentals / Office Equipment (Copier Lease Through May 2013)	2,335	2,280	1,366	2,280	2,335	2.41%		
75	101-41400-439 Misc. (Equipment, Dog Tags, Credit Card Fee, Etc.)	659	1,450	130	1,300	400	-69.23%		
76		<b>105,490</b>	<b>120,630</b>	<b>49,863</b>	<b>100,539</b>	<b>52,021</b>	<b>-48.26%</b>	<b>7.70%</b>	

# 2011 Greenwood PRELIMINARY Budget

		2009 Actual	2009 Budget	2010 7/10 YTD	2010 Budget	2011 Budget	% Change	% Op. Budget	% Total Budget
77	<b>ASSESSOR</b>								
78	101-41500-309 Assessor - Contract (Hennepin Co.)	13,677	13,500	0	14,000	14,000	0.00%		
79	101-41500-439 Assessor - Other (Hennepin Co. Notices, Processing, Tax Rolls)	80	125	3	125	100	-20.00%		
80		<b>13,757</b>	<b>13,625</b>	<b>3</b>	<b>14,125</b>	<b>14,100</b>	<b>-0.18%</b>	<b>2.09%</b>	
81	<b>LEGAL SERVICES</b>								
82	101-41600-304 Legal Services - General	20,736	20,000	7,579	20,000	15,000	-25.00%		
83	101-41600-308 Legal Services - Prosecution	5,877	6,000	1,162	6,000	4,000	-33.33%		
84		<b>26,613</b>	<b>26,000</b>	<b>8,740</b>	<b>26,000</b>	<b>19,000</b>	<b>-26.92%</b>	<b>2.81%</b>	
85	<b>AUDITING</b>								
86	101-41700-301 Auditing (\$9100 in 2011, \$9300 in 2012)	12,855	13,000	8,900	8,900	9,100	2.25%		
87		<b>12,855</b>	<b>13,000</b>	<b>8,900</b>	<b>8,900</b>	<b>9,100</b>	<b>2.25%</b>	<b>1.35%</b>	
88	<b>GENERAL GOVERNMENT TOTAL</b>	<b>173,995</b>	<b>189,725</b>	<b>76,247</b>	<b>167,524</b>	<b>109,531</b>	<b>-34.62%</b>	<b>16.21%</b>	<b>15.08%</b>
90	<b>LAW ENFORCEMENT</b>								
91	101-42100-310 Law Enforcement - Contract (Monthly)	150,228	150,232	88,291	151,352	158,672	4.84%		
92	101-42100-311 Police Side Lease - Facilities (Quarterly)	47,648	47,649	35,925	47,901	47,263	-1.33%		
93	101-42100-439 Police Safety - Other (Jail, Etc.)	3,262	0	370	1,000	1,000	0.00%		
94		<b>201,138</b>	<b>197,881</b>	<b>124,586</b>	<b>200,253</b>	<b>206,935</b>	<b>3.34%</b>	<b>30.62%</b>	
95	<b>FIRE</b>								
96	101-42200-309 Fire Protection - Operations (Quarterly)	58,399	58,314	47,993	63,990	68,492	7.04%		
97	101-42200-311 Fire Side Lease - Facilities (Quarterly)	54,304	55,825	43,890	58,520	59,239	1.23%		
98		<b>112,703</b>	<b>114,139</b>	<b>91,883</b>	<b>122,510</b>	<b>127,731</b>	<b>4.26%</b>	<b>18.90%</b>	
99	<b>PUBLIC SAFETY TOTAL</b>	<b>313,841</b>	<b>312,020</b>	<b>216,469</b>	<b>322,763</b>	<b>334,666</b>	<b>3.69%</b>	<b>49.53%</b>	<b>46.09%</b>
100	<b>ZONING</b>								
101	101-42400-308 Zoning Administration	2,794	4,000	1,015	4,000	4,000	0.00%		
102	101-42400-309 Public Notices	1,409	0	0	0	1,500	#DIV/0!		
103	101-42400-310 Building Inspections	14,700	30,000	4,736	6,500	6,500	0.00%		
104	101-42400-438 Misc. (Duplicating, Etc.)	0	400	0	200	0	-100.00%		
105	<b>ZONING TOTAL</b>	<b>18,903</b>	<b>34,400</b>	<b>5,751</b>	<b>10,700</b>	<b>12,000</b>	<b>12.15%</b>	<b>1.78%</b>	<b>1.65%</b>
106	<b>ENGINEERING</b>								
107	101-42600-303 Engineering Fees	1,226	8,000	0	5,000	3,500	-30.00%		
108		<b>1,226</b>	<b>8,000</b>	<b>0</b>	<b>5,000</b>	<b>3,500</b>	<b>-30.00%</b>	<b>0.52%</b>	
109	<b>UTILITIES &amp; ROADS</b>								
110	101-43100-381 S&R - Utility Services - Elec (Includes Siren Electric)	4,591	4,700	2,280	3,600	4,000	11.11%		
111	101-43100-409 Other - Road Repair & Maintenance (2009 & 2010 Road Imp, 2011 Public Works Repairs)	75,000	75,500	0	0	5,000	#DIV/0!		
112		<b>79,591</b>	<b>80,200</b>	<b>2,280</b>	<b>3,600</b>	<b>9,000</b>	<b>150.00%</b>	<b>1.33%</b>	

# 2011 Greenwood PRELIMINARY Budget

		2009 Actual	2009 Budget	2010 7/10 YTD	2010 Budget	2011 Budget	% Change	% Op. Budget	% Total Budget
	<b>MAJOR ROAD IMPROVEMENTS</b>								
113	101-43200-229 Major Road Improvements - Construction (New category in 2011)	0	0	91,692	100,500	115,000	14.43%		
114	101-43200-303 Major Road Improvements - Engineering (New category in 2011)	0	0	0	0	15,000	29.35%		
115		<b>0</b>	<b>0</b>	<b>91,692</b>	<b>100,500</b>	<b>130,000</b>	<b>29.35%</b>	<b>#DIV/0!</b>	
116	<b>PUBLIC WORKS</b>								
117	101-43900-226 Signs	329	1,000	2,235	2,000	5,000	150.00%		
118	101-43900-310 Streets - Sweeping (2011 Excess of \$4000 to Stormwater)	8,859	8,350	5,236	5,000	4,000	-20.00%		
119	101-43900-312 Snow Plowing	9,679	12,500	15,152	13,000	15,000	15.38%		
120	101-43900-313 Trees, Weeds, Mowing	9,706	13,000	4,637	13,000	13,000	0.00%		
121	101-43900-314 Tennis Court Maintenance (Pressure Wash)	0	200	0	200	200	0.00%		
122	101-43900-315 Trail / Bike Path Maintenance	342	1,000	625	1,000	800	-20.00%		
123	101-43900-439 Misc. (2009 Includes Culvert Cleaning & Storm Sewer Maintenance. Moved to Stormwater in 2010.)	2,012	4,750	0	2,000	0	-100.00%		
124		<b>30,927</b>	<b>40,800</b>	<b>27,884</b>	<b>36,200</b>	<b>38,000</b>	<b>4.97%</b>	<b>5.62%</b>	
125	<b>ROADS &amp; PUBLIC WORKS TOTAL</b>	<b>111,744</b>	<b>129,000</b>	<b>121,856</b>	<b>145,300</b>	<b>180,500</b>	<b>24.23%</b>	<b>26.71%</b>	<b>24.86%</b>
126	<b>MISC. EXPENSES</b>								
127	101-49000-310 Recycling Contract	13,296	13,185	9,410	18,819	18,819	0.00%		
128	101-49000-311 Spring Clean-Up Day	2,329	4,500	2,108	4,000	2,500	-37.50%		
129	101-49000-369 League of Minnesota Cities Insurance Trust / Liability (2009 & 2010 Includes Work Comp)	7,483	7,000	413	7,500	7,600	1.33%		
130	101-49000-370 League of Minnesota Cities Insurance Trust / Workers Comp	0	0	0	0	110	#DIV/0!		
131	101-49000-433 Misc.	0	0	0	100	0	-100.00%		
132	101-49000-434 Southshore Center	0	0	1,200	0	1,200	#DIV/0!		
133	101-49000-435 League of Minnesota Cities	0	0	0	0	997	#DIV/0!		
134	101-49000-436 Lake Minnetonka Conservation District	6,113	6,113	3,172	6,344	6,507	2.57%		
135	101-49000-437 July 4th Fireworks (2009 & 2010 Budgets Include Southshore Center and LMC)	2,068	5,100	1,200	3,180	1,300	-59.12%		
136	<b>MISC. TOTAL</b>	<b>31,289</b>	<b>35,898</b>	<b>17,503</b>	<b>39,943</b>	<b>39,033</b>	<b>-2.28%</b>	<b>5.78%</b>	<b>5.38%</b>
137	<b>Total Operating Budget</b>	<b>649,772</b>	<b>701,043</b>	<b>437,826</b>	<b>686,230</b>	<b>675,730</b>	<b>-1.53%</b>		
138	<b>CONTINGENCY &amp; FUND TRANSFERS</b>								
139	101-49000-439 Contingency (3% in 2010, 4.5% in 2011)	2,643	22,757	1,214	20,587	30,408	47.70%		
140	101-49000-440 Reserve Replenishment	104,936	57,500	0	10,000	0	-100.00%		
141	101-49000-500 Transfer to Bridge Fund	0	0	0	20,000	20,000	0.00%		
142	<b>CONTINGENCY &amp; FUND TRANSFERS TOTAL</b>	<b>107,579</b>	<b>80,257</b>	<b>1,214</b>	<b>50,587</b>	<b>50,408</b>	<b>-0.35%</b>		<b>6.94%</b>
143	<b>Total Expenses</b>	<b>757,351</b>	<b>781,300</b>	<b>439,040</b>	<b>736,817</b>	<b>726,138</b>	<b>-1.45%</b>		
144	<b>GENERAL FUND YEAR-END CASH BALANCE</b>	<b>242,058</b>			<b>252,058</b>	<b>252,058</b>		<b>37.30%</b>	

# 2011 Greenwood PRELIMINARY Budget

		2009 Actual	2009 Budget	2010 7/10 YTD	2010 Budget	2011 Budget	% Change	% Op. Budget	% Total Budget
<b>SEWER FUND</b> <i>This is an enterprise fund that can be used for any city purpose.</i>									
145	602-34401	REVENUE: Sewer Use Charges	98,777		77,616		115,000		
146	602-34402	REVENUE: Late Charges & Penalties	4,409		2,021		2,000		
147	602-34408	REVENUE: Permit Fees	100		0		0		
148	602-43200-303	EXPENSE: Engineering Sewer	10,429		1,400		2,700		
149	602-43200-309	EXPENSE: Met Council	46,415		23,332		52,000		
150	602-43200-310	EXPENSE: Public Works Sewer	4,939		250		5,000		
151	602-43200-319	EXPENSE: Equipment Maintenance	36,453		0		0		
152	602-43200-381	EXPENSE: Utility Services - Electric	2,446		1,015		1,700		
153	602-43200-404	EXPENSE: R&M - Machinery & Equipment	1,737		6,022		7,000		
154	602-43200-439	EXPENSE: Misc. (Forms, Printing, Etc.)	798		0		500		
155	602-43200-720	OPERATING TRANSFER: To General Fund (10% of Sewer Revenue to Offset Adm. Costs)	0		0		11,500		
156		<b>Net Total</b>	<b>69</b>		<b>47,618</b>	<b>37,500</b>	<b>36,600</b>		
157		<b>SEWER FUND YEAR-END CASH BALANCE</b>	<b>356,140</b>			<b>393,640</b>	<b>430,240</b>		
<b>STORMWATER FUND</b> <i>This is an enterprise fund that can be used for any city purpose.</i>									
158	502-34401	REVENUE: Stormwater Use Charges	11,915		11,109		16,500		
159	502-43200-303	EXPENSE: Engineering Stormwater	6,864		3,397		4,000		
160	502-43200-319	EXPENSE: Equipment and Maintenance (Culvert Cleaning, Storm Sewer Maintenance, Etc.)	951		236		1,500		
161	502-43200-409	EXPENSE: Street Sweeping	0		0		4,000		
162	502-43200-720	OPERATING TRANSFER: To General Fund (10% of Stormwater Rev. to Offset Adm. Costs)	0		0		1,650		
163		<b>Net Total</b>	<b>11,915</b>		<b>7,476</b>	<b>10,000</b>	<b>5,350</b>		
164		<b>STORMWATER FUND YEAR-END CASH BALANCE</b>	<b>4,100</b>			<b>14,100</b>	<b>19,450</b>		
<b>PARK FUND</b> <i>This is a dedicated fund for "Improvements" only. Cannot be used for maintenance.</i>									
165	401-36230	REVENUE: Park Dedication Fees	0		0		0		
166	401-45000-000	EXPENSE: Park Improvements (Tennis Court Improvement)	0		0		1,000		
167		<b>Net Total</b>	<b>0</b>		<b>0</b>	<b>0</b>	<b>-1,000</b>		
168		<b>PARK FUND YEAR-END CASH BALANCE</b>	<b>27,055</b>			<b>27,055</b>	<b>26,055</b>		
<b>MARINA FUND</b> <i>This is an enterprise fund that can be used for any city purpose.</i>									
169	605-36201	REVENUE: Boat User Fees	20,100		22,700		22,700		
170	605-45100-303	EXPENSE: Professional Services (Dock In and Out)	4,460		2,309		4,600		
171	605-49300-720	OPERATING TRANSFER: To General Fund	20,100		0	15,000	15,000		
172		<b>Net Total</b>	<b>-4,460</b>		<b>22,700</b>	<b>3,100</b>	<b>3,100</b>		
173		<b>MARINA FUND YEAR-END CASH BALANCE</b>	<b>32,738</b>			<b>35,838</b>	<b>38,938</b>		

# 2011 Greenwood PRELIMINARY Budget

		2009 Actual	2009 Budget	2010 7/10 YTD	2010 Budget	2011 Budget	% Change	% Op. Budget	% Total Budget
<b>BRIDGE FUND</b> <i>This enterprise fund was created in 2010.</i>									
174	403-39200	REVENUE: Transfer from General Fund	0	0	20,000	20,000			
175	403-45100-303	EXPENSE: Engineering	0	0	0	0			
176	403-45100-530	EXPENSE: Capital Outlay	0	0	0	0			
177		<b>Net Total</b>	<b>0</b>	<b>0</b>	<b>20,000</b>	<b>20,000</b>			
178		<b>BRIDGE FUND YEAR-END CASH BALANCE</b>	<b>0</b>	<b>0</b>	<b>20,000</b>	<b>40,000</b>			
179	<b>Total Fund Cash Balances</b>		<b>662,091</b>		<b>682,091</b>	<b>806,741</b>			

# SOUTH LAKE MINNETONKA POLICE DEPARTMENT

## PUBLIC SAFETY FACILITY - POLICE PORTION

### DEBT SERVICE PAYMENTS IN 2011

*Amount Due to the Shorewood Economic Development Authority (EDA) - \$423,300*

Member City	Tax Capacity	Percentage	Share of Cost
Excelsior	\$4,185,014	13.69%	\$57,936
Greenwood	\$3,414,037	11.16%	\$47,263
Shorewood	\$16,618,694	54.35%	\$230,066
Tonka Bay	\$6,359,164	20.80%	\$88,035
<b>TOTAL</b>	<b>\$30,576,909</b>	<b>100.00%</b>	<b>\$423,300</b>

NOTATIONS
2010 Tax Capacity Figures - Hennepin County Assessor's Office - <i>(Run Date: July 22, 2010)</i>
Figures Rounded Based Upon Tax Capacity <i>(ad valorem)</i> Formula
Total Debt Service Costs Validated with the Shorewood EDA - <i>(Includes Anticipated Fiscal Agent Fees)</i>
Facility Debt Obligation Independent of the SLMPD Operating Budget

*Prepared by Bryan Litsey, Chief of Police - (August 2010)*

## SOUTH LAKE MINNETONKA POLICE DEPARTMENT PUBLIC SAFETY FACILITY - POLICE PORTION

### DEBT SERVICE PAYMENTS IN 2011

		2011 Debt Service Payments ***			
Member City	Share of Debt Service *	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Excelsior	\$57,936	\$14,484	\$14,484	\$14,484	\$14,484
Greenwood	\$47,263	\$11,816	\$11,816	\$11,816	\$11,816
Shorewood	\$230,066	\$57,517	\$57,517	\$57,517	\$57,517
Tonka Bay	\$88,035	\$22,009	\$22,009	\$22,009	\$22,009
<b>TOTAL **</b>	<b>\$423,300</b>				

\* Allocation of debt service based on tax capacity figures provided by the Hennepin County Assessor's Office

\*\* Total debt service costs validated with the Shorewood EDA

\*\*\* Quarterly payment figures rounded for consistency of payment amounts

*Prepared by Bryan Litsey, Chief of Police - (August 2010)*

**Greenwood City Council Agenda Item  
September 7, 2010**

**Agenda Item: Discuss the vacation of undeveloped right-of-way along Fairview Street.**

**Summary:**

Eric Stafford, the new owner of 21880 Fairview Street, approached the Council at the August 5<sup>th</sup> meeting to determine whether the Council would be agreeable to vacating the 16.5 foot undeveloped right-of-way located along the east side of his property.

Vacating the right-of-way would impact three properties, 21880 Fairview Street, 21780 Fairview (owned by Sean and Kristi Conrad) and 21720 Fairview Street (owned by Frank Brixius). All the affected property owners have been invited to discuss this issue with the Council.

Mr. Brixius will be unable to attend the meeting and has submitted a letter outlining his opposition to the vacation.



Just received a telephone call from Gus saying the Council is again going to talk about vacating the access street to my property. Apparently, the purchaser of the property on the other side of that access street is now asking the City to vacate the street for his benefit. That property already has a house and garage with a direct driveway access to the road in front of their house. There is absolutely no need involved. The only possible reason for their request to vacate the access street to my property is to give them that public property to add to their private property for their own personal use.

I bought this property with that access road in place. I was required to and did pay for 3 sewer assessments to my property because the Council believed that was the minimum number of homes that could be built on the property. Vacating that access road would take away the access to my property that I bought and paid for with the knowledge and understanding that I and the Council had at the time I purchased the property and paid the 3 sewer assessments.

I repeat that there is no need whatsoever involved here. The houses on both sides of this access road have always had direct access to the road in front of their homes. Vacating this existing access road would take away needed access to my property for the sole purpose of giving public property to adjacent property owners who do not need it and already have direct frontage and access on the street in front of their homes.

Thank you

Frank Brixius

**Greenwood City Council Agenda Item  
September 7, 2010**

**Agenda Item: Discuss 2010-2011 Three Rivers Park District's Winter Use Permit.**

**Summary:**

Attached is a letter from Three Rivers Park District outlining the Winter Use Permit requirements for the 2010/2011 season. In past years, the city has requested authorization for use of the trail for cross country skiing and walking. By renewing the permit the city is agreeing to maintain the trail between the November 15, 2010 and March 31, 2011. In the past we have assigned this duty to the public works department who plows a portion of the trail to facilitate the proposed use of the trail. In addition the agreement the city will hold harmless the Park District from any liability related to the winter use of the trail.

The agreement requires the submittal of a Certificate of Insurance, valid through March 31, 2011. I have attached the certificate issued by Northern Capital.

**City Council Action Required:**

*Direct staff to sign the 2010-2011 Winter Use Permit and inform the public works department of their responsibilities.*



# Three Rivers

## PARK DISTRICT

**Memo**

**DATE:** August 2, 2010

**TO:** Roberta Whipple, City Administrator

**FROM:** Margie Walz, Associate Superintendent  
Division of Parks and Natural Resources

**SUBJ:** Regional Trails – 2010-2011 Winter Trail Activities Permit

**PLEASE RESPOND TO THIS REQUEST BY SEPTEMBER 17, 2010**

Enclosed is a copy of the 2010-2011 Winter Use Permit request form for regional trail segments located within your community. Please determine the level of winter use you are requesting, fill out the application form and follow the procedures outlined below. If your community does not plan to authorize any winter use activities, please indicate (none) in the box at the top of the permit and return it.

The Winter Use Permit ultimately authorizes your City to utilize the section of trail for the use you request. Permitted activities are determined by individual communities, contingent upon approval from the Park District's Board of Commissioners. **An updated Certificate of Insurance, naming Three Rivers Park District as an additional named insured, should be submitted with the permit application. Coverage will need to show inclusive dates from November 15, 2010 through March 31, 2011. Please include proposed rules and regulations for winter use, as well.**

Permit requests should be submitted to Janet Haben, Administrative Assistant, and **include verification of formal City Council action approving the proposed activities (a copy of appropriate meeting minutes)**. Some cities have elected to pass board motions authorizing multi-year Winter Trail Activities Permit applications. This is completely acceptable to the Park District and may save you administrative time. If your city has already pre-authorized multi-years, please submit an updated Winter Use Permit and Certificate of Insurance.

As part of the attached permit, the city agrees to maintain the trail, including, but not limited to, any plowing, sweeping, sanding, packing, **trash pick-up**, and sign replacement, between November 15, 2010 - March 31, 2011. The Park District has observed that some communities are not picking up trash on a timely basis or at all. This reflects poorly on the city and Park District. **PLEASE ADVISE YOUR MAINTENANCE STAFF OF THE NEED TO SCHEDULE TRASH PICK UP APPROPRIATELY FOR THE SECTIONS OF REGIONAL TRAIL THAT YOU ARE RESPONSIBLE FOR.**

If you have questions regarding this, please contact me at 763/559-6746. Thank you.

c: Boe Carlson, Associate Superintendent of Administration  
Brian Brown, Senior Manager of Parks and Trails Maintenance  
Scott Schmidt, Regional Trails Maintenance Supervisor  
Kelly Grissman, Senior Manager of Planning

**THREE RIVERS PARK DISTRICT  
REGIONAL TRAIL SYSTEM  
2010-2011 WINTER USE PERMIT**

Name of City <u>Greenwood</u>	City Hall Phone <u>(952) 474-4755</u>
Contact Person <u>Gus Karpas</u>	Phone _____
Contact Person Email Address <u>guskecityofdeephaven.org</u>	
Maintenance Contact Person <u>Jerry Hvidlow</u>	Phone <u>(952) 474-4755</u>
Maintenance Contact Person Email Address _____	
Regional Trail From <u>Deephaven</u>	to <u>Excelsior</u>
Authorized 2010-2011 Winter Activities <u>Cross Country Skiing and Walking</u>	
Regional Trail From _____	to _____
Authorized 2010-2011 Winter Activities _____	
Regional Trail From _____	to _____
Authorized 2010-2011 Winter Activities _____	
Regional Trail From _____	to _____
Authorized 2010-2011 Winter Activities _____	
Regional Trail From _____	to _____
Authorized 2010-2011 Winter Activities _____	

Authorization is hereby requested from the Park District Board of Commissioners to use portions of the Regional Trail Corridor for winter use activities between November 15, 2010 and March 31, 2011, as determined by each municipality within guidelines set forth herein on District Regional Trails located within individual City boundaries.

It is understood and agreed that approval from the Park District Board of Commissioners is contingent upon the following conditions:

1. The City agrees to defend, indemnify, and hold harmless the Park District, its officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorney's fees, resulting directly or indirectly from any act or omission of the City, its respective contractors, anyone directly or indirectly employed by the City, and/or anyone for whose acts and/or omissions they may be liable for related to the winter use of the Regional Trail Corridor. Nothing in this Agreement constitutes a waiver by the City of any statutory or common law defenses, immunities, or limits on liability. The City cannot be required to pay on behalf of itself and Three Rivers Park District, any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466. If City maintains general liability insurance at the time this permit is issued, City shall provide the Park District with a Certificate of Insurance, naming Three Rivers Park District as an additional named insured.



# Code Book Report

Prepared by Deb Kind for the 09-07-10 Council Meeting

The code book provided in the council packet is a clean copy that includes all of the revisions discussed by the council and planning commission to date. The council should compare this document with personal notes and the previous redlined version to ensure that questions/concerns have been addressed. As with all ordinances, the council must approve a 1st reading and 2nd reading of the code book before it goes into effect. The council may make changes at the 1st and 2nd readings of the ordinance. The code book is scheduled for a 1st reading at the 9/7 council meeting. Below are a few proposed changes for the council's consideration ...

1. Chapter 4, page 10, section 425.30, subd. 3

The clean copy includes a revision to this paragraph to make it clear that permittees have until midnight on June 15 to put a boat in their space at the city docks or it will be offered to the next person(s) on the waiting list. Since our last council discussion our marina clerk (Deborah) suggested the following changes in red ...

Subd. 3. Non-Use of Watercraft Space. The permittee's watercraft shall occupy the watercraft space on or before June 15 of the boating season. In the event a permittee fails to place the authorized watercraft within the assigned watercraft space by midnight on June 15, the permittee shall lose their watercraft space for the current and future seasons, and the space shall be offered to the next person on the waiting list (there will be no refund of the fee paid). If the permittee fails to employ the assigned watercraft space for a term of 60 days or greater during the boating season, the city shall not renew the watercraft space permit for future boating seasons. **The permittee shall be notified of the violation by US mail. If the permittee believes they have a unique circumstance, they can appeal to the city council in writing (within 7 days of date on the notification) and explain why they were not in their space by June 15 or why they did not use their space for 60 days. If the council rules in favor of the permittee, the permittee may keep their space if they pay one half of the regular fee as a penalty. If the permittee violates the June 15 or 60-day rule again in the future they automatically lose their space. If the council rules against the permittee, the permittee loses their space for the current and future seasons and the space will be offered to the next person on the waiting list (there will be no refund of the fee paid).** The determination by the city, not to renew a watercraft space permit for non-use shall be final.

2. Chapter 11, page 38, section 1140.19, subd. 3 (towards top of page)

Should this subdivision be moved to or be repeated in section 1150.15 Conditional Use Permit Procedure?

3. Chapter 12, page 11, definition for Tobacco or Tobacco Products

The 8/18/10 League of Minnesota Cities bulletin included an update regarding the Tobacco Modernization and Compliance Act of 2010. They are recommending that cities update their definition of tobacco products to read as follows:

Tobacco or Tobacco Products means cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. "Tobacco" or "tobacco products" also means any products containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product.

**CITY OF GREENWOOD, COUNTY OF HENNEPIN, STATE OF MINNESOTA**

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF GREENWOOD, MINNESOTA, AMENDING, RESTATING, REVISING, UPDATING, CODIFYING, AND COMPILING CERTAIN ORDINANCES OF THE CITY DEALING WITH THE SUBJECTS EMBRACED IN THE CODE OF ORDINANCES, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE CODE OF ORDINANCES.

WHEREAS Minnesota statutes §415.02 and §415.021 authorize the city to cause its ordinances to be codified and printed in a book,

NOW THEREFORE the city council of the City of Greenwood, Minnesota, ordains:

Section 1. The general ordinances of the city as amended, restated, revised, updated, codified, and compiled in book form, including penalties for the violations of various provisions thereof, are adopted and shall constitute the code of ordinances of the City of Greenwood. This code of ordinances also adopts, by reference, certain statutes and administrative rules of the State of Minnesota as named in the code of ordinances.

Section 2. The code of ordinances as adopted in section 1 shall consist of the following titles:

- Chapter 1: Council & Administration
- Chapter 2: Departments, Boards & Commissions
- Chapter 3: Building & Construction
- Chapter 4: Permits & Licenses
- Chapter 5: Fees, Fines & Public Utilities
- Chapter 6: Subdivisions & Right-Of-Ways
- Chapter 7: Traffic Regulations
- Chapter 8: Liquor & Beverages
- Chapter 9: Nuisances & Penal Regulations
- Chapter 10: Lake & Harbor Protection
- Chapter 11: Zoning
- Chapter 12: General, Definitions & Penalties

Section 3. All prior ordinances pertaining to subjects treated in the code of ordinances shall be deemed repealed from and after the effective date of this ordinance, except as they are included and re-ordained in whole or in part in the code of ordinances; provided this repeal shall not affect any offense committed or penalty incurred, or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes; appropriating money; annexing or detaching territory; establishing franchises; granting special rights to certain persons; authorizing public improvements; authorizing the issuance of bonds or borrowing of money; authorizing the purchase or sale of real or personal property; granting or accepting easements, plat or dedication of land to public use; or vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the code of ordinances. All fees established in prior ordinances shall remain in effect unless amended in this code of ordinances, or until an ordinance adopting a fee schedule is adopted or amended.

Section 4. This ordinance adopting the code of ordinances shall be a sufficient publication of any ordinance included in it and not previously published in the city's official newspaper. The city clerk shall cause a substantial quantity of the code of ordinances to be printed for general distribution to the public at actual cost, and shall furnish a copy of the code of ordinances to the county law library or its designated depository. The official copy of this code of ordinances shall be marked and be kept in the office of the city clerk.

Section 5. The code of ordinances is declared to be prima facie evidence of the law of the city and shall be received in evidence as provided by Minnesota statutes by the courts of the State of Minnesota.

Section 6. This ordinance adopting the code of ordinances, and the code of ordinances itself, shall take effect upon publication of this ordinance in the city's official newspaper.

PASSED BY the city council of the City of Greenwood, Minnesota this \_\_\_\_ day of \_\_\_\_\_ 2010.

APPROVED:

ATTEST:

\_\_\_\_\_  
DEBRA J. KIND, MAYOR

\_\_\_\_\_  
GUS E. KARPAS, CITY CLERK



## State Supreme Court Narrowly Interprets Variance Authority

**The court ruling holds cities to a much stricter standard, which considerably limits variance opportunities.**

*(Published Jul 21, 2010)*

The Minnesota Supreme Court recently issued a decision that changed the longstanding interpretation of the statutory standard for granting zoning variances.

In the case of *Krummenacher v. City of Minnetonka*, the Supreme Court narrowly interpreted the definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is reasonable use in the absence of the variance. This is a much stricter standard, which considerably limits variance opportunities.

### The decision

The City of Minnetonka issued a variance to a residential property owner permitting the expansion of a legal, non-conforming garage. The city, relying on a 1989 Court of Appeals decision, concluded that the grant of the variance was reasonable. The city’s decision was challenged by an adjacent property owner. Both the District Court and the Minnesota Court of Appeals agreed that the city’s decision was appropriate. On June 24 the Minnesota Supreme Court reversed the Court of Appeals and found the city’s decision impermissible.

The Supreme Court examined the statutory definition of “undue hardship” in *Minnesota Statutes, section 462.357* ([Link to: https://www.revisor.mn.gov/statutes/?id=462.357](https://www.revisor.mn.gov/statutes/?id=462.357)), and concluded that city authority to issue a variance is limited to those very rare cases where the property cannot be put to “a reasonable use” without the variance. This establishes a high threshold for both the city and the property owner when considering variance requests.

The Supreme Court reviewed the parallel county authority that allows for a variance in situations of “practical difficulties” or “hardship.” The Supreme Court found that the city authority was more limited because it did not contain the “practical difficulties” provision. The court explicitly recognized that it was changing a longstanding standard that cities have relied on in considering variance requests. In particular, the court specifically rejected a 1989 Court of Appeals interpretation of the phrase “undue hardship,” which allowed for the grant of a variance in circumstances where the “property owner would like to use the property in a reasonable manner that is prohibited by the ordinance.”

The Supreme Court stated that “unless and until the Legislature takes action to provide a more flexible variance standard for municipalities, we are constrained by the language of the statute to hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without the variance.”

### Impact of the decision

Because of the far-reaching nature of the decision, there are probably at least four responses that cities

should think about—at least until a legislative correction can be achieved:

- The city should re-evaluate the criteria that it has historically used in deciding whether or not to grant a variance. The Supreme Court’s decision limits a city’s discretion. The ruling limits the authority to circumstances where the property owner can demonstrate that there is not a reasonable use of the property absent the variance grant.
- In circumstances where the city council believes the grant of a variance is appropriate, the city should take great care to make detailed finding describing why the grant of the variance is necessary to provide the property owner with a reasonable use of his or her property. What constitutes a reasonable use of property is not defined and may differ depending on the unique circumstances of the property and attributes of various communities.
- If a city routinely grants variances, this may be an indicator that it may want to re-examine its zoning code to ensure that standards, setbacks, uses, and other requirements are consistent with the city council’s current vision for the community. In short, the court’s decision should act as an encouragement to cities to review their land use practices.
- Cities may want to build greater flexibility into their existing conditional use permit, planned unit development, and setback regulations to explicitly afford greater latitude to allow “variance-like” approvals under the zoning code. For instance, a city might establish alternative setback requirements to allow for construction that is consistent with neighborhood attributes.

### **Legislative action**

The restrictive court decision has caused a number of League members to call for a legislative response. The decision, its impact, and a possible legislative response will be discussed in the League’s Improving Service Delivery Policy Committee this summer. It is anticipated that the League will support a legislative change to provide cities with greater flexibility—perhaps something similar to the county authority.

**Read the current issue of the Cities Bulletin** (*Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>*)

### **Your LMC Resource**

**Contact Tom Grundhoefer** General Counsel  
(651) 281-1266 or (800) 925-1122  
**tgrundho@lmc.org** (*Link to: <mailto:tgrundho@lmc.org>*)

**KELLY LAW OFFICES***Established 1948*351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)(952) 474-5977  
FAX 474-9575**M E M O R A N D U M**

**TO: MAYOR, CITY COUNCIL and PLANNING COMMISSIONERS**

**FROM: Mark W. Kelly**

**DATE: July 21, 2010**

**RE: KRUMMENACHER v. CITY of MINNETONKA**

---

On June 24, 2010, the Minnesota Supreme Court affirmed the elements of the “undue hardship” variance test set out in the statute. The Court ruled that an applicant must meet *all* elements of the statutory test before a city can grant a variance. No longer may an applicant (or city) justify the grant of a variance on the strength of an assertion that the property owner has demonstrated “that they would like to use their property in a reasonable manner that is prohibited by the ordinance.” (See, Krummenacher v. City of Minnetonka and Leibeler, (Supreme Court Case File No. A08-1988)).

In Greenwood we have asked variance applicants to address how their property cannot be put to a reasonable use under existing code. This has often led to discussion of what is a reasonable use for a residential lot. Then, if satisfied, on that basis variances have issued. The city has not however attempted to formally define ‘reasonable use’.

In the recent Krummenacher case the Court specifically addressed the “reasonable manner” exception, heretofore so often relied upon by cities in granting variance requests. It said:

“We recognize...that Minnesota municipalities have been granting variances under the “reasonable manner” standard for many years. We also recognize that our decision will result in a restriction on a municipality’s authority to grant variances as compared with the “reasonable manner” standard. But... we cannot ignore the plain language of the statute. We are unable to interpret the statutory language to mean anything than what the text clearly says – that to obtain a municipal variance, an applicant must establish that ‘the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.’ ...[W]e are constrained by the language of the statute to

hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without a variance.” (Krummenacher pp. 20-21)

In light of the foregoing, cities will now be hard pressed to issue variances. The decision increases the burden on applicants and imposes on cities a need for affirmative findings on this issue. While one solution is to liberalize bulk regulations, such as set backs, another more practical response maybe to define in code what the city deems a ‘reasonable use’ as a matter of law.

Most often it is residential remodelers that seek bulk regulation variances. Given the antiquated lots sizes in Excelsior, Tonka Bay and Greenwood, this happens a often. To aid these remodelers, empower the city and continue to preserve the sanctity of the zoning code regulations, the city might add to their code a provision as follows:

“Section 1140.xx. Variances, Reasonable Use defined.

Provided a given residential lot is of xxxx sq. ft., then a reasonable use for the residential lot is a xxx? Sq. ft above grade house and a two car garage of xxx sq. ft. The city may grant bulk regulation variances to accommodate that minimum reasonable use and may cite this policy in formal findings justifying the variance grant.

In cases where the property is smaller than xxxx sq ft, the reasonable use of the lot is not presumed to include the right to build a residence,

Owners of undersized lots, purchased after the adoption of this zoning code, are presumed to have made the purchase fully informed of the law and the minimum lot sizes demanded by this code. They are presumed to have made the purchase fully intending to enjoy possession without any expectation of a right to a building permit for a house, accessory structure, or right to use the land in a manner contrary to existing city code. As such they hold no legal presumption of a right to employ same as a residential building site or that a reasonable use of their residentially zoned lot is in fact as a buildable home site. The city will entertain other suggested reasonable uses which, in its sole discretion, meet the interests of the general public welfare and are otherwise permitted uses within the applicable zone. For all other bulk regulation variance requests the burden of proof will be on the applicant to demonstrate, as a condition precedent, that without a variance no reasonable use for the property is available."

**KELLY LAW OFFICES**

*Established 1948*

351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331

MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)

(952) 474-5977  
FAX 474-9575

**M E M O R A N D U M**

**TO: MAYOR, CITY COUNCIL and PLANNING COMMISSIONERS**  
**FROM: Mark W. Kelly**  
**DATE: July 22, 2010**  
**RE: KRUMMENACHER v. CITY of MINNETONKA Part 2**

---

There is a second aspect to the June 24, 2010, decision of the Minnesota Supreme Court in Krummenacher v. City of Minnetonka and Leibeler, (Supreme Court Case File No. A08-1988), which affirmed the elements of the “undue hardship” variance test set out in the statute. The court also addressed the question of whether cities can use a variance process to grant permits to expand an existing non-conforming use.

Specifically the Krummenacher court reviewed MN ST§462. 357, Subd 1e, which reads:

“Subd. 1e. **Nonconformities.**  
(a) *Except as otherwise provided by law*, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion...”,

(Please note that the above italicized introductory phrase is new to the statute, post dates the facts in the case and for that reason was not addressed by the court.)

“(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. *A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.* This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.”

The court analysis focused on Subd. 1e (b) above, and in particular the italicized phrase.

The court concluded that the above sub-paragraph allows cities to grant permission to *expand* a legal non-conforming use. Like Greenwood, Minnetonka employs a variance process to address such requests. It was the inadequacy of the findings adopted by the city that ran afoul of the statute. The balance of the holding focused on the need of the city to find specific facts supporting a conclusion that the owner cannot put their property to a reasonable use without a variance. In making that finding the court acknowledged that their decision imposes a very high standard to be met. It said,

“We recognize...that Minnesota municipalities have been granting variances under the “reasonable manner” standard for many years. We also recognize that our decision will result in a restriction on a municipality’s authority to grant variances as compared with the “reasonable manner” standard. But... we cannot ignore the plain language of the statute. We are unable to interpret the statutory language to mean anything than what the text clearly says – that to obtain a municipal variance, an applicant must establish that ‘the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.’ ...[W]e are constrained by the language of the statute to hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without a variance.” (Krummenacher pp. 20-21)

Greenwood has used the variance process to monitor proposed rebuilds of non-conforming structures. Doing so gives the public an opportunity to be heard. Although we have on occasion been asked to agree to the expansion of a legal non-conforming use, we have been cautious and seldom allowed more than restructuring to code or modification of a structural design that is impractical or inherently flawed. Thus we have allowed a house to be rebuilt with second floor code compliant ceilings and a leaking flat roof replaced with a pitched roof.

Unlike the discussion in my earlier companion memo on Krummenacher, wherein I suggest the city define in code the term “reasonable use” as an aid to residential remodelers needing variances, here such an accommodation is more difficult.

It is not possible to know the range of expansions of legal non-conforming uses with which we might be presented or with which we can know we would be comfortable. So defining a range or set of reasonable uses is more difficult. I would however suggest non-conforming structures be expected/allowed to re-build in conformance with current building code. More than that, I leave to your consideration.

FOR COUNCIL DISCUSSION AND POSSIBLE PLANNING COMMISSION REVIEW

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING THE GREENWOOD ORDINANCE CODE SECTION 1155.10, SUBD. 2 TO DEFINE
"REASONABLE USE" FOR RESIDENTIAL LOTS, AND SECTION 1145.20 TO CLARIFY THE TYPE OF
ALTERATIONS ALLOWED FOR NONCONFORMING RESIDENTIAL BUILDINGS

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 1155.10, subd. 2, is amended to reads as follows:

"Subd. 2. Undue Hardship and Reasonable Use. "Undue hardship" as used in this ordinance in conjunction with the granting of a variance request must comply with all of the following:

- A. That the property in question cannot be put to a "reasonable use" if used under conditions allowed by the official control in question.
a) For residential lots 6000 sq. ft. or larger, a "reasonable use" is a 1-story home with a 800 sq. ft. foundation footprint and a minimum width of 25 ft, plus a 23 x 23 sq. ft. garage and a hard-surfaced (e.g. cement or blacktop) driveway.
b) In cases where the property is smaller than 6000 sq. ft., the "reasonable use" of the lot is not presumed to include the right to build a residence, but the city, in its sole discretion, will entertain other reasonable uses which meet the interests of the general public welfare and the permitted uses within the zone.
c) Owners of lots under 6000 sq. ft., purchased after December 2010, are presumed to have made the purchase fully informed of the law and the minimum lot sizes demanded by this code. They are presumed to have made the purchase fully intending to enjoy possession without any expectation of a right to a building permit or right to use the land in a manner contrary to existing city code. As such they hold no legal presumption of a right to employ same as a residential building site or that a reasonable use of their residentially zoned lot as a buildable homesite.
B. That the plight of the landowner is due to circumstances unique to the property and not created by the landowner.
C. The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone shall not constitute an "undue hardship" if some reasonable use for the property exists under the terms of the ordinance. However, practical difficulties, and functional and aesthetic considerations, may be taken into account."

SECTION 2.

Greenwood ordinance code section 1145.20 is amended to reads as follows:

"Section 1145.20. Alterations to Nonconforming Residential Buildings.

Alterations may be made to a residential building containing nonconforming dwelling units when the alterations will improve the livability of such units, provided the alterations do not increase the number of dwelling units in the building. Alterations shall not expand the nonconforming part of a building, except that alterations shall be built in conformance with the current building code (e.g. ceiling height) and a flat roof may be altered to a 4:12 pitched roof."

SECTION 3.

Effective Date. This ordinance shall be effective upon publication according to law.

ENACTED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

Ayes \_\_\_\_\_, Nays \_\_\_\_\_.

CITY OF GREENWOOD

By: \_\_\_\_\_
Debra J. Kind, Mayor

Attest: \_\_\_\_\_
Gus E. Karpas, City Clerk



# LMCC

LAKE MINNETONKA COMMUNICATIONS COMMISSION

4071 SUNSET DRIVE ■ BOX 385 ■ SPRING PARK, MN 55384-0385 ■ 952.471.7125 ■ FAX 952.471.9151 ■ [lmcc@lmcc-tv.org](mailto:lmcc@lmcc-tv.org)

August 26, 2010

RE: Approval of LMCC 2011 Budget

DEEPHAVEN

EXCELSIOR

Dear Mayor and Council Members:

GREENWOOD

The Lake Minnetonka Communications Commission (LMCC) passed the enclosed budget for 2011, at the last full LMCC meeting on August 17, 2010.

INDEPENDENCE

This budget is not funded with tax dollars, but rather a cable company franchise fee paid annually to the LMCC. We are also receiving a PEG (public, educational, governmental) access fee for community use of the production studio.

LONG LAKE

LORETTO

I am submitting the budget to all city members of the LMCC for review and approval according to our Joint Powers Agreement. Please send me the minutes or resolution of your actions regarding the LMCC Budget as we keep a record of approval on file at the LMCC Offices.

MAPLE PLAIN

MEDINA

If you would like me to attend your council meeting to answer any questions please let me know the date and time of the meeting or the time I would be placed on the agenda. The LMCC needs approval of the majority of the cities to proceed with the proposed budget.

MINNETONKA BEACH

MINNETRISTA

ORONO

Thank you for your continued support and use of the television facilities and especially your participation in the candidate's statements and forums that will appear on LMCC Channel 21.

ST. BONIFACIUS

SHOREWOOD

Sincerely,

SPRING PARK

LAKE MINNETONKA COMMUNICATIONS COMMISSION

TONKA BAY

Sally Koenecke  
Executive Director

VICTORIA

WOODLAND

Enclosure

## **Lake Minnetonka Communications Commission Year 2011 Budget**

The Lake Minnetonka Communications Commission is not funded by tax dollars and its operating budget is derived from cable franchise fees and PEG fees to cable subscribers.

The Lake Minnetonka Communications Commission maintains a fund balance as a reserve to continue operations if unforeseeable funding losses should occur. These could include lowered franchise revenue, legislation resulting in reduced funding, or other revenue losses. The LMCC has some financial obligations, such as the building purchase payments, that would have to be accounted for even if the legislature eliminated franchise funding. The LMCC studio and offices are located at 4071 Sunset Drive in Spring Park.

The LMCC has maintained its budgeted balance for the first seven months of 2010. The LMCC continues to provide excellent service to area residents with its programming and streaming services. The streaming service, begun in 2006, continues to exhibit growth in the numbers of residents accessing the "on demand" city council meetings. LMCC producers earned a national programming award this year from the National Association of Telecommunications Officers and Advisors and an award from the Minnesota Association of Community Telecommunications Administrators for excellence in community programming. Other programming produced for and with the cities includes public safety programming, city events and festivals, state of the city addresses, "Tonka Report" with city administrators, candidate forums, community development programs, school district programs and non-profit organizational programming. The LMCC continues to resolve cable subscriber complaints and monitors the franchise agreement with Mediacom.

### **The following is a summary of the budget considerations made by the 2011 Budget Committee:**

The budget is proportioned into three categories, Franchise, Studio and Capital:

#### **Franchise Fund**

This fund is supported entirely by franchise fees and interest on investments. Activities accounted for in this fund are related to the oversight responsibility of the Commission representing the member cities' interest in the cable operator's compliance with the franchise agreement. This fund also supports the complaint process and resolution of subscriber complaints reported to the LMCC. The LMCC also represents its member cities by monitoring and participating in the legislative activities at the state and federal levels.

### **Studio Salaries and Studio Capital Fund**

In 2008 due to an FCC ruling the studio budget was presented a little differently. Due to the possibility that the PEG fee may only be used for capital expenditures the Budget Committee put Studio Salaries as an operating expense. The other funds needed for the studio are classified as Access Studio Capital as the expenses incurred here result in a product, that being community programs. The Budget page for studio is now divided into two categories, Access Studio Operating (salaries) and Access Studio Capital.

### **Capital Improvement Fund**

The Capital Improvement Fund supports the acquisition of new equipment and the need for replacement of equipment and leasehold improvements presently existing. A listing of proposed equipment is included. The equipment list is projected, as pricing may have changed prior to the time of purchase. Purchases are subject to approval by the commission and may change if technology dictates better options. In 2011 the capital budget will be kept at a minimal amount due to other expenditures that were deemed at this time to be more timely in terms of need. A five-year capital plan that staff has developed in strategic planning projects increases in 2012. The commission has held over some of the proposed equipment in the five year plan projected for 2011 to 2012. The LMCC will also be researching possible improvements to the building in 2011 since we now own it.

### **Other Projected Expenditures**

Three expenditures which are also included in the budget are funds allocated to doing a market survey of our area residents to determine interest in a municipal fiber network, the redesign of the LMCC website and an extended cost of the 2010 franchise fee audit. The LMCC requested the auditor perform an audit of three years instead of the two we had originally budgeted for. The third year will be paid for in the 2011 budget.

Submitted by:  
Sally Koenecke  
LMCC Executive Director

**Lake Minnetonka Communications Commissions  
2011 Proposed Budget**

	Franchise Administration	Studio Capital	Total All Funds
<b><u>Revenues</u></b>			
Franchise Fees	169,000	299,448	468,448
PEG Fees		105,832	105,832
Mound Usage Fees		45,088	45,088
Studio Rental Dub Fees		9,000	9,000
Interest		1,540	1,540
Insurance Refund		250	250
<b>Projected Total Revenue</b>	<b>169,000</b>	<b>461,158</b>	<b>630,158</b>
<b>Fund Balance Transfer</b>			<b>49,000</b>
<b>Total Revenue and Fund Balance Transfer</b>			<b>679,158</b>

<b><u>Expenses</u></b>			
Projected Total Fr. Exp. And Studio Salaries	168,018	272,649	440,667
Projected Total Studio Capital Expenses		115,885	115,885
Principal Mortgage Payments			42,365
Communications Education and Assessment			30,000
Website Redesign			10,000
Franchise Fee Audit			7,000

**Capital Equipment Budget**

Propose 2011 Capital Equipment Budget			<b>30,653</b>
<b>Projected Total Expenses (Fr.Exp. Stu.Salaries, Stu.Cap., Cap.Equip.)</b>			<b>675,570</b>

**Fund Balance**

Projected 2011 Beginning Fund Balance	401,682
Projected 2011 Revenues	<u>630,158</u>
Total Fund Balance and 2011 Revenues	1,031,840
<b>Projected Total Expenses</b>	<b><u>675,570</u></b>
Projected Fund Balance Before 10% Contingency	356,270
10% Contingency	<u>67,557</u>
Projected 2011 Fund Balance After Contingency	288,713
2005, 2006, 2009 Mediacom Audit Collection	?

**Lake Minnetonka Communications Commission  
2011 Proposed Budget**

**Franchise Administration  
Expenses**

	2009 Adopted	2009 Actual	2010 Proposed	2010 6 Mo. Proj	2010 Projected	2011 Proposed
<b>Personal Services</b>						
101 Salaried Full-time	43,346	46,431	45,946	21,822	46,431	47,824
103 Salaried Part-time	21,660	23,372	22,309	11,113	23,372	33,000
121 Pera Cont.	4,387	5,650	4,790	2,326	5,650	5,819
122 FICA Cont.	6,700	6,228	5,660	3,150	6,228	6,415
131 Health Insurance	11,000	11,282	11,000	6,530	11,282	11,500
151 Workers Comp. Insurance	650	694	700	703	694	715
<b>Total Personal Services</b>	<b>87,743</b>	<b>93,657</b>	<b>90,405</b>	<b>45,444</b>	<b>93,657</b>	<b>105,273</b>
<b>Supplies</b>						
200 Office Supplies	1,300	1,266	1,300	500	1,300	1,300
210 Special Events/Meetings	500	348	500	216	500	525
220 Repair & Maint. Supplies	300	40	200	0	200	200
<b>Total Supplies</b>	<b>2,100</b>	<b>1,654</b>	<b>2,000</b>	<b>816</b>	<b>2,000</b>	<b>2,025</b>
<b>Professional Services</b>						
301 Accounting/Audit Fees	6,040	6,559	6,220	2,050	6,220	6,450
304 Legal Fees	2,250	6,048	3,000	4,478	6,000	10,000
314 Payroll Services	650	735	700	434	700	800
318 Janitorial Services	1,200	879	1,200	400	1,100	1,200
319 Security Services	470	402	470	300	470	470
325 Computer/Consulting	1,800	228	1,250	200	1,000	1,250
326 Training	400	1,456	400	0	400	400
<b>Total Professional Services</b>	<b>12,810</b>	<b>16,307</b>	<b>13,240</b>	<b>7,862</b>	<b>15,890</b>	<b>20,570</b>
<b>Other Services and Charges</b>						
309 Copier Expense	2,900	3,177	3,000	1,632	3,000	3,250
321 Telephone/Communications	1,100	1,076	1,100	497	1,000	1,100
322 Postage	1,300	1,230	1,300	488	1,000	1,300
331 Travel School & Conference	9,000	7,386	9,000	2,570	8,000	9,000
332 Mileage	650	744	670	342	670	680
350 Printing and Publishing	2,000	1,006	1,800	550	1,500	1,500
360 Insurance	2,250	1,864	2,000	1,884	2,000	2,200
380 Utilities	4,700	3,284	4,700	2,230	4,700	4,700
384 Refuse & Recycling Collection	300	479	400	253	400	500
401 Contracted Building Repair	1,500	727	1,500	409	1,500	2,000
404 Maint. Repair Equip.	400	332	250	101	250	250
412 Building Rent	10,970	5,086	12,748	0	0	0
413 Equipment Rental	400	38	300	0	300	200
433 Dues & Subscriptions	1,900	2,041	1,800	1,372	1,500	2,000
438 Property Taxes	2,442	2,419	0	0	0	0
439 Contingency	1,200	1,287	1,200	3,000	3,000	3,000
440 Advertising	300	0	300	13	300	300
395 Bank Finance fee	25	22	20	20	20	20
443 Licenses	200	100	200	0	100	100
<b>Total Other Charges</b>	<b>43,537</b>	<b>32,298</b>	<b>42,288</b>	<b>15,339</b>	<b>29,240</b>	<b>32,100</b>
<b>Capital Outlay</b>						
411 mortgage interest		1,330		1,502	3,004	3,050
599 Building Improvements	1,000	131	2,000	300	2,000	5,000
<b>Total Expenditures</b>	<b>147,190</b>	<b>145,377</b>	<b>149,931</b>	<b>71,283</b>	<b>145,791</b>	<b>168,018</b>

**Lake Minnetonka Communications Commission  
2011 Proposed Budget**

**Access Studio Operating**

	2009 Adopted	2009 Actual	2010 Proposed	2010 6 Mo. Proj.	2010 Projected	2011 Proposed
<b><u>Personal Services</u></b>						
101 Salaried Full-time	169,327	178,575	173,555	83,822	178,575	201,700
103 Hourly Part-time	21,000	30,306	24,720	13,452	30,306	13,612
121 Pera Cont.	12,751	13,184	13,130	4,286	13,184	14,500
122 FICA Cont.	13,857	15,023	14,420	6,750	15,023	16,500
131 Health Insurance	18,232	19,210	25,417	11,120	25,417	25,417
151 Workers Comp. Insurance	790	902	815	913	902	920
<b>Total Personal Services</b>	<b>235,957</b>	<b>257,200</b>	<b>252,057</b>	<b>120,343</b>	<b>263,407</b>	<b>272,649</b>
<b><u>Access Studio Capital Supplies</u></b>						
200 Office Supplies	1,130	1,266	1,160	572	1,160	1,200
210 Special Events/Meetings	1,130	811	1,160	504	1,160	1,200
220 Repair & Maint. Supplies	400	40	400	0	400	400
225 Studio Expendables	3,600	2,513	3,100	900	3,000	3,000
<b>Total Supplies</b>	<b>6,260</b>	<b>4,630</b>	<b>5,820</b>	<b>1,976</b>	<b>5,720</b>	<b>5,800</b>
<b><u>Professional Services</u></b>						
301 Acct. Fees	6,040	6,559	6,220	1,825	6,220	6,450
302 Access Contractors	25,072	24,169	25,825	12,404	25,825	26,000
304 Legal Fees	1,800	2,722	2,000	1,602	2,500	3,000
314 Payroll Services	1,550	1,716	1,850	801	1,850	1,900
318 Janitorial Services	2,500	2,052	2,575	1,199	2,575	2,576
319 Security Services	470	402	450	250	450	470
325 Consulting-computer	4,500	532	3,000	468	3,000	3,000
310 Training	600	1,456	600	150	600	600
<b>Total Professional Services</b>	<b>42,532</b>	<b>39,608</b>	<b>42,520</b>	<b>18,797</b>	<b>43,020</b>	<b>43,995</b>
<b><u>Other Services and Charges</u></b>						
309 Copier Expense	2,900	3,177	3,000	1,621	3,000	3,250
321 Telephone/Communicat	2,525	2,510	2,550	1,159	2,550	2,850
322 Postage	1,350	1,230	1,350	550	1,350	1,350
331 Travel School & Conference	4,630	1,303	4,770	1,500	4,770	4,770
332 Mileage	900	900	1,000	639	1,000	1,100
350 Printing and Publishing	1,800	1,006	1,800	550	1,800	1,800
360 Insurance	3,500	4,348	4,478	4,348	4,478	4,500
380 Utilities	11,000	7,644	10,000	4,741	10,000	10,500
384 Refuse & Recycling Collection	320	479	500	253	500	550
401 Contracted Building Repair	1,500	727	1,500	450	1,500	1,500
404 Maint. Repair Equip.	4,000	332	2,000	150	2,000	2,000
412 Building Rent	32,913	15,257	38,238	0	0	0
413 Equipment Rental	500	38	500	0	500	300
433 Dues & Subscriptions	1,800	2,041	1,800	1,372	1,800	2,250
438 Property Taxes	7,326	7,258	-	0	0	0
439 Contingency	1,300	1,287	1,300	640	1,300	1,300
440 Advertising	1,000	140	1,000	40	1,000	1,000
441 Van Operation	1,300	2,076	1,500	500	1,500	2,000
442 Webstreaming/Broadband	10,585	11,490	10,585	3,000	10,585	11,000
443 Licenses	400	300	350	100	400	350
<b>Total Other Charges</b>	<b>91,349</b>	<b>63,543</b>	<b>88,221</b>	<b>21,613</b>	<b>50,033</b>	<b>52,670</b>
<b>Total Expenditures</b>	<b>140,341</b>	<b>107,781</b>	<b>136,561</b>	<b>42,386</b>	<b>98,773</b>	<b>101,885</b>
Building Improvements	100	131	1,100	-	1,100	5,000
411 Mortgage Interest Expense		4,000		4,510	8,020	9020
<b>Total</b>	<b>376,398</b>	<b>369,112</b>	<b>389,718</b>	<b>167,239</b>	<b>372,300</b>	<b>388,534</b>

2011 Capital Budget

Qty:	Description:	Mfg.:	Part #:	Cost Each:	Tax Each:	x Qty	Total:
	<b>Lighting:</b>						
	<b>Dimming &amp; Control:</b>						
1	Dimmer Control	SmartFade	1296	\$6,655.00	\$498.13	1	\$7,154.13
6	Remote 1200w Dimmer Packs						
1	Cabling Allowance						
	<b>Lighting Fixtures:</b>						
8	DMX Style 2 Lamp Fixtures	Desisti	DE-LUX 2x55w	\$23,875.00	\$1,790.63	1	\$25,665.63
8	Egg Crates for DE-LUX 2x55w						
20	55w Biax lamps - 32k						
8	10' Daisy Chain Power Cables						
8	Connectors						
8	Safety Cables						
6	DMX Style 4 Lamp Fixtures	Desisti	DE-LUX 4x55w				
6	Egg Crates for DE-LUX 2x55w						
28	55w Biax lamps - 32k						
6	10' Daisy Chain Power Cables						
6	Connectors						
6	Safety Cables						
3	Cyc Lights		HIU CYC				
3	Connectors						
3	Safety Cables						
3	EMD Lamp						
4	3 Light Portable Light Kits	Desisti	Magis	\$10,175.00	\$763.13	1	\$10,938.13
1	Installation	Barbizon		\$2,500.00	\$187.50	1	\$2,687.50
				<b>Subtotal for Lighting:</b>			<b>\$46,445.39</b>
6	XL2 Camcorder Batteries	Canon	BP-945	\$120.00	\$9.00	6	\$774.00
6	DVC Series camcorder Batteries	Panasonic	CGP-D28	\$129.95	\$9.75	6	\$838.20
2	Pro Series Tri Pods	Manfrotto	TriPod Kit	\$699.95	\$52.49	2	\$1,504.88
2	Rollable Edit Station Desks	Safco	778132	\$449.99	\$33.75	2	\$967.48
6	Power Strips	Kensington	236216	\$12.95	\$0.97	6	\$83.52

