

Greenwood City Council Meeting
THURSDAY, August 6, 2009
Council Chambers 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. See the back of this page for Public Comment Guidelines. 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. Approve Consent Agenda
- A. Recommendation: Approve 7/7/09 Budget worksession minutes
 - B. Recommendation: Approve 7/7/09 Council minutes
 - C. Recommendation: Approve 7/21/09 Special council meeting
 - D. Recommendation: Approve June treasurer's report
 - E. Recommendation: Approve July payables **\$164,833.15**
- 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. (see back for Public Comments Guidelines).*
- 7:10 PM 4. Announcements, Presentations and Staff Reports
- A. Dick Woodruff: LMCC presentation Consider: Approving Resolution #15-09
 - B. Chief Litsey: Police funding proposal
 - C. Whipple: Lakeshore Market Landscaping Bid
 - D. Whipple: Update on litter clean-up @ St. Albans Bay channel
- 7:45 PM 5. Public Hearings
- A. None
- 7:45 PM 6. Unfinished Business
- A. Remove from table Social Host Ordinance #171
 - B. 2nd Reading: Construction Management Ordinance #168
 - C. 2nd Reading: Construction Site Runoff Control Ordinance #172
 - D. Determine next steps: Administrative Hearing Process
 - E. Discuss: Community Survey
- 8:15 PM 7. New Business
- A. Consider: Appointments to alternate Planning Commission seats
 - B. Consider: Variance request, William Brand 21290 Excelsior Blvd.
 - C. Consider: Resolution #14-09 Public Right-of-Way Use Permit, Sean and Kristi Conrad
21780 Fairview Street
 - D. Discuss: Lakeshore Market request to allow hot food preparation and venting
 - E. 1st Reading: Outdoor Lighting Ordinance #173
 - F. Discuss: Revision to the Greenwood code limiting restaurant liquor sales to a percent of total sales
 - G. Consider: Directing the Planning Commission to review parking requirements and hardcover limits for commercial property
- 9:00 PM 8. Other Business
- A. None
- 9:00 PM 9. Council Reports
- A. Quam: Road Report, Recycling Hauler Report
 - B. Kind: Police Report
 - C. Fletcher: Milfoil Report, Planning Commission Report (Georgetown Garages, Tree Ord., etc.)
 - D. Page: Lake Minnetonka Conservation Report
- 9:20 PM 10. Closed Session
- A. Consider strategies for labor negotiations with City administrator
- 9:20 PM 11. Adjournment

Greenwood City Council Budget Worksession

Tuesday, July 7, 2009

Council Chambers 20225 Cottagewood Road Deephaven, MN 55331 952-474-6633

MINUTES

1. Call to Order/Roll Call/Approve Agenda

Mayor Kind called the meeting to order at 6:00 PM

Members present: Page, Rose, Fletcher, Kind and Quam

Staff present: Clerk Whipple

2. Discuss proposed 2010 City Budget

The Council reviewed the 2010 budget.

There was a question as to why the 2009 expenses for building permits were so high.

Administrator Whipple will check on this.

The Council suggested getting quotes for Auditors for 2009. Administrator Whipple will draft an RFP and post on the League website.

There was no increase budgeted for the Administrator's salary in 2010. Administrator Whipple recalled the wage agreement with former Councilmember Matt Saunders and former Mayor Newman.

Another budget worksession is scheduled for Thursday, August 6 at 6:00 PM, prior to the City Council meeting.

3. Adjournment

Council adjourned at 6:58 PM

GREENWOOD CITY COUNCIL MEETING
Tuesday, July 7, 2009 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 Page, Rose, Fletcher and Quam

Others present: City Administrator Whipple, City Attorney Kelly, Zoning Administrator Gus Karpas, and Recording Secretary Link

Councilmember Page moved to approve the meeting agenda. Councilmember Quam seconded the motion. Motion carried unanimously.

2. APPROVE CONSENT AGENDA

Councilmember Fletcher asked to have Item 2F moved to Other Business. Councilmember Page moved to approve the following Consent items.

- A. Recommendation: Approve Council minutes of 6/2/09
- D. Recommendation: Approve 6/3/09 Southshore special meeting minutes
- C. Recommendation: Approve 6/22/09 Southshore special meeting minutes
- D. Recommendation: Approve May Treasurer's Report
- E. Recommendation: Approve June payables \$

Councilmember Quam seconded the motion. Motion carried unanimously.

3. MATTERS FROM THE FLOOR

- A. Keith Stuessi 5000 Meadville Street reviewed his meeting with the Board of Equalization and Review regarding assessor duties.

4. ANNOUNCEMENTS, PRESENTATIONS & STAFF REPORTS

A. Approve Resolution #11-09 Old Log Theatre

Councilmember Quam moved to adopt Resolution #11-09. Councilmember Rose seconded the motion. Motion carried unanimously. Mayor Kind read the resolution recognizing the seventieth anniversary of the Old Log Theatre and its founder, Don Stoltz.

B. Review \$24,082 quote for phosphorus reduction - Greenwood Circle.

Kind reported the Council approved this expenditure subject to Minnehaha Creek Watershed Districts (MCWD) approval of the phosphorus reduction. The MCWD did not see this as an adequate phosphorus reduction project.

5. **PUBLIC HEARINGS**

None

6. **UNFINISHED BUSINESS**

A. **First reading of Construction Management Ordinance #168.**

Gus Karpas, Zoning Administrator reviewed the proposed construction management ordinance. He noted Deephaven and Woodland have already adopted a similar ordinance.

Quam asked if Greenwood is consistent with the two other cities. Karpas highlighted the differences in the ordinances.

Councilmembers discussed construction hours and notifying property owners of proposed work. Councilmember Fletcher moved to approve the first reading of Ordinance #168 with the following correction: 1a, prior to issuance of building permit, the applicant will be required to attest that all property owners within 200 feet were notified of the proposed construction by U.S. mail. Councilmember Page seconded the motion. Motion carried unanimously.

B. **First reading of Construction Site Runoff Control Ordinance #172**

Karpas reviewed the proposed construction site runoff control ordinance #172 which would require a construction site runoff control plan for future redevelopment projects. Councilmember Page noted the misdemeanor fee should be removed and fine should be according to state statute. Kelly reviewed minor form changes to the proposed ordinance. Fletcher asked if the ordinance applies to lots only larger than one acre. Karpas noted that it would. Councilmember Fletcher moved to approve the first reading with the proposed changes. Councilmember Rose seconded the motion. Motion carried unanimously.

F. **Consider establishing an administrative hearing process**

Councilmember Fletcher moved to remove this item from the table. Councilmember Page seconded the motion. Motion carried unanimously.

Kind stated she and Councilmember Fletcher met with the police chief and a community service officer to begin discussions of the establishment of an administrative hearing process for code enforcement and other civil issues. Kelly discussed the advantages of establishing such a system. He noted Minnetonka has offered to administer the hearing process. Councilmember Quam asked if a joint powers agreement would be necessary with Minnetonka. Kelly stated that it would. The next step would be to ensure this is within the scope of services provided by the SLMPD's joint powers agreement. Councilmembers concurred that they are in favor of pursuing the program.

Councilmembers discussed the removal of the recycling container at Highway 7 and Christmas Lake Road which is located on City property.

C. Consider seasonal barrier at Meadville Fire Lane

Kind noted the Council has approved the fire lane ordinance, and it has been published. Fletcher stated the barrier will cost around \$3000, and it has not been budgeted for. Kind noted contingency funds would be used. Fletcher suggested it be removed in the summer and set back in place during the winter months. Mayor Kind moved to approve the installation of a barrier at Meadville fire lane with the condition the project does not exceed \$3,500. Councilmember Rose seconded the motion. Councilmember Page believed the cost is way out there, and he didn't think the City should spend one dime on this problem. Motion carried 4-1. Page voted against the motion.

D. Discuss new community survey

Councilmember Quam moved to remove this item from the table. Councilmember Rose seconded the motion. Motion carried unanimously.

Kind reviewed the community survey which includes a revision to the police section. She stated the goal tonight is to finalize the survey so it can go out with the next utility billing. Quam suggested adding a section where residents can indicate whether there is adequate lighting on their street.

Fletcher suggested the strategic plan question be removed. Kind suggested the safety question be moved down to miscellaneous. Page believed the strategic plan question should remain as did Fletcher. Rose felt it should be

removed. Kind stated she would work on rewording the entire paragraph.

Councilmembers discussed the wording for funding milfoil treatment. Councilmember Fletcher moved to approve the community survey as revised and direct the City Administrator to include it in the next utility mailing. Councilmember Quam seconded the motion. Motion carried unanimously.

E. First reading of Tree Preservation Ordinance #170

Councilmember Quam moved to remove this item from the table. Councilmember Fletcher seconded the motion. Motion carried 4-1. Councilmember Rose voted against the motion. Fletcher suggested this item be tabled so that Planning Commissioners can be in attendance. He stated there also needs to be more clarification of what a heritage tree is. Page stated this went to the Planning Commission, because we had problems enforcing the existing ordinance. What we really wanted was an amendment to the section relating to significant trees. He stated he opposed several sections of this ordinance.

G. Second reading of Ordinance #169 repealing various city licenses

Kind stated this involves sections that are no longer valid. Councilmember Page moved to approve the second reading of Ordinance #169 repealing various city licenses. Fletcher seconded the motion. Motion carried unanimously.

7. NEW BUSINESS

A. Consider Conrad variance request Resolution #13-09

Kind stated the Planning Commission approved this variance request with the condition a license agreement be written between the Conrads and Greenwood. Kelly stated there is a proposed resolution approving the application with the condition there be a license waiver agreement, and it is non-exclusive. Page asked if it was revocable at any time. Kelly indicated it was. Kelly suggested a damage waiver also be signed.

Sean and Christy Conrad were present to discuss the request. He noted the lot was developed by an architect based on the lot configuration. He discussed the planning process. Councilmember Fletcher moved to adopt

Resolution #13-09. Councilmember Quam seconded the motion. Motion carried 3-2. Councilmembers Page and Rose voted against the motion.

The Council recessed at 8:20 p.m. and reconvened at 8:25 p.m.

B. Consider social host ordinance #171

Kind stated the Coordinating Committee has approved the Minnetonka social host ordinance as the template for the cities to approve. Quam stated he wanted to be very careful if adults are punished when they don't know about the drinking that has taken place. Page stated he believed this is a knee jerk reaction to an isolated incident, and it is criminalizing adults who don't even know what is going on. He was opposed to the ordinance. Kelly stated enforceability is a real issue. Rose agreed with Page's comments. Fletcher stated his personal preference would be to review it and revisit it at the next meeting. Councilmember Fletcher moved to table this item to the next meeting. Councilmember Quam seconded the motion. Motion carried 3-2. Page and Rose voted against the motion.

C. Review quotes for landscaping west side of Lakeshore Market

Kind reviewed the bids for landscaping the west side of Lakeshore Market. The low bid was for \$567.95. Councilmembers discussed the proposed landscaping. Fletcher was concerned about adding arborvitae. Page suggested short arborvitae that grow big around but not tall. A barrier was also suggested. Councilmember Page moved to accept the bid in the amount of \$567.95 and authorize Roberta to request to have three bulbous short arborvitae along the south property line at a cost not to exceed \$250. Councilmember Fletcher seconded the motion. Motion carried unanimously.

8. OTHER BUSINESS

F. Approve 2010 Excelsior Fire District Budget

Councilmember Fletcher stated he would like to approve the city's share, but to add to the motion that we have future concerns about the operating budget. Councilmember Quam seconded the motion. Motion carried unanimously.

9. COUNCIL REPORTS

A. Rose: Fire Department Report

No report

B. Kind: Police Report

Kind stated Chief Litsey's first 2010 budget proposal called for a 3% increase. She noted the increase included a 2% salary increase. A revised budget with no salary increase will be reviewed at the next Coordinating Committee meeting.

C. Fletcher: Planning Commission Report

Fletcher stated the proposed lighting ordinance revisions will be reviewed at a public hearing at their next meeting. He reviewed the proposed changes. Councilmember Page moved to direct Karpas to ask Minnetonka to inspect the Georgetown garages. Councilmember Fletcher seconded the motion. Motion carried 4-1. Rose voted against the motion.

D. Page: Lake Minnetonka Conservation District

Page updated the Council on activity at Excel Marina. He stated boats are forced into the channel when they come out of the dock area. The LMCD's budget proposes no increase in 2010.

E. Misc. discussion - fishing from channel

Kind stated staff has received complaints about people fishing from the Greenwood side of the St. Alban's Bay channel and littering. It was noted fishing is allowed. Roberta will explore the possibility of having the cleanup become part of a community service project or enlisting the help of the sentence-to-serve program.

Kind noted a meeting will be held with the assessor on July 21 at 9:00 a.m. A worksession will be held one hour prior to the August meeting on Thursday, August 6.

10. ADJOURNMENT

There being no further business, it was moved by Fletcher to adjourn the meeting at 9:12 p.m. Rose seconded the motion. Motion carried unanimously.

Respectfully submitted,

Clare T. Link
Recording Secretary

Special Greenwood City Council Meeting

Tuesday, July 21, 2009

Council Chambers 20225 Cottagewood Road Deephaven, MN 55331 952-474-6633

MINUTES

1. Call to Order/Roll Call/Approve Agenda

Mayor Kind called the meeting to order at 6:00 PM

Members present: Fletcher, Kind and Quam (Page arrived late)

Members absent: Rose

Staff present: Administrator Whipple

Councilmember Quam moved to approve the agenda. Second by Fletcher.

Motion carried 3-0

2. Consider road project funding

The original intent of this meeting was to give Councilmember Quam the authority to have a little discretionary money, if needed, on the 2009 road projects. Councilmember Quam did not anticipate the need for additional money, but would rather have approval for the money now, rather than wait. To wait until it's discovered that funds are needed may slow the project down by having to call a special meeting.

Councilmember Fletcher moved to authorize Councilmember Quam to spend up to an additional \$5,000, if necessary, to complete the Greenwood Circle project.

Second by Councilmember Page. Motion carried 4-0

Quam updated the Council on the Greenwood Circle project.

Mayor Kind and Councilmember Quam reported on the meeting they had earlier this morning with Dave Callister from Ehlers and Associates regarding possible bonding for roads.

3. Adjournment

Councilmember Page moved to adjourn at 9:32 AM. Second by Councilmember Quam.

Motion carried 4-0

Respectfully submitted,

Roberta Whipple
City Administrator

City of Greenwood Treasurer's Report
June 2009

	Fund	Assets	Liabilities	Total Fund Balance
101	General	-\$185,007.71	\$26,394.23	-\$211,401.94
401	Park Improvement	\$27,054.92	-	\$27,054.92
402	Road Improvement	\$92,649.15	-	\$92,649.15
602	Sewer *	\$862,291.09	\$520,235.83	\$342,055.26
605	Marina	\$37,149.65	-	\$37,149.65
		\$834,137.10	\$546,630.06	\$287,507.04
	*sewer cash	\$374,311.31		
	Bridgewater Bank - Ckg.	\$76,979.15		
	Bridgewater Bank - MM	\$210,019.95		
		\$286,999.10		
	2008 Ending Reserve Fund Bal	\$130,336.00		
	2007 Ending Reserve Fund Bal	\$90,125.00		
	2006 Ending Reserve Fund Bal	-\$1,787.00		
	2005 Ending Reserve Fund Bal	-\$55,378.00		
	2004 Ending Reserve Fund Bal	-\$61,445.00		
	Money Market Balance	210,019.00		
	General Fund Cash	-430,300.00		
	= amount borrowed from sewer fund to General Fund	-220,281.00		

2E

Check Issue Date(s): 07/01/2009 - 07/31/2009

Per	Date	Check No	Vendor No	Payee	Amount
07/09	07/13/2009	9683	51	BOLTON & MENK, INC.	9,832.50
07/09	07/13/2009	9684	615	Cardmember Services	25.42
07/09	07/13/2009	9685	660	CLARE T. LINK	200.00
07/09	07/13/2009	9686	52	EXCELSIOR FIRE DISTRICT	28,175.70
07/09	07/13/2009	9687	751	Hennepin County Treasurer	1,272.00
07/09	07/13/2009	9688	753	J.P. Cooke Co	40.09
07/09	07/13/2009	9689	105	METROPOLITAN COUNCIL ENV SERV	3,113.87
07/09	07/13/2009	9690	68	ONE CALL CONCEPTS	44.95
07/09	07/13/2009	9691	701	Popp Telecom	117.19
07/09	07/13/2009	9692	38	SOUTH LAKE MINNETONKA POLICE	24,431.00
07/09	07/13/2009	9693	136	Sun Newspapers	482.63
07/09	07/13/2009	9694	752	Treecare	1,011.75
07/09	07/13/2009	9695	145	XCEL	199.49
07/09	07/29/2009	9697	596	BARBER CONSTRUCTION, INC.	51,896.94
07/09	07/29/2009	9698	9	CITY OF DEEPHAVEN	4,943.44
07/09	07/29/2009	9699	691	Guy's Printing and Scintilla P	425.22
07/09	07/29/2009	9700	3	KELLY LAW OFFICES	2,127.50
07/09	07/29/2009	9701	742	Marco, Inc.	240.49
07/09	07/29/2009	9702	734	Midwest Trenchless Technologies	34,630.35
07/09	07/29/2009	9703	578	Minnesota Life	3.45
07/09	07/29/2009	9704	600	Union Security Insurance Compa	112.25
07/09	07/29/2009	9705	745	Vintage Waste Systems	1,128.75
07/09	07/29/2009	9706	145	XCEL	378.17
Totals:					<u>164,833.15</u>

2E

GL Acct No	Vendor	Vendor Name	Description	Invoice No	PO No	Inv Date	Amount
101-41400-139	GENERAL FUND - COUNCIL - ADMINISTRATION - CLERKS INSURANCE						
	578	Minnesota Life	Clerk's Life Insurance	0809		07/14/2009	3.45
	600	Union Security Insurance Compa	Long Term Disability	0809		07/17/2009	98.75
	600	Union Security Insurance Compa	Clerk's short-term disability	0809		07/17/2009	13.50
							115.70 *
101-41400-201	GENERAL FUND - COUNCIL - ADMINISTRATION - OFFICE SUPPLIES						
	615	Cardmember Services	OFFICE SUPPLIES	0709		07/02/2009	25.42
101-41400-202	GENERAL FUND - COUNCIL - ADMINISTRATION - DUPLICATING						
	9	CITY OF DEEPHAVEN	COPIES	0709		07/27/2009	12.80
101-41400-204	GENERAL FUND - COUNCIL - ADMINISTRATION - STATIONARY						
	691	Guy's Printing and Scintilla P	Stationary	50836		07/09/2009	425.22
101-41400-209	GENERAL FUND - COUNCIL - ADMINISTRATION - OFFICE SUPPLIES-OTHER						
	753	J.P. Cooke Co	City Dog Tags	14065		06/30/2009	40.09
101-41400-310	GENERAL FUND - COUNCIL - ADMINISTRATION - CLERKS CONTRACTURAL						
	9	CITY OF DEEPHAVEN	DEPUTY CLERK	0709		07/27/2009	34.07
	660	CLARE T. LINK	Council Minutes	709		07/08/2009	200.00
							234.07 *
101-41400-311	GENERAL FUND - COUNCIL - ADMINISTRATION - OFFICE-RENT						
	9	CITY OF DEEPHAVEN	RENT & EQUIPMENT	0709		07/27/2009	942.68
101-41400-321	GENERAL FUND - COUNCIL - ADMINISTRATION - COMMUNICATIONS-TELEPHONE						
	701	Popp Telecom	Local, Long dist. & DSL	1795024		06/30/2009	117.19
101-41400-322	GENERAL FUND - COUNCIL - ADMINISTRATION - POSTAGE						
	9	CITY OF DEEPHAVEN	Postage	0709		07/27/2009	173.72
101-41400-351	GENERAL FUND - COUNCIL - ADMINISTRATION - PRINTING-LEGAL NOTICES						
	136	Sun Newspapers	Liquor Fee Ord.	1189101		06/25/2009	361.08
	136	Sun Newspapers	Brands Variance	1190488		07/02/2009	42.90
	136	Sun Newspapers	Lighting Ord	1190489		07/02/2009	35.75
	136	Sun Newspapers	Hearing Notice	1190490		07/02/2009	42.90
							482.63 *
101-41400-411	GENERAL FUND - COUNCIL - ADMINISTRATION - RENTALS-OFFICE EQUIPMENT						
	742	Marco, Inc.	Copier lease	128786472		07/14/2009	240.49
101-41600-304	GENERAL FUND - COUNCIL - LEGAL SERVICES - LEGAL SERVICES-GENERAL						
	3	KELLY LAW OFFICES	GENERAL LEGAL	5615		07/28/2009	1,311.00
							<u>4,121.01</u>
	Total COUNCIL						
101-42100-304	GENERAL FUND - LAW ENFORCEMENT - LAW ENFORCEMENT - LEGAL SERVICES-PROSECUTIO						
	3	KELLY LAW OFFICES	Prosecution	5615		07/28/2009	816.50
101-42100-310	GENERAL FUND - LAW ENFORCEMENT - LAW ENFORCEMENT - LAW ENFORCEMENT-CONTRACT						
	38	SOUTH LAKE MINNETONKA POL	August Operating Expenses	809		07/13/2009	12,519.00
101-42100-311	GENERAL FUND - LAW ENFORCEMENT - LAW ENFORCEMENT - POLICE SIDE LEASE						
	38	SOUTH LAKE MINNETONKA POL	3rd quarter lease	309		07/13/2009	11,912.00
101-42100-439	GENERAL FUND - LAW ENFORCEMENT - LAW ENFORCEMENT - PUBLIC SAFETY-OTHER						
	751	Hennepin County Treasurer	Room & Board/Work Release	2009 5		06/18/2009	1,272.00

2 E

GL Acct No	Vendor	Vendor Name	Description	Invoice No	PO No	Inv Date	Amount
101-42200-309	GENERAL FUND - LAW ENFORCEMENT - FIRE - FIRE PROTECTION						
	52 EXCELSIOR FIRE DISTRICT	EXCELSIOR FIRE DISTRICT	OPERATIONS	09-011		07/13/2009	14,599.63
101-42200-311	GENERAL FUND - LAW ENFORCEMENT - FIRE - FIRE SIDE LEASE						
	52 EXCELSIOR FIRE DISTRICT	EXCELSIOR FIRE DISTRICT	Buildings	09-011		07/13/2009	13,576.07
101-42400-308	GENERAL FUND - LAW ENFORCEMENT - ZONING - ZONING CONTRACT						
	9 CITY OF DEEPHAVEN	CITY OF DEEPHAVEN	ZONING	0709		07/27/2009	402.30
101-42400-310	GENERAL FUND - LAW ENFORCEMENT - ZONING - BLDG. INSPECTIONS-CONTRAC						
	9 CITY OF DEEPHAVEN	CITY OF DEEPHAVEN	2nd Quarter Building Permits	0709		07/27/2009	1,628.60
101-42500-381	GENERAL FUND - LAW ENFORCEMENT - CIVIL DEFENSE - UTILITY SERVICES-ELECTRIC						
	145 XCEL	XCEL	SIREN	278086692		06/24/2009	3.71
101-42600-303	GENERAL FUND - LAW ENFORCEMENT - ENGINEERING - ENGINEERING FEES						
	51 BOLTON & MENK, INC.	BOLTON & MENK, INC.	ENGINEER FEES	0125980		06/30/2009	60.00
	51 BOLTON & MENK, INC.	BOLTON & MENK, INC.	STREET-Engineering	0125982		06/30/2009	8,882.00
							8,942.00 *
Total LAW ENFORCEMENT							65,671.81
101-43100-381	GENERAL FUND - CONTRACT UTILITY AND ROADS - CONTRACT UTILITY AND ROADS - S&R-UTILITY SERVICES-ELE						
	145 XCEL	XCEL	Street Light -Meadville	278086689		06/24/2009	9.00
	145 XCEL	XCEL	Street Light - Sleepy Hollow	278491044		06/27/2009	9.01
	145 XCEL	XCEL	Street Lights	279240846		07/31/2009	378.17
							396.18 *
101-43900-226	GENERAL FUND - CONTRACT UTILITY AND ROADS - PUBLIC WORKS - SIGNS						
	9 CITY OF DEEPHAVEN	CITY OF DEEPHAVEN	SIGNS	0709		07/27/2009	76.06
101-43900-311	GENERAL FUND - CONTRACT UTILITY AND ROADS - PUBLIC WORKS - STORM SEWER-CONTRACTURAL						
	9 CITY OF DEEPHAVEN	CITY OF DEEPHAVEN	STORM SEWERS	0709		07/27/2009	304.22
101-43900-313	GENERAL FUND - CONTRACT UTILITY AND ROADS - PUBLIC WORKS - TREE/WEED-CONTRACT						
	9 CITY OF DEEPHAVEN	CITY OF DEEPHAVEN	WEED & TREE	0709		07/27/2009	608.44
	9 CITY OF DEEPHAVEN	CITY OF DEEPHAVEN	PARK MAINTENANCE	0709		07/27/2009	760.55
	752 Treecare	Treecare	Tree/branch removal	33		06/23/2009	1,011.75
							2,380.74 *
Total CONTRACT UTILITY AND ROADS							3,157.20
101-49000-310	GENERAL FUND - MISCELLANEOUS - MISCELLANEOUS - RECYCLING CONTRACT						
	745 Vintage Waste Systems	Vintage Waste Systems	City Recycling Contract	0709		07/23/2009	1,128.75
Total MISCELLANEOUS							1,128.75
Total GENERAL FUND							74,078.77
402-45100-303	ROAD IMPROVEMENT FUND - 402-45 - 402-45100 - PROF. SVCE.-ENGINEERING F						
	596 BARBER CONSTRUCTION, INC.	BARBER CONSTRUCTION, INC.	Greenwood Circle	0709		07/27/2009	51,896.94

2E

GL Acct No	Vendor	Vendor Name	Description	Invoice No	PO No	Inv Date	Amount
Total 402-45							51,896.94
Total ROAD IMPROVEMENT FUND							51,896.94
602-43200-303	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - ENGINEERING-SEWER						
	51	BOLTON & MENK, INC.	Sewer Engineering	0125981		06/30/2009	890.50
602-43200-309	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - PROFESSIONAL SVCS-METRO W						
	105	METROPOLITAN COUNCIL ENV	Monthly wastewater Charge	0000903820		07/02/2009	3,113.87
602-43200-319	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - EQUIPMENT MAINTENANCE-OTH						
	734	Midwest TrenchlessTechnologies	Sewer improvements	0709		07/27/2009	34,630.35
602-43200-381	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - UTILITY SERVICES-ELECTRIC						
	145	XCEL	LIFT STATION #2	278152763		06/24/2009	31.11
	145	XCEL	LIFT STATION #4	278154788		06/24/2009	28.20
	145	XCEL	LIFT STATION #1	278168038		06/24/2009	29.87
	145	XCEL	LIFT STATION #3	278172650		06/24/2009	22.46
	145	XCEL	LIFT STATION #6	278178699		06/24/2009	66.13
							177.77 *
602-43200-439	SEWER FUND - SEWER FUND EXPENSES - SEWER FUND EXPENSES - MISCELLANEOUS						
	68	ONE CALL CONCEPTS	Gopher State One Call	9060535		06/30/2009	44.95
Total SEWER FUND EXPENSES							38,857.44
Total SEWER FUND							38,857.44
Grand Total:							164,833.15

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

City Treasurer: _____

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Amount
07/05/09	PC	07/06/09	9677	Debra J. Kind	34	277.05
07/05/09	PC	07/06/09	9678	Fletcher, Thomas M	33	84.70
07/05/09	PC	07/06/09	9679	H. Kelsey Page	35	184.70
07/05/09	PC	07/06/09	9680	Quam, Robert	32	184.70
07/05/09	PC	07/06/09	9681	WHIPPLE, ROBERTA L.	21	1,537.50
07/05/09	PC	07/06/09	9682	William Rose	36	184.70
07/19/09	PC	07/20/09	9696	WHIPPLE, ROBERTA L.	21	1,524.17
Grand Totals:						<u>3,977.52</u>

Roberta Whipple

From: Sue Paurus [sue@lmcc-tv.org]
Sent: Tuesday, July 28, 2009 9:19 AM
To: Greenwood
Cc: Sally Koenecke
Subject: FW: Materials for council meetings

I'm sorry you didn't receive this information. I had a different e-mail address for you.

Sue
Admin. Asst.

From: Sally Koenecke [mailto:sally@lmcc-tv.org]
Sent: Tuesday, July 07, 2009 9:40 AM
To: Sue Paurus
Subject: Fw: Materials for council meetings

All LMCC Member Cities,

The LMCC is asking for city approval of the LMCC applying for the stimulus grant. If the city can offer approval and a resolution without taking it to the city council that is also acceptable.

Here is the resolution and the information on the stimulus grant application for inclusion in your city council packets. Attached is the information the LMCC plans to present at the city council meeting you have scheduled us to attend. Thank you for your interest in this endeavor and we appreciate the time on your city council agenda.

Sally Koenecke
LMCC Executive Director
952-471-7125

Dick Woodruff
Chair, LMCC Broadband Committee

CITY OF GREENWOOD

RESOLUTION NO. 15-09

A RESOLUTION TO SUPPORT THE LAKE MINNETONKA COMMUNICATIONS COMMISSION (LMCC) IN ITS APPLICATION FOR FEDERAL STIMULUS FUNDING FOR CONSTRUCTION OF A FIBER-TO-THE-HOME NETWORK

WHEREAS, The City is a member of the Lake Minnetonka Communications Commission, a Minnesota Joint Powers Association;

WHEREAS, the City recognizes the public and private benefits of having high-speed fiber optic communications available to every residence, business and public facility;

WHEREAS, the City supports the Lake Minnetonka Commission in its efforts to implement a ubiquitous, high-speed fiber communications network throughout the Lake Minnetonka Communications Commission member cities' areas;

NOW, THEREFORE, BE IT RESOLVED, By the City Council that:

1. The City agrees to be a participant in the Lake Minnetonka Communication Commission's federal broadband stimulus money grant application along with other LMCC member cities, providing the LMCC with information as may be needed to write and process the grant application.

2. The City will, upon award of the grant to the LMCC, fully cooperate, per the City's applicable regulations, with the LMCC in granting right-of-way access necessary for the construction of the fiber network.

3. The City recognizes that the LMCC will be constructing and initiating operations of the fiber network with a combination of federal grant money and private funding from revenue bonds which revenue bonds will be re-paid from the operating revenues of the fiber network and that no financial obligation of the City will be created.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF

_____ this __th day of _____, 2009.

_____, Mayor

ATTEST:

_____, City (Administrator/Clerk or City Manager)

**SOUTH LAKE MINNETONKA POLICE DEPARTMENT
2010 OPERATING BUDGET**

Proposal for Consideration by Coordinating Committee

Quarterly Meeting - Wednesday, July 29, 2009

Contributions from Member Cities - Year 2010

MEMBER CITY	TOTAL AMOUNT	% SHARE	\$ SHARE	\$ INCREASE OVER 2009
Excelsior	\$1,891,900	27.0%	\$510,813	\$3,780
Greenwood	\$1,891,900	8.0%	\$151,352	\$1,120
Shorewood	\$1,891,900	50.0%	\$945,950	\$7,000
Tonka Bay	\$1,891,900	15.0%	\$283,785	\$2,100



2010 Total Contributions from Member Cities	\$1,891,900	
2009 Total Contributions from Member Cities	\$1,877,900	
The Fourth Amendment to the Joint Powers Agreement (JPA), which was ratified by the member cities in 2006, contains a provision whereby each city's annual contribution toward the operating budget was determined by arbitration. The percentages in the chart above reflect the ruling of the arbitration panel, which were first implemented in 2007.		
Dollar Increase Over 2009	\$14,000	
Percentage Increase Over 2009	0.7%	

Contributions from Member Cities - Year 2009

MEMBER CITY	TOTAL AMOUNT	% SHARE	\$ SHARE	\$ INCREASE OVER 2008
Excelsior	\$1,877,900	27.0%	\$507,033	\$28,620
Greenwood	\$1,877,900	8.0%	\$150,232	\$8,480
Shorewood	\$1,877,900	50.0%	\$938,950	\$53,000
Tonka Bay	\$1,877,900	15.0%	\$281,685	\$15,900
Totals			\$1,877,900	\$106,000



SOUTH LAKE MINNETONKA POLICE DEPARTMENT

Budget Comparisons

Proposal for Consideration by Coordinating Committee

Quarterly Meeting - Wednesday, July 29, 2009

Pending 2010 Operating Budget and Approved 2009 Operating Budget

OPERATING BUDGET EXPENSES					
Item	Category	2010	2009	Inc(Dec)	Change
50100	Salaries Full-time	\$1,155,500	\$1,177,000	(\$21,500)	-1.8%
50200	Salaries Overtime	\$67,500	\$64,200	\$3,300	5.1%
50300	Salaries Part-time	\$94,200	\$94,500	(\$300)	-0.3%
50500	Social Security & Medicare	\$27,000	\$27,000	\$0	0.0%
50600	PERA Pension	\$169,500	\$172,500	(\$3,000)	-1.7%
50700	Insurance Benefits	\$207,000	\$190,000	\$17,000	8.9%
51000	Contracted Services	\$12,100	\$11,800	\$300	2.5%
52100	Equipment Leases	\$30,300	\$30,100	\$200	0.7%
52200	Repairs & Maintenance	\$43,800	\$43,500	\$300	0.7%
52300	Utilities	\$68,000	\$72,500	(\$4,500)	-6.2%
52400	Janitorial & Cleaning	\$12,400	\$12,400	\$0	0.0%
52500	Printing & Publishing	\$4,000	\$4,600	(\$600)	-13.0%
52800	Care of Persons	\$100	\$100	\$0	0.0%
53000	Supplies	\$66,500	\$69,900	(\$3,400)	-4.9%
54000	Uniforms & Gear	\$13,600	\$13,600	\$0	0.0%
54500	Training & Conferences	\$10,100	\$10,100	\$0	0.0%
56000	Insurance	\$60,000	\$54,000	\$6,000	11.1%
56100	Subscriptions & Memberships	\$2,900	\$2,900	\$0	0.0%
57000	Special Projects	\$12,400	\$12,200	\$200	1.6%
58000	Capital Outlay	\$50,000	\$50,000	\$0	0.0%
	TOTAL PROJECTED EXPENSES	\$2,106,900	\$2,112,900	(\$6,000)	-0.3%

OPERATING BUDGET REVENUES					
<i>(Does Not Include Contributions from Member Cities)</i>					
Item	Category	2010	2009	Inc(Dec)	Change
40110	Court Overtime	\$5,000 ✓	\$5,000	\$0	0.0%
40120	Excelsior Park and Dock Patrol Services	\$22,000	\$22,000	\$0	0.0%
42100	State Peace Officer Aid	\$118,000	\$137,000	(\$19,000)	-13.9%
42200	State Training Reimbursement	\$7,000	\$7,000	\$0	0.0%
43100	Minnetonka School District	\$7,000 ✓	\$7,000	\$0	0.0%
43200	Administrative Requests	\$1,000	\$1,000	\$0	0.0%
43400	Security Details	\$25,000 ✓	\$25,000	\$0	0.0%
44000	Investment Income	\$10,000	\$20,000	(\$10,000)	-50.0%
46400	Forfeitures	\$1,000	\$1,000	\$0	0.0%
46500	Misc. State Reimbursement	\$17,500	\$8,500	\$9,000	105.9%
46600	Other Reimbursement	\$1,500	\$1,500	\$0	0.0%
	TOTAL PROJECTED REVENUES	\$215,000	\$235,000	(\$20,000)	-8.5%
	Expenses in Excess of Revenues	\$1,891,900	\$1,877,900	\$14,000	0.7%
	PROJECTED COST TO MEMBER CITIES	\$1,891,900	\$1,877,900	\$14,000	0.7%

THE COMPLETE
POLICE OPERATING
BUDGET
PROPOSAL IS
AVAILABLE AT THE
CITY OFFICE

Ron 952-472-9255
Daron 952-292-7482
FAX 952-472-1791

JOB ESTIMATE

Estimate # 500

Date 6/9/2009

Minnesota Lawn & Landscape Inc.
P.O. Box 63
Mound MN 55364

Service address if different:

City of Greenwood

952-474-6633

Description	Total
North East corner of highway 7 & Christmas Lake Road (39 feet by 44 feet / 1716 square feet)	
3 hours skid loader labor to remove rock sand and old grass	225.00
hauling and disposal of rock sand and old grass	180.00T
3 yards of compost dirt and delivery	130.00T
190 yards of sod and delivery	476.00T
Labor to prep area and place sod	510.00
Fuel Sur Charge	15.30
<p>All Landscaping to be PAID IN FULL at time of completion. Pricing does not include sales tax or sur charges, Invoices will be subject to a \$20.00 late fee if unpaid 30 days after due date. Thank you for calling MN L & L Inc.</p>	Subtotal \$1,536.30
	Sales Tax (6.9%) \$54.23
	Total \$1,590.53

Customer Signature: _____

Aggressive Outdoor Services, LLC
4917 109th Street West
Bloomington, MN 55437
Office 952-278-0126
Cell 612-875-9147

Estimate

Date	Estimate #
6/9/2009	63

Customer Name/Address
City of Greenwood

Description
At the property of: 21380 State Hwy 7 Greenwood MN, on the west side of gas station. will remove rock fill with dirt and install sod, approximate area 45'sx40'
\$1,650.00 to \$1,900.00 Depending on the tons of rock removed. Sales Tax

All work is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alterations involving extra costs will be executed upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon accidents or delays beyond our control.

Business 952-278-0126	John's Cell 612-875-9147
--------------------------	-----------------------------

If you are in agreement with the above estimate, please sign and return with a deposit of \$ ____
X _____
Thank You



Van Buren Landscape, Inc.
P.O. Box 307
Loretto, MN 55357
 952-292-7453
 www.vanburenlandscape.com



4C

Estimate date: 06/19/09
Customer: Roberta Whipple
 City of Greenwood
 20225 Cottagewood Road
 Deephaven, MN 55331

Estimate for services as follows:

MATERIALS:

- Black dirt
- Sod

LABOR AND EQUIPMENT:

- Removal of rock in grass
- Grading
- Installation of the materials listed above
- Clean up and dump charge

TOTAL ESTIMATE \$ 567.95

Please be reminded that you will only be charged for material and labor used for this project. Enclosed please find 2 Service Agreements, if this estimate is agreeable to you and you would like for us to move forward with this work, please call so that we can get you on the schedule, sign both agreements and mail one back to us. Thank you!





Van Buren Landscape, Inc.
P.O. Box 307
Loretto, MN 55357
952-292-7453
www.vanburenlandscape.com



Estimate date: 07/27/09
Customer: Roberta Whipple
City of Greenwood
20225 Cottagewood Road
Deephaven, MN 55331

Estimate for services as follows:

MATERIALS:

- Black dirt
- Edging and Stakes
- Sod

LABOR AND EQUIPMENT:

- Removal of rock in grass
- Grading
- Installation of the materials listed above
- Clean up and dump charge

TOTAL ESTIMATE \$ 1,996.51

If you chose to have us also do the planting of 5 Hetz Midget Arborvitae at the same time, this estimate would increase by approximately \$270

Please be reminded that you will only be charged for material and labor used for this project. You were previously sent 2 Service Agreements, if this estimate is agreeable to you and you would like for us to move forward with this work, please call so that we can get you on the schedule, sign both agreements and mail one back to us. Thank you!



340A.503 PERSONS UNDER 21; ILLEGAL ACTS.

Subdivision 1. Consumption.

(a) It is unlawful for any:

(1) retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414

<<https://www.revisor.leg.state.mn.us/statutes?id=340A.414#stat.340A.414>> , to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

(c) As used in this subdivision, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

Subd. 2. Purchasing.

It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age;

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage unless under the supervision of a responsible person over the age of 21 for training, education, or research purposes. Prior notification of the licensing authority is required unless the supervised alcohol purchase attempt is for professional research conducted by postsecondary educational institutions or state, county, or local health departments; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of clause (1) that the defendant is the parent or guardian of the person under 21 years of age and that the defendant gave or furnished the alcoholic beverage to that person solely for consumption in the defendant's household.

Subd. 3. Possession.

It is unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian.

Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

Subd. 4.Entering licensed premises.

(a) It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

(b) Notwithstanding section 340A.509

<<https://www.revisor.leg.state.mn.us/statutes?id=340A.509#stat.340A.509>> , no ordinance enacted by a statutory or home rule charter city may prohibit a person 18, 19, or 20 years old from entering an establishment licensed under this chapter to:

(1) perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by section 340A.412, subdivision 10

<<https://www.revisor.leg.state.mn.us/statutes?id=340A.412#stat.340A.412.10>> ;

(2) consume meals; and

(3) attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5.Misrepresentation of age.

It is unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

Subd. 5a.Attainment of age.

With respect to purchasing, possessing, consuming, selling, furnishing, and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's 21st birthday.

Subd. 6.Proof of age; defense; seizure of false identification.

(a) Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:

(1) a valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) a valid military identification card issued by the United States Department of Defense;

(3) a valid passport issued by the United States; or

(4) in the case of a foreign national, by a valid passport.

(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.

(c) A licensed retailer or municipal liquor store may seize a form of identification listed under paragraph (a) if the retailer or municipal liquor store has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer or municipal liquor store that seizes a form of identification as authorized under this paragraph must deliver it to a law enforcement agency, within 24 hours of seizing it.

ORDINANCE NO. [REDACTED]

**AN ORDINANCE ADDING A NEW SECTION [REDACTED]
TO THE CITY CODE REGARDING SOCIAL HOSTS**

The City of Greenwood Ordains:

Section 1. A new section [REDACTED] is added to the Greenwood city code to read as follows:

SECTION 1006. SOCIAL HOSTS.

Section 1006.05. Findings and Purpose.

1. The city council finds that:

a. Consumption of alcohol by persons under the age of 21 is harmful to those persons and constitutes a potential threat to public health from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

b. Alcohol also **can be** an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

c. As a result, gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 should be prevented as much as possible.

d. Gatherings involving underage possession and consumption often occur outside the presence of parents or other responsible adults. However, there are times when a parent or other adult is present and condones the activity, and in some circumstances provides the alcohol.

e. Although furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

f. A deterrent effect will be created by holding a person criminally responsible for hosting a gathering where underage possession or consumption occurs.

2. The purpose of this section is to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and to hold persons criminally responsible who host gatherings where persons under 21 years of age possess or consume alcohol, regardless of whether the person hosting the gathering supplied the alcohol or was present.

3. The city council intends that this ordinance should not target parents who may have alcoholic beverages on their premises **and** who have issued a standing order that alcohol is not to be consumed by underage persons on those premises.

1006.010. Definitions. For purposes of this section, the following terms have the meanings given:

1. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

2. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

3. “Gathering” means a group of three or more persons who have assembled or gathered together for a social occasion or other activity.

4. “Host” means to aid, conduct, sponsor, organize, supervise, control, or allow a gathering.

5. “Parent” means a person having the following relationship to a juvenile:

- a. a natural parent, adoptive parent, or step-parent;
- b. a legal guardian; or
- c. a person to whom legal custody has been given by order of a court.

6. “Person” means an individual, partnership, co-partnership, corporation, or an association of one or more individuals. “Person” does not include a city, county, or state agency.

7. “Premises” means any location, including a home, yard, farm, field, land, apartment, condominium, hotel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

7. “Underage person” means an individual under 21 years of age.

1006.015. Prohibited Acts.

1. It is unlawful for a person to host or allow a gathering on any premises if:
 - a. the person knows that alcohol or alcoholic beverages will be present; and
 - b. the person knows that an underage person will attend, or is likely to attend; and
 - c. the person fails to take reasonable steps to prevent the possession or consumption of alcoholic beverages by an underage person; and
 - d. an underage person consumes an alcoholic beverage, or possesses an alcoholic beverage with the intent to consume it, at the gathering.
2. Examples of reasonable steps include:
 - a. directing, on a one-time basis or as a standing order, that no consumption of alcohol and alcoholic beverages is allowed; or
 - b. controlling access to alcohol and alcoholic beverages; or
 - c. checking identification of attendees to determine age; or
 - d. supervising the activities of underage persons at the gathering either in person or through a responsible adult.
3. A person is not criminally responsible under this ordinance if the person does not know that a gathering will occur, or does not know that alcoholic beverages will be present, or does not know that an underage person will be or is likely to be present. However, if a person has the knowledge specified in paragraph 1 above, a person who hosts a gathering does not have to be present at the gathering to be criminally responsible.
4. A person is criminally responsible for violating paragraph 1 above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

1006.020. Exceptions.

1. This section does not apply to conduct of an underage person that is permitted by his or her parent and occurs in the parent's household.
-

2. This section does not apply to a legally protected religious observance.
3. This section does not apply when an underage person is lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.
4. This section does not apply to the holder of a liquor license issued under section [redacted] of this code, but it does apply to a person who hosts a gathering at such a liquor establishment.

Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter [redacted] of the city code.

Section 3. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Greenwood, Minnesota, on _____, 2009.

Debra J Kind, Mayor

ATTEST:

Roberta Whipple, City Administrator

ORDINANCE NO. 168**AN ORDINANCE AMENDING THE GREENWOOD CITY CODE TO ADD
REGULATION OF CONSTRUCTION SITES**

The City Council of the City of Greenwood, Minnesota, ordains:

Section 1. Section 305 of the Code of the City of Greenwood is amended by the addition of the following section:

SECTION 305:00 Construction Site Management The purpose of these requirements is to ensure preparation and implementation of construction site management plans in order to limit the impact of prolonged construction projects on the immediate neighborhood.

Subdivision 1. General Regulations. All residential and commercial construction sites for projects shall comply with the following if the project cost is \$10,000 or more:

- (a) Prior to issuance of a building permit, the applicant will be required to attest that they have notified all adjacent property owners within two hundred (200) feet of the applicant's property by U.S. Mail to make them familiar with the proposed construction and to provide them with contact information for the applicant and their contractor.
- (b) Work at construction sites shall be limited to 7:00 a.m. to 9:00 p.m. Monday through Friday and 8:00 a.m. to 7:00 p.m. on weekends and holidays.
- (c) The applicant shall submit a Construction Site Management Plan as outlined in Subdivision 2 of this Section.
- (d) Onsite parking of construction vehicles and equipment will be provided. If on street parking is demonstrated to be necessary, it may be done only by parking permit first obtained in coordination with the city. The city may impose such conditions on said parking permit as city Zoning Administrator or City Clerk deems necessary. Any street parking will be limited to one side of the street, preferably adjacent to the construction site.
- (e) All equipment shall be stored within the confines of the construction site. If necessary, a property line fence will be required to ensure that no construction vehicles, materials or other debris encroaches onto adjacent properties.
- (f) A functioning enclosed toilet and a minimum of one dumpster are required on the site prior to commencement of construction activity. These are to be considerably placed in relation to adjacent properties.
- (g) Daily site clean up of debris and garbage is required.
- (h) Weekly street cleaning is required to remove all dirt, mud and debris from public streets caused by construction project. City staff will monitor the condition of public streets and may require more frequent street cleaning.

Subdivision 2. Construction Site Management Plan. The Construction Site Management Plan is a stand-alone document and shall include the following:

- (a) A site plan showing:
 - 1) Site address.
 - 2) Names, addresses and telephone numbers of construction manager responsible for preparing the construction site management plan.
 - 3) Site property lines.
 - 4) Location of proposed buildings and structures on site.
 - 5) Identification and location of all significant natural boundaries/buffers to neighboring properties.
 - 6) All property line fencing and erosion control fencing.
 - 7) Location of soil stockpiling.
 - 8) Locations of the temporary toilet, if required, and dumpster.
 - 9) Site entrance and on-site parking areas, and/or proposed street parking plan.
- (b) A completed Tree Preservation Plan as required by Section 1140:80(6) of the Zoning Ordinance.
- (c) A completed Shoreland Management worksheet.
- (d) Water Management Plan. Prior to commencing construction, the applicant shall prepare and submit a water management plan. The plan shall a) illustrate silt fencing and describe plans to implement Watershed regulatory requirements, (all applicable regulations shall be itemized in an addendum); b) illustrate before and after construction grades, water drainage patterns, and estimated volume and direction/path of water emanating from the property during typical heavy seasonal rains; c) describe and illustrate engineering necessary to manage, contain, or redirect water to prevent water from being concentrated, increased or accelerated onto neighboring properties, both during and after the conclusion of the planned construction. The City Engineer may require of the applicant a) additional engineering or survey data, b) water plan management revisions, c) temporary or final grade changes, d) drainage control structures, and e) such other requirements as the City Engineer, in their sole discretion, may deem necessary. No construction activity or grading which in the opinion of the City Engineer will significantly increase, concentrate, or accelerate water onto neighboring properties, either during or after construction, shall be permitted.
- (e) Site Policing and Notice Statement:
 - 1) A statement that all garbage/debris on the site will be picked up daily.
 - 2) A statement that the street will be swept clean once per week, and that the applicant will endeavor to have sweeping take place on Friday, so the street is clean for the weekend.
 - 3) A statement that the applicant has communicated with adjacent property owners that the project will be commencing and have provided them with contact information.

(f) Notification and Inspection. The applicant or its authorized agent shall notify the City on completing the installation of all property line and silt fencing. The applicant shall not proceed with site activity until the City has been notified and allowed two full business days to inspect the site and, as necessary, confer with applicant.

Subdivision 3. Enforcement. The City Zoning Official or City Clerk-Administrator shall have authority to issue a stop work order (red-tag) on the building permit issued for the project in the event the owner, his general contractor or owner's agents, contractors or sub-contractors fail to comply with a directive issued under this ordinance by the City Officials. Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with an order of the City Zoning Official or City Clerk-Administrator related to provisions hereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine and/or imprisonment according to state statute. Each day that a violation continues shall constitute a separate offense.

Subdivision 4. Waivers. Specific provisions of the construction site management plan and general regulations may be waived by City Staff based on the scope, grade change and duration of the specific construction project.

Section 2. Effective Date. This Ordinance shall be effective as of its date of publication.

Enacted by the Greenwood City Council on _____, 2009.

___ Ayes ___ Nays

Debra J. Kind, Mayor

ATTEST:

Roberta L. Whipple, City Administrator

A statement of compliance with the Construction Management Plan

The undersigned has read the Construction Management ordinance and agrees to abide by all the conditions and requirements set forth in the ordinance and specifically agrees to adhere to the following ordinance requirements;

1. The applicant agrees to contact all adjacent property owners within two hundred (200) feet of the applicant's property by U.S. Mail to make them familiar with the proposed construction and to provide them with contact information for the applicant and their contractors.
2. The construction site, and if necessary, adjacent properties, will be cleaned daily to remove any and all garbage and debris caused either directly or indirectly by the applicant's construction project.
3. All city streets affected by the construction project will be cleaned a minimum of once per week, preferably on Friday so that streets are clean for the weekend. The applicant agrees that additional cleaning, at the direction of city staff, may be necessary to maintain a debris free environment.

The applicant acknowledges that a violation of any portion of the Construction Management Ordinance or this statement will result in the placement of a stop work order on their project until such time as the applicant is considered, by city staff, in compliance with the requirements of the Construction Management Ordinance and this statement.

Contractor

Zoning Coordinator

Date

City of Greenwood
Hennepin County, Minnesota

ORDINANCE NO. 172

AN ORDINANCE AMENDING SECTION 1100 OF THE GREENWOOD CODE TO ADD A NEW SECTION 1177, CONSTRUCTION SITE RUNOFF CONTROL

The City Council of the City of Greenwood ordains as follows:

SECTION 1. AMENDMENT. The Greenwood City Code is hereby amended by adding the following section, which reads as follows:

Section 1177 – Construction Site Run-off Control

Section 1177:10 Intent

To promote the health, safety and general welfare of the citizens of Greenwood, Minnesota and protecting the City’s environmental resources by reducing the discharge of pollutants into receiving water bodies, by requiring a sediment & erosion control program for construction activity as required the City of Greenwood Storm Water Management Program Permit (Reference permit no. or indicate permit pending as appropriate).

Section 1177:20 Findings

The City of Greenwood hereby finds that uncontrolled land disturbing activity at construction sites are subject to soil erosion where sediment and other pollutants enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing or permanently damaging environmental resources and otherwise hindering the ability of the City of Greenwood to provide adequate water, sewage, flood control and other community services.

Section 1177:30 Purpose

The purpose of the ordinance is to promote, preserve and enhance the natural resources within the City of Greenwood and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing activities that would have an adverse and potentially irreversible impact on water quality, environmentally sensitive land and surface water bodies; by minimizing conflicts and encouraging construction site runoff control through proper evaluation, assessment, design and implementation of a erosion and sediment control program for site disturbance or development.

Section 1177:40 Definitions

For the purpose of this ordinance, the following terms, phrases, words and their derivatives shall have the meaning stated below. When inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

1. "**Applicant**" any person who wishes to obtain a building permit, zoning or subdivision approval.
2. "**Best Management Practices (BMPs)**" means erosion and **sediment control** and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of **surface water**, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Individual **BMPs** are described in the current version of **Protecting Water Quality in Urban Areas**, Minnesota Pollution Control Agency 2000. **BMPs** must be adapted to the site and can be adopted from other sources. However, they must be similar in purpose and at least as effective and stringent as MPCA's **BMPs**. (Other sources include manufacturers specifications, **Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices**, U.S. Environmental Protection Agency 1992, and **Erosion Control Design Manual**, Minnesota Department of Transportation, et al, 1993).

3. "**Commissioner**" means the **Commissioner** of the Minnesota Pollution Control Agency or the **Commissioner's** designee.
4. "**Common Plan of Development or Sale**" means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
5. "**Construction Activity**" includes **construction activity** as defined in 40 C.F.R. part 122.26(b)(14)(x) and **small construction activity** as defined in 40 C.F.R. part 122.26(b)(15). This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated **storm water** runoff, leading to soil erosion and movement of sediment into **surface waters** or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. **Construction activity** includes the disturbance of less than one acre of total land area that is a part of a larger **common plan of development or sale** if the larger common plan will ultimately disturb one (1) acre or more.
6. "**Dewatering**" means the removal of water for **construction activity**. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. It may require Minnesota Department of Natural Resources permits to be appropriated and if contaminated may require other MPCA permits to be discharged.

7. "**Energy Dissipation**" means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.
8. "**Erosion Prevention**" means measures employed to prevent erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or **permanent cover**, and construction phasing.
9. "**Final Stabilization**" means that either:
 - a. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;
 - b. For individual lots in residential construction by either: (a) The homebuilder completing **final stabilization** as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, **final stabilization**. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to **final stabilization** as quickly as possible to keep mud out of their homes and off sidewalks and driveways.); or
10. "**General Contractor**" means the party who signs the construction contract with the **owner** to construct the project described in the final plans and specifications. Where the construction project involves more than one contractor, the **general contractor** will be the party responsible for managing the project on behalf of the **owner**. In some cases, the **owner** may be the **general contractor**. In these cases, the **owner** may contract an individual as the **operator** who would become the Co-Permittee.
11. "**Impervious Surface**" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.
12. "**National Pollutant Discharge Elimination System (NPDES)**" means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345..
13. "**Normal Wetted Perimeter**" means the area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur once every year.
14. "**Notice of Termination**" means notice to terminate coverage under this permit after construction is complete, the site has undergone **final stabilization**, and maintenance agreements for all permanent facilities have been established, in

accordance with all applicable conditions of General Permit Authorization to Discharge Storm Water Permit Associated with Construction Activities (MN R100001). **Notice of Termination** forms are available from the MPCA.

15. **“Operator”** means the person (usually the **general contractor**), designated by the **owner**, who has day to day operational control and/or the ability to modify project plans and specifications related to the **SWPPP**. The person must be knowledgeable in those areas of the permit for which the **operator** is responsible, (MN R100001: Part II.B. and Part IV.) and must perform those responsibilities in a workmanlike manner.
16. **“Owner”** means the person or party possessing the title of the land on which the construction activities will occur; or if the **construction activity** is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the **construction activity**.
17. **“Permanent Cover”** means **final stabilization**. Examples include grass, gravel, asphalt, and concrete.
18. **“Permittee”** means a person or persons, firm, or governmental agency or other institution that signs the application submitted to the MPCA and is responsible for compliance with the terms and conditions of this permit.
19. **“Saturated Soil”** means the highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. **Saturated soil** is evidenced by the presence of redoximorphic features or other information.
20. **“Sediment Control”** means methods employed to prevent sediment from leaving the site. **Sediment control** practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.
21. **“Small Construction Activity”** means small construction activity as defined in 40 C.F.R. part 122.26(b)(15). Small construction activities include clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. **Small construction activity** includes the disturbance of less than one (1) acre of total land area that is part of a larger **common plan of development or sale** if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
22. **“Stabilized”** means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.
23. **“Standard Plates”** means general drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.
24. **“Storm water”** is defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, **storm water** runoff, snow melt runoff, and any other surface runoff and drainage.

25. “**Storm Water Pollution Prevention Plan**” means a plan for **storm water** discharge that includes **erosion prevention** measures and **sediment controls** that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.
26. “**Surface Water or Waters**” means all streams, lakes, ponds, marshes, **wetlands**, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.
27. “**Temporary Erosion Protection**” means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.
28. “**Underground Waters**” means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water.
29. “**Waters of the State**” (as defined in Minn. Stat. § 115.01, subd. 22) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
30. “**Water Quality Volume**” means ½ inch of runoff from the new **impervious surfaces** created by this project and is the volume of water to be treated in the permanent **storm water** management system, as required by this permit except as provided in Appendix A.C.2.
31. “**Wetland**” or “**Wetlands**” is defined in Minn. R. 7050.0130, subp. F and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in **saturated soil** conditions. **Wetlands** generally include swamps, marshes, bogs, and similar areas. Constructed **wetlands** designed for wastewater treatment are not **waters of the state**. **Wetlands** must have the following attributes:
- a. A predominance of hydric soils;
 - b. Inundated or saturated by **surface water** or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a **saturated soil** condition; and
 - c. Under normal circumstances support a prevalence of such vegetation.

Section 1177:50 Scope and effect

A. Applicability. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities greater than or equal to one acre or part of a larger common plan or development greater or equal to one acre or smaller area where the Zoning Administrator determines the activity poses a risk to water resources must submit a storm water pollution prevention plan to the Zoning Administrator. No building permit, Subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water pollution prevention plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of Subd. 6.B of this ordinance apply to all land, public or private. Nothing in this ordinance shall relieve the applicant of other County, State, Federal or local watershed district requirements that may be applicable to the applicants proposed activities.

B. Exemptions. The provisions of this ordinance do not apply to:

1. A lot for which a building permit has been approved on or before the effective date of this ordinance;
2. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; or
3. Emergency work to protect life, limb or property.
4. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
5. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs and maintenance work.
6. Additions or modifications to existing single family structure which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and/or is part of a larger common development plan.

Section 1177:60 Storm water pollution prevention plan submittal procedures

A. Application. A copy of the written application for General Permit Authorization to Discharge Storm Water Permit Associated with Construction Activities (MN R100001) and all supporting documentation including a copy of the proposed storm water pollution prevention plan, including evidence of the permit fee payment, and/or the application requirements of the Minnehaha Creek Watershed District as applicable shall be filed with the City and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this ordinance. Prior to applying for approval of a storm water pollution prevention plan, an applicant may have the storm water pollution prevention plan reviewed by the appropriate departments of the City.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the Zoning Administrator and shall be accompanied by a receipt from the City Clerk evidencing the payment of all required fees for processing and/or such financial securities that the city determines are required to guarantee performance by the permittee. The permit letter and certification acknowledging permit coverage under General Permit MN R10001 from Minnesota Pollution Control Agency shall also be submitted upon receipt. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum, the scale shall be 1 inch equals 100 feet.

B. Storm water pollution prevention plan. At a minimum, the storm water pollution prevention plan shall fully comply with the requirement of Parts III and IV of General Permit Authorization to Discharge Storm Water Associated with Construction Activity, Permit No. MN R100001. All submissions and notifications required Permit No. MN R100001 shall also be submitted to the Zoning Administrator.

Section 1177:70 Enforcement Procedures

A. Right of Entry. The applicant shall promptly allow the city and their authorized representatives, upon presentation of credentials to:

1.) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.

2.) Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.

3.) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.

4.) Inspect the storm water pollution control measures.

5.) Sample and monitor any items or activities pertaining to storm water pollution control measures.

6.) Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be born by the applicant.

B. Warning letter. If upon inspection by the City or designated representative, the applicant fails to implement the erosion and sediment control practices outlined in the approved stormwater pollution prevention plan or minimum BMP standards outlined in Subd. 6B, the City will notify the applicant with a letter of warning which outlines the issues of noncompliance and a timeline for completion of any work to bring the site into compliance.

C. Action Against the Financial Security. If any of the conditions listed below exist and have not been corrected within seven (7) days after notification by the city, the city may act using the Financial Security. The city shall use funds from this security to finance any corrective or remedial work undertaken by the City or a contractor under contract to the City and to reimburse the City for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.

1.) The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the city approved grading plan.

2.) The applicant fails to conform to any city approved grading plan and/or the storm water pollution control plan as approved by the city, or related supplementary instructions.

3.) The techniques utilized under the storm water pollution control plan fail within one (1) year of installation.

4.) The applicant fails to reimburse the city for corrective action taken.

5.) Emergency action under part D.

D. Emergency Action. If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the city engineer, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the city may be recovered from the applicant's financial security.

Section 1177:80 Penalty

Any person, firm, or corporation violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or imprisonment as provided by Statute. Each day that a violation continues shall constitute a separate offense.

Section 1177:90 Severability

The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

SECTION 2. EFFECTIVE DATE: This Ordinance shall be effective from and after its passage and publication in accordance with the law.

PASSED this ____th day of _____, 2009, by the Greenwood City Council

City of Greenwood

Debra J. Kind, Mayor

Attest:

Roberta L. Whipple, City Administrator

Motion was made by _____, seconded by _____

Ayes:

Nays:

Published in the Sun Sailor on _____.

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: June 1, 2009

RE: Municipal Administrative Citations and Civil Penalties

In recent years, municipalities have discussed ways to streamline enforcement of Municipal Codes through the use of Administrative Citations and Civil Penalties. Administrative Citations are typically used to enforce animal, nuisance and zoning ordinances. Traffic and criminal law violations are always handled by police citations or complaints in the District Court. In District Court, fines levied are shared between the City and the County on a 60/40 basis. In Municipal Civil Administration Courts, the fines belong exclusively to the City.

The United States and Minnesota Constitutions require that due process be provided any person cited to be in violation of laws or ordinances. Consequently, the availability of either a District Court hearing or an Administrative Hearing is necessary. Since the District Court will not process Municipal Civil Citations, a Civil Administrative Hearing Court is needed.

The City of Minnetonka established a Municipal Administrative Court a few years ago. Excelsior has adopted the Minnetonka enabling ordinance and employs the Minnetonka system on an as needed basis. This arrangement is memorialized by way of a Joint Powers Agreement between the two cities.

Unlike misdemeanor criminal citations, civil penalties do not expose the violator to incarceration. The City might use a schedule of fines and increase the fine for each

subsequent event. Minnetonka and Excelsior have fines as high as \$2,000.00 plus.

The benefit to the City of Greenwood of Civil Administration and Civil Penalties is the ability to define and collect progressive financial penalties for common violations which should be enforced, but which the police contract does not list as police matter. The civil process can be expected to result in the prompt voluntary payment of fines based upon a citation demand without the expense and cumbersome process of District Court. The use of progressive penalties for on-going violations can be an effective tool by which to convince the intransigent to comply.

Because most people will not demand a civil hearing, the city will have few cases in which additional hearing fees will be incurred. Better yet, the City will not share fine revenue with the County. Nothing in such a process will prevent these matters being pressed by the City in District Court through criminal complaint or civil action for injunctive relief.

Such a system is also a benefit to the citizen because civil citations are not crimes. Therefore, admitting to a civil violation does not carry with it the stigma of a crime.

The first step in any enforcement action would be to have the Zoning Administrator to contact the offending party. If that conversation does not result in compliance, an on-site visit by an enforcement officer would be made and a citation issued. The enforcement officer testimony and report is the eyewitness witness on which the city would rely to support the citation at a hearing. It is the absence of a professional witness, standard response, and report process that has in part made enforcement actions uncertain and costly. The citation starts a process that a citizen cannot ignore. As noted above, I believe that citations will result in conformance and payment of the fine. If unpaid or ignored, the individual would be contacted by Minnetonka and a civil hearing pre-hearing conference would be set. That pre-hearing conference would be conducted by the City Attorney. Most cases would then be negotiated to a conclusion. If no settlement is reached, the matter would be presented at a Civil Administrative Hearing held at the offices of the City of Minnetonka. At all times the city would be within its authority to abandon the civil process and initiate criminal or civil action in District Court.

Steps necessary to implement Civil Administrative Hearings and Civil Penalties.

1. Select an Enforcement Officer.

While the City might use the Zoning Administrator as its enforcement officer, confronting homeowners regarding nuisances and zoning code violations may be more effective if assigned to a CSO or licensed police officer. Moreover, the Zoning Administrator has a separate informational interface roll to play. He is well suited to be the "good cop" and the licensed police officer can play "bad cop". If the City is empowered to use the services of the CSO from South Lake Minnetonka, the enforcement process would benefit by the presence of the squad car and an officer. Alternatively, the City may wish look into contracting for an enforcement officer on a

part time basis. Such an arrangement might be shared with neighboring communities.

2. Adopt a Civil Administrative Code.

The City must adopt the Minnetonka model ordinance for Civil Administrative Hearings and Civil Penalties. As this ordinance model is already available, the expense associated with adopting the ordinance is nominal.

3. Coordinate with City of Minnetonka.

Greenwood must enter into a Joint Powers Agreement with Minnetonka for the provision of Civil hearings and a scheduled cost.

4. Local Administrative Interface.

A civil citation processing regimen needs to be established. Those who receive a civil citation but fail to pay in a timely manner need to be notified of the hearing process and those dates need to be scheduled.

5. City Code Adjustments.

Section 445 (dogs), 1000 (nuisances), and Section 1100 (zoning), will need amendments to add civil penalties for specific violations. I recommend that after three like violations in a 24-month period, the matter be referred for criminal prosecution or a civil action seeking injunctive relief directing the individual to comply. Not all code violations should be handled as a matter subject only to a civil fine. The review process will identify those violations that should remain misdemeanors subject to criminal prosecution in the District Court.

SECTION 1305. DEFINITIONS.

1305.005. Definitions.

1. Unless the context clearly indicates otherwise, the words and phrases below are defined for the purpose of this code as follows:
 - a. “City” and “municipality” means the city of Minnetonka, located in Hennepin county, Minnesota, including all territory lying within its boundaries.
 - b. “Clerk” means the Minnetonka city clerk.
 - c. “Council” means the city council of the city of Minnetonka.
 - d. “County” means Hennepin county, Minnesota.
 - e. The term “et seq.” following a section or subsection means the sections or subsections designated, together with the following sections or subsections that pertain to the same subject matter or that are related.
 - f. “Health authority” means the Minnetonka environmental health supervisor.
 - g. “Intersection” has the same meaning as that contained in Minn. Stat. § 169.01.
 - h. “Manager” means the Minnetonka city manager.
 - i. “This ordinance” means the chapter or section in which it appears and related sections, subsections, paragraphs and subdivisions under the same chapter or section.
 - j. “Person” means a natural person of either sex, a firm, partnership, corporation, any other association of people, and includes the manager or agent of that person or organization.
 - k. “Public property” and “public place” means any place or property dedicated to public use, or owned or occupied by the city or any other governmental agency.
 - l. “Private property” means all property not included within the definition of public property or public place.
 - m. “State” means the state of Minnesota.
 - n. “Street” has the same meaning as that contained in Minn. Stat. § 169.01.
2. In addition to the definitions in paragraph 1, the definitions contained in Minn. Stat. § 609.02 are adopted by reference as the definitions for words or phrases in this code, unless the context clearly indicates otherwise.

3. References to elected or appointed city officials and employees include their duly authorized representatives.

(Amended by Ord. #2006-09, adopted May 8, 2006)

SECTION 1310. PENALTIES.

1310.005. Prohibited Acts.

1. A person must not do any of the following:

a. violate, fail to comply with, or assist, authorize or permit the violation of a provision of this code;

b. violate, fail to comply with, or assist, authorize, or permit the violation of the terms and conditions of a city approval, including permits and licenses, required and granted under this code; or

c. knowingly make or submit a false statement, document, or material omission in connection with an application or procedure required by this code.

2. No section or part of this code designating the duties of an official, employee, or appointee of the city may be construed to make that person liable for the penalties provided below.

1310.010. Penalties.

1. A person who violates section 1310.005 is guilty of a misdemeanor and upon conviction will be punished in accordance with state law; provided, that if a different punishment is stated in this code, that provision governs the punishment for the violation.

2. Designation as a petty misdemeanor means that upon conviction the sentence will be in accordance with state law. If not designated as "petty misdemeanor," a violation is a misdemeanor as set forth above in paragraph 1.

3. Each calendar day that section 1310.005 is violated constitutes a separate offense.

4. A person who violates section 1310.005 must pay twice the applicable fee related to the violation.

5. A violation of section 1310.005 constitutes sufficient grounds for denial of an application required by this code that is related to the violation.

6. Action prohibited by section 1310.005 may, at the option of the city, void a city approval that is related to the violation.

7. The city attorney may institute a legal proceeding in the name of the city of Minnetonka to prevent, restrain, remedy, or abate a violation of section 1310.005.
8. Nothing in this section prevents the city from taking other action permitted by law, and the penalties and remedies provided here and under other law are cumulative.

(Amended by Ord. #2006-09, adopted May 8, 2006)

1310.015. Administrative Citations and Civil Penalties.

Sections 1310.015 through 1310.055 govern administrative citations and civil penalties for violations of the city code.

1310.020. Purpose.

The city council finds that there is a need for alternative methods of enforcing the city code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the city and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard city code violations as being important. Accordingly, the city council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for city code violations.

1310.025. General Provisions.

1. A violation of a provision of the city code or the acts prohibited in section 1310.005 is an administrative offense, that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.
2. An administrative offense may be subject to a civil penalty not exceeding \$2000.00.
3. The city council must adopt by resolution a schedule of fines for offenses initiated by administration citation. The city council is not bound by that schedule when a matter is appealed to it for administrative review. The city council may adopt a schedule of fees to be paid to administrative hearing officers.
4. The city manager must adopt procedures for administering the administrative citation program.

1310.030. Administrative Citation.

1. A person authorized to enforce provisions of the city code may issue an administrative citation upon belief that a code violation has occurred. The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.
2. The person responsible for the violation must either pay the scheduled fine or request a hearing within seven days after issuance. Payment of the fine constitutes admission of the violation. A late payment fee of 10 percent of the scheduled fine amount may be imposed under section 1310.050.

1310.035. Administrative Hearing.

1. The city council will periodically approve a list of lawyers, from which the city manager will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The accused will have the right to request no later than five days before the date of the hearing that the assigned hearing officer be removed from the case. One request for each case will be granted automatically by the city manager. A subsequent request must be directed to the assigned hearing officer who will decide whether he or she cannot fairly and objectively review the case. The city enforcement officer may remove a hearing officer only by requesting that the assigned hearing officer find that he or she cannot fairly and objectively review the case. If such a finding is made, the officer shall remove himself or herself from the case, and the city manager will assign another hearing officer. The hearing officer is not a judicial officer but is a public officer as defined by Minn. Stat. § 609.415. The hearing officer must not be a city employee. The city manager must establish a procedure for evaluating the competency of the hearing officers, including comments from accused violators and city staff. These reports must be provided to the city council.
2. Upon the hearing officer's own initiative or upon written request of an interested party demonstrating the need, the officer may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard. The party requesting the subpoena is responsible for serving the subpoena in the manner provided for civil actions and for paying the fees and expenses of a witness. A person served with a subpoena may file an objection with the hearing officer promptly but no later than the time specified in the subpoena for compliance. The officer may cancel or modify the subpoena if it is unreasonable or oppressive. A person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena is guilty of a misdemeanor. Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.
3. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least 10 days in advance, unless a shorter time is accepted by all parties. At the hearing, the parties will have the opportunity to present testimony and

question any witnesses, but strict rules of evidence will not apply. The hearing officer must tape record the hearing and receive testimony and exhibits. The officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

4. The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:

- a. the duration of the violation;
- b. the frequency or reoccurrence of the violation;
- c. the seriousness of the violation;
- d. the history of the violation;
- e. the violator's conduct after issuance of the notice of hearing;
- f. the good faith effort by the violator to comply;
- g. the economic impact of the penalty on the violator;
- h. the impact of the violation upon the community; and
- i. any other factors appropriate to a just result.

The hearing officer may exercise discretion to impose a fine for more than one day of a continuing violation, but only upon a finding that (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons must be in writing.

5. Except for matters subject to administrative review under section 1310.040, the decision of the hearing officer is final without any further right of administrative appeal. In a matter subject to administrative review under section 1310.040, the hearing officer's decision may be appealed to the city council by submitting a request in writing to the city clerk within 10 days after the hearing officer's decision.

6. The failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for

another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.

1310.040. Administrative Review.

1. The hearing officer's decision in any of the following matters may be appealed by a party to the city council for administrative review:

a. an alleged failure to obtain a permit, license, or other approval from the city council as required by an ordinance;

b. an alleged violation of a permit, license, other approval, or the conditions attached to the permit, license, or approval, that was granted by the city council; and

c. an alleged violation of regulations governing a person or entity who has received a license granted by the city council.

2. The appeal will be heard by the city council after notice served in person or by registered mail at least 10 days in advance. The parties to the hearing will have an opportunity to present oral or written arguments regarding the hearing officer's decision.

3. The city council must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The council is not bound by the hearing officer's decision, but may adopt all or part of the officer's decision. The council's decision must be in writing.

4. If the council makes a finding of a violation, it may impose a civil penalty not exceeding \$2000.00 per day per violation, and may consider any or all of the factors contained in section 1310.035(4). The council may also reduce, stay, or waive a fine unconditionally or based on reasonable and appropriate conditions.

5. In addition to imposing a civil penalty, the council may suspend or revoke a city-issued license, permit, or other approval associated with the violation, if the procedure in city code section 700.035 has been followed. The hearing required in that section will be satisfied by the hearing before the hearing officer with the right of appeal to the city council.

1310.045. Judicial Review.

An aggrieved party may obtain judicial review of the decision of the hearing officer or the city council by proceeding under a writ of certiorari in district court.

1310.050. Recovery of Civil Penalties.

1. If a civil penalty is not paid within the time specified, it will constitute:

- a. a lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or
 - b. a personal obligation of the violator in all other situations.
2. A lien may be assessed against the property and collected in the same manner as taxes.
 3. A personal obligation may be collected by appropriate legal means.
 4. A late payment fee of 10 percent of the fine may be assessed for each 30-day period, or part thereof, that the fine remains unpaid after the due date.
 5. During the time that a civil penalty remains unpaid, the provisions of city code section 210 apply to a license, permit, or other city approval sought by the violator or for property under the violator's ownership or control.
 6. Failure to pay a fine is grounds for suspending or revoking a license related to the violation.

1310.055. Criminal Penalties

The following are misdemeanors, punishable in accordance with state law:

1. failure, without good cause, to appear at a hearing that was scheduled under section 1310.035;
2. failure to pay a fine imposed by a hearing officer within 30 days after it was imposed, or such other time as may be established by the hearing officer, unless the matter is appealed under section 1310.040; and
3. failure to pay a fine imposed by the city council within 30 days after it was imposed, or such other time as may be established by the city council.

If the final adjudication in the administrative penalty procedure is a finding of no violation, then the city may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the city from pursuing a criminal conviction for a violation of the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

SECTION 1315. ORDINANCES.

1315.005. Ordinance Enactment.

Ordinances must be enacted in accordance with state law, city charter and this code. Ordinances will be integrated into this code in accordance with this chapter.

1315.010. Form.

An ordinance amending this code must specify the number of the provision to be amended. Only the text of a separately identified provision need be included for an amendment; the larger section of which it is a part may be omitted. An ordinance repealing an entire provision must either contain the stricken language in the body of the ordinance or attach the deleted text in an appendix.

1315.015. Integration into Code.

1. Matters omitted. When an ordinance is integrated into this code, the following may be omitted:

- a. title;
- b. enacting clause;
- c. section numbers;
- d. validation and repealing clauses;
- e. validating signatures and dates;
- f. penalty provisions; and
- g. punctuation and other matters not an integral part of the ordinance text.

2. Post-adoption changes. When integrating ordinances into the code, the city clerk may:

- a. correct obvious grammatical, punctuation, and spelling errors;
- b. change reference numbers to conform with applicable sections of the code;
- c. substitute figures for written words and vice versa;
- d. substitute the actual date for the words "the effective date of this ordinance"; and
- e. take other similar actions to ensure a uniform code of ordinances if they do not alter the meaning of the ordinances enacted.

3. Source notes. When an ordinance is integrated into the code, a source note should be added at the end of the section affected. The note should indicate the action taken, the ordinance that authorized the action, and the effective date of the ordinance.
4. Other standards. The city clerk may establish and implement other standards to ensure the expeditious integration of ordinances into this code. He/she may also establish and implement further policies regarding the preparation, editing and format of ordinances.

1315.020. Recordkeeping; Special Ordinances.

The city clerk is responsible for the safe and orderly keeping of ordinances. The clerk must maintain a current record of ordinances that have been adopted. An ordinance not included in this code is a special ordinance. Examples of special ordinances are those that rezone property, name streets, and grant franchises. The council may direct that a special ordinance be included in an appendix to this code.

Disclaimer:

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2009 COMMUNITY SURVEY

Your opinions are needed to help guide the future of Greenwood. Please complete this quick survey and return to: Greenwood City Office, 20225 Cottagewood Road, Deephaven, MN 55331. Deadline: September 14, 2009. Your input is appreciated!

TAXES	<i>Greenwood city taxes are about 18% of your property tax bill. In other words, for every \$1,000 paid in property taxes \$180 goes to the city (\$77 police/fire, \$44 admin/legal/auditor, \$31 roads, \$28 reserve replenishment/misc.).</i>	Strongly Agree Agree Neutral Disagree Strongly Disagree
	I get good value for my city tax dollar.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

POLICE	<i>The South Lake Minnetonka Police Department's strategic plan indicates a need for phasing in two police officers, increasing the overtime budget to manage scheduling issues, and increasing the fund balance in order to keep pace with technology. Note: Currently there are times when one officer is on duty.</i>	
	I support raising taxes \$26-\$54 per property, per year to implement the police department's strategic plan.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	Greenwood feels like a safe community.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

ROADS	My road is in acceptable condition.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	I support the city paying cash to improve 1-3 roads each year.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	I support city bonding (getting a loan) to improve all roads now.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	I am satisfied with the quality of snow plowing on my road.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

DOCKS	<i>The 2009 slip fee for the city's public marina on St. Alban's Bay is \$750, same as 2007 and 2008. In 2010 the fee will be \$850. There are 26 slips and 38 people on the waiting list. Note: Marina Fund money may be used for any city purpose.</i>	
	The \$850 slip fee is too high.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	The slip fee should be the average of Excelsior, Deephaven, and Tonka Bay rates (approx. \$1,400).	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

MISC.	I support using \$890 (\$5 per foot frontage at the public marina) from the Marina Fund to help pay a portion of the costs for bay-wide milfoil treatment on St. Alban's Bay. Note: The \$900 currently spent on milfoil next to the public marina also would go towards bay-wide treatment for a total of \$1790.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	I support tight regulation of tree trimming/removal in Greenwood.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	Current outdoor lighting in my neighborhood is too bright.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Your Name (optional)	Phone (optional)
Email Address (optional)	<input type="checkbox"/> Please add my email to the list to receive city council agendas and news
Your Age Group <input type="checkbox"/> 18-39 <input type="checkbox"/> 40-64 <input type="checkbox"/> 65 plus	<input type="checkbox"/> I have included written comments on the back ...

City of Greenwood Planning Commission Application Questionnaire

Name: Bill Cook
 Address: 5195 Greenwood Circle
 Email: billandtishcook@msn.com Phone: 612-805-0424
 Employment: Metropolitan Council

The following questionnaire is designed to obtain specific information as to your interests and qualifications for serving on the City of Greenwood Planning Commission. The submission of this questionnaire does not obligate you to volunteer for any city service.
 Please return your application by mail: 20225 Cottagewood Road, Deephaven, MN 55331, by email: greenwood@visi.com, or by fax: 952-401-7587

How long have you lived in the Lake Minnetonka area? 8 yrs Greenwood? 8 yrs

Would you have difficulty attending the meetings on the 3rd Wednesday of each month? No.

Why do you want to serve on the Planning Commission? Participate in local government.

What specifically qualifies you to fill this position or why do you think you would serve Greenwood well in that capacity? I am experienced in writing, administering ~~and~~ ordinances. I understand design, construction and property rights issues.

Have you attended Planning Commission or City Council meetings? Yes.

Have you followed Greenwood's development issues? yes

How familiar are you with the City's ordinances? Not yet.

What do you consider the most important role of the Planning Commission? Fairly administer development requests based on ordinances.

What would be your main goal as a member of the Planning Commission? To implement my role.

STAFF REPORT

Gus Karpas, Zoning Coordinator

Greenwood City Council, THURSDAY August 6, 2009 @ 7:00 p.m.

APPLICANT INFORMATION

Property Owner(s): William Brands
Property Address: 21290 Excelsior Boulevard
P.I.D. #: 35-117-23 12 0007
Zoning District: R-1A, Single Family Residential
Shoreland District: Yes
Wetlands: No

REQUEST

The applicant is proposing to remove the existing attached garage and construct a new garage and front entryway which would exceed the maximum permitted impervious surface area.

CITY CODE REQUIREMENTS

	Required	Existing Home	Proposed Garage
Front Yard Setback	30'	96'	83'
Side Yard Setback			
East:	15'	9'-3"	28'-10"
West:	15'	3'-9"	15'-3"
Lake Yard Setback	50'	61' (To deck)	139'
Permitted Structure Volume	77,536 c.f.	Unknown	64,598 c.f.
Lot Area	15,000 s.f.	19,880 s.f.	19,880 s.f.
Building Height	28'	26'	22'-4"
Structure Height	42'	36'	25'-2"
Impervious Surface	30%	40.41%	39.46%

- The applicant is requesting a variance from Section 1176:04(3); maximum permitted impervious surface area.
 - The maximum permitted impervious surface area is 30%.
 - The applicant proposes an impervious surface area of 39.46%.

- The applicant is requesting a variance to exceed the maximum permitted impervious surface area by 9.46%.
2. The applicant's survey indicates that they would be in compliance with the required front, lake and side yard setbacks.
 3. The applicant has submitted documentation that the proposed structure complies with the required building/structure height and maximum permitted structure volume.

REQUEST SUMMARY

The applicant is seeking to remove the existing garage and construct a new garage and front entryway. They explain this is necessary to facilitate better access to the garage. The applicant is seeking to exceed the maximum permitted impervious surface area by 9.46%.

The applicant has indicated the property cannot be put to a reasonable use under the existing ordinance requirements because it is a long and narrow lot which requires a longer driveway, thereby increasing the amount of impervious surface on the property.

STRUCTURE SETBACKS

Section 1120:15 of the Zoning Ordinance requires a minimum front yard setback of thirty (30) feet. The survey submitted by the applicant indicates the proposed alteration would be set back eighty-three (83) feet from the front property line. As presented, the proposed front yard setback complies with the city's ordinance.

Section 1120:15 of the Zoning Ordinance requires a minimum east side yard setback of fifteen (15) feet. The survey submitted by the applicant indicates the proposed structure would be set back twenty-eight feet, ten inches (28'-10") from the east property line. As presented, the proposed east side yard setback complies with the city's ordinance.

Section 1120:15 of the Zoning Ordinance requires a minimum exterior side yard setback of thirty (30) feet along the west property line. The survey submitted by the applicant indicates the proposed structure would be set back fifteen feet, three inches (15'-3") from the west property line. As presented, the proposed west side yard setback complies with the city's ordinance.

Section 1120:15 of the Zoning Ordinance requires a minimum lake yard setback of fifty (50) feet. The survey submitted by the applicant indicates the proposed structure would be set back one hundred and thirty nine (139) feet from the rear property line. As presented, the proposed lake yard setback complies with the city's ordinance.

IMPERVIOUS SURFACE AREA

1176:04(3) permits a maximum impervious surface area of thirty percent in the Shoreland District. The survey submitted by the applicant indicates the proposed impervious surface area on the property is 39.46%. ***As presented, the proposed impervious surface requires a variance to exceed the maximum permitted impervious surface area by 9.46%.***

The survey submitted by the applicant indicates the existing impervious surface area on the property is 40.41%. The proposal would reduce the impervious surface on the property by approximately one percent.

LOT AREA

Section 1120:10 requires a minimum lot area of 15,000 square feet in the R1-A Residential District. The survey submitted by the applicant indicates a lot area of 19,880 square feet. The applicant has a lot area that exceeds the minimum required by the city's ordinance.

BUILDING/STRUCTURE HEIGHT

Section 1120:20 of the Zoning Ordinance permits a maximum building height of twenty-eight (28) feet for a principal structure. Building height is defined as the vertical distance measured between the building perimeter grade and the roof line of a building or structure. The structural elevations submitted by the applicant indicate a proposed building height of approximately twenty-two feet, four inches (22'-4"). As presented, the proposed building height complies with the city's ordinance.

Section 1140:15(3) of the Zoning Ordinance permits a maximum principal structure height of forty-two (42) feet. Structure height includes the sum total of building height and the vertical height above the roof line of all structure. The structure elevations submitted by the applicant indicates a proposed structure height of twenty-five feet, two inches (25'-2"). As presented, the proposed structure height complies with the city's ordinance requirement.

TREE REMOVAL

The survey submitted by the applicant indicates a total of twelve (12) significant trees located on the subject property and shows there would be the removal of four trees considered "significant" by Section 1140:80(2)(d). Section 1140:80(5)(c)(1) permits the removal of a maximum of 10% of the existing trees on a property in conjunction with the construction of a new home addition.

Two of the trees are permitted by the annual tree harvesting permit, leaving ten (10) significant trees. The applicant proposes to remove two (2) trees or twenty percent, unless it is agreed that the Cherry tree is decorative in nature and not considered a significant tree or the applicant submits a determination by a licensed arborist that the Ash Tree is in fact diseased.

If the Commission deems the aforementioned trees as significant, Section 1140:80(4) permits a property owner the approach the city for a permit to exceed the annual permitted tree harvest. ***As presented, the applicant requires permission to harvest three significant trees in a calendar year.***

ACCESSORY STRUCTURES

Section 1120:20(2) limits accessory structures to one private garage and on tool house shed or similar storage building per principal structure. Section 1120:20(3) permits a maximum combined accessory structure area of 1,000 square feet or 60% percent of the total at grade, main floor square footage of the principal structure, whichever is less. In

this case the applicant is permitted maximum accessory structure area of 1,000 square feet. There is an existing 458 square foot garage located near the road, the applicant intends on keeping this structure as is.

MASSING

Section 1140:18(3) establishes the maximum permitted above grade building volume in residential zones based on lot size. The survey submitted by the applicant indicates the property contains an area of 19,880 square feet. Section 1140:18(3)(3) regulates above grade building volume for lots greater than 15,000 square feet, permitting a volume equal to 67,500 cubic feet, plus a volume of cubic feet equal to a two times the lot area minus 15,000 square feet.

In the case of the applicants property, the permitted above grade building volume would be 67,500 cubic feet plus $2(19880 - 15,000)$ 9,760 cubic feet for a total allowable above grad building volume of 77,260 cubic feet. The calculation submitted by the applicant indicates an above grade building volume of 64,598 cubic feet, based on the entire footprint multiplied by the largest structure height. As presented, the proposed above grade building volume complies with the city's ordinance.

The applicant has included the cubic foot area of the detached garage in their calculations.

PLANNING COMMISSION RECOMMENDATION

Motion by Commissioner Beal to recommend that the City Council approve the variance request to exceed the maximum permitted impervious surface area by 9.46% for the demolition and reconstruction construction of a new attached garage and entryway, as presented at 21290 Excelsior Boulevard. A hardship exists in that the placement of the existing garage creates a safety issue by requiring the applicants to back down the driveway onto Excelsior Boulevard and that the configuration of the lot requires an extensive driveway, preventing compliance with the impervious surface standards. The motion is conditioned that the concrete pad located on Excelsior Boulevard be removed as proposed. Commissioner Spiers seconded. Motion carried 3-0-1. Commissioner Palmberg abstained.

CITY COUNCIL ACTION REQUIRED

City Council Action Required: State Statute 15.99 requires a decision by the governing body within 60 days, unless the applicant is notified in writing the initial 60 days that the time period for a decision is extended. The City Council must approve, modify or deny the request by **August 12, 2009**.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF GREENWOOD, MINNESOTA ACTING AS THE
BOARD OF APPEALS AND ADJUSTMENTS**

APPROVING

**IN RE: The Application of William Brands for a Variance to Greenwood Ordinance
Code Section 1176:04(3) to Permit:**

1. Demolition of an existing Garage and Construction of a New Garage and Front Entryway in its Place
-
-

WHEREAS, William Brands is the owner of real property located at 21290 Excelsior Boulevard, Greenwood, Minnesota 55331 (PID No. 35-117-23-12-0007); and

WHEREAS, notice of public hearing was published, notice given to neighboring property owners, and a public hearing held before the Planning Commission to consider the application; and

WHEREAS, public comment was taken at the public hearing before the Planning Commission on July 15, 2009; and

WHEREAS, the City Council of the City of Greenwood has received the staff report, the report of the Planning Commission, and considered the application and the comments of the applicant and the public.

NOW, THEREFORE, the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments does hereby make the following:

FINDINGS OF FACT

1. That the real property located at 21290 Excelsior Boulevard, Greenwood, Minnesota 55331 (PID No. 35-117-23-12-0007) is a single lot of record located within the R1-A single family residential district and host to an existing house and a detached garage. Applicant proposes to demolish the existing garage (710 square feet) and construct a new garage/house addition (1,419 square feet) largely on the same footprint.
2. Applicant advises the purpose of the remodeling is to provide a front entryway to the home and reconfigure the driveway in such a way as to allow the vehicles to turnaround and descend face first towards the public street.

3. Applicant represents the existing impervious surface is 40.41%. When complete, the proposed project will have a hard cover of 39.46%.
4. The property is a code compliant lot of record and while the existing house has side yards less than 15 feet required, the old garage and proposed new garage will be code compliant in side yard setback.
5. Applicant proposes to remove 4 of 12 significant trees on the property. Applicant can remove two significant trees per year without a permit and under a Home Addition/Accessory Structure construction related tree cutting permit, the property owner may cut or remove up to 10% of the total trees on the property or one additional significant tree. Therefore, the applicant must either request a variance to §1140:80, Subd. 5 for the permission to cut the fourth tree or the applicant can apply for a Permit to exceed the Annual Permitted Tree Harvest pursuant to Section 1140:80, Subd. 4. This would permit no more than 5 significant trees to be cut down. This permit may be issued only once every five calendar years.
6. With the remodeling project complete, there will be only one accessory structure, an existing garage adjacent Excelsior Boulevard of 458 square feet. This accessory garage meets the 1,000 square feet maximum for accessory structures under Code Section 112:20(3).
7. The addition, when complete, will not cause the property to exceed the maximum permitted building volume under the Massing Ordinance (Section 1140:18(3)) and the building will not exceed the maximum permitted building height or structure height.
8. Section 1176:04(3) permits a maximum impervious surface of 30%. Presently the property has a hard surface of 40.41% and when complete the project will reduce hard cover to 39.46%. This exceeds the maximum permitted hard cover by 9.46%, but also represents the continuance of existing conditions.
9. The applicant proposes to modify the driveway, which must traverse a steep hill, in such a way to allow vehicles to descend face first. Applicant's architect reported that there would be no major alterations to grade and there should be no drainage impact on adjacent properties. One major tree would be removed, a large oak overhanging the proposed garage.
10. The applicant advises that the variance to maximum impervious surface, if issued, would be in keeping with the spirit and intent of the Code as the applicant is reducing existing hardcover and improving site access.
11. The applicant reports the property cannot be put to a reasonable use if used under the official controls without variance because of the long narrow lot and the

unusually steep grade change.

12. Applicant advises that the plight of the owner is due to circumstances unique to the property, not created by the property owner, because total hard cover is existing and the necessary long driveway and retaining walls significantly contribute to total hardcover.
13. The applicant advises that the variance, if granted, will not alter the essential character of the locality because the new garage location and entry addition are equal in size and scale to the existing garage and are architecturally compatible with the existing home.
14. The applicant describes the effect on neighboring properties and the neighborhood, in general, to be: will not alter the neighborhood in appearance and will improve driveway access and egress to street.
15. The applicant represents that the variance, if granted, will have no effect on light and air quality.
16. The applicant describes the effect on traffic congestion on the public street to be: that the project will make egress from the lot safe and provide off-street parking for family vehicles.
17. The applicant identifies no fire danger and no danger to public safety, if the variance is granted.
18. The applicant describes the effect of the improvements on established property values in the surrounding area to be: they will improve due to more cohesive look to the house and better use of the plan and access.
19. Applicant represents that there will be no impairment to public health, safety, and welfare because as the driveway configuration proposed improves safety for vehicle egress.
20. The Planning Commission considered this matter and received the comments of the public. The Planning Commission acknowledged that there was no increase in hard cover, and that there were safety benefits to be gained by reconfiguring the driveway. The Planning Commission did identify the need to remove a concrete pad by Excelsior Boulevard as a condition to any variance grant. A hardship was identified directly related to the configuration and topography of the lot which requires a long driveway.
21. The Planning Commission recommended approval of the variance request to exceed maximum permitted impervious surface by 9.46% in conjunction with the for demolition and reconstruction of a garage/entryway as presented, on

condition that the concrete driveway pad adjacent Excelsior Boulevard being removed.

22. The City Council may grant a variance to Section 1176:04(3) to exceed maximum permitted impervious surface upon a finding that the grant of the variance would be in keeping with the spirit and intent of the Shoreland District Management Ordinance; that without the variance, the applicant would not be able to put the property to reasonable use; that the plight of the owner is due to circumstances related to the land and not created by the owner; and that the variance, if granted, will not alter the essential character of the area.
23. The request to remove and replace an existing detached garage with a modern attached garage/entryway addition, and other driveway modifications making travel to and from the street safer, that would reduce hard cover, is a reasonable request. Granting the variance is in keeping with the spirit and intent of the ordinance. The plight of the owner is due to circumstances related to the topography of the lot necessitating additional hard cover to service the home atop the lot.
24. The variance, if granted, will not alter the essential character of the locality as it is in keeping with the character of the area.

CONCLUSIONS OF LAW

Variance

1. A variance to Greenwood Ordinance Code Section 1176:04(3) permitting the applicant's property to exceed the maximum permitted impervious surface 30% by an additional 9.46% when the project as proposed is complete should be granted based on the foregoing findings subject to the following conditions.
 - a. The project is constructed as proposed.

b. Removal of a concrete driveway surface lying between the existing auxillary garage and Excelsior Boulevard as traveled.

c. Applicant obtains a Permit to Exceed Property Owner Annual Permitted Tree Harvest or seeks a variance to the maximum permitted tree harvest in conjunction with Construction Related Home Addition Improvements (Section 1140:80, Subd. 5).

NOW, THEREFORE, be it resolved by the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments.

1. That a variance to Greenwood Ordinance Code Section 1176:04(3) to permit maximum impervious surface in excess of 30% to a maximum of 39.46% for the subject property is granted on the following condition.

a. The project is built as proposed.

b. Removal of a concrete driveway service between the existing auxillary garage and Excelsior Boulevard as traveled.

c. Applicant obtains a permit to exceed property owner annual permitted tree harvest or seeks a variance to the maximum permitted tree harvest in conjunction with construction related home addition improvements (Section 1140:80, Subd. 5).

PASSED THIS _____ DAY OF AUGUST, 2009 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

___ Ayes, ___ Nays

ATTEST:

CITY OF GREENWOOD

By _____
Debra J. Kind, Mayor

Roberta L. Whipple,

City Clerk/Administrator

1\RESOLU.Brand

ACKNOWLEDGMENT AND DAMAGE WAIVER

WHEREAS, SEAN CONRAD and KRISTI CONRAD, 2750 Idaho Avenue South, St. Louis Park, MN 55426, (hereinafter Permittee) owners of real property commonly known as 21780 Fairview Street, Greenwood, MN 55331, being real property located in the County of Hennepin, legally described as follows:

Lot 10, Covington, according to the recorded plat thereof, Hennepin County, Minnesota. (hereinafter the "subject property")

do hereby acknowledge receipt of a Public Right-of-Way Use permit from the City of Greenwood, Minnesota, approved August 6, 2009, permitting grading, paving, installation and use of a driveway over and across the public right-of-way abutting the westerly boundary of the subject property for the benefit of the subject property; and

WHEREAS, Permittee further acknowledge that said permit is revocable at any time at the instance of the City without prior notice to the Permittee as provided by Greenwood Ordinance Code Section 630 et seq; and

WHEREAS, Permittee acknowledge that issuance of the permit is conditioned on Permittee signing and delivering to the City an Acknowledgement and Damage Waiver in favor of the City.

NOW, THEREFORE, in consideration of the issuance of a public right-of-way use permit, under Greenwood Ordinance Code Section 630 et seq., and in conformance with the conditions imposed by the City Council of the City of Greenwood in conjunction with a variance granted for the subject property July 7, 2009, Permittee, Sean Conrad and Kristi Conrad, on behalf of themselves, their

children, heirs, administrators, employees, independent contractors, agents, invitees, successors and assigns hereby acknowledge as follows:

The Public Right-of-Way Use Permit issued to the Permittee by the City of Greenwood, Minnesota, August 6, 2009 is of indefinite duration. The permit does not create an estate in land in favor of the Permittee, their successors or assigns, nor shall it constitute a conveyance of any kind by the City. The permit is revocable at any time at the instance of the City without prior notice to the Permittee. The permit is non-exclusive and the City may grant similar use rights to other parties from time to time. The City may disturb the driveway rights hereunder at any time, including but not limited to, grading, filling, excavation, utility installation, roadway and drainage improvements, or removal of the driveway surface. Permittee further acknowledges that in the event the City of Greenwood enters upon said public right-of-way, it shall have no obligation to restore the public right-of-way, driveway surface or related improvements to previous condition, nor pay any compensation to the Permittee.

DAMAGE WAIVER

In consideration of the issuance of a Public Right of Way Use Permit by the City of Greenwood, Minnesota, for the benefit of Permittee and the subject property, Permittee, on behalf of themselves, their children, heirs, administrators, employees, independent contractors, agents, invitees, successors and assigns, hereby assume all risk of injury, loss or casualty to person or property associated with the use of the public right of way authorized under Greenwood Minnesota Resolution No. ___ and do hereby waive any and all claims they may have, now or in the future, against the City of Greenwood, Minnesota related to any use, activity, injury, loss or casualty to person or property, occurring on or about that certain public right-of-way abutting the westerly boundary of the subject property, including but not limited to, any claims related to personal injury or disturbance of the grade, landscape, driveway

surfaces, drainage, or other improvements thereon related to the use of said public right-of-way for driveway purposes.

IN WITNESS WHEREOF, the Permittee have set their hand this ____ day of August, 2009.

Sean Conrad

Subscribed and sworn to before
me this __ day of _____, 2009.

(Seal)

Notary Public

Kristi Conrad

Subscribed and sworn to before
me this __ day of _____, 2009.

(Seal)

Notary Public

THIS DOCUMENT PREPARED BY: Kelly Law Offices, 351 Second Street, Excelsior, MN 55331

1\Greenwood\Acknowledgment and Waiver

RESOLUTION No. ____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENWOOD,
MINNESOTA ISSUING A PUBLIC RIGHT-OF-WAY USE PERMIT
PURSUANT TO GREENWOOD ORDINANCE CODE SECTION 630**

The City of Greenwood, Minnesota acting pursuant to Greenwood Ordinance Code Section 630, hereby issues to Permittee: Sean Conrad and Kristi Conrad, 2750 Idaho Avenue South, St. Louis Park, Minnesota 55426, owners of real property commonly known as 21780 Fairview Street, Greenwood, Minnesota 55331, being real property located in Hennepin County legally described as follows:

Lot 10, Covington, according to the recorded plat
thereof, Hennepin County, Minnesota

(subject property).

a Public Right-of-Way Use Permit for the non-exclusive use of that certain public right-of-way lying westerly of and abutting the westerly line of the subject property for grading, paving, and driveway purposes over and across said right-of-way for the benefit of a house to be built upon the subject property, in conformance with plans on file with the City.

This permit is of indefinite duration. This permit shall not create an estate in land in favor of the Permittee, their successors or assigns, nor shall it constitute a conveyance of any kind by the City. This permit is revocable at any time at the instance of the City without prior notice to the Permittee. The permit is non-exclusive and the City may grant similar use rights to other parties from time to time. The City may disturb the driveway rights hereunder at any time, including but not limited to, grading, filling, excavation, utility installation, roadway and drainage improvements, or removal of the

driveway surface. By exercising or implementing use rights hereunder, the Permittee agrees that they and their successors or assigns shall have no claim against the City for damages related to any use, activity, injury, or casualty to person or property occurring on or about that certain public right-of-way abutting the westerly boundary of the subject property, including but not limited to, any claims related to personal injury or disturbance of the grade, landscape, driveway surfaces, drainage, or other improvements thereon related to the use of said public right-of-way for driveway purposes

This permit is conditioned upon the Permittee signing and delivering to the City Administrator an Acknowledgement and Damage Waiver in favor of the City.

Adopted by the City Council of the City of Greenwood, Minnesota the ___ day of August, 2009.

___ Ayes, ___ Nays.

CITY OF GREENWOOD, MINNESOTA

Debra J. Kind, Mayor

ATTEST:

Roberta Whipple, City Administrator

**Greenwood City Council Agenda Item
August 6, 2009**

Agenda Item: Request to amend Zoning Ordinance to permit the preparation of hot food

Summary:

Mohamed Kwara of the Lakeshore Market located at 21380 State Highway Seven, is once again requesting that the city reconsider his request for an amendment to Section 1130 of the Zoning Ordinance to permit on-site preparation and sale of food.

He presented his request to the Planning Commission and a number of neighbors spoke in favor and opposed to the request. Those in support of the request liked the convenience of being able to get hot food on the run, while those opposed did not want the smells associated with food preparation.

The Commission held a lengthy discussion about the concept of amending the ordinance in a manner in which the proposed use would be listed as incidental to the primary use of a convenience store and requiring a license agreement with the city that would be reviewable on an annual basis.

The theory behind that process is that it would eliminate chain type restaurants being able to locate on properties within the C-1 District.

(PLEASE REVIEW ATTACHED MINUTES FOR THE FULL CONVERSATION)

Prior to drafting any language reflecting their discussion, the Commission wanted Mr. Kwara to present the request to the Council, so they don't end up spending a lot of time on an ordinance that Council would not support.

As a reminder, the proposal would require the installation of a permanent grill and venting system. The intent is not to create a sit down type of scenario, rather to allow patrons to place an order to go off a short order menu.

The current ordinance does not permit such a use as a permitted, accessory or conditional use at this time. Staff would recommend that any proposed amendment to the ordinance to allow this type of use be done as a conditional use to permit the attachment of acceptable conditions.

Action Required:

(PLEASE REVIEW ATTACHED MINUTES FOR THE FULL CONVERSATION)

Discuss the proposed use and determine if it is compatible with the surrounding area and within the spirit and intent of the Zoning Ordinance and city's Comprehensive Plan. The Commission could then 1) decide to not amend the ordinance; 2) defer the request to the City Council; or 3) direct staff to draft ordinance language and schedule a public hearing.

As a reminder, the proposal would require the installation of a permanent grill and venting system. The intent is not to create a sit down type of scenario, rather to allow patrons to place an order to go off a short order menu.

The current ordinance does not permit such a use as a permitted, accessory or conditional use at this time. Staff would recommend that any proposed amendment to the ordinance to allow this type of use be done as a conditional use to permit the attachment of acceptable conditions.

Action Required:

Lakeshore Market

21380 hwy 7

Greenwood MN

May 27, 2009

Greenwood city

Dear Mr. Gus

This is Mohamed Kwara from the Lakeshore Market; I would love to attend the meeting at July's agenda to re-apply for a food license again. Since most of our customers and neighbors are asking for it and support the idea; so we can serve hot sandwich and they are waiting eagerly for us. We will also be bringing ethnicity into the city of greenwood. Due to the bills we have and the bad economy we really need this idea to be placed to help us stay in business as well as pay our bills.

Sincerely

Mohamed Kwara

GREENWOOD PLANNING COMMISSION

WEDNESDAY, JULY 15, 2009

7:00 P.M.

ORDINANCE AMENDMENT – Discuss request from Lakeshore Market for an amendment to Section 1130 to permit the on-site preparation and sale of hot food.

Chairman Lucking summarized the request and opened the public hearing.

Mohamed Kwara of the Lakeshore Market presented the request. He said there is a need to increase his business due to a drop in traffic on Highway 7. He said the request to sell hot food would improve his business. He indicated he had signatures from fifty households in Greenwood and a total of 600 signatures from his customers supporting the request. The intent is not to create a sit down restaurant, rather to provide a limited number of items for his customers to take with them. The proposed kitchen area is 6'x9' and only a small portion of his overall business. He said he has invested a lot of time and money into the station and needs to diversify to continue to operate.

Rob Roy, 21270 Excelsior Boulevard, said he did not attend the previous meeting on this request, but said it sounded like a more intense use than what's being proposed now. He said he doesn't find the idea offensive. He said he has a number of friends who own C-Stores and they're all having to adjust their business plans to address the slowdown in the economy. He's concerned that if Mr. Kwara's business is not successful, it will fail which would be a loss to the neighborhood.

Mike Farragher, 21230 Excelsior Boulevard, doesn't see a big problem with the request as long as it isn't a sit down establishment. He feels it provides an opportunity for a unique business for the neighborhood. He would like to see the business succeed since it is a convenience for the neighborhood.

Jeff Sagal, 21420 Excelsior Boulevard, said he was not opposed to a deli style food service but is opposed to anything that required venting due the potential for noise and objectionable smells. He said it would not be fair to the neighborhood to subjugate them to such issues. He used Adele's as an example of a food business that does not use exterior venting.

Cheryl Janousek, 21210 Excelsior Boulevard, feels it is a great idea and that Mr. Kwara has been a great neighbor. She supports the proposal.

Bill Brands, 21290 Excelsior Boulevard, supports the request as described by Mr. Sagal, without exterior venting. He feels the applicant should be permitted to offer hot food.

Mr. Kwara described the neighborhood and said only four homes were located directly adjacent to his business. He said he desires to have venting and could limit the hours in which he would provide hot food. He said offering hot food would permit him to use a portion of the building which isn't producing anything

GREENWOOD PLANNING COMMISSION

WEDNESDAY, JULY 15, 2009

7:00 P.M.

right now. He wants to be part of the city and feels his proposal would improve his business.

Commissioner Palmberg asked if he would consider serving food which did not require venting. Mr. Kwara said he needs the ventilation and that he's trying to bring something different to the neighborhood by offering ethnic food. He reiterated the area used for cooking would be small.

Chairman Lucking asked the applicant if he would like a use such as a Burger King next to his home. Mr. Kwara said the difference is that food service is 100% of Burger King's business whereas it would be 10 to 15 percent of his business.

Hearing no further public comment, the public hearing was closed.

Chairman Lucking explained the problem facing the city is that by changing the ordinance, it would open the entire C-1 District to food service. The city, through its existing ordinances has tried to eliminate those uses associated with chain business from the city because they are not in the best interest of the city. He said decisions on amending the ordinance are done for the City of Greenwood and not just for specific properties or businesses. He said the city needs to think of the future.

City Attorney Kelly said an ordinance could be designed to limit the opportunities for the placement of fast food establishments.

Commissioner Palmberg sought clarification on what could be sold at the store and asked if there was a prohibition on selling hot dogs and coffee. City Attorney Kelly said the ordinance limits sales to dry goods only, but that the business has been around for years and enjoys some grandfathering in terms of coffee and the like.

Commissioner Beal said it is clear the applicant would like to sell more than dry goods. He said he does not feel good about a change in the ordinance that would apply to the whole zoning district.

Commissioner Palmberg questioned the ability of fast food restaurants challenging a limited food service ordinance. City Attorney Kelly said the properties in the district are rather small, but it would not be impossible for a chain to locate on one of the sites. He said the city would have to establish the level of food service it would be willing to accept. He explained that Hennepin County licenses food businesses on a scale and the city could structure an ordinance to follow that scale, thus limiting the type of food service permitted in the district.

Commissioner Spiers feels an ordinance could be developed that limits the scale of food service, including a limitation on hours.

GREENWOOD PLANNING COMMISSION
WEDNESDAY, JULY 15, 2009
7:00 P.M.

Commissioner Palmberg would like to see the business succeed, but is not in favor of exterior ventilation.

Chairman Lucking fears opening Pandora's Box and the potential for unintended consequences. Commissioner Spiers feels the ordinance can anticipate and limit unintended uses through a limitation of scale for food service.

Council Liaison Fletcher asked if the ordinance could be drafted to limit the duration the venting could be on. City Attorney Kelly said it could and it could have narrow constraints such as the type of filter used and a limited time for selling hot food. He said food service in the district could be defined as a use incidental to a principal use of a gas station or convenience store.

Commissioner Beal said the term incidental could be defined as ten percent or less.

Chairman Lucking asked if such a limitation could be challenged by a chain establishment. City Attorney Kelly said the city is given the broad authority to regulate uses within the city and believes such a challenge would not get far in the courts.

Commissioner Spiers commented there were neighbors in the area that were not opposed to the smell issue and felt it was fair to note that not all neighbors shared that concern.

Chairman Lucking said he doesn't want to get into a situation where the city makes a change and there are concerns raised by neighbors after the fact. He feels any change must have a rational basis.

City Attorney Kelly said any modification to the code would allow the use as a Conditional Use and within that ordinance the city could require an annual license for cooking, allowing for annual review and could limit the use in terms of scale and a requirement that it be an incidental use. He said the Planning Commission could develop an ordinance on their own initiative or ask for direction from the Council.

Commissioner Beal feels the Council needs to face the issue and provide guidance to the Planning Commission before it puts in a lot of work on the issue.

Council Liaison Fletcher noted the request has previously been brought before the Council and was denied on a 4-1 vote. He said the Council had many of the same concerns in terms of venting as the Commission does. He will bring the issue back to the Council for further discussion.

GREENWOOD PLANNING COMMISSION

WEDNESDAY, JULY 15, 2009

7:00 P.M.

The Commission discussed the concerns such as traffic and odors related to potential other uses the ordinance could invite and the concept of drafting an ordinance with a licensing requirement and language related to incidental use. The Commission felt if a change were to be made, it should be directed from the Council to do so.

ACTION: Motion by Commissioner Palmberg to recommend that the City Council deny the request from Lakeshore Market for an amendment to Section 1130 to permit the on-site preparation and sale of hot food.

The motion died for lack of a second.

Council Liaison Fletcher explained to the applicant, even if his request met with a positive response from the Council, it would take a minimum of six months before an ordinance would be in place.

OUTDOOR LIGHTING ORDINANCE – Discuss amendment of the city ordinance to create comprehensive regulations for outdoor lighting.

Chairman Lucking summarized the proposed ordinance and opened the public hearing. Hearing no public comment the hearing was closed.

Commission Spiers said he heard a concern from one of his neighbors about lighting on top of a fence and whether it would be regulated under the ordinance. Commissioner Beal asked if the neighbor spoke to their neighbor. Spiers said she had not.

After some discussion, it was determined that the provision in the ordinance would regulate such lighting through the candle foot requirement and hour limitation.

Commissioner Beal commented the proposed ordinance is better than the previous ordinance.

ACTION: Motion by Commissioner Beal to recommend that the City Council approve the proposed ordinance amendments regulating outdoor lighting. Commissioner Palmberg seconded. Motion carried 4-0.

6. OTHER BUSINESS

Commissioner Spiers introduced Brian Malo, who has submitted an application for a seat on the Commission. He explained to Mr. Malo that alternates have full engagement in the discussions of the Commission, they just don't have full voting rights until needed.

7. ADJOURN

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

MEMORANDUM

TO: Greenwood Mayor and City Council Members

FROM: Mark W. Kelly, Greenwood City Attorney *mwk*

DATE: July 17, 2009

RE: Restaurant Licensing

In considering the Lakeshore Market's request that the City amend its Zoning Code and authorize food preparation in the C-1 Zone, I made reference to Hennepin County Public Health Restaurant Licensing states as a means of setting a standard of permitted uses.

A copy of Hennepin County Plan Review Requirements for food preparation facilities is attached. A review of the Hennepin County licensing level suggests that there is no distinction by the County between a fast food restaurant or a snack stand.

"High risk food preparation" in a "small" facility with a full menu, but have less than 175 seats or less than 500 meals, encompasses complex cuisine, delis, family restaurants, fast food, and snack stands. The next level down, "medium risk food preparation small menu", is limited to bed and breakfasts, kitchens, boarding houses, catering food vehicles, and kitchens with 10 or fewer clients per meal, such as a group home. The lowest level of food licensing appears to be limited to frozen, precooked or packaged food to be reheated and open food related to bakery and coffee shops with minimal hazardous foods.

In light of these distinctions, I do not believe the City can make successful use of Hennepin County Restaurant Licensing standards to distinguish between the snack stand proposed for the Lakeshore Market and a fast food restaurant. Other means will need to be considered.



Human Services and Public Health Department

Epidemiology and Environmental Health
1011 South First Street, Suite 215
Hopkins, MN 55343-9413

Epidemiology: (612) 543-5230
Environmental Health: (612) 543-5200
Fax: (952) 351-5222

2009 Plan Review Requirements

Based on Hennepin County Ordinances No. 1, 3, 5, and 6 the following guidelines have been established for construction, remodeling, or conversion of buildings or facilities used as food establishments, retail prepackaged food, lodging establishments, or children's camps.

DOCUMENTATION REQUIRED

Submit the completed, signed plan review application with fees to Hennepin County Epidemiology and Environmental Health with **one complete set of plans** to scale and specifications for the construction, remodeling, or alteration which includes the following:

- Layout
- Plan elevations
- Finish schedule (Construction materials of work areas)
- Mechanical specifications
- Plumbing specifications
- Electrical specifications
- Equipment schedules
- Equipment specification sheets for all food service must be numbered according to plan equipment list
- The review process will not begin until all required documentation is received. Call our office or consult with our front desk staff to verify completeness of your application.

PLAN REVIEW FEES

- The plan review fees for new establishments or those remodeling more than 50% of their establishment are 1.5 times the cost of the current year's license fee.
- The plan review fees for those remodeling less than 50% of their establishment are the same as the current year's license fee.
- Plan review fees vary greatly dependent upon several variables. As a customer you may not know the exact fee required for your project. For the review process to start, a **minimum \$100.00 plan review payment** must accompany the application. The remainder of the plan fee will be invoiced (to the owner/responsible agent) upon completion of the review process. This final plan review invoice must be paid before your license will be issued.

FINAL INSPECTION REQUIRED

- The Health Authority must approve plans before a city issues a building, remodeling, or alteration permit for a food or lodging establishment.
- The establishment must be constructed and finished to conform to the approved plans. The Health Authority will inspect the establishment during construction as frequently as deemed necessary.
- The Health Authority must do a final inspection prior to the start of operations and before an approved license is issued.

Date _____	Assigned To _____
Notes: _____	

Office Use Only	

APPLICATION FOR PLAN REVIEW

Valid 01/01/09-12/31/09

Return to:

Hennepin County HSPHD
 Epidemiology and Environmental Health
 1011 First Street South, Suite 215
 Hopkins, MN 55343

TELEPHONE (612) 543-5200
 FAX (952) 351-5222

ITEMS SUBMITTED:				
<input type="checkbox"/> PLAN	<input type="checkbox"/> \$ _____ FEES	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> CUT SHEETS	<input type="checkbox"/> MENU

Name of Establishment: _____
 (Corporate and Facility Name Where Appropriate)

Address: _____

City, St Zip: _____

Telephone: _____ Fax: _____

Name of Business Owner: _____

Address: _____

City, St Zip: _____

Telephone: _____ Fax: _____

Name of Responsible Agent _____
 Operator Contractor Designer Supplier

if Other Than Owner: _____

Address: _____

City, St Zip: _____

Telephone: _____ Fax: _____

Basic Establishment Information: New Remodeled Conversion

FOODSERVICE: Number of kitchens _____ Number of bars _____

Type of Service: Provide a description of the basic type of food and beverage service and nature of operation:

Menu Information: Type of products involved, preparation methods, basic delivery information (sources) and attach a copy of menu:

Employee Involvement: Provide information on number and category of workers anticipated; total, and per shift:

Projected Service Capacity:

Seating _____ # of Meals Served Each Day _____

Other (specify) _____

LODGING: Number of Units: _____

CHILDREN'S CAMPS: Number of Units: _____

Construction: Anticipated Starting Date: _____

Completion Date: _____

Signature of Applicant: _____

Date : _____

The license categories are determined by the type of food, amount of food handling, risk level of the food, and the size of the operations. The types of facilities listed are examples. They are not all-inclusive. The specific operation of a food establishment may change the level from the one listed.

Primary - Largest or highest risk level facility at an address.

Additional - Other facility(ies) at the same address.

Special Fees

Opening without license - Opening facility without health official approval	50% of license fee
Non Professional Plans - Plans submitted by business owner and not professionally prepared	Additional 25% plan review fee
Re-submission of plans -if major changes or switch designers or architects after initial review	Additional 25% plan review fee
Late plan fee -for starting construction without approved plan	Double plan review fee
On-site consultation fee	\$130
In-office consultation fee	\$52

General Fees

Description		Type	New or over 50% remodel	Less than 50% remodel
LODGING	Large (more than 10 rooms)	Base Fee	\$323	\$215
		Per Room	\$5	\$3
	Small(10 or fewer rooms)	Base Fee	\$210	\$140
		Per Room	\$12	\$8
CHILDREN'S CAMP		Base Fee	\$209	\$139
		Per Double Bunk	\$6	\$4
HACCP FEES		Initial HACCP Plan Review		\$291
		Annual HACCP Review		\$146

2009 Plan Review Fees

Hennepin County Environmental Health

Description	Type	New or over 50% remodel	Less than 50% remodel
<p>High Food - Large Facility with full menu (having >175 seats and/or >500 meals or equivalent portions combined (salad, entrée, and dessert)</p> <p>Open food</p> <ul style="list-style-type: none"> • Banquet kitchen • Cafeteria • Caterer • Combo deli/meat market • Commissary kitchen • Complex cuisine • Deli • Family restaurant • Fast food • Flight kitchen • Large institution • Meat market (if cured meat/smoked meat, ROP: a HACCP plan is required) • School w/food made on-site, or caters to other schools 	<p>Primary</p> <p>Additional</p>	<p>\$1086</p> <p>\$542</p>	<p>\$724</p> <p>\$361</p>
<p>High Food - Small Facility with full menu (having <175 seats and/or <500 meals or equivalent portions combined (salad, entrée, and dessert)</p> <p>Open food</p> <ul style="list-style-type: none"> • Bakery - extensive decorating or potentially hazardous fillings or decorations • Banquet kitchen • Cafeteria • Caterer • Combo deli/meat market • Commissary kitchen • Complex cuisine • Deli • Family restaurant • Fast food/snack stand • Meat market with prep and handling (if cured/smoked meat, ROP: a HACCP plan required) • Small institution • School/food made on-site, for only one school 	<p>Primary</p> <p>Additional</p>	<p>\$869</p> <p>\$437</p>	<p>\$579</p> <p>\$291</p>

2009 Plan Review Fees

Hennepin County Environmental Health

Description	Type	New or over 50% remodel	Less than 50% remodel
<p>Medium Food - Small Menu</p> <p>Packaged</p> <ul style="list-style-type: none"> • Large grocery store <p>Open food</p> <ul style="list-style-type: none"> • Bakery/bake off or full, limited decorating, all non-potentially hazardous • Bar, on-sale • Bed and breakfast kitchen • Boarding house • Catering food vehicle • Kitchen/ten or fewer clients/meal period (group home, Bed & Breakfast) • Meat market (final cutting and packaging, cold holding) • Pizza order-out/carry-out • Produce dept/cut fruit & veggies • School w/catered food, minimal prep on-site 	<p>Primary</p> <p>Additional</p>	<p>\$659</p> <p>\$330</p>	<p>\$439</p> <p>\$220</p>
<p>Medium Food - Limited Facilities</p> <p>Packaged</p> <ul style="list-style-type: none"> • Small grocery store <p>Open food</p> <ul style="list-style-type: none"> • Bakery/bake-off only, no prep, no decorating, all non-potentially hazardous • Cafeteria, no prep • Catered food, no prep, includes boats • Childcare with catered food • Continental breakfast with waffle batter • Farmer's market stand - preparation, sampling of potentially-hazardous food • Other less than complete commercial kitchen • Re-heating packaged food for hot holding • Rental kitchen • Test kitchen 	<p>Primary</p> <p>Additional</p>	<p>\$437</p> <p>\$219</p>	<p>\$291</p> <p>\$146</p>

Lakeshore Market Zoning Request

The Lakeshore Market has asked for a Zoning Ordinance change to allow it to prepare food with venting options. The Planning Commission held a public hearing and discussed this matter at its July 15 meeting.

The Lakeshore Market's owner Mohamed Kwara wants to be able to prepare ethnic hot sandwich's, which would require some cooking of meat and venting. He expressed the feeling that this is necessary to be successful and differentiate his small business from the products offered at Target, Holiday, Super America, etc. He does not feel that he can be successful selling the same food offerings as these larger competitors already provide. He stated that business has been slow with the economy and lower traffic counts on Highway 7 and he needs this food service option to maintain a viable business.

Excelsior Boulevard could have almost held a block party based on the neighborhood attendance at the public hearing, which was probably also the result of the Brands' variance request. All of the neighbors spoke in favor of allowing limited food service at the Lakeshore Market. There appeared to be a consensus that the neighborhood wanted to help the market to be successful. However, there was a split in that the neighbors closest to the property opposed allowing the preparation of food, which requires venting, whereas neighbors who were a bit further from the market were fine with it being permitted to have venting. The venting concerns centered on potential odors and noise. The best example is Jeff Sagal's comments in which he used Adelle's as an example of a restaurant without venting and indicated that he could support limited food service such as was provided by Adelle's.

The Planning Commission has asked the Council for some direction on how to proceed with this issue. Essentially there is a fundamental decision to be made as to what options the City wants to allow in this commercial area. The Planning Commission is glad to delve into the details, but feels that it does not want to spend the time coming up with a detailed plan only to find that it has headed off on a totally incorrect tangent.

The Planning Commission briefly discussed whether venting could be allowed with limits on its hours of operation, size, or possibly only allowing it as an incidental use. So doing might accommodate the Lakeshore Market's request while limiting the potential for a fast food restaurant to locate in the area.

Some possible options for consideration are listed below:

-Make no change to the current zoning code, which does not provide for food service in this Commercial District. There is a general feeling that the Lakeshore Market might still be able to provide limited food service because of grandfather

rights, since it has provided this type of service in the past. Mark Kelly can always comment on this option.

-Change the zoning code to allow very limited food service in the entire commercial district, such as is typically provided by a convenience store.

-Change the zoning code to allow food service in the district, which does not require venting (e.g. an Adelle's type of operation).

-Change the zoning code to allow food service including limited venting in the district.

-Change the zoning code to allow food service with no venting limits in the district.

I have had subsequent discussions with the Mohamed Kwara of the Lakeshore Market and indicated to him that it would be helpful if he could explore whether it would be possible to successfully prepare and sell ethnic food that does not require venting. I told him that my sense was that he would have a much easier time gaining support for this type of option from the neighborhood, on the Planning Commission, and based on a prior discussion at the City Council level.

Submitted as information by Tom Fletcher

**Greenwood City Council Agenda Item
August 6, 2009**

Agenda Item: Regulation of Outdoor Lighting

Summary:

Attached is a draft of proposed amendments to the City Ordinances as they pertain to outdoor lighting. The proposed ordinance expands and clarifies the current regulation contained in Section 1140:60 of the ordinances.

I have attached a copy of the current language for your review.

Changes from the current ordinance includes a reduction in the permitted foot candle measurement, the specific regulation of decorative lighting, including a time limitation for their illumination and a requirement that all fixtures be downcast.

Planning Commission Action:

Motion by Commissioner Beal to recommend that the City Council approve the proposed ordinance amendments regulating outdoor lighting. Commissioner Palmberg seconded. Motion carried 4-0.

Action Required:

The Council can; a) accept the recommendation of the Planning Commission on the adoption of the proposed ordinance amendment, b) direct Staff to amend the proposed ordinance for further Council review or c) reject the proposed ordinance amendment reverting to the enforcing of the existing ordinance.

Gus Karpas
Zoning Coordinator

ORDINANCE NO. _____**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ZONING CODES LIGHTING REGULATIONS
SECTION 1140:60, SUBDDIVISION 3**

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

SECTION 1.

Greenwood Ordinance Code Section 1140:60, Subd. 3 is hereby amended to read as follows:

"Section 1140:60,

Subdivision 3. Lighting.

(1) Limitations on Illumination.

Within all Zoning Districts, sources of artificial light shall be so fixed, directed, designed, or sized that the sum total of their illumination will not increase the level of illumination on neighboring property by more than 0.1 foot candle in or within twenty-five (25) feet of a dwelling or adjacent commercial structure, nor more than 0.4 foot candles on any other portion of an adjacent property as measured as provided hereunder.

(2) Method of Measuring Light Intensity.

The foot candle level of a light source shall be taken not earlier than one hour after sunset employing a light meter held 6" above the ground facing the light source.

(3) Restrictions on Lighting Use and Decorative Lighting.

With the exception of a) landscape lighting employed for pedestrian safety, or b) spot or flood lighting, regulated by five-minute motion or heat activated sensors, all lighting including decorative lighting, shall not be employed or lit between the hours of 11 PM and 6 AM daily. In no event shall decorative lighting employ bulbs greater than a brightness equivalent of 7 watts incandescent each.

(4) Shielded Lighting Required.

With the exception of decorative lighting as defined below, all light

sources shall employ hooded fixtures or be controlled in a manner so that the incandescent or fluorescent light bulb cannot be viewed at eye level from adjacent property or public right-of-way. Spot or flood lights shall not be directed at neighboring properties or public right-of-way, nor shall they be permitted to cause direct or sky reflected glare.

(5) Definition.

Decorative Lighting. For the purpose of this ordinance, “decorative lighting” means string lights, icicle lights, rope lighting, or other lighting commonly used for holiday or seasonal decoration or celebration also commonly known as “Christmas or holiday tree lights”.

SECTION 2.

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 _____, 2009.

Ayes____, Nays_____.

CITY OF GREENWOOD

Attest:

By: _____
Debra J. Kind, Mayor

Roberta L. Whipple, City Administrator

D) Security Deposit Forfeitures.

In the event an owner/applicant fails to timely complete the required landscaping within twelve (12) months of the date of the security deposit, such security deposit shall become forfeit to the City of Greenwood and the City may take such other enforcement action as it deems appropriate."

* (

Subd. 3. Lighting. Within all zoning districts, sources of artificial light shall be so fixed, directed, designed or sized that the sum total of their illumination will not increase the level of illumination on any nearby residential property by more than 0.1 foot candle in or within twenty-five (25) feet of a dwelling nor more than 0.5 foot candle on any other part of the property. The source of light shall not be visible beyond the property from which it originates.

Subd. 4. Storage -- Displays. All materials, supplies, merchandise or other similar matter not on display for a direct sale, rental or lease to the ultimate consumer or user shall be stores within a completely enclosed building within the C-1 and C-2 Districts, or within the confines of a one hundred (100) percent opaque wall or fence nor less than five (5) feet high. Merchandise which is offered for sale as described above may be displayed beyond the confines of a building in the C-1 and C-2 Districts, but the area occupied by such outdoor display shall not constitute a greater number of square feet than ten (10) percent of the ground floor area of the building housing the principle use, unless such merchandise is of a type customarily displayed outdoors such as garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street. Merchandise shall not be displayed for sale in the rear yard.

Section 1140:70. Requirements for Vehicular and Pedestrian Circulation.

Subd. 1. Traffic and Circulation. All commercial buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks by driveways and walkways surfaces with a hard, all-weather, durable, dust-free material which is properly drained. Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public street, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the City engineer who may require such additional measures for traffic control as he may deem necessary, including but not limited to the following: directional signalization, channelization, stand-by turn lanes, illumination, and storage area and distribution facilities within the commercial site to prevent back-up of vehicles on public streets.

Subd. 2. No area used by motor vehicles other than driveways serving as ingress and egress to the commercial site shall be located within the public street right-of-way. The following design standards shall apply:

Commercial Property Planning Commission Requests

1. Review parking requirements for commercial office buildings.

REPORT: Greenwood's requirement of one space of parking for every 500 square feet of office space is much lower than every other city that I have looked at (typically 1 space for every 300 to 330 feet for neighboring cities). In addition based on my experience as an office building manager, this requirement is far too low from a practical standpoint.

RECOMMENDED MOTION: I move that the Greenwood City Council ask the Planning Commission review parking requirements for commercial office buildings and report back to the City Council with any recommended zoning code changes.

2. Review hardcover limits for commercial property.

REPORT: The current hardcover limit of 30% is unrealistically low for commercial property. It would be better to have a realistic number in the zoning code, which would provide reasonable guidance for commercial property owners and hopefully reduce the need for variance requests.

RECOMMENDED MOTION: I move that the Greenwood City Council ask the Planning Commission hardcover limits for commercial property and report back to the City Council with any recommended zoning code changes.

Respectfully submitted,

Tom Fletcher



20225 Cottagewood Road Deephaven, MN 55331

952-474-6633

www.greenwoodmn.com

administrator@greenwoodmn.com

City of Greenwood
Request for Proposals for City-wide Recycling Services
August 2009

The City of Greenwood, Minnesota, population 800, is seeking proposals for its residential recycling program.

Collection operations shall begin no earlier than 7:00 AM and end by 6:00 PM on Thursdays (the designated recycle day).

Currently, the City of Greenwood provides weekly, single sort recycling pick up for approximately 274 single family homes and one 17-unit apartment complex. Commercial properties arrange for private recycling. Proposal shall show a breakdown of cost per unit. The proposal also shall show the cost with and without door-side residential recycling service for approximately 10 homes.

Early in 2009, the Greenwood City Council, along with all City-licensed trash haulers, agreed to adopt the following business practices:

1. Thursday will be trash and recycling pick-up day except for normal holiday adjustments.
2. The maximum total load weight of trucks will be 11 gross tons. Trucks with one wheel per side of the rear axle can weight up to 5 tons per axle. Trucks with two wheels per side of the rear axle can weigh up to 7 tons per axle.

Materials eligible for recycling must include: aluminum cans, steel cans, glass jars and bottles, plastic bottles, newspapers, magazines, boxboard, phone books, paperback books, notebooks, household office paper and mail, and corrugated cardboard. The City will accept recommendations for additional recycling materials from Proposers.

As per City Code, all trash and recycling vendors must meet the application requirements for the annual trash haulers license.

At the end of each year, the vendor shall provide the City with a written report detailing types of recycling and tonnage as required by the Hennepin County Residential Recycling Program.

The term of the contract will be for two one-year renewals if agreed to by both the City and the Proposer.

There will be no obligation for the City of Greenwood to reimburse the responding firms for any expenses incurred in preparing proposals in response to this request.

Final selection of the vendor may take place September - November, 2009. Please submit an original and SIX copies of the proposal by 3:00 PM August 18, 2009 to:

City of Greenwood
Roberta Whipple, City Administrator
20225 Cottagewood Road
Deephaven, MN 55331
952-474-6633
administrator@greenwoodmn.com

Greenwood City Council comments related to Tree Preservation Ordinance 170 as proposed by the Planning Commission

As written the proposed updated Tree Ordinance would not have sufficient votes to pass the Greenwood City Council. Thus, the Council has tabled it. The Council's concerns are listed below:

-There was a concern that the proposed heritage tree protection is a solution looking for a problem. If the Planning Commission feels that this is an important part of the ordinance, it would help to have examples of trees that would be protected by this designation and a rough estimate of how many there are in Greenwood. It would also help to have a table or similar document comparing the tree preservation requirements in the proposed ordinance with those in the existing ordinance. There are council members that will probably not support the heritage tree designation in any case.

-There was strong concern for the requirement for any licensed tree trimmer to have an arborist on it's staff would overly limit residents' options for tree trimming and care and squeeze independent contractors out of the Greenwood market. It would be helpful if the Planning Commission could either provide the justification for this across the board requirement or refine them in the proposed ordinance.

-The council does favor the option of using the stump circumference to determine the tree size after trees have been cut in the proposed ordinance.

-A recommended fee for variance / conditional use requests under the proposed ordinance would be helpful.

OLD LOG THEATER

FYI

Box 250, Excelsior, Minnesota 55331-0250

Telephone: 952-474-5951

Fax: 952-474-1290

<http://www.oldlog.com>



16 July 2009

The Honorable Deborah Kind
Mayor of Greenwood
Greenwood City Hall
20225 Cottagewood Rd.
Deephaven, MN 55331

Dear Mayor Kind and the Greenwood City Council:

You know, I'm sure, how truly honored I was and were the Stolz family and the Old Log family to receive the Resolution of Recognition from the City of Greenwood. Most of the hours of our lives have been spent in this place we hold dear and close to our hearts.

As I said on July 7, nothing is as warming, pleasing and satisfying as being beautifully acknowledged by your neighbors and fellow citizens.

Thank you.

Most sincerely,

Don Stolz



FYI

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

July 20, 2009

Burt McGlynn
21650 Fairview Street
Greenwood, MN 55331

Dear Mr. McGlynn,

I recently measured the fence place along your west property line and found that it is out of compliance with the city's requirements.

Section 1140:25(2) permits a maximum height of six feet for fences located in a side yard. The fence erected on your property has a panel height of six feet, three inches, with posts approximately six feet, eight inches high.

This letter is to inform you that the fence must be brought into compliance no later than August 3, 2009.

Please contact me if you have any questions or once the fence has been brought into compliance.

Sincerely,

A handwritten signature in black ink, appearing to read "Gus Karpas". The signature is stylized and includes a small mark that looks like a checkmark or a flourish.

Gus Karpas
Zoning Coordinator

Cc: Mayor Kind and City Councilmembers
Mark Kelly, City Attorney
Tom and Joan Moser
File



FYI

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

July 10, 2009

Lake Minnetonka VFW Post #5919
Attn: Post Commander Mark Adamski
PO Box 513
Excelsior, MN 55331

Dear Commander Adamski,

This is to follow up the phone message and subsequent phone conversation I had with a member of your Post regarding the placement of the can collection trailer at the northeast corner of the Christmas Lake Road and Excelsior Boulevard intersection, errantly believed to be the property of the Lakeshore Market.

The City Council has once again directed me to contact you regarding the removal of the trailer. Though it has been in place for a number of years, it was placed in violation of Section 630 of the City Code regulating public right of way. I have attached a copy of the code for your review.

It has been requested by the City Council that the trailer be removed from the city right of way no later than Monday, July 27th. If it is not removed, it will be impounded and stored at your expense.

Due to the restrictions within the Zoning Code, the trailer cannot be placed on any of the adjacent commercial properties within the city without Council approval.

If you have any questions regarding this issue, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Gus Karpas". The signature is stylized with a large initial "G" and a long, sweeping underline.

Gus Karpas
Zoning Coordinator

Cc: Mayor Kind and City Councilmembers
Mark Kelly, City Attorney
File

Section 630:00 - Public Right of Way Regulation

Section 630:00. Purpose. The public welfare requires that the public right-of-ways within the City of Greenwood, including highways, roads, streets and alleys, be reserved for public purposes. Public use of the full width of the right-of-ways is necessary to public safety and the proper and efficient maintenance of the right-of-ways. However, it is recognized that limited private use or encroachment onto the right-of-ways is not necessarily inconsistent with public use. It is the purpose of this ordinance to provide for lawful incidental private use of publicly owned right-of-ways not inconsistent with public use.

Section 630:05. Permit. The right to use publicly owned right-of-ways within the City of Greenwood for any private use or purpose other than the primary purpose of public travel, whether such use constitutes substantial or incidental use, may be acquired only through permit granted pursuant to this ordinance. Any private proper located within or encroaching upon publicly owned right-of-ways, which has not been authorized in accordance with this ordinance, shall be unlawful and subject to removal.

Section 630:10. Application. Any person may apply to the City Council of the City of Greenwood for a permit to keep or maintain private property within a publicly owned right-of-way. The application shall be in writing and must describe with specificity the private property and right-of-way involved, and the nature and extent of the requested encroachment. The City Council may grant the permit if it is determined that the use applied for is incidental and not inconsistent with safe and efficient public use. However, no permit will be issued until the applicant has agreed in writing to waive any right to recover from the City of Greenwood for damage occurring to the property located within the right-of-way which may result from the performance of the City of Greenwood or its agents of its public duties required by law.

Section 630:15. Revocation. The City of Greenwood reserves the right to revoke any permit granted under this ordinance as may be required by the public interest.