

GREENWOOD CITY COUNCIL MEETING
Thursday, November 4, 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 Kind; Councilmembers Fletcher, Page, and Quam

Others Present: City Attorney Kelly, City Zoning Administrator/City Clerk Karpas

Members Absent: Councilmember Rose

Councilmember Fletcher asked that Item 8.A Uncompleted Building Exteriors be added to the agenda.

Page moved, Fletcher seconded, approving the agenda as amended. Motion passed 4/0.

2. CONSENT AGENDA

Page moved, Quam seconded, approving the items contained on the Consent Agenda.

- A. **October 5, 2010, City Council Meeting Minutes** (This was moved to Item 8.B under Other Business.)
- B. **September 2010 Cash Summary Report**
- C. **October 2010 Payables Minutes** (This was moved to Item 8.C under Other Business.)

Motion passed 4/0.

3. MATTERS FROM THE FLOOR

There were no matters from the floor presented this evening.

4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS

- A. **None**

5. PUBLIC HEARING

- A. **None**

6. UNFINISHED BUSINESS

- A. **Sonus Hearing Care Professionals Conditional Use Permit Request for Signage**

Mayor Kind stated Council discussed the Sonus Hearing Caring Professionals, building address 21700 State Highway 7, request for a conditional use permit (CUP) to remove the existing signage along the

west side of the building and replace it with new internally illuminated cabinet signs along the west and south elevations of the building during its October 5, 2010, meeting. Council chose to continue it to this meeting because the plan for the signage had changed but the City had not been provided with new plan. The November 4, 2010 council packet included the new plan indicating the signage will use one half of the area allowed by City's Sign Ordinance. The meeting packet also contained a revised draft resolution for a conditional use permit for the signage, and the application has been signed by the property owner.

Zoning Administrator/Clerk Karpas reiterated that the new plan for the signage indicates it will occupy one-half of the allowable area. He noted the revised resolution stipulates the condition that the sign to be located on the west façade of the building not be illuminated later than 10:00 P.M. daily. He also noted the applicant is in compliance with the conditions in the City's Sign Ordinance.

In response to a question from Councilmember Page, Zoning Administrator/Clerk Karpas stated Joel Buttenhoff owns the property.

Page moved, Quam seconded, Adopting RESOLUTION NO. 20-10, "A Resolution Granting a Conditional Use Permit for Exterior Signage to Sonus Hearing Care Professional for Real Property Located at 21350 State Highway 7, Greenwood, Minnesota, (PID No. 35-117-23-120016).

Mayor Kind stated the Planning Commission recommends limiting the hours the sign that is to be located on the west façade of the building can be illuminated; the sign cannot be illuminated later than 10:00 P.M. She asked Council if the same limitation should also be applied to the sign to be located on the south façade. Councilmember Quam asked why. Councilmember Fletcher explained the Planning Commission was concerned about the residents of Greenwood on the west side. Quam stated that Shorewood residents cannot see over the wall on the south side so there isn't an issue. Quam said one side faces the Lakeshore Market and the other faces the road. Kind noted the Shorewood residents on Christmas Lake can see the signs and that Lakeshore Market is very illuminated. Councilmember Page indicated he did not think there is a need for any such restriction for either sign. Fletcher stated the owner had no issue with the limitation, and that the limitation should either apply to both signs or neither sign.

There was Council consensus to apply the illumination limitation to both signs.

Without objection from the maker or seconder of the motion, the motion was amended to include modifying the resolution to include the sign to be located on the south side of the façade cannot be illuminated later than 10:00 P.M. Motion passed 4/0.

7. NEW BUSINESS

A. First Reading: Ordinance 187 Updating Section 500, Fees

Mayor Kind explained that in 2009 Council did a major update to Sections 500 and 515 of the City Code to consolidate all fees in one area of the Code. At that time Council agreed to review the fees each fall to ensure the fees are current. Council conducted a review during its October 5, 2010, meeting. The copy of Ordinance 187 included in the meeting packet reflects the changes discussed during that meeting.

Councilmember Quam stated in Section 2 of the Ordinance the fee for Miscellaneous Petitions to the City for Legal Consent or Releases reads "\$200 plus any additional costs incurred by the City". He suggested it be changed to "actual costs". Mayor Kind and Councilmembers Fletcher and Page indicated they could support the change. In response to a comment from Kind, Quam clarified it would read "actual costs incurred by the City".

Quam then stated the current sanitary sewer rate for both residential and commercial is \$75. In Section 1 of the Ordinance the sewer rate has been reduced to \$65 for both per the discussion during the October 5th meeting. He expressed his hesitancy to reduce the rate by \$10. His reason is the City has to repair the manholes in the second half of the City; the repairs in one half of the City have already been completed. The estimated cost is \$50,000 to complete the effort in sections 5 and 6 in one year and another \$50,000 to complete it in sections 7 and 8 in the subsequent year. He commented he thought the estimate may be high.

Quam explained the City is in the process of applying for a grant through the Metropolitan (Met) Council to cover up to 50 percent (\$50,000) of the cost to do the repairs and replacements in the second half of the City. The application has to be submitted to the Met Council by December 15, 2010. In order to complete the application the manholes and covers will have to be located and inspected and the cost to repair and replace estimated, noting this would have to be done before any replacement effort begins. Under Item 9.D he will be asking Council to authorize a \$5,000 expenditure to cover the cost of the locating and inspecting the second half of the manholes and covers as well as the cost to prepare the grant application. If Council approves the expenditure the inspection process will begin post hast. The City should know by January 5, 2011, if it will be awarded a grant.

Mayor Kind noted the City will approve its final 2011 operating budget during its December 2010 meeting.

Councilmember Fletcher stated it's his understanding that every municipality that applies, within reason, for a grant will be awarded some amount of funding.

Mayor Kind stated the question before Council at this time is whether or not to lower the sanitary sewer rate to \$65 from the current rate of \$75.

Councilmember Fletcher explained that on September 30, 2010, the revenues for the Sanitary Sewer Fund were approximately \$91,000 and expenses were approximately \$42,000. The net revenues minus expenditures were approximately \$49,000. The 2010 starting balance in this Fund was approximately \$356,000. He stated Council could consider increasing the proposed rate to \$70 from \$65 (a \$5 reduction in the current rate).

Mayor Kind stated she would prefer the rate be \$70 for 2011 for both residential and commercial. Councilmember Quam stated he could support that.

It was noted that the fee for Docks: Municipal Watercraft Space Permit will be \$950 in 2011.

Fletcher moved, adopting the first reading of Ordinance 187 Enacting a Code of Ordinances for the City of Greenwood subject to changing the sanitary sewer rate to \$70 for both residential and commercial units and changing the fee for Miscellaneous Petitions to the City for Legal Consent or Releases to \$200 plus actual costs incurred by the City.

Councilmember Quam clarified he recommended the fee for Miscellaneous Petitions to the City for Legal Consent or Releases should be actual costs incurred by the City. He did not recommend a \$200 flat fee in addition to actual costs.

Councilmember Page recommended charging a \$200 fee in addition to actual costs because there is staff time involved in addition to the costs for outside services.

Attorney Kelly suggested the fee be \$200 plus consultant fees incurred by the City.

Without objection from the maker of the motion, the motion was amended to include changing the fee for Miscellaneous Petitions to the City for Legal Consent or Releases to \$200 plus consultant fees incurred by the City. Quam seconded. Motion passed 4/0.

Councilmember Quam noted the sanitary sewer rate of \$70 is \$5 less than the current rate of \$75.

B. Winter Plowing of LRT Trail

Mayor Kind stated the meeting packet includes a copy of an email from resident Pat Lucking regarding winter plowing of the LRT trail. Mr. Lucking asked Council to consider having the full width of the trail plowed during the 2010 – 2011 season. In the past the City has only plowed part of the width leaving the remainder unplowed for cross-country skiing. Having part of the width unplowed results in the cleared portion becoming icy from the snow melt making it dangerous for walkers, runners and bikers. She offered up an idea that may work. The entire path could remain unplowed for two to three days after a snowfall for skiers and then it could be cleaned off. Cross country skiers would have the opportunity to enjoy the fresh snow for a few days.

Councilmember Page stated he doesn't recollect the trail being plowed the day following a snowfall. It usually takes two to three days for that to occur. He cautioned against the City setting an expectation that the trail would be plowed no later than three days after a snowfall. He commented that the sidewalks along Minnetonka Boulevard are not plowed until a few days after a snowfall because the focus is on plowing the roads. He stated he likes the idea of plowing the full width of the trail, noting he does cross country ski. He then stated some cross country skiers don't feel comfortable skiing on Lake Minnetonka.

Councilmember Fletcher stated things should be kept simple when establishing expectations for public works personnel. He commented he prefers to cross country ski on Lake Minnetonka. He noted he had come across a skier who indicated that she preferred to ski on the trail.

Mayor Kind stated the City could experiment with plowing the full width of the trail for one season and if that proves to be a problem it can be changed for the next season.

Councilmember Fletcher commented that he thought plowing the full width could affect maybe two to three people.

Councilmember Page stated his preference is to plow the full width of the trail. He then stated Mr. Lucking was correct in stating plowing only part of the width does create problems.

Councilmember Fletcher stated it would probably be easier for public works personnel to plow the entire width of the trail. He then suggested the City track any complaints it may receive this season about the full width being plowed and that can be discussed before next year's season begins.

Zoning Administrator/Clerk Karpas stated he will inform the Deephaven Public Works Department of this.

Page moved, Quam seconded, directing the Deephaven Public Works Department to plow the full width of the LRT trail during the 2010 – 2011 winter season. Motion passed 4/0.

C. Greenwood Park Improvements

Mayor Kind stated the meeting packet contained a copy of an email from resident Kristi Conrad regarding her thoughts about how to improve the Greenwood Park. She noted the City's Park Fund has a balance of approximately \$25,000 but the funds can only be used for improvements to the Park. Funds could be used to purchase trash cans for in the Park and to resurface the basketball court in the Park. Things such as emptying the trash cans, power washing the basketball court, and trimming trees are maintenance activities and they would have to be funded out of the General Fund. The City could purchase brooms to sweep off the basketball and tennis courts and the picnic tables and the Park Fund could be used to fund such purchases. She related that Ms. Conrad thought that would be a good idea.

Councilmember Quam stated he thought the City should do a better job of maintaining the Park.

Councilmember Page stated Ms. Conrad indicated the tennis courts had been resurfaced this past summer and he asked if that is true. Mayor Kind and Councilmember Quam clarified the courts were power washed.

Councilmember Page stated he thought the tennis courts need to be resurfaced and that should be done next spring. He recommended the basketball court be resurfaced at the same time. He expressed agreement with Ms. Conrad's comments that the Park needs to be cared for better, noting there is some unsightly growth near the picnic area.

Mayor Kind stated the City should put trash cans in the Park. Councilmember Page asked if the refuse hauler will empty them. Zoning Administrator/Clerk Karpas responded that should be possible.

Councilmember Page stated Ms. Conrad had offered to coordinate a fundraiser to raise the funds needed to improve the Park. He did not think that is necessary because there are sufficient funds in the Park Fund. Mayor Kind reiterated those funds can't be used for maintenance activities.

Councilmember Fletcher stated he had spoken with a resident who pointed out that there are a number of dead trees in the Park that should be removed and there are trees that should be trimmed.

Councilmember Fletcher suggested a Park improvement plan be prepared that includes a number of the items discussed this evening. That would hopefully be eligible for funding out of the Park Fund.

Councilmember Page noted there is only one City-owned park to spend funds in the Park Fund on.

Mayor Kind suggested this be revisited in the spring of 2011. Councilmember Fletcher suggested this be discussed during the March 2011 Council meeting.

D. First Reading: Ordinance 188 Updating Section 320, International Property Maintenance Code

Mayor Kind stated Section 320, International Property Maintenance Code, in the City Ordinance refers to an old version of the International Property Maintenance Code (IPM Code). An amendment is proposed to Section 320 Sections 1, 2 and 3 to remove any reference to a specific version of the IMP Code and replace them with a general reference to the IPM Code.

Page moved, Fletcher seconded, Approving ORDINANCE NO. 188, “An Ordinance Amending Greenwood Ordinance Code Section 320 Regarding References to the International Property Management Code for Multiple Dwellings.” Motion passed 4/0.

E. Community Survey Results

Mayor Kind explained the City conducted a survey to solicit resident feedback concerning internet, television and phone service in the City. The Lake Minnetonka Communications Commission (LMCC), an agency formed by 17 area cities including Greenwood, is looking into the feasibility of *tonkaconnect* (a community-owned fiber optics service provider) providing internet, television and phone services in the LMCC community. The survey contained a brief introduction to *tonkaconnect*.

Kind reviewed the four questions in the survey. They are as follows.

1. I am satisfied with the service and pricing provided by my current internet, television and phone provider(s).
2. I believe the city should work to encourage the availability of leading-edge communication technologies, but leave the ownership and operations to the private sector.
3. I support the proposed community-owned and financed *tonkaconnect* service to compete with existing private services providers (Mediacom and Qwest).
4. I support the city contributing \$15,000 to \$20,000 (approximately \$60 per household) for the plan needed to determine the viability of *tonkaconnect* in the Lake Minnetonka area.

Kind explained the residents were asked to rate each question based on a five point rating system of strongly agree (5), agree (4), neutral (3), disagree (2) and strongly disagree (1). There were 99 responses to question 1 and the average rating was 2.74. There were 97 responses to question 2 and the average rating was 3.95. There were 98 responses to question 3 and the average response was 3.33. There were 99 responses to question 4 and the average response was 2.88.

Kind stated the reason the City conducted the survey was to give Council guidance and Councilmember Fletcher, the City’s elected representative to the LMCC, and Lake Bechtell the City’s resident representative, guidance.

Councilmember Quam stated from his vantage point he thought there is a conflict between questions 2 and 3. Question 2 states the ownership and operation should be left to the private sector. Question 3 states it should be community owned. The responses indicate stronger support for leaving ownership and operations to the private sector, but also indicate some support for a community-owned system. He then stated based on the average response to question 4 there does not seem to be support for contributing to the development of a feasibility study.

Councilmember Fletcher stated he did not interpret an average rating of 2.88 for question 4 to mean residents don’t want to contribute to the study. He does interpret the survey results to mean residents generally want the availability of better communications technology and generally want it from a private service provider.

Councilmember Quam asked how many LMCC member cities would have to agree to move forward with a study. Councilmember Fletcher stated he thought at least one half of the 17 member cities would have to agree to fund a study. He then stated he thought the cost is approximately \$1.3 million for a study. Quam asked what the study is going to study. Fletcher stated the very preliminary project cost estimate is

\$80 million to serve all 17 member cities and Mound and Wayzata. Part of the initial study would identify hard project costs and gather the information needed to sell bonds to finance the project.

Quam then asked if the cities are expected to fund that. Fletcher stated the LMCC does not have the money to fund it. Quam stated the chance of coming up with \$80 million from the cities is about zero.

Councilmember Fletcher questioned the financial viability of the project. Fletcher explained the City of Monticello sold bonds to finance a fiber to the premise initiative. Fletcher stated there are 17 – 19 cities that have to work together to make such an initiative work in the LMCC community.

Mayor Kind stated it's her understanding the cities would fund the feasibility study and then the project itself would be funded by the users of the technology.

Councilmember Page stated he thought the feasibility would be done and paid for by the member cities. If the feasibility indicates such a venture is viable then a separate entity would be formed and that entity would sell bonds to finance the project and the subscribers would pay the bonded debt.

Councilmember Fletcher stated a bond house representative spoke to the LMCC representatives about one year ago and the representative explained that when Monticello sold its bonds the bonds were on a non-recourse basis. That means that Monticello is not liable for the bonds. Monticello's original investment in the feasibility study was eventually paid out of the bond pool. The representative explained that in this bond market there would likely need to be some revenue enhancement from the cities. Each of the cities would be liable for some portion of the bonded debt if the service was not viable.

Councilmember Quam stated if the bonds were not guaranteed by a taxing authority the chances of selling the bonds would be negative. He then stated from his vantage point the project is an exercise in futility.

Mayor Kind stated her husband, who is a strong proponent of private enterprise, stated he would pay the \$60 rather than experience another almost 24-hour outage of cable internet service. Councilmember Fletcher explained the recent outage was caused by a large truck hitting a cable line above ground.

Councilmember Page stated he read an article recently that stated the penchant is to provide these types of services through the private sector. In Europe these types of services are provided by public funds.

Councilmember Fletcher stated Verizon provides fiber to the home service to 60 percent of the homes it provides wire service to in certain areas of the country. He indicated it's questionable if Verizon has achieved the returns it has hoped for yet.

Mayor Kind asked the Councilmembers if the City should be one of the first to receive such a service or should it wait until the service is available through the private sector.

Councilmember Fletcher stated Mediacom is not as much of an aggressive player in the cable service area as Comcast is in the metropolitan area. He clarified he is not purporting that argument just repeating it.

Councilmember Page asked when the LMCC would like to have a commitment.

Councilmember Fletcher stated originally that was going to be this past spring. He explained the LMCC is putting out a request for proposals for a market feasibility study and paying for it with LMCC funds. The study will survey people in the LMCC community to determine if there is support for this type of service that would be provided by a public entity. He questioned if the survey will provide the answer. He

stated it's his understanding that the attorney for the LMCC will draft the necessary paper work to set up a joint powers entity. He anticipates the LMCC will come before the cities during its 2012 budget process to look for needed funding if the survey results indicate there is market interest. He commented the survey questions can influence the results of the survey based on how they are crafted.

Mayor Kind stated based on this discussion it's her conclusion that Councilmember Fletcher and Lake Bechtell should convey to the LMCC that the City wants to encourage leading edge technology but it doesn't want to spend a lot of money on encouraging it. There was Council agreement on her conclusion.

F. Planning Commission Comments Regarding Proposed Ordinance Amendments

Zoning Administrator/Clerk Karpas stated Council asked the Planning Commission to review a proposed ordinance amendment intended to establish minimum reasonable uses for undersized lots. Council wanted the Commission to provide its thoughts about further ordinance amendments in light of the Minnesota Supreme Court decision regarding variances. He then stated the Commission reviewed the proposed amendments and thought adopting them may create unintended loopholes. The Commission also thought the City should wait until after the next State legislative session before amending its ordinances because things may change. The Commission proposed one change to the City Ordinance which would limit the number of front yard setbacks on lots with three or more frontages.

Councilmember Quam stated he agreed with the wait and see approach.

Councilmember Fletcher stated Planning Commissioner Cook thought there is too much reliance on the variance process. Commissioner Cook thought the City Ordinances could be amended so there is less need for variances and to provide more certainty to an applicant up front. He noted the other Commissioners were not in total agreement with Cook's comments, but he tended to agree with them. He stated the Commission recommended the City decide which yard would receive the side yard setback. Zoning Administrator/Clerk Karpas asked if that would be at the staff level or the Council level.

Mayor Kind clarified she drafted the amendment to the ordinance based on Attorney Kelly's suggestion.

Councilmember Page stated the Planning Commission recommended Attorney Kelly's memo regarding the Supreme Court's decision should be distributed with every variance application. He asked Kelly what he thought about the recommendation. Kelly responded he thought the language in the summary paragraph in the conclusion in the Supreme Court's decision be distributed with every variance application. Page stated he did not think the entire legal memorandum should be included. Councilmember Fletcher stated the Commission just wanted to inform variance applicants. Kelly stated an excerpt from the decision could be put on a single piece of paper for distribution. Fletcher stated he trusts Kelly's judgment.

There was Council consensus to distribute a summary paragraph crafted by the City Attorney about the Supreme Court's conclusion with variance applications.

Mayor Kind explained the City Ordinance Code Chapter 11, Zoning, defines a front yard as "a yard extending across the front of the lot between the side yard lines and lying between the edge of the public right-of-way open and actually used for travel and the nearest line of the building."

Zoning Administrator/Clerk Karpas noted the Code includes a provision that an exterior side yard setback must be equal to a front yard setback. Mayor Kind stated that although the Code makes reference to an

exterior side yard setback it does not contain a definition for an exterior side yard. Karpas clarified that he should have actually called two or three of the front yards exterior side yards.

Councilmember Quam asked what an exterior side yard is. Zoning Administrator/Clerk Karpas responded it's a yard with a platted right-of-way.

Councilmember Quam expressed his preference to limit the number of front yard and exterior side yard setbacks to a total of two.

Zoning Administrator/Clerk Karpas suggested Staff draft language defining an exterior side yard as well as a provision that there can only be one front yard setback and one exterior side yard setback. That could then be brought before the Planning Commission for review.

Councilmember Page stated there has always been the dilemma of what the front yard is. The dilemma routinely comes up when discussing garages. Councilmember Quam stated he thought the front yard faces the street. Zoning Administrator/Clerk Karpas stated there is a provision for a lake front setback; therefore, the opposite of that is the front yard. Quam stated he did not think the Code defines the side opposite from the lake as front.

Page moved, Quam seconded, directing Staff to prepare a draft amendment to the City Ordinance Code to define an exterior side yard and to include a provision limiting the total number of front yard setbacks for review by the Planning Commission and to report back to Council. Motion passed 4/0.

G. Speed Trailer

Mayor Kind stated the City has received several complaints from residents about drivers speeding in the City. She noted the responses to the survey conducted about one year ago included comments about speeding. In the past, a speed trailer has successfully been used to encourage drivers to slow down. The only speed trailer in the South Lake community is owned by the City of Shorewood. The South Lake Minnetonka Police Department (SLMPD) sets the trailer up. The City requested the use of Shorewood's trailer this past June and it was to be placed on Sleepy Hollow Road. Unfortunately, the City hasn't been able to use it because it's been heavily used in Shorewood.

Kind then stated that there may be enough demand to consider having a second speed trailer in the South Lake community. She related that SLMPD Community Service Supervisor Hohertz thought a trailer of similar size to the one Shorewood owns would cost about \$8,000. There is also a smaller dolly-mounted trailer that could be purchased for about \$2,500, but that would be easy for someone to take. She asked if Council had any interest in the City purchasing its own speed trailer, asking the Cities of Excelsior and Tonka Bay (also members of the SLMPD joint powers organization) if they would like to partner on the purchase of a speed trailer, or asking the City of Deephaven if it would like to partner on the purchase and then have Deephaven Public Works personnel be responsible for transporting the trailer to and from locations.

Councilmember Page stated he would like to encourage Deephaven to purchase a trailer and then Greenwood could periodically rent the trailer.

Councilmember Quam asked if any research has been done to determine if a speed trailer actually helps reduce speeding. Mayor Kind responded that she did not know of any research but when the speed trailer was located on Sleepy Hollow Road last year residents thought it helped reduce speeding. And, when she

sees a trailer she does slow down. Attorney Kelly stated it's his impression that it works when it's located in a spot for a few days and then followed up with police enforcement.

Councilmember Fletcher stated he thought it would be worthwhile to talk to Excelsior and Tonka Bay representatives to find out if they have any interest in contributing toward the purchase of a another trailer.

Councilmember Quam stated he thought a speed trailer is effective independent of whether or not it's coordinated with police enforcement. Mayor Kind expressed her agreement provided a trailer isn't left in one spot for a long period of time.

Councilmember Fletcher stated he thought there is plenty of use for a speed trailer in the City. For example, it could be used along Minnetonka Boulevard, Sleepy Hollow Road, St. Albans Bay Road and Excelsior Boulevard.

Councilmember Page stated he could support purchasing a larger trailer in partnership with other South Lake cities.

Mayor Kind stated she will contact other South Lake cities to determine if they are willing to share in the purchase of a trailer for an estimated amount of \$8,000.

8. OTHER BUSINESS

A. Uncompleted Building Exteriors

Councilmember Fletcher stated there is a building on Maple Heights Road that has been under construction that does not have the exterior work completed. He asked Zoning Administrator/Clerk Karpas to contact the contractor and the contractor has indicated the exterior work will be completed in December. He then referred to the ongoing complaints about a building on the island in St. Albans Bay that has been under construction for a long time and is starting to deteriorate.

Fletcher stated the City of Excelsior is in the process of considering an amendment to its ordinance regarding completing exterior work on buildings. He explained in August 2010 the State Legislature created a statute to give cities the authority to require all exterior work authorized by permit to be completed within a minimum of 180 days following the issuance of the building permit. He asked if Council has interest in the concept of including a provision in the City Ordinance about when the exterior work has to be completed. If so, Council could direct Staff to draft an amendment.

Councilmember Quam stated he would support moving forward with this idea.

Mayor Kind stated she would prefer to have some draft amendment language to discuss. She noted a line included in the revised State Statute which read "The local regulation may not require completion of exterior work earlier than 180 days following the issuance of the permit." She stated she thinks 180 days is too short of a time period. She then stated she thinks people start to become annoyed when the exterior work is not completed in a year.

Councilmember Fletcher commented a year is more than ample time. Councilmember Page suggested that nine months may be an appropriate amount of time. Zoning Administrator/Clerk Karpas suggested keeping the 180 day time limit but allow for an extension with cause. Fletcher stated an extension should be limited to an additional 90 days.

Attorney Kelly suggested the first extension could be handled administratively for a set fee and a subsequent extension would have to come before Council and the second fee would be higher.

Councilmember Fletcher stated he did not think a subsequent extension needed to go before the Planning Commission.

Mayor Kind stated this provision would be an amendment to Chapter 3 in the City Ordinance Code, which does not require review by the Planning Commission.

Councilmember Page asked what will happen if the exterior work is not completed after the extension(s) have elapsed. Attorney Kelly replied a civil citation would be issued. Page then asked if a fee schedule for handling this will be developed. Kelly stated the Code will need to be amended to allow for a civil citation once the extension(s) have elapsed and to include a fee schedule.

Councilmember Fletcher stated in addition to the civil citation the City would withhold the certificate of occupancy until the citation is paid. Mayor Kind stated the unpaid citation could be certified on the property tax roll.

There was consensus to direct Staff to work with the City Attorney to draft an ordinance amending the City Ordinance Code to address the items just discussed. Council will have the first reading of the ordinance during its December 2010 meeting.

Councilmember Fletcher stated the ordinance does not have to mirror Excelsior's proposed ordinance. He provided it as an example.

B. October 5, 2010, City Council Meeting Minutes

This was removed from the consent agenda at Councilmember Fletcher's request.

Councilmember Fletcher distributed a list of four minor changes he requested be made to the October 5, 2010.

Page moved, Quam seconded, Approving the City Council Meeting Minutes of October 5, 2010, as amended in Item 4.A, Page 2, Paragraph 3, Sentence 5, change "buckthorn be irradiated" to "buckthorn be eradicated"; in Item 6.A, Page 3, Paragraph 8, Sentence 5, change "of the board of appeals and adjustments and shall be" to "of the board of appeals and adjustments shall be"; in Item 7.G, Page 12, Paragraph 3, change "Councilmember Fletcher stated it's his recollection that some council member" to "Councilmember Fletcher stated it's his recollection that the City Attorney"; and, in Item 9.C, Page 19, Paragraph 2, Sentence 2, change "Councilmember Page stated when there in only" to "Councilmember Page stated when there is only". Motion passed 5/0.

C. October 2010 Payables

This was removed from the consent agenda at Councilmember Fletcher's request.

Councilmember Fletcher asked that check number 10119 to VISI in the amount of \$120 be removed from the payables list. The invoice was for email hosting and the City has cancelled that account.

Page moved, Fletcher seconded, approving the list of October 2010 payables subject to check number 10119 to VISI in an amount of \$120 being removed. Motion passed 4/0.

Councilmember Fletcher stated through September 30, 2010, the City is doing well with expenditures to date. Because of that he indicated that during the December 2010 Council meeting he will likely ask to increase the amount that is transferred into the Bridge Fund.

9. COUNCIL REPORTS

A. Fletcher: Planning Commission, Lake Minnetonka Communication Commission, Eurasian Water Milfoil, Excelsior Water

Councilmember Fletcher stated on October 13th there was a meeting in the Deephaven City Hall with three representatives from the Minnesota Department of Natural Resources (DNR), State Senator Gen Olson, and State Representative Connie Doepke to discuss the treatment of Eurasian Watermilfoil. The meeting was well attended. He thought the DNR representatives listened to peoples concerns. He indicated he would not be surprised if the DNR would be more receptive to talking about treating milfoil in St. Alban's Bay in 2011. The current plan is for the DNR to present the preliminary findings of the 2010 three-bay milfoil treatment program to the LMCD Board on November 19th. If the native vegetation in Gray's Bay faired better after the 2010 treatment the DNR may look more favorably on treating St Alban's Bay.

Fletcher then stated the Metropolitan (Met) Council is planning to tear up Excelsior Boulevard to put in a new sewer line. It's not a matter of if but when. It's possible that could happen in 2012 or 2013. The Met Council is amenable to extending water main along Excelsior Boulevard when it is torn up. The cost for extending water main during that type of effort would be approximately \$8,000 – \$10,000 per abutting property. If a street were torn up specifically for the purpose of extending the water main, the cost would be about \$20,000 per property. He has conducted an informal survey of the property owners along Excelsior Boulevard. Eleven property owners were positive, one was neutral and he was not able to contact two others. There is strong interest by the property owners for considering the extension on a preliminary basis. The two property owners he talked to beyond Maple Heights Road were not receptive to extending water main.

Fletcher noted there are number of items that have to be researched before this can be considered further. In order to have this be given consideration as part of the Met Council project, discussions have to begin relatively soon. He stated he anticipates that in order for water main extension to succeed, the City would have to be involved at least from a financing perspective. The cost for the extension would be paid for by the owners of the properties abutting the road.

Mayor Kind asked if the City would sell bonds and the benefiting property owners would pay the bonded debt. Councilmember Quam responded yes. Councilmember Fletcher stated there would not be any financial risk to the City. The property owners would either pay their cost or it would be assessed against their property. Councilmember Page clarified the City would have to pay Met Council for the cost of the extension and then the City would assess the properties. Kind stated the City could sell bonds to pay Met Council. Fletcher stated the property owners would pay interest on the bonded debt. Page commented the City has never sold bonds to finance a project. Fletcher said the City could fund the project and charge the residents interest in addition to the actual costs. Fletcher noted that \$150,000 in bonds is not a lot to a bond house.

Councilmember Fletcher stated there are many details to be discussed. He then stated a water main extension project like this won't move forward if only a portion of the abutting property owners support doing so.

Mayor Kind stated as long as there is no cost to the City she can support residents getting access to a municipal water system.

Councilmember Quam stated the City of Excelsior has to determine if it has a water supply that can support adding that many properties to its system.

Councilmember Page stated the City could pass a resolution authorizing the City of Excelsior to put a levy on those City property owners who want water main extended and Excelsior could collect the levy. He asked how property owners have paid for water main extension in the past.

There was consensus to keep investigating the possibility of extending water main along a portion of Excelsior Boulevard.

Page expressed he is leery about selling bonds for the project.

B. Kind: Police, Administration

Mayor Kind stated the South Lake Minnetonka Police Department (SLMPD) Coordinating Committee met on October 19, 2010. During the meeting SLMPD Chief Litsey explained the SLMPD will have a revenue shortfall in 2010 because it received less State Peace Officer Aid than was budgeted for. She noted Litsey is optimistic that a balanced budget can be achieved this year.

Kind then stated a Labor-Management Study Group (the Group) has been meeting to discuss the 2010 – 2011 labor agreement reopener. The SLMPD Coordinating Committee appointed SLMPD Chief Litsey and Excelsior City Manager Luger to the Group, with her serving in an advisory capacity. There are three union representatives on the Group. The items included in the reopener are uniforms (what's included in the uniform allowance), health insurance, sick leave, and severance pay. The agreement includes a zero percent base wage increase for 2010 and a two percent base wage increase for 2011.

Kind noted the City of Orono has settled its labor agreement with its police department for 2011. Councilmember Quam stated the City of Plymouth just finalized its contract with its police department and it includes a zero percent base wage increase for 2011. Councilmember Page noted the Plymouth negotiation process ended in arbitration and the arbitrator settled on the zero percent increase.

Kind stated the City of Shorewood suggested the SLMPD Coordinating Committee and the Excelsior Fire District Governing Board consider having a management study done of the SLMPD and the EFD organizations. She expressed to the Coordinating Committee that she is generally not a big supporter of management studies because often the recommendations that come out of the study are not implemented. She stated the SLMPD runs efficiently and its cost per resident is lower than neighboring communities' police departments. She noted the City's cost per resident higher than she would like but that is a funding formula issue. She asked the Councilmembers how they feel about conducting such a study.

Councilmember Fletcher noted that two of the three people on the Shorewood Council who want to have a study done will not be on that Council next year.

Councilmember Page suggested not reacting to the suggestion.

Councilmember Quam stated Greenwood believes the SLMPD is operating efficiently. He then stated a management study may validate that and it may prove the SLMPD is under funded.

Mayor Kind stated if a study is done then the member cities of the two organizations need to be prepared to implement the recommendations identified during the study.

C. Page: Lake Minnetonka Conservation District

Councilmember Page stated there was no Lake Minnetonka Conservation District (LMCD) Board meeting this month. The LMCD plans on having a study session about the proposed large development in Upper Lake Minnetonka on November 17th. He then stated he plans on attending a session about where to allocate funds in the LMCD Save-the-Lake Fund to, noting he was not pleased that \$15,000 from that Fund was given to the Steamboat Minnehaha.

D. Quam: Roads & Sewer, Minnetonka Community Education

Councilmember Quam stated that three years ago he made a big push to keep the large refuse hauler trucks off City roadways. To get haulers more receptive to using smaller trucks the City considered to move to a one hauler. The City stopped short of going to one hauler because the haulers agreed to use smaller trucks. He noted that earlier in the day he saw a large refuse truck on the street he lives next to. He asked Zoning Administrator/Clerk Karpas to contact the haulers. He stated if large trucks are traveling the streets with regularity then it may be appropriate for the City to revisit this.

Councilmember Fletcher noted that the Old Log Theater and the Georgetown Manor are serviced with commercial trucks.

Councilmember Quam explained the City has completed the repair of the manholes and replaced the manhole covers in one half of the City. The reason for that was to stop the Inflow & Infiltration (I&I) into the manholes into the City's stormwater system which puts more demand on the Metropolitan (Met) Council's system. The City has inspected all of its sewer lines with cameras. During those inspections it became apparent that most of the problems were with the manholes.

Quam explained the City's engineers have divided the City into eight sections for ease of management. Manhole repairs and manhole cover replacement has been completed in four of the sections. Two sections were completed in 2008 and two in 2009. No repairs made done in 2010. The estimated cost to make the repairs and replacements to two sections is \$50,000 with a total cost to complete the effort estimated to be \$100,000. Two sections would be completed in 2011 and the remaining two in 2012.

Quam then explained the City is in the process of applying for a grant through the Met Council to cover up to 50 percent (\$50,000) of the cost of repairing the manholes. The application has to be submitted to the Met Council by December 15, 2010. In order to complete the grant application the manholes will have to be located and inspected, and the cost to repair them needs to be estimated. This would have to be done before any actual work effort begins.

Quam asked Council to authorize a \$5,000 expenditure to cover the cost of: the locating and inspecting the second half of the manholes; estimating the cost to repair the manholes; and to prepare the narrative for the grant application. He stated if Council approves the expenditure, the inspection process will begin post hast. The City should know by January 5, 2011, if it will be awarded a grant.

Fletcher moved, Page seconded, authorizing the City's engineers to locate the manholes in sections 5 – 8 in the City, inspect the manholes, estimate the cost to repair the manholes, and to write the narrative for the grant application to the Metropolitan Council for an amount not to exceed \$5,000.

Councilmember Fletcher noted the cash flow in the Stormwater Fund is \$50,000 for the first nine months of this year.

Motion passed 4/0.

E. Rose: Excelsior Fire District

Rose was not in attendance to give an EFD report at the Council meeting. It was noted that the Excelsior Fire District (EFD) Governing Board has not met since the last Council meeting. Its next meeting is scheduled for November 17, 2010.

10. ADJOURNMENT

Quam moved, Fletcher seconded, Adjourning the City Council Regular Meeting of November 4, 2010, at 8:46 P.M. Motion passed 4/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder