

**GREENWOOD CITY COUNCIL MEETING**  
**Tuesday, October 4, 2011, 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 7:01 P.M.

Members Present: Mayor Kind; Councilmembers Fletcher, Page and Rose

Others Present: City Zoning Administrator/City Clerk Karpas; and,  
City Engineer Martini (departed the meeting at 8:20 P.M.)

Members Absent: Councilmember Quam

Councilmember Fletcher asked that Item 7.D and Item 7.E be moved to Item 4.D and Item 4.E on the agenda so Engineer Martini could be present for the discussions.

Councilmember Page asked that Item 7.G Tree Trimming be added to the agenda under new business.

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

**2. CONSENT AGENDA**

**Rose moved, Fletcher seconded, approving the items contained on the Consent Agenda.**

- A. September 6, 2011, City Council Work Session Minutes**
- B. September 6, 2011, City Council Meeting Minutes**
- C. August 2011 Cash Summary Report**
- D. September 2011 Verifieds and Check Register**
- E. October 2011 Payroll Register**

**Motion passed 4/0.**

**3. MATTERS FROM THE FLOOR**

There were no matters from the floor presented this evening.

**4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS**

- A. City Prosecutor Greg Keller: Annual Prosecution Service Update**

Mayor Kind stated City Prosecutor Greg Keller is present to give his annual update on prosecution services he provides to the City.

Prosecutor Keller noted he is operating well within budget. He stated it appears to him that there are more public defender cases at the courthouse than there had been in the past. Therefore, the City is likely seeing less revenue from mandatory minimum fines. There also is a tendency toward judges issuing lower fines as other costs to the defendants increase. Fines in Hennepin County tend to be lower than in some of the outlying counties. He explained there used to be a time when a defendant paid a certain amount to the prosecuting attorney and a city would get the entire amount. The County now takes a portion of the prosecution costs.

Prosecutor Keller explained when someone is fined there is a surcharge added on to the fine amount. He stated from his vantage point he believes judges lower the amount of a fine because the defendant has to also pay that surcharge. He explained that the surcharge is now added on to the prosecution costs and he believes that will have an impact on the amount of prosecution costs the judges will be willing to impose. If someone is sentenced about a city-related misdemeanor or gross misdemeanor jail costs of \$90 per day are billed to the city.

Prosecutor Keller then explained Hennepin County has moved to a block system. Cases are assigned to a particular judge and that judge hears a case from its beginning to end. Fewer cases are sent to the courthouse located in downtown Minneapolis for prosecution so there is less time spent commuting to that courthouse. All in all the block system is more efficient. Unfortunately, particular types of cases are heard at certain times of the day so a prosecutor may have to wait around before another type of case is heard.

Prosecutor Keller noted that he does not charge for all of his phone time relating to cases he handles for the City. He also tries to minimize billing for time spent waiting between cases. He stated he attempts to identify solutions that are cost effective for the City.

Councilmember Fletcher asked Prosecutor Keller what the top three types of cases prosecuted for the City are. Keller responded there are fewer domestic assault cases for the City than there are for other cities. Approximately 50 percent of the City's cases are driving while intoxicated (DWI) offenses. The next type is driving without a valid driver's license or without insurance.

Prosecutor Keller explained that from 2008 to 2009 and from 2009 to 2010 there had been less than a 10 percent increase year over year in the number of cases he handled for the City at the courthouse near Ridgedale Mall. For 2011 year-to-date there has been a 67 percent increase when compared to the same period in 2010, with most of the increase being DWI offenses.

Councilmember Fletcher asked the other Councilmembers if they would prefer to have a shorter jail sentence imposed because of the \$90 per day fee. Mayor Kind responded she would like to avoid long jail sentences imposed because of the cost. Fletcher noted there sometimes is a benefit to keep someone in jail to prohibit them from committing another crime in order to pay their fine.

Prosecutor Keller noted the trend is for cities to use the sentence-to-serve program.

Councilmember Page stated he doesn't want the City to tie Prosecutor Keller's hands when it comes to jail sentences. That discretion should be left to Keller and the judge hearing the case.

Prosecutor Keller clarified that he does not let the \$90 per day charge dictate how he views things. He explained when he makes charging decisions if he can charge someone with a gross misdemeanor rather than a misdemeanor he will because if the defendant is sentenced to jail Hennepin County pays the \$90-per-day charge. He asked the City to talk to him before paying any large bills from the County.

Mayor Kind thanked Prosecutor Keller for his good service on behalf of the City.

**B. Update Regarding Meadville Street Drainage Issue**

Mayor Kind stated Engineer Martini and Councilmember Quam met at the site to discuss options for addressing the drainage issue on Meadville Street between Jim Hurd's property (5220 Meadville Street) and Bob Newman's property (5230 Meadville Street). She noted that prior to the meeting the Council was provided with a copy of a document describing the improvements he proposed.

Engineer Martini noted that Mr. Newman also met with Councilmember Quam and him at the site. He also noted that during its September 6, 2011, meeting the Council directed him to look at options that cost less and were not as significant as the one presented during that meeting.

Martini explained what's being proposed now is somewhat of a piece-meal approach. The revised scope of work proposed would improve the drainage along the west edge of the roadway. It also includes improvements to the drainage swale that runs from the roadway to Lake Minnetonka. The swale would be excavated and replaced with a concrete-lined, four-foot-wide swale. The block retaining wall on the north side of the swale would be removed and replaced, and some of the stone retaining wall on the south side of the swale would be removed and replaced. Curb and gutter would be installed along a portion of the west side of the roadway. There would be some roadway restoration in that same area out to the middle of the roadway.

Martini then explained the estimated construction cost is approximately \$36,000. In addition to that there are the soft costs plus 30 a percent contingency added to the project cost for an amount of approximately \$10,800, making the total project cost approximately \$48,800. Approximately \$27,000 of the project cost is associated with the concrete swale between the roadway and Lake Minnetonka and the rest is for the improvements near or on the roadway. He expressed concern about the durability of the roadway. The proposed improvements will hopefully improve the surface of the roadway but they will not address the structural issues. The improvements will address some of the surface drainage issues.

Councilmember Page asked what it will cost to resurface the east side of the roadway. Engineer Martini responded \$6,000 – \$8,000.

Councilmember Fletcher asked if a concrete roadway surface would cost substantially more than a bituminous surface. Engineer Martini explained a concrete surface is not as flexible and therefore he does not think the bituminous surface should be replaced with concrete unless the structural issues are resolved. The swale improvements include installing some aggregate under the proposed concrete-lined swale and there also will be some steel reinforcement.

Engineer Martini noted the proposed improvements to the roadway can be built upon in future years.

Mr. Newman asked if the width of the concrete-wide swale could be reduced to two feet, at least for some portion of it. Engineer Martini explained that doing that would make it even more difficult for a backhoe or small bobcat to get into the area to do the excavation. Martini noted he consulted with a contractor about what it would take to construct the swale.

Councilmember Rose asked if the property owners are interested in the concrete-lined swale. Mr. Newman stated during Council's September 6, 2011, meeting Mr. Hurd proposed a concrete-lined swale, but he is not sure Mr. Hurd envisioned it being four feet wide.

Mayor Kind asked how wide the current swale is. Mr. Newman responded about four feet.

Councilmember Page asked if Mr. Hurd has been given a copy of the proposed improvements. Mr. Newman noted Mr. Hurd did not want to attend the meeting at the site to discuss options; he was invited but did not think he needed to be there.

Mr. Newman stated it's his understanding that working with gravel can be difficult. He asked if doing that work manually rather than with a backhoe would be easier. He explained that during Council's last meeting he proposed installing a straight line of PVC pipe in the existing ditch to cleanly carry water down to the Lake, noting it's the first 40 plus feet of the 190 feet that is the problem area in the ditch. There is no slope in the first 40 feet of the ditch.

Mayor Kind expressed concern about the approximate \$48,800 price tag and the scope. She stated she could justify doing the curb and spillway for about \$19,000 and funding the project out of the Stormwater Fund. She noted it's projected there will be about \$17,000 in that Fund at the end of 2011.

Councilmember Fletcher expressed concern that there is no guarantee that this will solve the problem. He suggested prioritizing this project along with other roadway improvement projects next spring. He also suggested approaching the property owners about funding the swale improvement portion of the project or having the property owners hire a contractor themselves to do that work.

Engineer Martini stated the property owners are free to approach a contractor about these options and other options.

Councilmember Page suggested Mr. Hurd be given the opportunity to review the plan. Page suggested the City get an easement before it performs any work on the Hurd property where the swale is located. He stated he agrees that the approximate \$46,800 project cost is high but it is in the realm of doability.

Jan Gray, 5170 Meadville Street, expressed her appreciation for Council and Staff having considered multiple options for resolving the drainage issue. She commented she has lived along Meadville Street for over 25 years. She explained a previous owner of the property located at 5220 Meadville Street created the little spillway to Lake Minnetonka. Prior to that there was just a small trickle starting at the roadway. For many years the spillway worked quite well. Something has changed in recent years that causes more pooling of water on the street and she doesn't know what that is. She commented that the approximate \$46,800 price tag is substantial. She stated that because of the hazard that can be created during the winter months she asked that the Public Works Department be contacted and asked to sand that area the same way it does the corner near her property.

Mayor Kind explained that Mr. Hurd told the Council that he had plastic and rock installed in the ditch couple years ago. Mr. Newman confirmed that the Hurds did have gravel put in that spillway and the drainage has gotten worse. Kind stated she was confident that the Hurds had good intentions, but they may have ended up making the problem worse. She asked what remedy options the City has. Councilmember Page stated the City can ask them to remove the gravel, but he is not convinced that is the problem. Page noted there was about three times as much snow and rain this past year.

Council directed Zoning Administrator/Clerk Karpas to speak with the Public Works Department about sanding and to send Mr. Hurd a copy of the plan and ask for a response.

**C. Terence Haines, Eagle Scout Project at the Southshore Community Center Update**

Mayor Kind noted that Terrence Haines, an Eagle Scout candidate, completed his improvements to the property near the Southshore Community Center last month. She stated that Mr. Haines has invited the Council to go and take a look at the improvements and noted that Terrance will drop off a DVD of the project for people to view at City Hall.

**D. Resolution 19-11, Policy for “Slow, Children at Play” and Similar Signs**

This was moved up from Item 7.D on the agenda.

Mayor Kind explained that she and Councilmember Quam completed their review and marking of obsolete signs for removal in the City. Fifteen old weight limit signs have been removed. Sixteen other miscellaneous signs and posts also were removed. She stated that during the review it became apparent that there seemed to be no rhyme or reason regarding the locations for “Children at Play” and “No Parking” signs in the City. It appeared that most of them could be removed. Council is being asked to provide direction regarding a policy for these types of signs. The meeting packet contains a copy of two resolutions based on model language found in the Minnesota Best Practices for Traffic Sign Maintenance / Management Handbook. Excerpts from the handbook also are included in the packet.

Councilmember Fletcher asked Engineer Martini if there is any reason not to adopt the resolutions. Martini stated he agrees with what’s laid out in the Handbook excerpts about the effectiveness of children at play warning signs.

**Fletcher moved, Rose seconded, Adopting RESOLUTION NO. 19-11, “A Resolution Establishing a Policy for ‘Slow, Children at Play’, ‘Watch for Children’ and Similar Signs, and Directing the City Clerk to Arrange For the Removal of All Such Signs.”**

Councilmember Page asked why the City shouldn’t leave those types of signs where they are. Mayor Kind stated the create clutter and they imply that there aren’t children in other areas in the City. Page disagreed with Kind and he stated they are not harming anything. Page asked if the signs will have to be replaced to comply with the new retroreflectivity standards. Engineer Martini stated if the signs are faded and worn they may not be conveying the message the City wants them to convey. Kind stated they are all faded. Page then asked if there are any such signs down by the City-owned park to which Kind responded there are not.

Mayor Kind recommended taking down the signs because they are in a state of disrepair, they are clutter, and they are not effective.

**Motion failed 2/2 with Page and Rose dissenting.**

Councilmember Rose stated he wanted to discuss this further. He suggested putting up a “Children at Play” sign near the park.

Mayor Kind asked if Councilmember Rose could support the resolution if it was amended to include putting a “Children at Play” sign near the City park. Councilmember Fletcher recommended saying “appropriate signs” at the City park.

Councilmember Page stated signs such as “Children at Play” were probably put up when there were children in a neighborhood. He suggested leaving some children related signage up and putting up new signage in areas where children live.

Mayor Kind stated signs are not a proven way of changing driving behavior. Councilmember Page responded just because the Handbook states that it doesn’t mean it is so. Kind stated she trusts a traffic engineer.

Mayor Kind then stated she would entertain a motion to adopt an amended resolution.

**Fletcher moved, Rose seconded, Adopting RESOLUTION NO. 19-11, “A Resolution Establishing a Policy for ‘Slow, Children at Play,’ ‘Watch for Children’ and Similar Signs, and directing the city clerk to arrange for the removal of all such signs in the city except for where appropriate by the city park.”**

Councilmember Page stated there are other locations beside by the City-owned park were it is appropriate to place children related signs. He noted he does not want to foreclose utilizing those types of signs.

Mayor Kind suggested amending the motion to include “and as deemed appropriate by the City Council”.

**Without objection from the maker or seconded, the motion was amended to include “and as deemed appropriate by the City Council” after by the city park.**

Councilmember Fletcher stated if Council determines it wants to put up children related signs in another location it just has to pass a resolution authorizing that.

Councilmember Page commented that some residents are putting out their own temporary children related signs. Mayor Kind stated those appear to be more effective because they come and go.

Councilmember Fletcher stated from his perspective the signs such as “Children at Play” are old and they are probably located in areas where children don’t live. The resolution on the table gets rid of the old signs but it doesn’t prohibit new signs being put up in new locations.

Engineer Martini stated it’s generally residents who are driving faster than the speed limit on City roadways. He suggested publishing something in the City newsletter reminding residents to slow their speed down and to pay attention to people walking on the roadways.

Councilmember Page stated he drives to Welch Village frequently in the winter and there is a sign relating to children there. Although he may not slow down, the sign does get his attention.

**Motion passed 3/1 with Page dissenting.**

**E. Resolution 20-11, Policy for “No Parking” Signs**

Mayor Kind explained this is similar to Item 4.D above. When she and Councilman Quam reviewed the signs in the city they observed there is no rhyme or reason regarding the locations for “No Parking” signs. It appeared that most of them could be removed. The meeting packet contains a copy of a draft resolution establishing a policy that removes most of the “No Parking” signs in the City. She explained most roadways in the City are narrow so if one is posted as “No Parking” they all should be, but that would be impractical. The City has an ordinance that addresses long-term parking. She stated that short-term

parking should be allowed because they are public roadways. She explained fire trucks need a minimum clearance of 10.5 feet so they could get through on most roadways within the City. She stated the council could review situations of chronic intermittent parking because these type of situations can affect the general aesthetics and welfare of the City. She also noted that signs are expensive to install and maintain.

Councilmember Page asked if the resolution included removing the “No Parking” sign on Meadville Street located near the public boat launch. Mayor Kind clarified that “No Trailer Parking” signs are not addressed by the proposed resolution and that those signs would be left up. Page stated he thought the reason some of the “No Parking” signs were put up was because of chronic problems in the past. That’s why the “No Trailer Parking” sign on Meadville Street was put up. Kind stated she does not assume there were chronic problems in all of the locations where there are “No Parking” signs. Kind then stated she would like to be provided with data to support the posting of “No Parking” signs. Councilmember Rose commented he thought the signs were put up for some reason. Page commented that if the resolution is approved, the Council is in essence waiting for residents to complain about signs being taken down.

Page stated he doesn’t think there are too many signs up or that they create too much clutter. If the reason for taking them down is because of the cost to maintain and replace them that is something different. Mayor Kind stated from her vantage point it’s primarily about the replacement cost.

Councilmember Fletcher asked Engineer Martini to comment on this. Martini listed three reasons where the City would like no parking signs. To keep sightlines open for safety reasons, to make sure there is adequate room for emergency vehicles to navigate roadways, and to limit trailer parking on roadways. Martini stated signs should be easily visible and maintained. The City may find out it has an issue after taking down some signs and it could address those as they come up.

Mayor Kind noted that eventually the “No Parking” signs will have to be replaced to comply with the retroreflectivity requirements. From her vantage point it doesn’t hurt to take the signs down and then replace them as needed.

Councilmember Fletcher asked if there are any guidelines for how wide a roadway surface should be before parking is allowed on both sides of the roadway. Engineer Martini stated that almost all of the City’s roadways are narrow; therefore, he doesn’t recommend allowing parking on both sides. Mayor Kind stated that would mean all roadways in the City would have to be posted for parking on one side only.

Engineer Martini stated the Council can chose one of two options for replacing all “No Parking” signs that are in disrepair. One is to replace them all at the same time. The other is to take them all down and replace only those where issues arise. Martini noted that “No Parking” signs are enforceable.

Engineer Martini stated it may be helpful for Council to be provided with a map showing where all the “No Parking” signs are located.

There was Council consensus that having such a map would be very helpful.

Mike Farraher, 21230 Excelsior Boulevard, stated that as a resident living along side of Excelsior Boulevard taking down the “No Parking” signs next to the sidewalk would be a bad idea, in particular on the Fourth of July. If people are allowed to park on both sides of the roadway that day there will be no place for all of the pedestrians to walk while hundreds of cars are trying to leave the area. He then stated the other 364 days of the year 50 to 100 people use that sidewalk daily. He asked what the cost is to replace a sign. Mayor Kind responded that signs cost more than \$150. Engineer Martini noted a sign

typically needs to be replaced every 15 to 20 years. Mr. Farraher noted that if a sign costs \$150 and it has to be replaced every 20 years that amounts to about \$7 per year.

**Page moved, Fletcher seconded, continuing the discussion about the policy for “No Parking” signs to the November 1, 2011, Council meeting. Motion passed 4/0.**

Engineer Martini departed the meeting at 8:20 P.M.

## **5. PUBLIC HEARING**

### **A. Delinquent Sewer, Stormwater and Recycling Charges**

Mayor Kind stated the notice for this public hearing on delinquent sewer, stormwater and recycling charges was published in the Sun-Sailor Newspaper on September 15, 2011, and September 22, 2011. A list of the delinquent accounts is included in the meeting packet. She noted Council will take action on the resolution for the assessment under Item 7.A on the agenda.

**Page moved, Fletcher seconded, opening the Public Hearing at 8:21 P.M. Motion passed 4/0.**

**Page moved, Rose seconded, closing the Public Hearing at 8:21 P.M. Motion passed 4/0.**

## **6. UNFINISHED BUSINESS**

### **A. Second Reading: Ordinance 196 an Ordinance Amending Code Section 1155, Regarding Variances**

Mayor Kind explained this is the second reading of ordinance 196 amending the ordinance code section 1155 regarding variances. The first reading occurred during the September 6, 2011, Council meeting. She noted that during the first reading of the ordinance the Council directed Staff to add what had been section 1155.10 subd. 4 titled Additional Requirements for Variance and Undue Hardship Grants of Variance Requests subject to deleting “5. Violate the intent and purpose of the comprehensive plan.” She also noted the meeting packet contains a copy of the current ordinance, the original ordinance amendment and the revised amended ordinance.

Councilmember Fletcher stated “5. Violate the intent and purpose of the comprehensive plan’ is redundant with subd. 5 (b).

Councilmember Page stated this is going to require people to be more aware of what’s in the Comprehensive Plan.

Mayor Kind asked Zoning Administrator/Clerk Karpas to make copies of the Comprehensive Plan for the Council.

**Fletcher moved, Page seconded, Approving Ordinance No. 196, “An Ordinance amending the Greenwood Ordinance Code Section 1155 Regarding Variances.” Motion passed 4/0.**

### **B. Resolution 22-11, Findings of Fact for the Ostrander Variances**

Mayor Kind explained that during its September 6, 2011, meeting the Council approved the variance requests by Gregg and Kristin Ostrander, 21520 Fairview Street, to reconstruct a lakeside deck that

encroaches seven feet into the required lake yard setback and exceeds the maximum permitted impervious surface area by 5.3 percent as presented, based on the verbal findings. The Council also directed Staff to put the findings of fact into a recordable format for approval during this meeting. A copy of the findings drafted by the City Attorney is included in the meeting packet.

**Fletcher moved, Page seconded, Adopting RESOLUTION NO. 22-11, “A Resolution of the City Council of Greenwood, Minnesota Acting as the Board of Appeals and Adjustments, Lot 2, Block 1 Pier Pleasure Addition” setting out the findings of fact and conclusions of law regarding the Gregg and Kristin Ostrander variance requests. Motion passed 3/1 with Rose dissenting.**

Councilmember Rose noted he expressed his concerns about the variances during the September 6, 2011, Council meeting.

## **7. NEW BUSINESS**

### **A. Resolution 18-11, Assessment Roll for Delinquent Sewer, Stormwater and Recycling Charges**

Mayor Kind stated the meeting packet contained a list of properties with past due utility accounts with the City as well as a draft resolution. She noted a public hearing was held earlier on the agenda.

**Fletcher moved, Rose seconded, Adopting RESOLUTION NO. 18-11, “A Resolution Directing Delinquent Sewer Charges and Recycling Charges be Placed on the 2012 Property Tax Rolls.”**

Councilmember Page stated when he was going through his historical records he came across the assessment role for the prior year. He noted that some of the same people were on both lists. He stated the City does a lot of paper work for this and it doesn't get much money back for its efforts.

Mayor Kind commented that the City of Deephaven takes a property owner's name off its boat slip list if they are on the delinquent utility list.

**Motion passed 4/0.**

### **B. First Reading: Ordinance 200 an Ordinance Amending Code Section 510, Fees**

Mayor Kind stated this is the first reading of ordinance 200 amending the ordinance code section 500 regarding fees. She explained that each fall the City Council reviews and updates the fee schedule listed in chapter 5 of the code book. The Council discussed the fees to be changed during its September 6, 2011, work session. The draft ordinance included in the meeting packet includes the fees that are to be changed based on that discussion.

**Fletcher moved, Rose seconded, adopting the first reading of Ordinance 200 amending the Greenwood Ordinance Code Section 500 regarding fees. Motion passed 3/1 with Page dissenting.**

Councilmember Page explained he does not support raising the Dock: Municipal Watercraft Space Permit fee \$150 in one year.

### **C. First Reading: Ordinance 197 an Ordinance Amending Code Section 900.65, Unlawful Parking and Storage of Vehicles**

Mayor Kind stated this is the first reading of ordinance 197. She explained the City has received complaints regarding violations of ordinance code section 900.65 Unlawful Parking and Storage (3)(b). That section states “*Vehicles that are parked or stored outside in the front yard areas must be on a paved parking surface or driveway area.*” During its September 6, 2011, meeting Council directed Staff to draft an ordinance amending Code Section 900.65 to delete Paragraph (3)(b). That removes the requirement that vehicles be parked on paved surfaces in front yards. A copy of the draft amended ordinance is included in the meeting packet.

Councilmember Fletcher stated the ordinance allows a person to park a vehicle next to the property line. He asked Council if they would entertain restricting vehicles to be parked at least ten feet from the interior side yard line and at least 30 feet from the exterior side yard line. He noted those definitions can be found in chapter 11 of the city code. They could be added to chapter 12.

Zoning Administrator/Clerk Karpas stated that would be an enforcement nightmare.

**Page moved, Rose seconded, adopting the first reading of Ordinance 197 amending the Greenwood Ordinance Code Section 900.65 regarding parking and storage of vehicles. Motion passed 4/0.**

**D. Resolution 19-11, Policy for “Slow, Children at Play” and Similar Signs**

This was moved to Item 4.D under Announcements, Presentations and Reports at Councilmember Fletcher’s request.

**E. Resolution 20-11, Policy for “No Parking” Signs**

This was moved to Item 4.E under Announcements, Presentations and Reports at Councilmember Fletcher’s request.

**F. Resolution 21-11, Supporting the City of Tonka Bay’s Youth Sports Grant Application**

Mayor Kind explained the City of Tonka Bay is applying for a Hennepin County Youth Sports Grant to help rehabilitate the basketball court in Manitou Park. Tonka Bay is requesting the surrounding communities adopt resolutions of support of its application.

**Fletcher moved, Page seconded, Adopting RESOLUTION NO. 21-11, “A Resolution Supporting the City of Tonka Bay’s Hennepin Youth Sports Grant Application.”**

Councilmember Fletcher stated the City of Tonka Bay encourages Greenwood residents to use the facility.

Mayor Kind noted there is no cost to the City for adopting this resolution.

**Motion passed 4/0.**

**G. Tree Trimming**

This item was added to the agenda at Councilmember Page’s request.

Councilmember Page stated he thought the City is deficient in its tree trimming responsibilities this year. He cited the example of the walking path along Minnetonka Boulevard. The overhang growth is pushing people on to the area between the path and the roadway. Also the pathway to the walkway is overgrown. He suggested Public Works pay more attention to trimming trees along the pathway and in the City's rights-of-way. He noted he trimmed trees in the right-of-way next to his property.

Mayor Kind asked Zoning Administrator/Clerk Karpas how Public Works decides when it should trim trees. Zoning Administrator/Clerk Karpas explained Public Works typically responds to resident complaints, but it does do scheduled trimming.

Councilmember Page stated he doesn't think the area next to the walking path has been trimmed at all. He suggested the overhang of the trees from the right-of-way near Greenwood Circle also be trimmed.

Zoning Administrator/Clerk Karpas stated he will put in a work order to have that area trimmed.

Councilmember Fletcher stated there is some overhang near the path by Excelsior Boulevard. He cautioned against trimming that area too much.

## **8. OTHER BUSINESS**

### **A. None**

## **9. COUNCIL REPORTS**

### **A. Fletcher: Lake Minnetonka Communications Commission, Excelsior Boulevard Street and Water Project**

With regard to the Lake Minnetonka Communications Commission (LMCC), Councilmember Fletcher stated he has nothing to report.

With regard to the Excelsior Boulevard Street and Water project, Fletcher stated the engineer for Excelsior estimates it will cost the Greenwood Excelsior Boulevard residents approximately \$500 to do the initial engineering work for extending Excelsior municipal water system along Excelsior Boulevard to about twelve properties in Greenwood. He explained that those residents will write checks to the City of Greenwood and then the funds will be paid to the City of Excelsior. He noted a check will not be written to Excelsior until the City receives the entire \$500.

### **B. Kind: Police, Administration**

Mayor Kind stated there has not been a South Lake Minnetonka Police Department (SLMPD) Coordinating Committee meeting since the last Council meeting. She will let Council know what the schedule is for the next meeting. She explained the SLMPD labor agreement for union employees expires at the end of 2011 and negotiations for a new contract have been started. SLMPD Chief Litsey and Excelsior City Manager Luger participate in the actual negotiations. She serves as the liaison between the management negotiating team and the Coordinating Committee. She commented this is the third time that team has worked together on that.

Kind then stated she informed SLMPD Chief Litsey that Council is exploring other options for police services. She noted that Litsey was surprised and unhappy to hear that. She related that Litsey is confident that once the Council weighs everything Council will decide to stay with the SLMPD.

Kind explained the original plan was to have Hennepin County Sheriff Stanek come to the October council meeting to discuss the possibility of the City contracting with his department for policing services. Unfortunately, Stanek could not attend because he had a prior commitment. Instead Stanek requested that he meet with just her before he meets with the entire Council. That meeting is scheduled for October 6, 2011. She stated that Councilmember Fletcher asked if another Councilmember could attend that meeting. Stanek said that would be okay. Fletcher volunteered to attend unless another Councilmember wants to attend instead. Councilmember Page stated that he was fine with Fletcher attending the meeting and asked that the Council be provided with an update during its November 1 meeting.

Councilmember Fletcher explained he has been attending the Citizen's Law Enforcement Academy being held by the SLMPD. He noted he has been very impressed. There have been three sessions to date. He related that he has heard that there is a store in the City that is selling items that are used for things that are not so legal. He explained that he has spoken with the City Attorney about this. He asked the Council if it's interested in speaking with the owner of the store about selling drug paraphernalia. He stated the items include devices like pipes for smoking. He noted the store has a license to sell non-intoxicating malt liquor and wondered if the Council was interested in tying the issuance of a liquor license with the prohibition of selling drug paraphernalia. He related that a member of the Southwest Metro Drug Task Force indicated that selling drug paraphernalia tends to attract the wrong types of activities to the City.

Councilmember Page stated he will go into the store and look around.

Councilmember Rose stated the store has been selling those items for quite some time.

Councilmember Fletcher noted the store owner's non-intoxicating malt liquor license expires at the end of the year. Therefore, Council may want to address this before then. He stated the prep work could be done before the November 1 council meeting. He then stated Council could consider repealing the non-intoxicating liquor license.

Councilmember Rose stated that is like beating around the bush with the store owner. He then stated the owner started selling drug paraphernalia after the City turned down his request to provide food service. He suggested talking to the owner before doing anything.

Councilmember Page reiterated he will go into the store to look around. Council will discuss this again during its next meeting.

Jan Gray, 5170 Meadville Street, stated she and her husband have been attending the Citizen's Law Enforcement Academy being held by the SLMPD. She is involved with the South Lake Minnetonka Crime Prevention Fund, which supports the SLMPD with things that are not supported through the SLMPD member cities' budgets. The Crime Prevention Fund encourages community participation. She then stated having worked with the Crime Fund for many years along with her participation at the Academy she continues to be impressed with the professional nature of the SLMPD. She expressed her gratitude for the sense of security the four member cities have because of that. She urged the Councilmembers to participate in the Academy when the next opportunity presents itself.

Ms. Gray then stated when she read the newspaper article last week that the Greenwood City Council is considering alternative options for police services she was really struck. It's her understanding that had taken place without there being any prior communication with SLMPD Chief Litsey. Communications is a huge issue when it comes to community health and how the City maintains a good relationship with its

sister cities in the South Lake community that the City shares services with. The cities are all part of a greater community. The residents are part of a greater south shore area. It's imperative to the health of these cities to maintain some sort of relationship. She expressed that she was dismayed this had happened.

Ms. Gray asked Mayor Kind if she correctly understood her to say that Chief Litsey was unhappy and surprised to hear from Kind that Council was considering alternative policing services. Also, that once all things were compared the City would stay with the SLMPD. Kind clarified that Litsey was the one that stated he thought that after the Council has compared alternatives the Council would chose to remain with the SLMPD.

Mayor Kind noted that she informed Litsey that Council will invite Litsey to come before Council to present his perspective.

Ms. Gray stated when the City is community with other cities and a member of joint powers agreements there is a need for open communication with the joint powers service providers and the other member cities. It's a real hazard to do it differently. Not doing that can lead to a morale issue for people who serve the City and the other member cities in ways that go beyond our realization. She stated the newspaper article said one of the reasons Council is choosing to explore other alternatives is price. Part of the price is driven by the SLMPD funding formula. She clarified price is what you pay and value is what you get. There is a great deal of value in knowing that the SLMPD can respond within minutes, generally less than five minutes, to an emergency call. The response time from the Sheriff's Office is much longer because they may be located further away. Many in the community want better security than that.

Ms. Gray asked what the current cost per capita is for SLMPD services. Mayor Kind stated it's \$251 per capita for the Greenwood. For the City of Deephaven its cost is \$209. For the City of Excelsior its cost is \$261. For the City of Shorewood its cost is \$135. For the City of Tonka Bay its cost is \$207. For the City of Woodland its cost is \$234.

Ms. Gray noted that's less than \$1.00 per day. Ms. Gray stated before Council decides to start cutting things that cost residents less than \$1.00 a day the City's street maintenance program should be considered. Maybe the roadways should be graveled. Maybe the City park should be covered up, noting she uses the park with her grandchildren. She asked why Council would compromise the quality of life the residents have now with a quality police department. She commented she has been told that there are other cities that have decided to use the Sheriff's Office for policing services only to revoke that decision because the services provided are not adequate. She urged Council to consider morale, value and price when exploring the alternatives. She stated she thought the City's residents receive a value for what they pay.

Mayor Kind thanked Ms. Gray for her comments.

**Kind recessed the meeting at 9:00 P.M.**

**Kind reconvened the meeting at 9:07 P.M.**

Gene Gray, 5180 Meadville Street, stated he had a career in law enforcement. He had also been the constable for the Excelsior Township in the 1950s and his territory also included what is now called the City of Greenwood and the City of Shorewood. He then stated his observation on the police service the residents receive is speed. He explained that yesterday when he was driving on Minnetonka Boulevard and turned on to Meadville Street a SLMPD patrol car passed him going toward the City of Greenwood with the warning lights and siren on. By the time he reached his driveway a second SLMPD patrol car

passed him and it appeared that car was going to meet up with the first patrol car. If the City depended for an outside agency for provide that type of service the residents would not receive that type of response time. The Sheriff's Office is primarily located in the northern suburbs. He stated at his age if he were to have a medical emergency he would want a first responder at this door in a minute. Mayor Kind thanked Mr. Gray for his comments and stated that 911 response will be an important consideration when evaluating the City's options.

Mayor Kind stated the fall sales ratio study work session with the assessor is scheduled for October 27. She noted the meeting packet contains a copy of the most recent budget, which is dated September 10, 2011. The budget reflects a slight decrease from the budget discussed during the September 6 work session. The tax levy for the new budget reflects a decrease of -0.11 percent over the 2011 tax levy. The final budget will be adopted during Council's December 6, 2011, meeting.

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

Councilmember Page reported on Lake Minnetonka Conservation District (LMCD) activities. He stated Eric Evenson, Minnehaha Creek Watershed District (MCWD) District Administrator, appeared before the LMCD Board during its last meeting. From his vantage point, it was a contentious appearance. The topic of discussion centered on the MCWD's proposal for regulatory action. He related that Mr. Evenson indicated that document was necessary for the Christmas Lake pilot aquatic invasive species (AIS) prevention project. The document needed to be filed with the State of Minnesota in order to conduct that trial program. The MCWD has no intention of gating access to Lake Minnetonka (the Lake). LMCD Boardmembers brought up that the discussion document included gating access to the Lake.

Page related that Mr. Evenson indicated that if there is not enough support from the LMCD member cities the MCWD will not move forward. He stated the MCWD is hiring someone to be the director of AIS but that according to Mr. Evenson the MCWD has no plans to take over management of AIS such as Eurasian Watermilfoil (milfoil) and zebra mussels in the Lake. It's Page's understanding that the MCWD's regulatory plan is to stop the spread of AIS from Lake Minnetonka to other water bodies located in the District. That indicates to him that the resolution adopted by the City is more realistic because it calls on the LMCD and the MCWD to cooperate. It was indicated to him that the LMCD is going to manage control of AIS in Lake Minnetonka.

Page stated the other major topic for discussion during the last meeting was the loss of one harvester. Some Boardmembers don't want to replace that harvester. They would prefer to have a more aggressive chemical treatment program. Others believe there is a need to replace the harvester because the LMCD needs three of them, and that harvesting is the most efficient and cost effective way of achieve navigability. The experts have stated that it is cost prohibitive to chemically treat the entire Lake for milfoil and a chemical treatment will not work in all areas of the lake. Before the LMCD AIS Task Force makes any recommendation about continuing the harvesting program and purchasing a new harvester more data needs to be supplied.

Page then stated the LMCD would only be reimbursed \$30,000 (the fair market value of the harvester) from the insurance company if it decided not to purchase another harvester. It would receive a little more than \$60,000 if it were to purchase a new harvester. A new harvester costs approximately \$165,000. The insurance policy the LMCD requires a decision within 180 days.

Mayor Kind stated the property owners having lakefront on St. Alban's Bay are thrilled with the results of the chemical treatment efforts this year. And they were pleased the Bay wasn't harvested.

Councilmember Fletcher asked why the MCWD would have asked for support from the LMCD member cities if it has no intention to take on the management of AIS in the Lake. Councilmember Page restated it is his understanding that the MCWD's involvement will be with restricting the spread of AIS to other water bodies in the District.

Fletcher commented that when the Lake is infested with different types of AIS it's going to spread. He asked if there is anyway to get agencies to work together more to stop the spread of AIS and mitigate the problems caused by the infestation of AIS.

Councilmember Page stated agencies and organizations have worked together cooperatively on the chemical treatment of some bays in the Lake and on the milfoil harvesting program. He then stated the questions that have to be answered are what is cost effective and also what is affordable. He noted he favors purchasing another harvester. He explained that he went to the Lake Minnetonka Forum website called <http://www.lakeminnetonkaforum.com> where the vast majority of voters indicated they preferred chemical treatment of the Lake. He commented he tried to vote for the harvesting program and there was an error, so he questioned the validity of the survey. He stated the original chemical treatment model does not work; it had to be revised. He then stated the cost for harvesting versus the cost of chemical treatment isn't comparable (it would cost \$350,000 to chemically treat the Lake each year). He commented he also has a lot of trepidation about putting the chemicals into the Lake.

Councilmember Fletcher asked how old the other two harvesters are. Councilmember Page explained the one that went into the Lake was the oldest. The next oldest machine is over 10 years old and there is not much life in it. Page stated the LMCD needs to run two harvesters all summer and one harvester frequently is being repaired. Fletcher stated he assumes the LMCD would need fewer harvesters if there is some amount of chemical treatment of the Lake. He then stated if the insurance reimbursement helps replace the harvester it may make sense to purchase one now. Page commented that the LMCD has been putting money away for a replacement harvester and next year there will be about \$100,000 in the LMCD's equipment replacement fund. He stated it's almost fortuitous that the one harvester is totaled, because now there is the rest of the money needed to purchase a new one.

Councilmember Page stated per a request the AIS Task Force is going to investigate the feasibility of contracting the harvesting program out. He noted he doesn't think contractors would have large enough harvesters. Councilmember Fletcher commented that the harvester he saw on the lake his parents have property near was not near as large as the LMCD's harvesters.

The Council consensus was that future milfoil management will involve a combination of harvesting and chemicals, therefore it makes sense to use the insurance money to buy a new harvester.

**D. Quam: Roads & Sewer, Minnetonka Community Education**

No report was given because Councilmember Quam was not in attendance.

**E. Rose: Excelsior Fire District**

Councilmember Rose stated he attended the Excelsior Fire District (EFD) Board Meeting held on September 28, 2011. He informed Council that it will be provided with a third amendment to the EFD JPA relating to a change in the budget process timeline. The timeline change proposed is to accommodate getting more accurate date regarding the amount of any mandatory contribution to the Excelsior Firefighters Relief Association's fund for pensions.

After some discussion, there was Council consensus to approve the amendment.

**Fletcher moved, Rose seconded, supporting the amendment to the Excelsior Fire District Joint Powers Agreement changing the budget process timeline. Motion passed 4/0.**

**C. ADJOURNMENT**

**Page moved, Fletcher seconded, Adjourning the City Council Regular Meeting of October 4, 2011, at 9:32 P.M. Motion passed 4/0.**

**RESPECTFULLY SUBMITTED,**  
**Christine Freeman, Recorder**