

GREENWOOD CITY COUNCIL MEETING
Tuesday, November 1, 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, Quam and Rose

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

Members Absent: None

Quam moved, Rose seconded, approving the agenda as presented. Motion passed 5/0.

2. CONSENT AGENDA

Councilman Fletcher requested that item C be removed from the Consent Agenda for further discussion. Mayor Kind stated that the item would be moved to 8AA on the agenda.

Quam moved, Fletcher seconded, approving the items A, B, and D on the Consent Agenda.

- A. October 4, 2011, City Council Meeting Minutes**
- B. September 2011 Cash Summary Report**
- C. October 2011 Verifieds and Check Register** (This was moved to Item 8AA under Other Business.)
- D. November 2011 Payroll Register**

Motion passed 5/0.

3. MATTERS FROM THE FLOOR

There were no matters from the floor presented this evening.

4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS

A. Meadville Drainage Easement Update

Zoning Administrator/Clerk Karpas stated he had not heard from Jim Hurd about whether or not he would be willing to grant an easement to the City for the construction and future maintenance of a four-foot wide concrete swale on his property. Mr. Hurd did get the information the City Engineer submitted to Council during Council's October 4, 2011, meeting about another solution for the drainage problem on Meadville Street near Mr. Hurd's and Bob Newman's properties. He noted Mr. Hurd was present this evening and he suggested Mr. Hurd be given the opportunity to address Council.

Jim Hurd, 5220 Meadville Street, stated he thought the most recent proposal would work and he would be willing to grant the City an easement. He noted the solution proposed by the City Engineer was originally proposed by him. He asked if the City will be responsible for cleaning out the proposed concrete swale. He stated in his humble opinion he thought the proposed solution is a good idea.

Councilmember Page stated the City would be responsible for maintaining the easement if this moves forward. Councilmember Fletcher stated that depends on how the easement is written. Attorney Kelly stated if the City gets the easement the City is obligated to maintain it.

Mayor Kind suggested waiting to make a decision on whether or not to make these drainage improvements until Council prioritizes roadway improvement projects next spring.

Councilmember Fletcher asked if there is enough benefit to the property owners for them to contribute toward the improvements. Mr. Hurd stated part of the easement would need to be on Mr. Newman's property. He then stated he has contributed enough by maintaining the current drainage ditch for 15 years.

Councilmember Page asked what the width of the easement needs to be. Mayor Kind recalled that the City Engineer stated that the swale needed to be a four feet wide.

Bob Newman, 5230 Meadville Street, stated he would be willing to grant an easement also if the City is willing to make the drainage improvements. Making the improvements would help the City and the area around that portion of Meadville Street. He asked if the concrete swale has to be four feet wide. From his vantage point a narrower swale would work as well. Councilmember Quam explained the City Engineer had previously said it needs to be a minimum of four feet wide. Mr. Newman explained that when he and Mr. Hurd watch it drain now the water flow is never more than a foot wide. Mayor Kind stated it is her understanding that it needed to be four foot wide to get the equipment in there. Councilmember Fletcher stated that it is possible the concrete swale can be less than four feet wide but the work area may need to be four feet wide.

Mr. Newman noted the entire length of the easement would be partially on his property and partially on Mr. Hurd's property.

Councilmember Quam agreed with waiting to make a decision on whether or not to make these improvements until next spring when Council prioritizes the 2012 roadway improvement projects. He noted the cost of \$49,000 to make the improvements is a lot of money. He recommended that Bolton & Menk be present for that discussion.

Mayor Kind asked how long the easement legal process takes. Attorney Kelly explained the easement would have to be drafted and circulated to the property owners for comment and then come before Council for consideration. Councilmember Page stated it would take 60 days at a minimum.

Page moved, Rose seconded, continuing this item to an early spring of 2012 Council meeting. Motion passed 5/0.

5. PUBLIC HEARING

A. None.

6. UNFINISHED BUSINESS

A. Second Reading: Ordinance 200 an Ordinance Amending Code Section 510, Fees

Mayor Kind explained this is the second reading of Ordinance 200 amending the Ordinance Code Section 500 regarding fees. Each fall Council reviews and updates the fee schedule. Council discussed the fees to be changed during its September 6, 2011, work session and Council approved the first reading of the ordinance during its October 4, 2011, meeting. She noted the meeting packet contains a copy of the ordinance amendment. She explained if Council approves the second reading of the ordinance amendment the Ordinance will be published in the Sun-Sailor before the new fees go into effect.

Quam moved, Fletcher seconded, Approving Ordinance No. 200, “An Ordinance Amending the Greenwood Ordinance Code Section 500 Regarding Fees.”

Councilmember Page noted he has previously expressed that he does not think the City should be increasing the space permit fee (dock fee). He explained that at least six residents who rent dock slips from the City have expressed to him their displeasure with raising that fee. They have also indicated they don't like the way the funds in that fund are being used. They think the funds should remain in the fund. He stated he doesn't support increasing the fee at all for 2012.

Mayor Kind noted the recommendation is to increase that fee \$150 over the 2011 amount. Councilmember Quam stated he thought a \$150 increase is too harsh and he recommended reducing the increase to \$100. Councilmember Fletcher stated he could support that.

Without objection of the seconder, the maker amended the motion to include changing the Docks, Municipal Watercraft Space Permit Fee to \$1,050. Motion passed 4/1 with Page dissenting.

B. Second Reading: Ordinance 197 an Ordinance Amending Code Section 900.65, Unlawful Parking and Storage of Vehicles

Mayor Kind stated this is the second reading of Ordinance 197 amending the Ordinance Code Section 900.65 regarding unlawful parking and storage of vehicles. No changes were made to the ordinance amendment during the first reading of the Ordinance on September 6, 2011. She noted the meeting packet contains a copy of the ordinance amendment. She explained if Council approves the second reading of the ordinance amendment the Ordinance will be published in the Sun-Sailor before the new fees go into effect. A copy of the draft amended Ordinance is included in the meeting packet.

Councilmember Fletcher explained that during the September 6th meeting he asked if Council would entertain restricting vehicles to be parked at least ten feet from the interior side yard line. He stated he thought Zoning Administrator/Clerk Karpas indicated it would not be enforceable. Fletcher noted that later on the agenda Council will be discussing amending the City Ordinance to require residents to place lumber at least five feet from the property line. He asked what the difference is between these. Mayor Kind clarified Karpas had indicated it would be an enforcement nightmare. Fletcher asked if Karpas would be consistent on his position regarding the placement of lumber piles to be discussed later on the agenda. Karpas said his position is the same regarding lumber piles.

Page moved, Quam seconded, Approving Ordinance No. 197, “An Ordinance Amending the Greenwood Ordinance Code Section 900.65, Regarding Parking and Storage of Vehicles.” Motion passed 5/0.

7. NEW BUSINESS

A. Extension of Variance for Robert Schmitt Property (License Center)

Mayor Kind stated on December 2, 2008, Council adopted Resolution No. 23-08, a resolution approving a variance and conditional use request to develop a commercial parcel of property owned by Robert Schmitt, Jr. at 21550 State Highway 7. Variances expire one year after approval. The reason for expiration dates is to prevent a property owner from claiming that a variance approved decades ago is still valid. Council approved variance extensions for Mr. Schmitt's property in 2009 and 2010. The current extension expires on December 2, 2011. Mr. Schmitt has submitted a letter seeking another extension to expire on December 2, 2012.

Fletcher moved, Page seconded, granting a twelve month extension to expire on December 2, 2012, of Resolution No. 23-08 a Conditional Use Permit and Variance for Robert C. Smith Jr. for the real property located at 21550 State Highway 7, Greenwood, Minnesota (PID No. 35-117-23-12-0016). Motion passed 5/0.

Councilmember Fletcher asked Mr. Schmitt if he still plans to develop the property like he originally intended in 2008. Mr. Smith responded he is. Mayor Kind explained it has to be the plan that was approved.

B. Next Steps Regarding Police Exploration

Mayor Kind explained that during budget work sessions Council discussed the increasing costs of our police services. Based on the preliminary discussion, Council has expressed interest in exploring the concept of leaving the joint powers agreement (JPA) with the Cities of Excelsior, Shorewood, and Tonka Bay and contracting for services from the Hennepin County Sheriff. While the main motivation for the exploration is financial, it is important to note that the Council places a high priority on public safety. So an important part of the exploration will be to ensure that any potential arrangement that the City might enter into will provide the safety standards that the City's residents and businesses expect.

Kind then explained if Council decides to leave the JPA, a decision must be made by the JPA deadline of May 1, 2012 and the new contract would not go into effect until January 1, 2014. Whether the City stays or leaves the JPA, the City is obligated to pay its portion of the police building bond (approximately \$45,000 per year) through 2023.

Kind noted that she and Councilmember Fletcher met with Hennepin County Sheriff Rich Stanek and Chief Deputy Mike Carlson on October 6, 2011. The meeting took place at the Sheriff's Office Brooklyn Park location. She stated the meeting packet contains a copy of the report from that meeting.

Kind highlighted the report. The highlights are as follows.

- 911 emergency response times would be the same as they are now – 24 hours a day, 7 days a week.
- If the City contracts for proactive patrol time, the City would have a deputy physically in the City for a set amount of time per day or per week. Council would decide what that amount is. The proactive patrol would be at random times and would not be continuous. Therefore, a deputy would be in the area to provide 911 response and mutual aid for more hours than the contract amount.
- The Sheriff's Office operates Hennepin County's 911 dispatch center for Sheriff deputies and many cities and organizations in the county including the South Lake Minnetonka Police Department (SLMPD) and the Deephaven Police Department. The dispatch center

tracks patrol vehicles with GPS and knows where the closest officers are located. Therefore, it can dispatch the closest officer to the scene. The City would need to rely on mutual aid at times.

- Proactive patrol includes all of the typical police duties (speed enforcement, load limit checks, etc). The City could also request targeted enforcement.
- Emergency management would be included.
- Animal complaints would be included.
- Booking fees for arrests would be included.
- Jail time for arrests in Greenwood would not be charged to the City. They currently are. That cost is currently \$90 per day.
- Deputies would work with the City Prosecutor for misdemeanors. Felonies would be handled by the Hennepin County Attorney (no change from what is done now).
- A deputy would give reports at Council meetings whenever Council wants.
- Participation at National Night Out and the City's Fourth of July Parade would be included.
- Depending on the final customized policing plan the cost may be less than \$60 per hour of proactive patrol.

Kind explained if Council desires to move forward with the exploration, Sheriff Stanek has asked that Council take official action to authorize City representatives to work with his staff to develop a proposed policing plan. The suggested motion specifies two members of the Council work with the Sheriff's Office on that. She noted proceeding with the development of a plan does not commit Council to an agreement with the Sheriff.

Kind noted that she and Councilmember Fletcher thought it was important to invite SLMPD Chief Bryan Litsey to come before Council as well to discuss the benefits of staying with the SLMPD. They recommended that the meeting format for Litsey be the same as the one followed for the Sheriff's Office (regular Council meeting or work session).

Councilmember Quam expressed it would take a lot of convincing for him to support such a major change. He stated he did not think any member of the Council is qualified to evaluate a service the City may or may not get. He thought it prudent to get a consultant involved should Council choose to move forward with this. The consultant would have to ensure that the City would not lose any public safety services. He expressed he has a lot of concern about the community, noting the City is part of a larger community. He stated if the City were to change policing service providers that would have a major effect on the other member cities. He reiterated it will take a lot of convincing for him to support such a change.

Councilmember Page stated his thoughts are similar to Councilmember Quam's. He then stated he does not think this is worth pursuing any further. He explained that he has been stopped by eight people since the last Council meeting who strongly encouraged Council to stay with the SLMPD. They could not understand why Council was spending any time on this. He stated he is not in favor of moving forward with any further analysis or preparing any plan. He recommended staying as a member of the SLMPD JPA and staying with the other member cities.

Councilmember Rose stated he likes the idea that the people from the Sheriff's Office would make regulate updates to Council. He commented that in the past he has asked SLMPD Chief Litsey about specific situations and has been told to talk to Mayor Kind about it. He stated he thought the City would get the same coverage from the Sheriff's Office because all 911 calls are dispatched from the Hennepin County dispatch center. Other agencies provide mutual aid in the City currently and the SLMPD provides it for other agencies as well. He expressed he thought the cost savings would be significant. He stated he

supports taking the next step of preparing a policing plan. He then stated the way he interprets the report from the meeting with Sheriff Stanek the City would get more proactive coverage than it does from the SLMPD.

Councilmember Fletcher explained that he has been attending the police academy the SLMPD is hosting. A couple of weeks ago the weekly session was held at the Hennepin County 911 dispatch center. The participants were able to talk to people staffing the center. In the center there was a map that displays where all the patrol cars in the County are at any point in time. The map indicated that the Sheriff's deputies that would cover the City are based out of the Brooklyn Center location. When he was on an academy ride along with SLMPD Sergeant Guyer who said he will call a neighboring agency in the Lake Minnetonka area to cover for him if he has to go downtown Minneapolis to take someone to the Hennepin County jail.

In response to a comment from Councilmember Rose, Councilmember Fletcher explained a dispatcher told him it would be very unprofessional for a public safety person not to respond to a real emergency if they were dispatched to do that.

Councilmember Fletcher explained that according to the County dispatcher, the County is divided into north and south. The area around Lake Minnetonka is in the south and it's more difficult to navigate the area because of how it's laid out. It's easier for local police officers because they know the area than it is for deputies. He then explained one of the academy sessions involved going to the SLMPD firing range. When he was there he mentioned to Chief Litsey that the Sheriff's Office would provide regular updates at Council meetings. Litsey explained he is amenable to sending a representative to provide updates as well.

Councilmember Page expressed concern about deputies not being around all of the time or coming from the Brooklyn Center area. He stated if Council chooses to leave the SLMPD JPA it seems to him the SLMPD would continue to respond a lot through mutual aid; that doesn't seem right to him. That's like saying provide the services but the City won't pay. He then stated there isn't a lot of crime in the City. The City doesn't need a constant police presence to deal with the crime in the City. He went on to state that when there is a need to call the police today the SLMPD is close and its officers come quickly. He likes that. He recommends the City remain a member of the SLMPD JPA.

Councilmember Quam stated if the City left the JPA it would still have to pay its share of the public safety facility bonding until it's paid off in 2023. Mayor Kind stated the City would remain part owner of the facility.

Mayor Kind summarized what she thought the Councilmembers wanted to do with regard to developing a policing plan with the Sheriff's Office as the next step in the exploration. She thought Councilmember Quam supported doing that. Quam clarified he is on the fence. She understands Councilmember Page to want to go no further and Councilmember Rose to continue with the next step. She asked Councilmember Fletcher what he wants to do. Fletcher responded from his vantage point it's sometimes better to assess where you may want to go. Fletcher explained that it will take a lot of convincing for him to think that changing to the Sheriff's Office for policing services makes sense. He noted he will be open to what's found out.

Councilmember Rose stated if the City were to save a lot of money yet still get the same services by going with the Sheriff's Office he asked why Council wouldn't want to pursue this further. At a minimum maybe by doing that the SLMPD will find a way to reduce its costs. It appears some Councilmembers just don't want to consider change.

Mayor Kind stated a case could be made that if there is a deputy in the City four hours a day, albeit not continuous, they would actually be in the area more than that and they could also provide mutual aid. She then stated the City would be providing its fair share of mutual aid through the Sheriff's deputies. She noted she is concerned about current policing costs and interested in the potential savings that could be achieved. She stated if she could be assured the level of service would be at least the same as the current level she would entertain going with the Sheriff's office. She recommended taking the next step in the process.

Councilmember Rose suggested both Sheriff Stanek and Chief Litsey be invited to make their case. Councilmember Fletcher stated there is nothing wrong with doing that.

Councilmember Fletcher expressed concern that the closet deputy could be located in Brooklyn Center. Mayor Kind stated that if Greenwood contracts for proactive patrol that is not where the deputies will be. Fletcher explained his concern is about when they are not scheduled to be in the area; the other 20 hours a day. Kind stated a deputy would be in the City for five minutes and then leave, and then back again for five minutes and then leave and so forth. They will be in the area much more than four hours.

Fletcher stated on an unrelated note the dispatch center is supposed to have a staffing level of 51 dispatchers. Due to budget cuts it's currently staffed with 38. He clarified he thought it was still well staffed. He stated there are limits for the Sheriff's Office. He then stated he is not opposed to moving forward if that is what the council wanted to do. He did want to make sure his concerns were understood.

Councilmember Quam asked if travel time is included in the time counted as being spent providing proactive patrol services. Mayor Kind stated she understood that the hours of proactive patrol would be for the actual hours spent in the city, but that was the type of question the council could specifically ask the Sheriff.

Councilmember Fletcher stated there are many things that need to be worked out when looking at the overall numbers for the Sheriff's Office.

Mayor Kind reviewed what the cost per capita is for SLMPD policing services is for the four SLMPD member cities. They are: Excelsior – \$261; Greenwood – \$251; Shorewood – \$135; and, Tonka Bay – \$207. She stated the other three cities are the City's partners in the South Lake area and she believes there is a big discrepancy between the top and the bottom. She asked why the City is subsidizing the City of Shorewood. She explained she can understand helping out Excelsior because the City enjoys Excelsior's downtown amenity.

Councilmember Fletcher noted the JPA funding formula has been arbitrated.

Mayor Kind stated the arbitration ruling is what got this whole thing going in the first place. She noted that SLMPD Chief Litsey runs a very efficient organization. The funding formula issue is not in his control. She explained if the per capita cost was calculated based on the number of residents in the total SLMPD community, the cost is \$175. She noted that for the City of Deephaven, which has its own department, the cost is \$209. She stated hats off to Chief Litsey on controlling his costs, noting the SLMPD overall costs are not what her issue is about; it has to do with the funding formula.

Councilmember Fletcher stated he thought the SLMPD officers are a very impressive group and they are very motivated.

Mayor Kind suggested assigning two members of the Council to work with the Sheriff's Office if Council wants to move forward with the next step.

Mayor Kind invited members of the public to address the Council.

Bob Newman, 5230 Meadville Street, stated he is before Council as a citizen concerned about safety and as a former Mayor of the City who was deeply involved in the arbitration of the SLMPD funding formula controversy during his first year as Mayor. He explained that during that process the City of Excelsior expressed concern about their distribution of the funding formula as did the other cities. Excelsior requested a bid for providing policing services from the Sheriff's Office. After much discussion, Excelsior decided it wasn't productive for Excelsior, and that the long-standing JPA was the best solution for all the member cities. A commitment was made and contracts were signed.

Mr. Newman noted that it was not a straight-line quantitative decision. He explained if Council tries to simply solve this by a quantitative analysis Council will go down the wrong alley. There is much, much more involved than strictly numbers. He stated Greenwood is not large enough to have its own police department and fund it effectively. That is similar to many other small communities. That is why there are lots of JPAs in the State. The SLMPD is highly competitive with other departments in the Lake Minnetonka area on size and cost.

Mr. Newman then stated there is more than just saving money on policing services by change providers. He explained he heard earlier in the meeting that the SLMPD patrol officer calls one of the surrounding cities police officers for backup coverage while they have to transport a person downtown. That's at least one hour of time. He noted that doesn't happen very often but it does. He explained if the proactive coverage from the Sheriff's Office is 3 – 4 hours in and out of the City during the day there would go one hour of that time to transport a person. He stated that there will be 20 – 21 hours a day that a deputy will not be in the City and the City will rely on mutual aid. He stated if Council chooses to go with the Sheriff's Office and if there is a need in the City for police services and mutual aid, he asked what will happen if the SLMPD patrol officer is busy with an issue in the SLMPD coverage area. He then stated if the City relies on mutual aid from other agencies over an extended period of time that will wear thin fast.

Mr. Newman put out a hypothetical situation. Council decides to go with the Sheriff's Office for providing policing services. Council decides after some time that it's not working out as it had hoped and it decides it wants to again become a member of the SLMPD JPA. The members of the JPA may decide that it doesn't want the City to come back or if it does the cost to the City could be much higher because it will be done on a fee basis. He stated this is more than a money saving issue. He noted the member cities went through a lot during the year when the funding formula was being disputed. There were numerous meetings between the cities. A mediator was involved. And then it went to arbitration.

Mr. Newman stated that Shorewood pays for one half of the SLMPD operational costs. The funding formula is based on population, tax capacity and crime rate. The joint powers organization works with all four cities involved. If one city pulls out it strains the entire community.

Mayor Kind stated from her vantage point the arbitration decision for the funding formula was arbitrary. She explained the arbitrated formula is not based on population, tax capacity and initial complaint reports (ICRs) as stated by Mr. Newman. She pointed out that Shorewood's population average is 61 percent. Shorewood's tax capacity average is 56 percent. Shorewood's ICR average is 49 percent. Yet, Shorewood's part of the formula is only 48 percent. She reiterated that Greenwood's per capita cost is \$251 and Shorewood's is \$135.

John Gray, 5170 Meadville Street, commented that he has also been attended the police academy. He stated when he was on a ride along he was amazed at the number of people the patrol officer knew in the early morning hours (before 4:00 A.M.). The officer knew cleaning people by name and knew the cars those people drove. The officer was familiar with the people who go to McDonalds at that time of that morning. Those things are important. He noted that he has heard that two or three cities have stopped getting their policing services from the Sheriff's Office. Mayor Kind asked Mr. Gray to let her know which cities they were.

Mr. Gray expressed concern that if the City went with the Sheriff's Office the City would be out of the drug enforcement program and he thought that is part of the community. He stated mutual aid will be a challenge if the change is made. He thought the SLMPD's involvement with the Minnetonka School District is important. He then stated he thought there was a lot of SLMPD coverage in the City; the City gets its fair share. He recommended the City stay a member of the SLMPD JPA.

Keith Stuessi, 5000 Meadville Street, stated his name is on the original JPA. The framework in which it was practiced is somewhat different than today which from his vantage point is unfortunate for the City. He then stated after listening to every one and exchanging emails with Mayor Kind and others he doesn't want to make a change just to save 1 percent on his property taxes, which is what the impact would be for him. He commented he knows many of the SLMPD officers and he believes they do a good job.

Mr. Stuessi noted that the Greenwood pays more property taxes per resident than any other city in the State. That goes back to the JPA, to ad valorem that another mayor and council agreed to regrettably many years ago. He stated he didn't think that would be solved by chipping away at it one piece at a time. He then stated he did not think the City would gain much by leaving the SLMPD JPA and going to any other police department. He clarified that he did not think it would be unreasonable to look at it and ask some tough questions. He thought that would bring up other issues about the manor in which the City's residents are taxed versus other residents in this community. Not just for police, but for fire and other brick and mortar services. Maybe things can't be changed right now. But learning more now could better prepare people for future negotiations.

Councilmember Quam stated it's prudent to find out what the experience has been for other cities that either are or had been contracting with the Sheriff's Office for policing services. Mayor Kind stated she has spoken with those that currently contract with the Sheriff's Office and all are pleased, noting many don't contract for many hours a day.

Mayor Kind explained the City of Medicine Lake contracts with the Sheriff's Office for four hours a week. She noted Medicine Lake is located much closer to the Sheriff's Office Brooklyn Center location. The person she spoke with feels as if there is a deputy in the city all of the time and that they get excellent 911 response.

Councilmember Fletcher stated he had been at an event where the Mayor of Medicine Lake was also in attendance. He related that she indicated her pleasure with the service Medicine Lake received from the Sheriff's Office. He explained Medicine Lake is like a peninsula. The road comes in, there is a turn, and then the road goes out. Other than at the entrance into the city there is no commercial area. That Mayor also indicated that there was probably more deputy presence because the city is located close to the City of New Hope and there is the New Hope tower and deputies are going up and down the road anyway. The Mayor told him the Plymouth Police Department complains about providing mutual aid to Medicine Lake but it does provide it when the Sheriff's Office is not available.

Mayor Kind asked the other Councilmembers if they want to proceed with developing a policing plan with the Sheriff's Office. She noted she is aware of two dates when Sheriff Stanek is available if Council wants to move forward. She stated she supports developing a policing plan.

Page moved, Quam seconded, to drop the exploration with the Sheriff to provide policing for the city. Motion passed 3/2 with Kind and Rose dissenting.

C. First Reading: Ordinance 198 an Ordinance Amending Code Section 1135.05, C-2 Lake Recreation District

Mayor Kind stated this is the first reading of Ordinance 198 amending the Ordinance Code Section 1135.05 regarding permitted uses. She explained the proposed amendment would remove "restaurant" from a permitted use status in the C-2 District and place it as a conditional use. It would also remove "general offices" from being a conditional use and place it as a permitted use. Restaurant use tends to have a greater impact than an office use. The amendment would require a more comprehensive look at restaurants as a conditional use. She stated a copy of the draft Ordinance is included in the meeting packet. She noted the public hearing notice for the amendment was published in the Sun-Sailor on October 6, 2011. The Planning Commission held a public hearing on the proposed amendment during its October 19, 2011, meeting and it recommended approval of the amendment on a 5/0 vote.

Quam moved, Rose seconded, adopting the first reading of Ordinance 198 amending the Greenwood Ordinance Code Section 1365.05 regarding permitted and conditional uses in the C-2 District.

Councilmember Fletcher stated Ordinance Code Section 800.50 Granting of License states "After investigation and hearing, the council shall either grant or refuse the application at its discretion." He asked if that gives Council wide latitude with regard to what it can do with liquor licenses. Attorney Kelly explained Council has to have cause stated to deny the application. Fletcher asked if having restaurants be a conditional use gives more control over liquor-related items. Kelly stated the City already has an ordinance that specifies what the conditions are. Council may want to consider adding conditions for the C-2 District if Council thinks there are other things that should be considered. Kelly then stated it's an exercise of judicial and legislative consideration.

Motion passed 5/0.

D. First Reading: Ordinance 199 an Ordinance Amending Code Section 1102, Definitions

Mayor Kind stated this is the first reading of Ordinance 199 amending the Ordinance Code Section 1102 regarding redefining the definition of yards. 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.*" Council directed the Planning Commission to consider amending the definition of "yards" included in Section 1102 and also to consider including illustrations showing the intent of the definitions. She noted a copy of the current definitions as well as a copy of the proposed amendment which includes illustrations is included in the meeting packet. The public hearing notice for the amendment was published in the Sun-Sailor on October 6, 2011. She noted the Planning Commission held a public hearing on the proposed amendment during its October 19, 2011, meeting and it recommended approval of the amendment on a 5/0 vote.

Kind explained when she read the definition of front yard again she realized the term is used for setbacks in the Zoning Code for the zoning districts. The old and the proposed definitions say the front yard is the area between the edge of the public right-of-way open and actually used for travel and the nearest building. To her it means she could add on to her house on the street side because she has a large area between her property line and the paved street. If the setback is measured from the street that is totally different than if it's from the property line.

Kind suggested changing the proposed definition of front yard. The proposed definition reads, "*Yard (Front) means an open, unoccupied space extending across the full width of the lot and lying between the edge of the public right-of-way open and actually used for travel and the nearest building line of the principal structure. Corner lots must have two front yards.*" Her proposed definition reads, "*Yard (Front) means an open, unoccupied space extending across the full width of the lot and lying between the property line that is parallel to the public right-of-way and the nearest building line of the principal structure. Corner lots must have two front yards.*"

Councilmember Page commented this topic of yard definitions is very difficult for him.

Councilmember Fletcher recommended continuing this item to the December 6, 2011, Council meeting to give Council a chance to think about Mayor Kind's proposed changes.

Mayor Kind also suggested changing the proposed definition of rear yard. She explained the proposed definition of rear yard includes "*ordinary high water mark of the lake.*" The old definition does not include that language. Kind stated if there is an ordinary high water mark (OHW) it would be a lakeside yard not a rear yard. OHW doesn't belong in the definition of rear yard. It may make sense to add language stating that non-lakeshore lots must have at least one rear yard so the owner of a corner lot can't claim they have two side yards on their property.

Kind suggested changing the proposed definition of rear yard. The proposed definition of rear yard reads, "*Yard (Rear) means an open, unoccupied space between the rear property line or ordinary high water mark of the lake and the nearest building line of the principal structure, for the full width of the lot.*" Her proposed definition reads, "*Yard (Rear) means an open, unoccupied space between the rear property line and the nearest building line of the principal structure, for the full width of the lot. Non-lakeshore lots must have at least one rear yard usually located on the side the opposite of the front door of the structure. The zoning administrator shall determine the location of the rear yard on lots that front on 2 streets or more.*"

Kind suggested Council think about her proposed changes to the definitions before the next Council meeting.

Councilmember Fletcher asked the Zoning Administrator and Attorney Kelly to include their recommendations on these definitions for the next meeting.

Councilmember Rose suggested the definitions be left as they are.

Quam moved, Fletcher seconded, continuing the item of definitions of yards to the December 6, 2011, Council meeting and directing Staff to prepare a report on the front yard and rear yard definitions for Council for that meeting. Motion passed 4/1 with Rose dissenting.

E. Options Related to the Selling of Drug Paraphernalia

Mayor Kind explained that during its October 4, 2011, meeting Council expressed interest in the possibility of prohibiting the sale of drug paraphernalia within City limits. The meeting packet includes a copy of a memorandum authored by Attorney Kelly, which suggests that liquor and/or tobacco licenses could prohibit the sale of drug paraphernalia. Another option would be the outright prohibition of the possession or sale of drug paraphernalia. The meeting packet also includes a copy of a draft Ordinance. The definition in the ordinance mirrors the definition found in State Statutes § 152.01.

Councilmember Quam asked why it should be tied to liquor licenses. It should either be allowed or not allowed. Councilmember Rose noted that the business that sells it also sells liquor. Councilmember Page stated he thought the intent was if a business that has a liquor license also sells drug paraphernalia then the City could discontinue its liquor license.

Zoning Administrator/Clerk Karpas explained he drafted the Ordinance and he intentionally chose not to tie it to liquor or tobacco licenses because a business that doesn't sell either could still sell drug paraphernalia. The draft ordinance adds a definition of drug paraphernalia to City Code Section 1205 Definitions. The definition is a State Statutes definition. The Ordinance also amends City Code Section 900.10. Public Nuisances Affecting Morals and Decency to include drug paraphernalia on the list of public nuisances.

Attorney Kelly explained that State Statutes defines drug paraphernalia. It is a petty misdemeanor most often issued in conjunction with a charge of possession of marijuana or a pipe. Drug paraphernalia is not a primary reason patrol officers stop vehicles. It's an incidental charge. He then explained it is his understanding this matter came up because a liquor licensee is offering this type of thing for sale and public safety personnel thought that is attracting the wrong type of people into the community. He stated this is in the eye of the beholder. The question is what constitutes drug paraphernalia. He noted the meeting packet includes a copy of the City of Minneapolis' ordinance regarding the definition of drug paraphernalia and it goes beyond what State Statutes includes. He explained the South Lake Minnetonka Police Department (SLMPD) has the statutory authority to enforce the laws of the State of Minnesota. It doesn't need Council to adopt the State Statutes into the City Code.

Mayor Kind asked Attorney Kelly if Council can direct Zoning Administrator/Clerk Karpas to inform the business owner that they can no longer sell the drug paraphernalia per State Statutes. Kelly explained the City Clerk has no legal authority to do that. It's up to the SLMPD officers to decide if what the business owner is selling violates State law for which they can issue citations. It appears the officers consider the stuff in the store serves no particular value or purpose other than in the use of drugs yet they did not issue a citation when they were there. They apparently feel it is too amorphous for them to act as is. Council could decide to include something similar to Minneapolis' ordinance in the City Code. The City could then tell the business owner it has a liquor license and if the City receives a report from the SLMPD that you are selling what appears to be drug paraphernalia the City could have an inquiry and suspend or revoke their license. He commented that would be politics. He explained the City could go to a suspension hearing and start to conduct it, but there would be some expense associated with that and there would have to be due process conducted. He noted the City has only one liquor license and there isn't likely much revenue coming in from it.

Councilmember Fletcher asked if it makes sense to approach the business owner and tell them if they get rid of what is believed to be drug paraphernalia the City will drop the matter.

Councilmember Rose stated many stores located in Minneapolis have merchandise included on the list of prohibited drug paraphernalia found in their City's code. He asked if that type of merchandise is illegal or

not illegal. He indicated he could support saying selling that merchandise is illegal in the City provided the State agrees with it being illegal to sell it.

Attorney Kelly explained the reason the State law is enforced incidental to an arrest is, for example, the pipe has residue in it. The merchandise in the store doesn't have residue in it. Minneapolis has allowed head shops to stay in business. He stated the City can tell the business owner it doesn't have to authorize the sale of 3.2 beer in the City, and it can ask the owner if it wants to continue to do so or not.

Councilmember Page explained he went into the store a couple of times. During his second visit he saw there were two items that he considers drug paraphernalia. In a glass cabinet close to the register there were approximately 50 of what he clearly considers "pot pipes." Councilmember Quam asked if a person could smoke tobacco in them. Page stated he thought the pipes could be used for that, but he questioned who would do that. Page explained on a shelf there were what he considers to be water pipes and those pipes are associated with a variety of types of tobacco. He did not consider the water pipes to be drug paraphernalia. He noted he met with the wife of the owner and she explained to him how the different devices were used as well as their cultural significance. He explained in his view on a cabinet there were fishing sinkers which he considers roach clips. He noted he told them this issue was on the radar and that the public safety personnel were concerned about it. He explained to them this topic was on an upcoming City Council meeting agenda. He told them the City doesn't want to have anyone in the business of selling drug paraphernalia. He suggested they get rid of the pot pipes. The owner was not receptive to doing that. The owner reminded him that he started to sell the merchandise in question when the City refused to allow him to sell hot sandwiches. The owner noted that he doesn't sell adult magazines; he chooses what he's going to sell for adult items. The owner noted that in Amsterdam people are always walking around with those pipes. The owner intends to continue to sell the merchandise in the store.

Mayor Kind stated that with freedom comes the sale of things Council may not like.

Councilmember Fletcher related a member of the Southwest Drug Task Force had asked him if he wants people to come to the community to purchase that type of merchandise.

Mayor Kind responded of course not, but philosophically it's a core value of hers that with freedom comes things she doesn't like.

Councilmember Quam asked if there is a problem that needs to be addressed regarding the sale of the merchandise in that store. He stated he hasn't heard of any.

Councilmember Page explained with the exception of the 50 what he calls pot pipes in the store everything else in the store is basically a non-issue. He stated from his vantage point it is not a pervasive item they are selling in the store. Between his first and second visit to the store in the last ten days it didn't appear as if a lot of that merchandise had been sold. He then stated he is not overly excited or overly worried about the sale of that merchandise. He noted he would not like to see an expanded amount of merchandise. He stated this is not worth Council spending any more effort on an ordinance. He commented that Councilmembers and residents can convey their displeasure by not buying anything in the store. He also commented the owner doesn't sell a lot of 3.2 beer so tying it to a liquor license means nothing. To make an impact it would have to be tied to tobacco licensing.

Councilmember Quam stated there is a State law regarding this. Therefore, there is no need to spend any more time on a City Ordinance. He then stated the SLMPD is charged with enforcing laws so if the SLMPD thinks it's a problem they should enforce the laws.

Quam moved, Page seconded, moving to stop consideration of adopting an ordinance regarding to the sale and possession of drug paraphernalia. Motion passed 3/2 with Fletcher and Page dissenting.

It was noted the State law is sufficient.

F. Clarify the Definition of Shore Impact Zone

Mayor Kind explained there has been some question about what the Shore Impact Zone really is. The current definitions can be interpreted to mean a line that is 50 percent of the distance between the lakeshore and the building, with the minimum building setback being 50 feet. It can also be interpreted to mean the minimum Shore Impact Zone is 50 feet. Staff recommends the definition be clarified for enforcement purposes.

Minnesota State Definition 6120.2500 Subd. 14c. states, "*Shore Impact Zone means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.*" The current Greenwood Code Definition states, "*Shore Impact Zone means the land located between the ordinary high water level for Lake Minnetonka and a line parallel to it, setback 50 percent of the building setback line that is a minimum of 50 feet from the ordinary high water level.*" The proposed Greenwood Code Definition states, "*Shore Impact Zone means the land located between the ordinary high water level of Lake Minnetonka and a line parallel to it at a setback of 25 feet from the ordinary high water level of Lake Minnetonka.*"

Zoning Administrator/Clerk Karpas stated he thought the intent of the State definition is to have the impact zone be 50 percent of the required building setback regardless of what city you are in. The City just happens to have a 50-foot setback. The proposed definition will clarify things. A person with a building further back on their lot will not be penalized under the new definition.

Mayor Kind noted the definition is located in the Zoning Chapter 11 of the Code Book. Therefore, a public hearing and a review by the Planning Commission is required.

Councilmember Rose asked if any of the Planning Commissioners live on Lake Minnetonka. Mayor Kind responded at least two of them have lakefront property.

Page moved, Quam seconded, directing the Planning Commission to hold a public hearing and make a recommendation on the proposed revision to the definition of Shore Impact Zone. Motion passed 5/0.

G. Restricting the Location of Storage Piles of Lumber, Machinery, Garbage Cans and so forth

Mayor Kind stated there has been a question as to why the City restricts the placement of brush piles to rear or side yards, but has no restriction on the location of storage piles of lumber, machinery, or garbage cans. She explained there are two applicable sections of the Code. The first is Section 900.65 (2) Unlawful Parking and Storage which states, "*A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.*" Section 910.60 Prohibited Activities Affecting Health and/or Property Subd. 1 states, "*The following are hereby declared to be nuisances affecting health and/or property:*" and Subd. 1(f) states "*Brush piles, compost piles, and other piles of yard wastes or clippings unless they are located*

in side or rear yards at least 5 feet from the property line. No brush piles, compost piles, or other piles of yard wastes or clippings are allowed in front yards.”

Kind reviewed the amended language proposed for Code Section 900.65 (2) Unlawful Parking and Storage which is, *“A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, garbage cans, or similar materials, including all materials used in conjunction with a business, outside on residential property, unless the items are located in side or rear yards at least 5 feet from the property line and are screened by a fence or landscaping.”*

Councilmember Quam stated he assumed the reason for the two sections of the current Code is to protect neighbors from having to see eyesores. He then stated he thought that sometimes side yards are more intrusive than front yards. He does not think the City should control every little nit.

Zoning Administrator/Clerk Karpas stated from his perspective people own property and they should have a right to use it. Although things stored on a property may not be pleasing to the eye it's still their property. He noted that residents pay a lot of taxes on the property they own. He stated it's getting to the point where the City is trying to micromanage things. If the City is saying a resident can't have a storage pile in their front yard and their house is back 100 feet from the lake that basically says a person can't use 100 feet of their property for storage. He asked what the definition for machinery includes. With this ordinance the City is getting involved with peoples' private property when they are not hurting anyone. He noted that although he disagrees with the proposed ordinance he will enforce it if Council moves forward with it.

Mayor Kind stated there are properties in the City where scrap lumber is in the front yard. Councilmember Page stated that generally that is temporary and he isn't concerned about that. Councilmember Fletcher asked if that has been a source of complaint to which Kind responded it has. Councilmember Rose asked if there have been lots of complaints or just from one person. Mayor Kind indicated that there has been a complaint from one person.

Page moved, Quam seconded, to take no action on this.

Councilmember Fletcher noted there are two parts to this discussion.

Mayor Kind stated that on a related topic, Council may also wish to amend Section 910.60 Subd. 2 to allow for the civil citation process. She reviewed the proposed amendment which states, *“When there exists on private property a condition that is in violation of section 910.60, a notice to remove the offensive matter shall be served by the city council or its agent upon the owner, agent or occupant. Such notice may be served personally or may be served by mail. In all cases where such owner is not in the city or cannot be found therein, then notice shall be sent to the last known address. Such notice shall describe the matter to be removed and require the removal thereof within 10 days, including Saturdays, Sundays and holidays. If at the end of said 10 days following service of such notice, the offensive matter has not been removed the city shall cause removal and disposition of same by petition to the district court. All costs incurred by the city, including court costs and reasonable attorney fees, for the removal and disposition of all offensive matter shall be assessed, levied and collected as a special assessment payable in the manner provided by law for the levy and collection of other special assessments. offender shall be subject to the process outlined in chapter 12 of this Code Book.”* (The strikethrough is deleted and the underscore is added).

In response to a question from Councilmember Page, Attorney Kelly stated he supports removing anything that suggests the City may have to go through a complicated district court process.

The maker and seconder withdrew their motion.

Page moved, Fletcher seconded, directing Staff to draft an ordinance amendment to Section 910.60 Subd. 2 that will allow for the civil citation process outlined in Chapter 12 of the City Code to be implemented for prohibited activities affecting health and/or property. Motion passed 4/1 with Rose dissenting.

Councilmember Rose dissented because he does not want to take any action on this.

Mayor Kind recessed the meeting at 8:43 P.M.

Mayor Kind reconvened the meeting at 8:48 P.M.

H. Trail Plowing, Mowing, and Tree Trimming Options

Mayor Kind explained that in the past Council has expressed a desire to possibly hire another company for trail snow plowing, mowing and tree trimming services rather than contracting from Deephaven Public Works Department for these services. The meeting packet contains a proposal from Cornerstone Industries (this company provides services to the City of Woodland). Woodland has been very satisfied with the services provided by Cornerstone and it highly recommends them. The report for this item also includes Deephaven's rates for providing such services. She noted that it is difficult to compare hourly rates because some people work faster than others. She stated that basically Cornerstone and Deephaven will do the job for the same price. The question really is if Council wants the work to be done quicker. If the Council chooses to go with Deephaven the trails will be plowed after the City streets are plowed. She noted that Cornerstone is willing to do the first trail plowing or mowing on an hourly basis to determine the actual cost and then charge the City a flat rate.

Councilmember Page asked Zoning Administrator/Clerk Karpas what the Deephaven Public Works Department would think about the City switching to a private contractor to plow the trails. Karpas stated the head of the Department wouldn't be bothered by it but that he did point out that if the trails were plowed before the streets are plowed the street plowing could leave piles of snow where the streets and the trails intersect. Mayor Kind stated that means parts of the trails may have to be done twice.

Councilmember Rose stated the City has had a relationship with Deephaven for years and he doesn't want to jeopardize that for a couple of dollars an hour. Mayor Kind related the head of the Deephaven Public Works Department told her the Department is somewhat short staffed during snowplowing events and therefore wouldn't mind if the City contracts with someone else. Councilmember Quam noted it's not about cost; it's about timeliness.

There was Council consensus that they wanted the trails plowed more quickly.

Councilmember Fletcher stated the report shows the City currently pays between \$40 and \$80 to have its trails plowed by Deephaven. To him that seems really cheap. Mayor Kind explained the head of the Deephaven Public Works Department told her he is not really sure what the actual costs are.

Page moved, Quam seconded, directing Staff to hire Cornerstone Industries to plow the trails in Greenwood after the first snowfall of the season to determine the cost and continue with the service if the cost is less than or equal to the amount charged by the Deephaven Public Works Department for similar service. And, to contact the Deephaven Public Works Department to let them know that

it should not plow the trails after the first snowfall and that it may be possible that it will not be plowing the trails at all this winter. Motion passed 4/1 with Rose dissenting.

Councilmember Rose stated the City has had the Deephaven Public Works Department plow the trails forever and now it will not. It's similar to other things discussed earlier in the meeting. He then stated he can't believe Council decided to do this.

I. Bank CD Options

Mayor Kind explained that in recent months the interest rates on the City's savings accounts has decreased. If Council desires to increase the rate the City earns Council could consider putting money in certificates of deposit (CD). She noted the meeting packet contained information about the rates for Bridgewater Bank and Beacon Bank on October 26, 2011. She explained the best rate is 1.13% at Beacon Bank for a 13-month CD. It is a special rate for clients with checking accounts with a minimum deposit of \$10,000. She explained that she and Councilmember Fletcher review the financial statements quarterly and she reviews the accounts payable twice each month. They are asking for Council authorization to make this move to increase the interest earnings.

Councilmember Page asked what the penalty would be for breaking the 13-month CD. Councilmember Quam stated he thought there would be a penalty in addition to the interest earnings if it were broken.

Councilmember Fletcher explained the City would purchase smaller sized CDs every so many months so they would mature at different times. He recommended the motion specify that. Councilmember Quam explained that is called a ladder strategy.

Fletcher moved, Quam seconded, directing the City Treasurer to open a 13-month certificate of deposit (CD) at Beacon Bank using \$60,000 in funds from the Bridgewater Bank savings account, and authorizing the Administrative Committee to open other CDs with a maximum initial maturity of 15 months with a combined maximum total CD balance of \$300,000 with Beacon Bank and Bridgewater Bank.

Councilmember Quam stated he thought the \$300,000 maximum was too high.

Without objection from the maker, the seconder amended the motion was amended to have a \$250,000 combined maximum total CD balance. Motion passed 5/0.

8. OTHER BUSINESS

AA. October 2011 Verifieds and Check Register

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

Councilmember Fletcher explained that during its June 7, 2011, meeting Council authorized spending up to \$2,000 for a survey and analysis of the drainage issue near Meadville Street. Council subsequently asked the City Engineer to come back with what it would cost to identify alternatives for addressing the problem because the original \$120,000 cost estimate to make the improvements was too high. The engineering firm's invoice amount for the Meadville Street Drainage Study is \$3,903. He asked Council what it wanted to do.

Councilmember Quam stated the firm understands it has to be more careful in the future.

Mayor Kind stated she spoke with the City Engineer (who is employed by Bolton and Menk) about the cost overage. She then stated Martini thought he was supposed to come back with a second plan for addressing the drainage problem not just the cost to prepare an alternative plan. There was some misunderstanding of what was asked for. She related that Martini wants Council to pay what it thinks is appropriate. She stated she told him she didn't mind paying for the work that was done, but that she doesn't like the amount the City has spent on the project to date.

Councilmember Quam stated Engineer Martini had to do a plan to come up with an estimate for a second solution to the drainage problem. He then stated Council needs to be more specific about what it is authorizing and asking for in the future.

Councilmember Page stated he did not think it would be fair to stick to the \$2,000 maximum. Councilmember Fletcher agreed with that.

Quam moved, Fletcher seconded, approving the October 2011 verifieds, checks register and electronic fund transfers. Motion passed 5/0.

A. Resolution No. 20-11, Policy for "No Parking" Signs

Mayor Kind explained that during its October 4, 2011 meeting Council discussed a no-parking sign policy. Council continued the discussion to this meeting to allow time to create a map showing the locations of current signs. The meeting packet contains a map showing where no parking signs are located. There are 75 of them in the City. She noted that during the October meeting the City Engineer indicated the use of no parking signs is up to Council.

Councilmember Quam stated he is not qualified to decide where no-parking signs should be placed, noting he has expressed this sentiment before.

Fletcher moved not to do anything with regard to no parking signs at this time.

Councilmember Page asked whether the City has to bring no-parking signs into compliance with the federal retroreflectivity signs. He asked what the deadline for replacement is.

Mayor Kind explained the federal mandate requires all regulatory, warning, and guide signs to be compliant with the standards by January 22, 2015. The City's sign assessment and management plan calls for one-third of them to be replaced in 2012, one-third in 2013, and the final one-third in 2014. By January 22, 2018, street name and all other signs must be in compliance. No-parking signs fall into the 2018 deadline category.

Councilmember Page stated there is time before a decision needs to be made about replacing no-parking signs.

Page seconded the motion. Motion passed 3/2 with Kind and Rose dissenting.

Mayor Kind stated she would prefer to take down the no-parking signs that the City has no intention of replacing.

9. COUNCIL REPORTS

A. Fletcher: Planning Commission, Lake Minnetonka Communications Commission, Excelsior Boulevard Street and Water Project, Xcel Energy LRT Project

With regard to the Planning Commission, Councilmember Fletcher stated he has nothing additional to report.

With regard to the Lake Minnetonka Communications Commission (LMCC), Fletcher stated the LMCC plans to have agenda parsing in place around the beginning of 2012. He noted the LMCC will need meeting agendas before meetings.

With regard to the Xcel Energy LRT Project, Fletcher stated there is a meeting scheduled for November 4, 2011, with representatives from the Cities of Deephaven, Excelsior, Greenwood, and Minnetonka, the Three Rivers Park District, the Hennepin County Regional Rail Authority (HCRRA) and Xcel Energy to talk about tree removal that will occur as part of Xcel Energy's power line project.

Councilmember Quam thanked Councilmember Fletcher for his efforts on the Xcel Energy LRT Project.

B. Kind: Police, Speed Trailer, Administration

With regard to the South Lake Minnetonka Police Department (SLMPD), Mayor Kind stated there is a SLMPD Coordinating Committee meeting scheduled for November 29, 2011, at 5:30 P.M.

With regard to the speed trailer, Kind explained the trailer was deployed on Minnetonka Boulevard on September 30th. She distributed a report of statistics captured by the trailer. The average speed traveled was 31.2 miles per hour (mph); the speed limit is 30 mph. A few drivers drove over 51 mph between 1:00 P.M. and 7:00 P.M. with most of the speeding occurring around 6:00 P.M. Most drivers complied with the speed limit.

Councilmember Quam noted the trailer display was "on." He stated the next time it's deployed in the City he would like the display to be "off" at the beginning and end of the deployment period.

Councilmember Fletcher asked if the City can continue to ask for the speed trailer to be located in the City. Mayor Kind responded it can. She asked where Council wants it deployed next. There was a suggestion to have it placed on Meadville Street. Kind noted it has already been placed there in 2011. Fletcher suggested St. Albans Bay Road or Manor Road. Councilmember Quam stated he would like it to be located on Sleepy Hollow Road if the SLMPD can figure out how to capture statistics with the display off.

Mayor Kind stated she and Councilmember Fletcher attended the fall sales ratio study meeting with the assessors on October 27th. The study indicates the offshore property sale amounts decreased about 4 percent in 2011. The sale amounts of properties that front Lake Minnetonka remained relatively flat. The sale amounts of condominiums increased about 3 percent.

Councilmember Fletcher explained the 2011 omnibus tax act established a new property tax program called the homestead market value exclusion (HMVE) and repealed the existing market value homestead credit (MVHC). The repealed MVHC gave homesteads valued below a certain amount tax relief through a state-paid credit. The HMVE provides a tax reduction to all homesteads valued below a certain amount by shifting a portion of the tax burden to higher value properties. Therefore property taxes for residential properties located in the City may go up even if a value of the property may have gone down. Because of

this change Hennepin County will collect fewer taxes from cities with lower value properties and more from cities with higher value properties like Greenwood.

Councilmember Quam noted that the change was made by the State Legislature.

Mayor Kind explained that the City docks will be stored on shore in the right-of-way this year because Bean's Marina is doing a maintenance project this winter and it needs the area where the floating docks are normally stored. The company who removes the docks put them in on shore for no extra charge.

Kind stated the City received written confirmation that the former city clerk did qualify for unemployment compensation and the City has to pay for that. The amount the City owed has been paid.

C. Page: Lake Minnetonka Conservation District

Councilmember Page reported on Lake Minnetonka Conservation District (LMCD) activities. He stated the LMCD Aquatic Invasive Species (AIS) Task Force met on October 21st. The meeting was well attended by the Task Force members including representatives of the fishing lobby, the commercial marina lobby, the LMCD, the Minnehaha Creek Watershed District (MCWD), the Three Rivers Park District, the Minnesota Department of Natural Resources (DNR), the Army Corps of Engineers (the Corps), Hennepin County, the Lake Minnetonka Association (LMA), and the bay captains. The discussion was twofold.

The first topic was assessing the efficacy of the herbicide treatment of Eurasian Watermilfoil as it overlays the Lake Minnetonka (the Lake) Vegetation Management Plan (the Plan). The treatment did not meet the plan for the treatment of the three bays in year 1 – 3 and the 5 bays in year 4, while noting the Corps did not have some of the data available that it indicated would be available. The Plan also called for the treatment of curly leaf pondweed, but it was later determined that it was not an issue in the Lake. The treatment program will continue through next year, which is the final year of the treatment program.

Page then stated it's his interpretation that the agencies will not support extending the treatment program past year five. The Corps has stated it is likely that it will not monitor any treatments after year five. It's been doing that at no cost. The efficacy of the treatment was considered not to be of sufficient value when compared to the cost of doing the treatment. Three Rivers Park District doesn't think it's worth it to contribute funds toward the cost of chemically treating smaller lakes. Instead it bought a harvester because it thought that is a more cost effective treatment method. The DNR has not committed to committing funds for any treatment beyond year 5. The LMA would prefer to increase the herbicide treatment of the Lake, but it has accepted the impact of milfoil in the Lake will be mitigated through a combination of harvesting and herbicides.

With regard to the LMCD purchasing a new harvester, Page explained the DNR, MCWD and Hennepin County chose not to weigh in on the discussion. There was no consensus among the Task Force members as to whether or not the broken harvester should be replaced. The LMA doesn't support purchasing another one. More information is needed from some of the agencies. There was discussion about contracting the harvesting program out. There is only one company that has the size of equipment to do the job. For insurance reasons a decision should be made within 60 days. The LMCD will be reimbursed approximately \$32,000 by the League of Minnesota Cities Insurance Trust (LMCIT) if the LMCD does not replace the harvester and approximately \$65,000 if it does replace it. He stated he thought three harvesters are needed.

Mayor Kind stated she supports getting the full amount from the LMCIT.

Councilmember Fletcher stated if the insurance reimbursement helps replace the harvester it may make sense to purchase one now, noting the current two harvesters are old.

Councilmember Page stated tandem harvesting creates less fragments than individual harvesting.

D. Quam: Roads & Sewer, Minnetonka Community Education

Councilmember Quam stated there is nothing to report on roads and sewer. He then stated the Minnetonka Community Education Board has been talking about innovation.

Quam noted that he heard from the City of Excelsior that the rating of the St. Albans Bay bridge is higher than 50. The bridge is on the state's historic list.

E. Rose: Excelsior Fire District

Councilmember Rose stated there has not been an Excelsior Fire District (EFD) Board Meeting since the last Council meeting. There is a work session scheduled for November 2nd and a regular Board meeting scheduled for November 16th.

C. ADJOURNMENT

Page moved, Rose seconded, Adjourning the City Council Regular Meeting of November 1, 2011, at 9:36 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder