

AGENDA

Greenwood City Council Meeting

Wednesday, February 6, 2013
20225 Cottagewood Road, Deephaven, MN 55331



The public is invited to address the council regarding any item on the regular agenda. If your topic is not on the agenda, you may speak during Matters from the Floor. Comments are limited to 3 minutes. Agenda times are approximate.

- 7:00pm 1. CALL TO ORDER ~ ROLL CALL ~ APPROVE AGENDA
- 7:05pm 2. CONSENT AGENDA
Council members may remove consent agenda items for discussion. Removed items will be put under Other Business.
- A. Approve: 01-02-13 Council Meeting Minutes
 - B. Approve: December Cash Summary Report
 - C. Approve: January Verifieds, Check Register, Electronic Fund Transfers
 - D. Approve: February Payroll Register
- 7:10pm 3. MATTERS FROM THE FLOOR
This is an opportunity for the public to address the council regarding matters not on the agenda. The council will not engage in discussion or take action on items presented at this time. However, the council may ask for clarification and may include items on a future agenda. Comments are limited to 3 minutes.
- 7:15pm 4. PRESENTATIONS, REPORTS, GUESTS & ANNOUNCEMENTS
- A. Report: South Lake Minnetonka Police Department Quarterly Update
 - B. Report: City Engineer Dave Martini, 2013 I/I Project ...
Consider: Resolution 04-13, Regarding Inflow & Infiltration Grant Application
- 7:30 pm 5. PUBLIC HEARINGS
- A. None
- 7:30pm 6. UNFINISHED BUSINESS
- A. Excelsior Blvd. Watermain Project ...
 - I. Consider: Greenwood / Excelsior Agreement for Watermain Option 1
 - II. Consider: Greenwood / Excelsior Agreement for Water Services
 - III. Consider: Resolution 05-13, Ordering Excelsior Blvd. Watermain Project Option 1 Improvement and Preparation of Plans
- 7:45pm 7. NEW BUSINESS
- A. 1st Reading: Ordinance 214, Regarding Hardcover Rules (prohibiting illegal nonconforming hardcover properties from trading landscaping hardcover to increase structural hardcover)
 - B. 1st Reading: Ordinance 215, Regarding Rules for Small Lots (relaxing side yard setbacks, hardcover, and massing rules for lots smaller than 15,000 sq. ft. in the R1-A zoning district)
 - C. Consider: Potential 2013 City Contribution for Eurasian Watermilfoil and Curly Leaf Pondweed Treatment of St. Alban's Bay
 - D. Consider: Hennepin County Recycling Grant Application, Reports, and Activities
 - E. Consider: Potential Comments Regarding Reorganization of Watershed Districts
 - F. Consider: Resolution 06-13, Updating 2013 Appointments and Assignments (to appoint an alternate representative to the Lake Minnetonka Communications Commission)
 - G. Consider: Resolution 07-13, Regarding Lake Minnetonka Communications Commission Membership / Franchise Renewal
 - H. Consider: Potential Comments Regarding Bow-Fishing Regulations on Lake Minnetonka
- 9:00pm 8. OTHER BUSINESS
- A. None
- 9:00pm 9. COUNCIL REPORTS
- A. Cook: Planning Commission
 - B. Fletcher: Lake Mtn. Communications Commission, Excelsior Fire District, Xcel Project
 - C. Kind: Police, Administration, Mayors' Meetings, Website
 - D. Quam: Roads & Sewer, Minnetonka Community Education
 - E. Roy: Lake Minnetonka Conservation District
- 9:15pm 10. ADJOURNMENT



Agenda Item: Consent Agenda

Summary: The consent agenda typically includes the most recent council minutes, cash summary report, verified report, electronic fund transfers, and check registers. The consent agenda also may include the 2nd reading of ordinances that were approved unanimously by the council at the 1st reading. Council members may remove consent agenda items for further discussion. Removed items will be placed under Other Business on the agenda.

Council Action: Required. Possible motion ...

1. I move the council approves the consent agenda items as presented.

GREENWOOD CITY COUNCIL MEETING
Wednesday, January 2, 2013, 7:00 P.M.
Council Chambers, 20225 Cottagewood Road, Deephaven, MN 55331

Attorney Kelly administered the Oath of Office to newly elected Mayor Debra Kind and Councilmember William Cook and Councilmember Rob Roy.

1. CALL TO ORDER – ROLL CALL – APPROVAL OF AGENDA

Mayor Kind called the meeting to order at 7:02 P.M.

Members Present: Mayor Kind; Councilmembers Cook, Fletcher, Quam and Roy

Others Present: City Attorney Kelly, City Zoning Administrator/City Clerk Karpas, City Engineer Martini (departed the meeting at 8:02 P.M.)

Members Absent: None

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

2. CONSENT AGENDA

Mayor Kind reviewed the items on the consent agenda.

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

- A. December 5, 2012, City Council Meeting Minutes**
- B. December 12, 2012, City Council Special Meeting Minutes**
- C. November 2012 Cash Summary Report**
- D. December 2012 Verifieds, Check Register, Electronic Fund Transfers**
- E. January 2013 Payroll Register**

Motion passed 5/0.

3. MATTERS FROM THE FLOOR

There were no matters from the floor presented this evening.

4. PRESENTATIONS, GUESTS & ANNOUNCEMENTS

- A. Greenwood Night at the Old Log Theater, 8:00 P.M. Friday, January 11, 2013**

Mayor Kind stated Greenwood Night at the Old Log Theater is scheduled for January 11, 2013, at 8:00 P.M. She asked Zoning Administrator/Clerk Karpas to post that a quorum of the Council may be present that evening.

B. Planning & Zoning Workshop, January 12, 2013, 9:00 A.M.

Mayor Kind noted Greenwood is hosting a Planning and Zoning Workshop on January 12, 2013, at the Southshore Community Center from 9:00 A.M. – 4:00 P.M. There are 41 people signed up for the Workshop. She asked Zoning Administrator/Clerk Karpas to post that a quorum of the Council will be in attendance.

C. Hennepin County Update from Commissioner Jan Callison

Mayor Kind introduced Hennepin County Commissioner Jan Callison who was present to give an update on what is happening in Hennepin County.

Commissioner Callison explained Hennepin County has approved a property tax increase of 0.93 Percent for its 2013 operating budget. When the Hennepin County Regional Rail Authority and the Hennepin County Housing and Redevelopment Authority are included it is a 1.5 percent tax increase for 2013. That goes largely to a cost of living adjustment for employees who have not had increase in four years and for hiring some additional staff.

Commissioner Callison reviewed the sources of revenue for the County for 2010 – 2012. Property tax has been either steady or slightly declining. Federal revenues to the County have been flat. State revenues to the County have been declining. Fees and services have been increasing. Other sources have been decreasing. She noted sources of revenues to local governments have not increased and are not likely to for the next seven years.

Commissioner Callison explained that at the same time revenues have remained flat or stagnant there has been an increase in the number of people seeking services from the County. The average number (January – June) of families seeking shelter at the County was approximately 250 per night in 2000 and approximately 150 in 2001. For a number of years after that the County was successful in keeping families out of shelters or moving them through shelters quickly. That has begun to change and the County's capacity to shelter families is close to the upper end now. Each day she gets a count of the number of children in shelters each night in Hennepin County. Historically the peak period for shelter use during a year is in the month of October. This year that was reached in September. Even though the County converted administrative space to shelter space it still ran out of space to house people.

The largest growth is in medical and food support programs. The monthly average of individuals on medical programs (January – May) increased 26 percent over four years. The monthly average of individuals on food support (i.e., food stamps) and MFIP food portion cases (January – May) increased 69 percent over four years. The monthly average number of calls to child protection (January – May) increased 28 percent over four years. The monthly average number of calls to adult protection (January – May) increased 13 percent over four years. The total long-term care consultations (January – May) which are required by Medicare for decisions families might make increased 26 percent over four years. The County is about 600 people behind in doing the assessments. State law, and maybe federal law, is changing so the assessments will have to be done annually rather than past once-a-year requirement. The social worker staffing level declined 14 percent over four years. Part of the budget increase is to hire 22 employees in the social work area. There is also a proposal to hire some people to do long-term care consultations that will be paid for with funds from the State of Minnesota.

Commissioner Callison stated construction of a new library in the City of Excelsior was approved late last year. Construction is expected to begin in 2013 and it's anticipated it will open late summer of 2014. The

new library will be close to double the size of the current library. It will be located on Water Street next to the Hennepin County Regional Trail. The budget is \$5.6 million.

Commissioner Callison provided her contact information. Her email is Jan.callison@co.hennepin.mn.us and her phone number is (612) 348-7886.

Commissioner Callison stated former County Administrator Richard Johnson retired at the end of December after about seven years in that position. The County is in the process of looking for a new Administrator. In the meantime the County's Deputy County Administrator is acting in that capacity. Johnson had been the master mind behind the budgets that had stayed flat over the years even though the demands on the County increased. Johnson's departure is a loss to the County and it will be difficult to fill his shoes.

Commissioner Callison distributed a handout related to a watershed management proposal. She noted the proposal was prepared by Hennepin County Commissioner Jeff Johnson. Johnson has had legislation drafted. She stated the handout is a summary of the essential parts of it.

Commissioner Callison highlighted what the proposal would do. There are currently eleven watershed organizations in the County. The proposal recommends reducing it down to three watershed districts.

The new watershed management organizations would have taxing authority. That is not true of all of the current watershed management organizations in the County. There would be levy limits placed upon them. The new watershed management organization managers must be elected officials. There are provisions about how the new organizations would be created.

She solicited feedback from Council either now or after they have had time to review it.

Mayor Kind asked Commissioner Callison if she is a supporter of the proposal.

Commissioner Callison stated if changes are made to the watershed management organizations she wants them to work better. She questioned if what is proposed will work better. She then stated she thought eleven watershed management organizations is a lot, and therefore consolidation of same nature would make sense. She went on to state that she has heard a concern that council members are already busy, and being a member of a new organization would be a big commitment. Another concern expressed is there is a loss from lack of citizen involvement. She noted that she is not a fan of levy limits for local governments, and therefore she is not in favor of imposing levy limits on the new organizations. She also expressed concern about going to the legislature because once a proposal is sent to the legislature it is hard to know what will come back. She stated she wants assurance that what is being proposed will improve water management in Hennepin County.

Mayor Kind stated she likes the idea of having elected officials as managers because they are voted to represent the people, as opposed to someone who would applicant to be on the watershed management organization who might be more of an activist. Elected officials tend to have a more impartial perspective.

Commissioner Callison asked Mayor Kind if she thought the managers should be elected because the new organization would have taxing authority. Kind responded she did.

In response to a question from Councilmember Quam, Commissioner Callison explained the northern part of Hennepin County is managed by elected officials. Their taxing authority comes through the County. They ask the County for approval to increase taxes. They typically spend less money. In the southern part

of the County there are primarily watershed districts and the board members are appointed by the Hennepin County Board of Commissioners. They have taxing authority.

Commissioner Callison noted not all of the current eleven organizations are totally within Hennepin County. The proposal would affect the water in the County only. Another organization in another county would have to be brought into the management and that could complicate things. The way the legislation is drafted it is up to the cities in other counties to join. There is also the question of how to figure out the voting.

Councilmember Cook asked if there is a web address/link to the proposal and legislative language. Commissioner Callison stated she is not sure. She noted she will send the legislative language to Zoning Administrator/Clerk Karpas for distribution to the Council.

Councilmember Fletcher stated he cannot imagine having a representative from each of the cities and townships in the new watershed management organization on its board of managers and be effective.

Commissioner Callison stated this would be a complicated undertaking.

Mayor Kind suggested Council mull this over a little and then send Commissioner Callison their collective comments.

Councilmember Fletcher stated the statistics for services provided by Hennepin County all show a lot of growth. He asked Commissioner Callison if all of that growth is attributable to the economy or are there other things that factor into that growth as well. Commissioner Callison responded that it is her understanding that the economy and mortgage issues and limited rental housing have been the cause for the shelter growth. The growth in foreclosures and shelters can be tracked to the economy. The growth in consultations for the elderly is a result of an aging population.

Councilmember Fletcher asked if any consideration is being given to the cost to operate the transit systems being discussed. Commissioner Callison responded there is. When a case is being made for them operating costs have to be identified. She noted that light rail transit has a better return than buses because it is more efficient. Fletcher stated from his perspective it is better to run a few systems well than a lot of systems poorly.

Mayor Kind thanked Commissioner Callison for coming to the meeting.

Commissioner Callison thanked Council for its time, and she congratulated those who were newly elected.

D. Report on Lake Minnetonka Conservation District Activities, Kelsey Page Representative

Mayor Kind noted Kelsey Page, the City's representative to the Lake Minnetonka Conservation District (LMCD), is present to give a report on LMCD activities.

Mr. Page stated his intent this evening is to bring Council up to date on the draft Eurasian Watermilfoil (Milfoil) and Curly Leaf Pondweed Comprehensive Management Plan (the Plan). He explained the Plan was subject to a public hearing held on December 12, 2012. His impression as well as the impression of the LMCD Aquatic Invasive Species (AIS) Task Force is that there is good support for the Plan overall. Good input was received during the hearing. The input was in both written and oral form. The LMCD

Staff is in the process of preparing a memorandum related to the public input that will be circulated to the LMCD Board. He anticipates the LMCD Board will vote on the Plan this month. Something has to be decided about the funding for the upcoming season.

Mr. Page then stated that on December 14, 2012, the LMCD AIS Task Force met. Many of the members of the Task Force attended the public hearing. He noted that a representative from the fishing lobby spoke during the hearing. The AIS Task Force thought that during the hearing there was a fixation on the word “primary” in the Plan. The consensus of the Task Force was changing that word would be superfluous because it would not change the content of the report. The Task Force believes that harvesting would be the most used tool to control Milfoil in Lake Minnetonka (the Lake) because it would be most effective in most of the Lake. The bays that would be chemically treated would be in the minority. After unsuccessfully trying to come up with a replacement for the word “primary,” the Task Force made a decision to leave it in the report.

With regard to a preliminary report from the Army Corps of Engineers on what it calls a point intercept survey to measure what Milfoil and other weeds are present in the Lake, Mr. Page stated he interprets the report to say Milfoil is back quite strong in St. Alban’s Bay with the heaviest concentration being along the south shore along the island in the Bay. It was present all the way back to where the municipal docks are located. That confirms a two-year cycle for growth and treatment. He noted the regrowth in St. Alban’s Bay was not as strong as it was in Gideon Bay.

With regard to the Flowering Rush issue, Mr. Page explained the Minnehaha Creek Watershed District (MCWD) is handling that. He noted the MCWD has stated it will not be involved with management of AIS, but it will be focusing on prevention of AIS. He stated the MCWD has decided the Flowering Rush is in a concentrated enough area that they will treat it as a prevention effort. For the second year in a row the MCWD hired a contractor to pull the Flowering Rush out by hand. The extensive report provided by the contractor to the MCWD states hand pulling seems to be working. Year to year the amount of Flowering Rush is down significantly. The report indicates there is 85 percent control from when the effort was started.

Mr. Page noted that in 2012 he served as the treasurer for the LMCD; on the LMCD Executive Committee, Personnel Committee, and AIS Task Force; and, he was the Chairman of the AIS Task Force subcommittee.

E. Presentation on Excelsior Boulevard Watermain Project Option 1, Engineer Martini

Engineer Martini stated the impetus for a feasibility study for the Excelsior Boulevard Watermain Project Option 1 was a petition from property owners to the City dated June 13, 2012, requesting the extension of watermain along Excelsior Boulevard. The watermain currently extends from the City of Excelsior to about 300 feet west of Christmas Lake Road. The project would be to extend it from there to the petitioning properties.

Martini provided background on the project. Metropolitan Council Environmental Services (MCES) is proposing improvements to its sewer system. The plan is to construct a second 24-inch force main under Excelsior Boulevard to allow for inspection and repair of its 40⁺ year old existing force main. The additional force main would also provide redundancy and improved reliability to the current system. As part of that project Excelsior Boulevard will need to be torn up and reconstructed. Therefore, from a cost perspective this would be a good time to extend the watermain because MCES would pay for the roadway

reconstruction. The current schedule for the MCES project is to start construction in 2013 and complete it in 2014. The construction schedule for the segment in Greenwood is 2013.

Martini explained the proposed watermain extension is from 21170 to 21380 Excelsior Boulevard as requested in the petition plus the watermain west of 21380 to the existing watermain. The size of the watermain proposed to meet Greenwood's needs is 12-inch diameter to Christmas Lake Road and 8-inch diameter east of that point. The sizes are to provide adequate fire flow to both the residential and commercial properties located in the project area. The watermain construction would include the installation of three fire hydrants along the route.

The watermain project includes the installation of service stubs from the watermain to right of way. Residential service stubs are proposed to vary between 1 inch and 1.5 inches depending on the length of the service to the individual property. It is proposed that commercial properties will receive a 6-inch stub to allow for future fire protection sprinkler systems.

There are some water services that are proposed to be reconstructed as part of the project between the west end of the project to Christmas Lake Road. There are currently five properties that are served off of the existing watermain from Excelsior. Those services are long, unconventional services. They will be replaced with conventional water services. Because those services will be disturbed by the MCES project MCES will pay for the reconstruction.

The proposed reconstructed roadway will be approximately 26 feet wide with concrete curb and gutter on both sides. It would be essentially the width of the current roadway; the area around Christmas Lake Road is slightly wider. The existing bituminous walkway on the south side will be reconstructed to 6 – 8 foot wide. Typically, about 10 feet of the driveways will be reconstructed to provide transition between the newly constructed and existing driveway. Disturbed boulevards will be restored.

The total estimated project cost to the City for the watermain extension is \$135,695. The estimate includes construction costs plus a 30 percent allowance for contingencies and soft costs. Construction costs consist of the watermain extensions, the service stubs, and fire hydrants. Soft costs include things such as project engineering, administrative, legal, fiscal and miscellaneous costs.

City costs are proposed to be funded by special assessments to the benefitting properties. The assessment area consists of 10 single-family residential parcels and two commercial parcels. The proposed assessment is by unit; it assesses like parcels the same amount. The two commercial properties are proposed to be assessed at 1.5 times the residential rate to account for greater fire flow needs in the future. The existing service reconstruction, street reconstruction, driveway restoration, and most of the boulevard restoration costs will be funded by MCES.

Based on the proposed assessment method and the estimated total project cost the estimate assessment rate is \$10,515 for residential parcels and \$15,772.50 for commercial parcels. Each parcel within the assessment area will be assessed this cost regardless if it connects to the watermain. The owners of six properties in the assessment area signed the petition.

Each property receiving water service from the watermain extension will incur other expenses at the time of connection. They include, but are not limited to, the City of Excelsior's \$2,000 connection charge and a 1-inch water meter cost of \$328.46 plus tax. Those costs are subject to change in the future and they are typically adjusted annually. In addition the property owner will have to hire a contractor to extend the service from the service stub to the house and to make the connection inside the house. The property owner will also pay usage rates after connection.

Martini noted there is also an Option 2 that has been discussed. It would involve the Cities of Excelsior and Shorewood. Option 2 would expand the project area. He then noted if Option 2 were to move forward it would require its own feasibility study and public hearing. Mayor Kind stated it is looking less and less likely that Option 2 will advance.

In response to a question from Mayor Kind, Engineer Martini explained the 12-inch diameter watermain is needed for fire flow to the commercial properties in that area should they install sprinkler systems. Councilmember Fletcher noted the 12-inch watermain will only go from Christmas Lake Road to 21170 Excelsior Boulevard. Martini reiterated the commercial properties are being assessed a rate that is 1.5 times that of the residential properties.

In response to a question from Mayor Kind, Martini stated the proposal to connect the Excelsior and Shorewood municipal water systems calls for a 12-inch diameter watermain. Kind asked if the 8-inch watermain would be sufficient if watermain is eventually extended further down Excelsior Boulevard beyond the petition zone. Martini responded that it would have to be upgraded to a 12-inch watermain if is extended very far.

Mayor Kind asked what the current width of the sidewalk is. Engineer Martini stated there are areas that are less than 6 feet wide. Martini explained the proposal is for the reconstructed sidewalk to be a minimum of 6 feet wide and the area near the intersection will be up to 8 feet wide. Going up to the east it becomes confined. Councilmember Fletcher stated it is his understanding that there will be concrete curb to separate the sidewalk from the roadway. Martini reiterated there will be concrete curb and gutter on both sides of the reconstructed roadway.

Engineer Martini noted the City will incur some costs as part of this project. For example, if the walkway is made wider than what it currently is the cost for the additional width would be the City's responsibility. Improvements made to resolve some of the drainage issues in the area may be the City's responsibility.

5. PUBLIC HEARING

A. Excelsior Boulevard Watermain Project Option 1

Mayor Kind noted the procedures used in a public hearing. She explained this is an opportunity for the public to comment on the possible Excelsior Boulevard Watermain Project Option 1.

Quam moved, Fletcher seconded, opening the public hearing at 7:48 P.M. Motion passed 5/0.

Mayor Kind asked people to keep their comments brief, and if they agree with what someone else has already said she asked them to just note they agreed.

Steve Janousek, 21210 Excelsior Boulevard, stated he owns one of the properties that would be affected by this. He then stated that this project is really important to his family.

Chris Ogilve, 21170 Excelsior Boulevard, echoed Mr. Janousek's comments about the project being important. He and his wife have five children and water quality is very important to them. He then stated they use the sidewalk frequently. He noted that he and his family are extremely interested in getting this taken care of. He stated it is a great opportunity to do this in conjunction with Metropolitan Council Environmental Services' (MCES) proposed sewer system improvements. He then stated this will have a

great positive impact on him and his family, and it will have a positive impact on his property going forward.

William Brands, 21290 Excelsior Boulevard, stated based on what he has heard he understands the proposal is to construct concrete curb on both sides of the reconstructed Excelsior Boulevard and to reconstruct the walkway on the south side. He asked if it is mandatory where the connections come in. He explained he has a well that comes in at the bottom of the driveway. Engineer Martini stated the service stubs shown on the drawing are where they conceptually will be located. Martini explained that if this project is done when it gets closer to construction the engineers will solicit input from the property owners on where they would like the service stubs located. He noted that he is not one of the property owners petitioning this, but he is totally in favor of it.

Councilmember Fletcher noted that Mr. Brands had signed the first petition. When the petition had to be quickly resubmitted with a little more clarity Mr. Brands was not available to resign it.

Gene Dahlin, 21350 Excelsior Boulevard, stated he is 100 percent behind this project. He noted he is excited to have it happen. He asked if the storm sewers are part of this project. Engineer Martini responded they are not. Martini explained there are some existing storm sewer facilities west of Christmas Lake Road that will be reconstructed as part of this project and hopefully improved. The engineers spent time going up and down Excelsior Boulevard to get a better understanding of how the stormwater flows with the intent to shape the roadway so water will flow more efficiently. A goal is to try and direct some of the stormwater to the Highway 7 ditch and facilities.

Mayor Kind asked for a motion to close the Public Hearing. Engineer Martini stated the agenda indicates the Public Hearing would start at 8:00 P.M. Zoning Administrator/Clerk Karpas explained the times on the agenda are just estimates for how long the discussion of each item will take. Attorney Kelly stated there is no problem leaving the Public Hearing open while Council discusses this further.

Attorney Kelly noted Council may not take any action this evening. He explained that holding a Public Hearing is a key element in the process for this project based on Engineer Martini's report. This can be revisited at a later date. He noted that Engineer Martini has suggested this be assessed 100 percent to the property owners. That will require a special assessment which requires another public hearing and presentation. He stated that a public improvement like this may have a special component which benefits the adjacent properties, a general component which is of benefit to the City or a little of both. Hence, the need for what is called a 429 which is a reference to a Minnesota Chapter in state law.

Mayor Kind stated the City is still waiting to find out if Option 2 could be feasible, noting that is looking unlikely. She then stated it is likely Council will take action on this during its February 6, 2013, regular meeting. Council could call a special meeting if necessary. Engineer Martini explained if Council decides to move forward with the project that action needs to be taken before MCES can advertise for bids. Kind stated she understands that February 6 is early enough for that.

Councilmember Fletcher asked if the City has to come to some type of agreement with the City of Excelsior on this project. Attorney Kelly stated it is his impression that Excelsior is willing to let the City do this project. Kelly recommended the City get that in writing. Mayor Kind stated the City has to decide if it is going with Option 1 or Option 2 before that can happen. Fletcher stated if it becomes clear that Option 2 will not move forward he asked if work could begin on drafting an agreement for Option 1. Kelly stated Excelsior may suggest the City draft an agreement and present it to Excelsior for review and comment. Kind noted that Excelsior has indicated it would like Greenwood to draft an agreement. Kind

explained the project timeline indicates the draft cooperative agreement needs to be written by February 11, 2013.

Engineer Martini explained the discussions to date with Excelsior about this project have been to develop a master agreement only for providing water service to Greenwood. He noted there are some Greenwood residents that already get their water from Excelsior's municipal water system. The master agreement would be for all of the properties who get their water from Excelsior's municipal water system.

Councilmember Fletcher asked when MCES plans to open bids on their project. Engineer Martini responded he thought that may occur in March 2013 and that MCES intends to advertise for bids in February. Martini explained MCES would like to have things in place to start construction when road restrictions come off in the spring of 2013. Fletcher then asked if MCES wants to know what Greenwood is going to do before it advertises for bids. Martini explained from a process perspective that has to happen.

Mayor Kind noted that even if the City orders the improvements there is still an opportunity further in the process to opt out of doing the project. Engineer Martini stated that once bids are open it will come back to Council for final approval for that portion of the project.

Attorney Kelly asked if the approval of Option 1 is going to include a contingency that there will be a satisfactory agreement between Excelsior and Greenwood.

Councilmember Fletcher stated the City cannot commit to spend money on this project without a workable agreement with Excelsior.

Fletcher moved, Cook seconded, closing the Public Hearing at 8:02 P.M.

Engineer Martini departed the meeting.

6. UNFINISHED BUSINESS

A. Variance Findings of Fact, David and Kim Barry, 21550 Excelsior Boulevard

Mayor Kind noted that the meeting packet contains a copy of the Findings of Fact for David and Kim Barry, 21550 Excelsior Boulevard prepared by Attorney Kelly.

Fletcher moved, Quam seconded, Adopting RESOLUTION NO. 03-13, "A Resolution of the City Council of the City of Greenwood, Minnesota Acting as the Board of Appeals and Adjustments, for real property located at 21550 Excelsior Boulevard setting out the findings of fact and conclusions of law regarding the David and Kim Barry variances to lake yard setbacks, and impervious surface to permit the installation of frost footings beneath an existing garage allowing for attachment to the house." Motion passed 5/0.

7. NEW BUSINESS

A. Setting Dates for 2013

Mayor Kind stated the meeting packet contains a copy of a resolution setting meeting dates for the City for January 1, 2013 through December 31, 2013. She noted this is a routine resolution that Council adopts

annually in January. She also noted that no changes have been made to the resolution adopted in 2012 other than to adjust the dates.

Councilmember Fletcher asked if Council ever changes the Council meeting date. He noted the July meeting falls on July 3rd. Mayor Kind the date only changes if it is on a holiday. Fletcher then asked if the Fall Sales Ratio Meeting with Assessors is set in stone for October 31st. Kind responded it is usually held on the last Thursday in October. Kind stated if Fletcher has another date to recommend, the Clerk can check with the assessors to see if they are available. Fletcher stated he would prefer it be moved to October 24 if possible. Kind asked Zoning Administrator/Clerk Karpas to find out if it could be moved.

Cook moved. Fletcher seconded, Adopting RESOLUTION NO. 01-13, “A Resolution setting the 2013 dates as identified in the resolution subject to the Falls Sales Ratio Meeting with Assessors date changing from the last Thursday in October to the fourth Thursday (October 24, 2013) if acceptable with the assessors. Motion passed 5/0.

B. Appointments and Assignments for 2013

Mayor Kind stated the meeting packet contains a draft resolution making appointments and assignments for 2013, noting this is a routine resolution. Three changes have been made to the 2012 appointments. She explained that being an “elected official” is not a requirement for appointment to the Lake Minnetonka Conservation District (LMCD) Board, yet the practice for the last four years has been that a Councilmember is appointed to this position. Newly-elected Councilman Rob Roy has expressed interest in serving on the LMCD Board, so his name has been added to the list as the LMCD Representative for 2013. If Council desires to approve the resolution appointing Rob Roy as the new LMCD Board Representative, Council first will need to “recall” Kelsey Page as the City’s LMCD Board Representative. A new Marina Clerk category and a new Utility Billing Clerk category have been added to officially designate Deborah Hicks as the City’s Marina Clerk and Utility Billing Clerk. Ms. Hicks has been fulfilling these functions since Deephaven staff took on clerk duties for Greenwood in 2010.

Kind noted that Councilmember Cook currently serves as the liaison to the Planning Commission, and that he is willing to continue in that role in 2013. She also noted the Planning Commission seats that expire in March 2013 will be updated when new appointments are made. The meeting packet contains a copy of a letter from Bolton & Menk, Inc., expressing its desire to continue to provide engineering services to the City with Dave Martini serving as the primary service provider. There is also a copy of a letter from the Sun-Sailor expressing its interest in continuing to be the City’s official newspaper. And, Manual Jordán has expressed his interest in continuing to provide forester and tree inspector services.

Fletcher moved, Cook seconded, recalling the Kelsey Page as the Lake Minnetonka Conservation District Board representative effective immediately.

Councilmember Quam expressed his opposition to recalling Mr. Page from that position. He stated that from his perspective Mr. Page has done a good job for the City. He then stated he views this as a slap in the face for a dedicated public servant to be pulled off when that person does not want to be. He clarified that he expresses that with all due respect to Councilmember Roy, noting Roy is competent to assume that role.

Mayor Kind stated she favors having an elected official serving that function. If there is a member of the Council that wants to do that she would give them first right of refusal. If no one on Council wants to do serve as the LMCD representative then she would look to the public. Since Councilmember Roy has expressed interest in doing that she defaults to him.

Councilmember Roy noted that he had spoken with Mayor Kind about his travel schedule for the next three months. He explained that he will not be able to attend some of the LMCD Board meetings during that time. He noted that his travel schedule was set up before he decided to run for Council. He asked if any of the Councilmembers would serve as the alternate. Councilmember Quam stated that is all the more reason to keep Mr. Page in that function for 2013. Quam then stated Mr. Page is in a position of authority in several positions with the LMCD. And, Mr. Page will be able to attend all of the meetings. Councilmember Fletcher suggested that the City appoint an alternate Board member. Councilmember Fletcher stated if Councilmember Roy is going to be the primary representative to the LMCD he would be willing to serve as the alternate. He noted that if someone else wants to serve as the alternate that would be fine with him.

Councilmember Cook stated he would accept Councilmember Fletcher's offer. Mayor Kind concurred.

Motion passed 4/1, with Quam dissenting.

Fletcher moved, Cook seconded, adopting RESOLUTION NO. 02-13, "A Resolution Making Appointments and Assignments for January 1, 2013 through December 31, 2013" as identified in the resolution subject to appointing Councilmember Fletcher as the alternate to the Lake Minnetonka Conservation District. Motion passed 5/0.

8. OTHER BUSINESS

A. None

9. COUNCIL REPORTS

A. Roy: Welcome

Mayor Kind again welcomed Councilmember Roy.

B. Cook: Planning Commission

Councilmember Cook stated the Planning Commission has discussed possible changes to the City's zoning ordinances.

Zoning Administrator/Clerk Karpas explained the Planning Commission has discussed certain zoning ordinances the Council requested they review. It will hold public hearings on the regulations for small lots and for structural versus landscaping impervious surface. He drafted two separate ordinances; one for small lots and the other for impervious surface. He has provided the Commission with copies of the original ordinances, the ordinances with their corrections shown, and then the clean copies of them. The clean copies are what will be presented during the public hearing. After the public hearings Council will be provided with the same documents for discussion. He noted this was the only item the Commission had on its agenda for its December 19, 2012 meeting.

Councilmember Cook noted a copy of the December 19, 2012, Planning Commission minutes from that meeting is included in the meeting packet. He stated if Council has any feedback it would like to send to the Commission he asked that they send him an email and he will relay that information. He noted that he has gotten some feedback from Councilmember Fletcher. He explained if he receives comments from residents it forwards it to the Commission as such.

Mayor Kind stated from the open meeting law perspective she asked if individual Councilmembers can provide feedback directly to Councilmember Cook. Attorney Kelly explained Councilmembers have a right to comment through channels back to the Planning Commission. But, they do not have a right to lobby people. If there are comments that should be passed on to the Planning Commission as a group they should be sent to Zoning Administrator/Clerk Karpas and then he can forward them on.

Councilmember Fletcher stated the job of the Planning Commission is to come up with its perspective and then provide that to Council.

Councilmember Cook stated it is important to keep the Planning Commission engaged. If Council keeps changing what the Commission recommends they will start to become less engaged. He then stated if something comes up then he thinks it is in its purview as the Council liaison to inform the Commission. He went on to state it is disempowering to always have things changed at the council level. Councilmember Quam stated he thought Council is pretty good about not doing that.

C. Fletcher: Lake Minnetonka Communications Commission, Excelsior Fire District, Milfoil Project, Xcel Energy Project

With regard to the Lake Minnetonka Communications Commission (LMCC) activities, Councilmember Fletcher stated Mediacom has gone directly to the City of Medina with a proposal to have a franchise agreement directly with Medina. About one-third of Medina does not have service at this time. Mediacom told Medina if it enters into a franchise agreement with Mediacom, Medina would get the franchise fees (fees paid by cable television subscribers) and they could then be used to help build out Mediacom in Medina. The City of Shorewood has also received a letter from Mediacom.

Mayor Kind stated she has not been approached by Mediacom. She did receive an invite from the LMCC to attend a meeting on January 10, 2012, for the mayors of the cities who are part of the LMCC. She stated if the idea of giving the LMCC member cities some of the franchise fees received by Mediacom back to the cities came up, she asked if that is something Council would support. Doing that may be what it takes to keep some cities in the LMCC. Councilmember Quam stated if it was “free money” he would be in favor of that, but he can’t envision why anyone would want to do that.

Councilmember Fletcher stated “there is no free lunch.” He explained the LMCC provides services such as the recording of this meeting. It provides election coverage services. It also provides studios for public programming. Most of the money in the LMCC is spent on something related to public programming. If the LMCC member cities decide they want to get some of the revenues from franchise fees, then the LMCC would likely have to reduce programming. He clarified he is not saying that would be a good or bad decision. It would just be a tradeoff.

Mayor Kind stated she thought it would be okay to cut back on community programming if the member cities were to receive some of the franchise fees and that is what it takes to keep cities in the coalition.

Councilmember Fletcher noted that when he polled the Councilmembers a few months ago the most important priority it had for the LMCC was video recording of Council meetings. Council at that time appeared to be okay with cutting back on things such as school activities.

Councilmember Quam stated he cannot imagine there being a cutback on school board meetings.

Councilmember Fletcher stated from his perspective if the member cities did want to get a portion of the franchise fees he did think the LMCC would continue to record and televise school board meetings and some school activities.

Councilmember Cook asked if the LMCC thinks it has to give the member cities back money to compete with Mediacom. Mayor Kind responded not necessarily. It is just an idea that has been talked about as a way to keep the member cities as part of the coalition. Councilmember Fletcher stated it is not formally being considered. But, it is something that could be on the table.

Councilmember Cook stated he thought it was in Greenwood's best interest to keep the LMCC member cities together. The cost to do that is what has to be discussed.

With regard to the Excelsior Fire District (EFD), Fletcher stated there was not an EFD Board meeting in December.

With regard to the Xcel Energy Transmission Line Upgrade Project, Fletcher stated there is nothing new to report.

D. Kind: Police, Administration, Mayors Meetings, Website

With regard to the South Lake Minnetonka Police Department (SLMPD), Mayor Kind stated last month in her report about the SLMPD she forgot to report that during its last meeting the SLMPD Coordinating Committee again discussed a social host ordinance. She noted the City of Shorewood approved a social host ordinance last summer. There is a renewed effort by the SLMPD and Shorewood for the four SLMPD member cities to have a unified ordinance.

Kind explained what a social host ordinance is. It would allow adults at the scene to be charge even it cannot be proven that they provided alcohol. The police think this in an important loophole that has to be addressed. She has been told that in other cities there have been cases where there are underage kids drinking for instance in a hotel room with an adult present. The police arrive at the scene and the adult says the kids brought their own alcohol so the police are not able to charge the adult with a crime. The kids can be charged.

Kind then explained the first city to approve a social host ordinance was Chaska and that occurred in 2009. That was a result of an incident that occurred in 2007 where a 19-year-old individual froze to death after a night of drinking at a party. When the City first approved the ordinance Chaska reported that it had enforced the ordinance 10 times and that it had no repeat offenders. Chaska finds it to be a very effective ordinance.

Kind went on to explain that in 2009 Tonka Cares, a community coalition working to reduce illegal substance use among youth in the Minnetonka School District, endorsed a social host ordinance and is trying to get it approved by all of the cities in the District. The Greenwood City Council was the first SLMPD member city to consider it at that time. It rejected it on a 4/1 vote. Greenwood has the distinction of being the only City in the State to reject the ordinance. A couple of counties have rejected it as well. In 2009 the then Greenwood Council's concerns were about holding parents criminally responsible if they unknowingly host parties where there is underage drinking. At that time there was concern about how "knowing" or "knowledge" is defined.

The model ordinance from the City of Minnetonka is clear that a person can be held responsible if they are out of town but should have known a party was going to be held at their home. The Minnetonka ordinance includes language that states property owners can “issue a standing order” that alcohol is not to be consumed by underage people on their property. Critics say that just weakens the ordinance to the point where it is a feel-food ordinance. Other critics also say drinking is about personal responsibility not the host.

Mayor Kind recommended waiting until the Cities of Excelsior and Tonka Bay take action on a social host ordinance before Council takes any action.

Councilmember Quam stated based on what he knows about it he is still opposed to it. He does not like the idea that a parent can get in trouble inadvertently and be charged with a crime because underage kids got into their home and drank. And, the parents should have known because they have liquor in their home.

Councilmember Cook stated he was at the Council meeting when the SLMPD Chief of Police made his pitch. He noted that he was impressed by the action took at that time. He stated based on what he heard it was an attempt to make everyone a criminal for activities that were probably not criminal. He clarified he does not condone underage drinking or people supplying alcohol to underage people. But, this would be one of those things where they throw out a big net and everyone who lands in the net is criminally liable, he has a problem with that. He stated it troubles him that there could circumstances beyond an adult’s control that could result in them being charged as a criminal. He noted he wanted to exercise caution about this. He also noted he did not care if Council addresses this first, last or in the middle. The conversation about this should be the same whether or not other cities have approved it or rejected it.

Councilmember Quam stated he was surprised no other city rejected such an ordinance.

Councilmember Fletcher stated when it was discussed in 2009 no other SLMPD member city had considered it.

Mayor Kind reiterated Shorewood has approved a social host ordinance, and it is pushing for the other SLMPD member cities to approve one also.

Mayor Kind asked Council if/when it would like to have the social host topic placed on a meeting agenda.

Councilmember Fletcher stated if Council decided to address this he is still going to ask the City Prosecutor or the SLMPD to provide an example of a case in the City where it would have made a difference. He has asked them that before and they did not have an example.

Councilmember Quam stated there are laws in place that say you cannot give kids liquor.

Attorney Kelly stated from his perspective a simpler rule would be as an adult you could not be in the presence of underage people that are drinking. If an adult is in the presence there is complicity. The burden of proof would be on the prosecutor to prove the adult was in the presence of an underage person consuming alcohol. He agreed with Councilmember Cook’s assessment that the model ordinance is a wide net. He stated it shifts the burden away from prosecutor to the defendant, noting he has issues with that. He then stated from his perspective it is a feel-good ordinance.

Mayor Kind stated Council is being asked to consider the Minnetonka ordinance which is the model. She asked Council if it would like this to be on the agenda sooner or later, or not at all.

Councilmembers Fletcher and Quam stated they did not have a need to have it on an agenda for consideration.

Mayor Kind asked if the SLMPD Chief of Police asks for it to be put on an agenda would the Council be okay with that. Councilmember Fletcher stated that if the SLMPD Chief of Police wants to talk to Council about something Council should always be happy and willing to talk to the Chief. The Chief should be given that courtesy.

With regard to administration, Kind stated Code Book updates were placed at the dais this evening. Councilmember Quam suggested having the date printed on the pages so Councilmembers could tell which pages are the most recent. Kind noted that Zoning Administrator/Clerk Karpas always has a current hard copy of the Code Book and the version on the City's website is kept current.

Kind noted there had not been a mayors meeting since Council's last regular meeting.

Kind stated the City's website now has an update on the Xcel Transmission Line Upgrade Project. The City's quarterly newsletter is also posted.

Councilmember Quam asked if the rule about when to move cars when it snows is on the website. Mayor Kind responded it is in the Code Book. Kind stated she will make a note to include the rules in the winter newsletter in the future. For anyone watching the meeting on video, Kind explained cars should be kept off city streets until they are plowed curb to curb.

E. Quam: Roads & Sewer, Minnetonka Community Education

With regard to Minnetonka Community Education (MCE), Councilmember Quam stated there is nothing new to report.

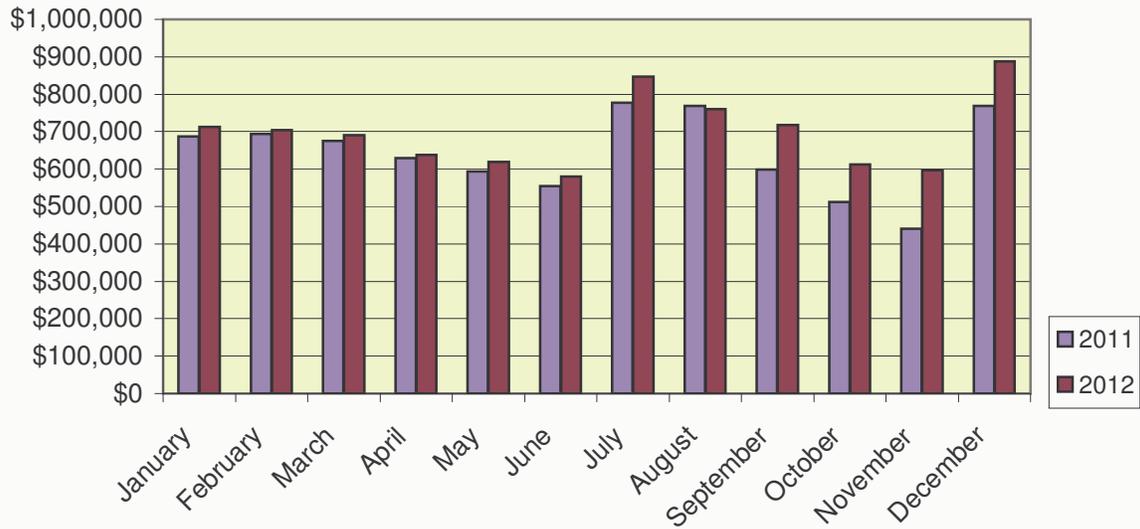
With regard to roads and sewers, Quam stated roads and sewers have already been discussed.

10. ADJOURNMENT

Quam moved, Cook seconded, adjourning the City Council Regular Meeting of January 2, 2013, at 8:40 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder

City of Greenwood Monthly Cash Summary



Month	2011	2012	Variance with Prior Month	Variance with Prior Year
January	\$686,781	\$712,814	-\$56,305	\$26,033
February	\$693,859	\$704,873	-\$7,941	\$11,014
March	\$675,719	\$690,422	-\$14,451	\$14,703
April	\$629,569	\$637,990	-\$52,432	\$8,421
May	\$593,928	\$618,262	-\$19,728	\$24,334
June	\$555,064	\$580,578	-\$37,684	\$25,514
July	\$776,650	\$846,897	\$266,319	\$70,247
August	\$768,223	\$760,682	-\$86,215	-\$7,541
September	\$599,139	\$717,852	-\$42,830	\$118,713
October	\$512,188	\$611,894	-\$105,958	\$99,706
November	\$440,946	\$597,127	-\$14,767	\$156,181
December	\$769,119	\$888,119	\$290,992	\$119,000

Bridgewater Bank Money Market	\$620,948
Bridgewater Bank Checking	\$3,860
Beacon Bank CD	\$240,000
Beacon Bank Money Market	\$23,211
Beacon Bank Checking	\$100
Total	\$888,119

ALLOCATION BY FUND

General Fund	\$351,920
General Fund Designated for Parks	\$27,055
Bridge Capital Project Fund	\$78,613
Stormwater Special Revenue Fund	\$8,824
Sewer Enterprise Fund	\$395,855
Marina Enterprise Fund	\$25,853
Total	\$888,119

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
01/13	01/08/2013	10744	738	AVENET, LLC	101-20100	350.00
01/13	01/08/2013	10745	812	BLANCHARD CATERING	101-20100	112.00
01/13	01/08/2013	10746	762	CATALYST GRAPHICS INC	101-20100	163.90
01/13	01/08/2013	10747	9	CITY OF DEEPHAVEN	101-20100	30,818.84
01/13	01/08/2013	10748	761	DEBRA KIND	101-20100	284.39
01/13	01/08/2013	10749	68	GOPHER STATE ONE CALL	602-20100	27.55
01/13	01/08/2013	10750	3	KELLY LAW OFFICES	101-20100	3,059.00
01/13	01/08/2013	10751	99	LAKE MTKA CONSERVATION DISTRIC	101-20100	1,612.50
01/13	01/08/2013	10752	26	LEAGUE OF MN CITIES	101-20100	299.00
01/13	01/08/2013	10753	105	METRO COUNCIL ENVIRO SERVICES	602-20100	2,497.36
01/13	01/08/2013	10754	136	Sun Newspapers	101-20100	418.14
01/13	01/08/2013	10755	745	Vintage Waste Systems	101-20100	1,628.25
01/13	01/08/2013	10756	145	XCEL ENERGY	101-20100	198.87
01/13	01/14/2013	10757	52	EXCELSIOR FIRE DISTRICT	101-20100	30,737.01
01/13	01/24/2013	10758	10	AMERICAN SOLUTIONS FOR BUSINES	101-20100	20.70
01/13	01/24/2013	10759	51	BOLTON & MENK, INC.	101-20100	6,253.00
01/13	01/24/2013	10760	594	CITY OF EXCELSIOR	101-20100	1,326.75
01/13	01/24/2013	10761	586	CIVIC SYSTEMS, LLC	101-20100	994.00
01/13	01/24/2013	10762	761	DEBRA KIND	101-20100	12.85
01/13	01/24/2013	10763	68	GOPHER STATE ONE CALL	602-20100	100.00
01/13	01/24/2013	10764	742	Marco, Inc.	101-20100	224.66
01/13	01/24/2013	10765	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	15,153.36
01/13	01/24/2013	10766	136	Sun Newspapers	101-20100	94.18
01/13	01/24/2013	10767	797	TONKA PRINTING COMPANY	101-20100	198.79
01/13	01/24/2013	10768	145	XCEL ENERGY	101-20100	393.45
01/13	01/25/2013	10769	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	11,824.00
Totals:						<u>108,802.55</u>

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
AMERICAN SOLUTIONS FOR BUSINES					
10	AMERICAN SOLUTIONS FOR BUSI	INV01333764	W-2 & 1099 TAX FORMS	01/15/2013	20.70
Total AMERICAN SOLUTIONS FOR BUSINES					20.70
AVENET, LLC					
738	AVENET, LLC	31976	Annual web hosting, Mtce, Cust. Support	12/11/2012	350.00
Total AVENET, LLC					350.00
BLANCHARD CATERING					
812	BLANCHARD CATERING	010713	PLANNING & ZONING WORKSHOP	01/07/2013	112.00
Total BLANCHARD CATERING					112.00
BOLTON & MENK, INC.					
51	BOLTON & MENK, INC.	0153283	2012 MISC ENGINEERING FEES	12/31/2012	120.00
		0153285	EXC BLVD DRAINAGE IMPROV	12/31/2012	1,366.00
		0153286	WATERMAIN FEASIBILITY REPORT	12/31/2012	3,966.00
		0153287	I & I GRANT APPLICATION	12/31/2012	801.00
Total BOLTON & MENK, INC.					6,253.00
CATALYST GRAPHICS INC					
762	CATALYST GRAPHICS INC	80539	CITY NEWSLETTER	12/21/2012	91.18
		80546	RECYCLING LETTER	12/26/2012	72.72
Total CATALYST GRAPHICS INC					163.90
CITY OF DEEPHAVEN					
9	CITY OF DEEPHAVEN	12/2012	RENT & EQUIPMENT	12/31/2012	542.95
			Postage		38.80
			COPIES		1.60
			SNOW PLOWING/SANDING/SALT		4,481.74
			STREETS		162.52
			Clerk Services		2,514.40
			4TH QTR 2012 BLDG PERMITS		22,841.46
			ZONING		235.37
Total CITY OF DEEPHAVEN					30,818.84
CITY OF EXCELSIOR					
594	CITY OF EXCELSIOR	00201132	SIGNS	01/17/2013	90.14
		011513	4th qtr joint sanitary sewer use	01/15/2013	1,236.61
Total CITY OF EXCELSIOR					1,326.75
CIVIC SYSTEMS, LLC					
586	CIVIC SYSTEMS, LLC	CVC10007	Semi-Annual Support Fee	01/14/2013	994.00
Total CIVIC SYSTEMS, LLC					994.00
DEBRA KIND					
761	DEBRA KIND	010813	WELCOME PACKET MATERIALS	01/08/2013	51.08
			CODE BOOK PROJECT PRINTING		233.31
		010913	GRWD NIGHT POSTERS	01/09/2013	12.85

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total DEBRA KIND				297.24
EXCELSIOR FIRE DISTRICT					
52	EXCELSIOR FIRE DISTRICT	13-009	1st Quarter - Buildings	01/01/2013	14,523.08
			1st Quarter - Operations		16,213.93
	Total EXCELSIOR FIRE DISTRICT				30,737.01
GOPHER STATE ONE CALL					
68	GOPHER STATE ONE CALL	56248	Gopher State calls	12/31/2012	27.55
		60380	ANNUAL FEE	01/10/2013	100.00
	Total GOPHER STATE ONE CALL				127.55
KELLY LAW OFFICES					
3	KELLY LAW OFFICES	6046	GENERAL LEGAL	12/28/2012	1,369.00
			GENERAL LEGAL		862.00
		6047	LAW ENFORCE PROSECUTION	12/31/2012	828.00
	Total KELLY LAW OFFICES				3,059.00
LAKE MTKA CONSERVATION DISTRIC					
99	LAKE MTKA CONSERVATION DIST	1ST QTR 2013	1st Qtr. LMCD Levy	01/01/2013	1,612.50
	Total LAKE MTKA CONSERVATION DISTRIC				1,612.50
LEAGUE OF MN CITIES					
26	LEAGUE OF MN CITIES	171571	2013 LEADERSHIP CONFERENCE	01/01/2013	299.00
	Total LEAGUE OF MN CITIES				299.00
Marco, Inc.					
742	Marco, Inc.	220098883	Copier lease	01/14/2013	224.66
	Total Marco, Inc.				224.66
METRO COUNCIL ENVIRO SERVICES					
105	METRO COUNCIL ENVIRO SERVIC	0001006692	Monthly wastewater Charge	01/03/2013	2,497.36
	Total METRO COUNCIL ENVIRO SERVICES				2,497.36
SO LAKE MINNETONKA POLICE DEPT					
38	SO LAKE MINNETONKA POLICE DE	01102013	COURT OVERTIME	01/10/2013	399.36
		JAN 1 2013	1ST QTR 2013 LEASE PMT	01/01/2013	11,824.00
		JAN 2013	OPERATING BUDGET EXPENSE	01/01/2013	14,754.00
	Total SO LAKE MINNETONKA POLICE DEPT				26,977.36
Sun Newspapers					
136	Sun Newspapers	1141373	Ord #213	12/20/2012	359.70
		1141375	Legal Notices	12/27/2012	58.44
		1143020	Ord #214	01/03/2013	48.71
		1143021	Ord #215	01/03/2013	45.47
	Total Sun Newspapers				512.32
TONKA PRINTING COMPANY					
797	TONKA PRINTING COMPANY	4295	ENVELOPES	01/15/2013	198.79

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total TONKA PRINTING COMPANY				198.79
Vintage Waste Systems					
745	Vintage Waste Systems	122712	City Recycling Contract	12/27/2012	1,628.25
	Total Vintage Waste Systems				1,628.25
XCEL ENERGY					
145	XCEL ENERGY	010313	Street Lights *	01/03/2013	393.45
		122612	4925 MEADVILLE STREET *	12/26/2012	9.07
			SIREN		3.44
			Sleepy Hollow Road *		9.07
			LIFT STATION #1		35.43
			LIFT STATION #2		32.36
			LIFT STATION #3		22.68
			LIFT STATION #4		28.20
			LIFT STATION #6		58.62
	Total XCEL ENERGY				592.32

Total Paid: 108,802.55

Total Unpaid: -

Grand Total: 108,802.55

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Amount
02/01/13	PC	02/01/13	2011301	COOK, WILLIAM B.	37	184.70
02/01/13	PC	02/01/13	2011302	Debra J. Kind	34	277.05
02/01/13	PC	02/01/13	2011303	Fletcher, Thomas M	33	84.70
02/01/13	PC	02/01/13	2011304	Quam, Robert	32	184.70
02/01/13	PC	02/01/13	2011305	ROY, ROBERT J.	38	184.70
Grand Totals:						<u>915.85</u>



Agenda Item: Quarterly Police Update

Summary: Per the city council's request, representatives from the South Lake Minnetonka Police Department will attend Greenwood council meetings on a quarterly basis to give the council a brief update regarding police activities in the city and South Lake area. This also will be an opportunity for the council to dialog with SLMPD representatives regarding police issues and concerns. Quarterly police updates will be presented at the February, May, August, and November council meetings.

Council Action: None required.

South Lake Minnetonka Police Department

Incident Date Reported BETWEEN 01/01/12

And 12/31/2012

And Offense Code BETWEEN a

And z

And Scene City=GREENWOOD

And Incident NCIC=MN0270700

PRINTOUT A

Part 1 & Part 2 Offenses

Offense Summary Report

Printed On: Wed, Jan 16, 2013

<i>Total</i>	<i>Offense Code</i>	<i>Literal</i>
1	A9D03	TERR THREATS-CAUSES TERR-NO WEAPON-ADULT STR
1	AL354	DOM ASLT-MS-INFLT BODILY HARM-HANDS-CH-FAM
1	B1634	BURG 1-OCC NRES NO FRC-D-UN WEAP-COM THEFT
1	B3334	BURG 3-UNOCC RES FRC-D-UNK WEAP-COM THEFT
1	B3464	BURG 3-UNOCC RES NO FRC-N-UNK WEAP-COM THEFT
1	B3930	BURG 3-AT FRC RES-D-UNK WEAP-UNK ACT
1	B4760	BURG 4-UNOCC NRES FRC-N-UNK WEAP-UNK ACT
2	DA540	DRUGS-SM AMT IN MOT VEH-POSS-MARIJ-UNK
3	DC500	DRUGS-DRUG PARAPH-POSSESS-UNK-UNK
9	J3901	TRAFFIC-MS-OTHER-MV
1	JF501	TRAF-AC-GM-3RD DEG DWI-UI ALCOHOL-MV
1	JFW01	TRAF-AC-GM-3RD DEG DWI-08 OR MORE -MV
4	JG501	TRAF-ACC-M-4TH DEG DWI-UI ALCOHOL-MV
4	JGW01	TRAF-ACC-MS-4TH DEG DWI-08 OR MORE -MV
1	M4104	LIQUOR - POSSESSING
1	M4120	LIQUOR-PROHIBITED ACTS
3	M5313	JUVENILE-CURFEW
1	N3370	MS-VIOL ORDER FOR PROTECTION
2	P3110	PROP DAMAGE-MS-PRIVATE-UNK INTENT
1	TW059	THEFT-500 OR LESS MS-YARDS-OTH PROP
5	TW099	THEFT-500 OR LESS MS-SELF SERVE GAS-GAS ONLY
2	TW159	THEFT-500 OR LESS MS-MTR VEHICLE-OTH PROP
1	TW991	THEFT-500 OR LESS MS-OTHER-MONEY
2	TW999	THEFT-500 OR LESS MS-OTHER-OTH PROP
1	U173C	THEFT-FE-IDENTITY THEFT-251-500
5	U302D	THEFT-MN-ISSUE WORTHLESS CHECK-250 OR LESS
GRAND TOTAL:	56	

South Lake Minnetonka Police Department

Incident Date Reported BETWEEN 01/01/12

And 12/31/2012

And Offense Code BETWEEN 5000

And 9999

And Scene City=GREENWOOD

And Incident NCIC=MN0270700

PRINTOUT B

Other Offenses & Activities

Offense Summary Report

Printed On: Wed, Jan 16, 2013

<i>Total</i>	<i>Offense Code</i>	<i>Literal</i>
1	5013	Assist Investigators
1	5024	Roadway Debris
13	5028	Spot Check - Park
3	5030	Dog At Large
1	5031	Barking Dog
1	5033	Found Dog
2	5034	Lost Dog
1	5036	Injured Deer
2	5038	Wild Animal Problem
2	5040	ANIMAL COMPLAINT
1	5041	LOST CAT
1	7000	WAITING FOR MOC UPDATE
1	9015	VERBAL WARNING
1	9034	NO PARKING
1	9135	PARKING COMPLAINT (formerly 9866)
1	9253	BURGLARY
2	9256	BURNING
1	9260	CRIMINAL DAMAGE TO PROPERTY
2	9268	DRUGS
1	9299	TRESPASSING
1	9303	LOST PROPERTY
2	9313	FOUND PROPERTY
5	9430	PROPERTY DAMAGE MOTOR VEHICLE ACCIDENT
4	9460	H & R PROPERTY DAMAGE MOTOR VEHICLE ACCIDENT
1	9545	WEAPONS COMPLAINT
1	9650	FIRE - VEHICLE
2	9660	FIRE - GRASS
14	9700	MEDICAL - ALL OTHER
5	9775	WELFARE CHECK
13	9800	REQUEST FOR SERVICE
25	9803	ALARM
4	9818	DISTURBANCES
2	9824	DOMESTICS - NO ARREST
1	9825	APPROVED OFF

South Lake Minnetonka Police Department

Offense Summary Report

Printed On: Wed, Jan 16, 2013

<i>Total</i>	<i>Offense Code</i>	<i>Literal</i>
1	9833	FIREWORKS
1	9836	HARRASSING COMMUNICATIONS
1	9842	LIQUOR - ADULT
3	9848	LOCKOUTS
4	9857	MOTORIST ASSIST
2	9863	OPEN DOORS & WINDOWS
1	9869	PROWLERS
14	9875	PUBLIC ASSIST
19	9891	SUSPICIOUS ACTIVITIES
1	9894	SUSPICIOUS PARTIES
6	9897	SUSPICIOUS VEHICLES
1	9898	Driving Complaint
11	9899	TRAFFIC COMPLAINT
3	9904	ASSIST OTHER LAW ENFORCEMENT AGENCY
3	9905	ASSIST OTHER LAW ENFORCEMENT AGENCY - COUNTY
11	9949	SPECIAL DETAIL
1	9957	WARRANT ARREST
4	9961	PURCHASE HANDGUN PERMIT
1	9965	LIQUOR LICENSE CHECK
7	9999	INFORMATION ONLY
GRAND TOTAL:	214	

South Lake Minnetonka Police Department

Citation Date Cited BETWEEN 01/01/12

And 12/31/2012

And Scene City=GREENWOOD

And Citation NCIC=MN0270700

PRINTOUT C
Citations

Citation Summary Offense Report

Printed On: Wed, Jan 16, 2013

<i>Total</i>	<i>Offense Code</i>	<i>Literal</i>
5	9006	FAIL TO OBEY SIGN OR SIGNAL
1	9012	OPEN BOTTLE
1	9013	RECKLESS OR CARELESS DRIVING
23	9014	SPEEDING
1	9017	INATTENTIVE DRIVING
2	9018	DRIVING RULES - PASSING, ONE-WAY, ETC.
2	9019	TURNING, CHANGE OF COURSE, SIGNALING
1	9030	STOP SIGN/CONTROLLED ACCESS
2	9034	NO PARKING
3	9048	LIGHTS TO BE LIT DURING DARKNESS
2	9049	HEADLAMP VIOLATION
1	9050	REAR LAMP VIOLATION
1	9058	IDENTIFICATION LAMPS
1	9061	FAIL TO DIM
2	9065	SEAT BELT VIOLATION
1	9071	WINDSHIELD VIOLATION
1	9074	WINDOW TINT
4	9079	REG - EXPIRED TABS
2	9200	ALL OTHER MOVING VIOLATIONS
3	9208	Fail to Change DL Address
3	9222	REVOKED DRIVERS LICENSE
1	9224	SUSPENDED DRIVERS LICENSE
2	9236	REVOKED PLATES
10	9240	NO INSURANCE
2	9244	SMALL AMOUNT OF MARIJUANA IN MOTOR VEHICLE
3	9248	POSSESSION OF DRUG PARAPHERNALIA
3	9262	CURFEW
1	9280	LIQUOR - UNDER 21

South Lake Minnetonka Police Department

Citation Summary Offense Report

Printed On: Wed, Jan 16, 2013

Total

Offense Code

Literal

GRAND TOTAL: 84



Agenda Number: **4B**

Agenda Date: 02-06-13

Agenda Item: City Engineer Dave Martini: Resolution 04-13 Authorizing Inflow / Infiltration Grant Application

Summary: If the city council is interested continuing the application process for Met Council grant money to complete inflow / infiltration project in 2013, the council needs to approve the attached resolution.

Council Action: None required. Potential motions ...

1. I move the council approves resolution 04-13 authorizing the city engineer to apply for a Met Council grant to complete 2013 inflow / infiltration projects.
2. Do nothing or another motion ???

**CITY OF GREENWOOD
RESOLUTION NO. 04-13**

**RESOLUTION AUTHORIZING APPLICATION TO THE METROPOLITAN COUNCIL
FOR A GRANT FROM THE MUNICIPAL INFILTRATION / INFLOW GRANT PROGRAM FOR
THE CITY OF GREENWOOD'S 2013 SEWER IMPROVEMENTS PROJECT**

WHEREAS, the Minnesota Legislature has appropriated \$4,000,000 for a grant program to be administered by the Metropolitan Council (Council) for the purpose of providing grants to municipalities for capital improvements to public municipal wastewater collection systems to reduce the amount of inflow and infiltration to the Council's metropolitan sanitary sewer disposal system (I/I Municipal Grant Program); and

WHEREAS, the Council has identified the City of Greenwood as a contributor of excessive inflow and infiltration to the Council's metropolitan sanitary sewer disposal system and thus an eligible applicant for grant funds under the I/I Municipal Grant Program; and

WHEREAS, grants from this appropriation are for up to 50 percent of the cost to mitigate I/I in the publicly owned municipal wastewater collection system; and

WHEREAS, only construction costs will be eligible for reimbursement, as specified in the Grant Program, and include such improvements as manhole rehabilitation and sealing, sewer pipe lining and sealing if supportive information is provided that demonstrates system susceptibility to I/I; and

WHEREAS, qualified spending on approved projects can occur between May 12, 2012 and November 30, 2014; and

WHEREAS, the City of Greenwood has been notified that it is eligible for a maximum grant amount of \$19,728, not to exceed 50% of the submitted eligible project costs; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Greenwood, Minnesota that the City Clerk and the Mayor are hereby authorized to sign the final Grant Agreement prior to the submittal deadline of March 1, 2013.

ADOPTED by the city council of the city of Greenwood, Minnesota this ___ day of _____ 2013.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk



Agenda Item: Excelsior Blvd. Watermain Project ...

Consider: Greenwood / Excelsior Agreement for Watermain Option 1

Consider: Greenwood / Excelsior Agreement for Water Services

Consider: Resolution 05-13, Ordering Excelsior Blvd. Watermain Project Option 1 Improvement and Preparation of Plans

Summary: On 06-13-12 the city received a petition from several Excelsior Blvd. residents requesting to hook up to the Excelsior city water system as part of the upcoming Met Council Environmental Services (MCES) sanitary sewer forcemain project. As a result of the petition the city council ordered a feasibility report prepared by the city engineer for a watermain project to the petition zone (Option 1). The report was reviewed by the planning commission and found to be in compliance with the city's comprehensive plan. On 01-02-13 the city council held a public hearing for Option 1. Everyone who spoke at the public hearing was in favor of the project. Attached is an updated timeline showing the next steps in the process. To keep on track with the timeline, at the 02-06-13 council meeting the council needs to consider approval of the Excelsior / Greenwood agreements (attached) and consider approval of a resolution to order the Option 1 improvement and preparation of plans (also attached).

The "Option 2" project to extend the watermain all along Excelsior Blvd. to interconnect the Excelsior and Shorewood water systems is not in consideration anymore due the Shorewood council determining that there are other lower-cost options to create an interconnection. So, now that it is known that Option 2 is not happening, the city council needs to determine two things:

1. What size should the watermain pipe be that serves the Option 1 residential properties? The current feasibility study calls for an 8" pipe. The cost to increase the pipe from 8" to 12" is estimated to be approximately **\$21,190**. According to the city engineer, a 12" pipe will be needed if the system were to be expanded in the future. Therefore, the city's policy could be that any new watermain shall be 12" with costs to be paid by the benefitting property owners as the line is extended. If the council decides to upsize the watermain pipe from 8" to 12", the attached resolution ___-13 will need to be amended (see potential motion #4 below).
2. MCES' Dan Fick says that full-width road reconstruction may not be needed without the watermain extension, so he wants to know if the city wants to pay to extend the concrete curb and gutter to the east of Maple Heights Road? The cost to add curb and gutter is estimated to be **\$15,000**. In the past the city's policy has been to add concrete curb and gutter only if it is requested and paid for by the adjacent property owners. In this situation, a case could be made that the curb and gutter would be continuing the continuity of the curb and gutter that the MCES will be installing. If the council decides to extend the concrete curb and gutter to the east of Maple Heights Road, the decision can be made by a motion (see potential motion #5 below).

Council Action: Optional. Potential motions ...

1. I move the council approves the Greenwood / Excelsior Agreement for Watermain Option 1 as presented (with the following revision(s) _____.)
2. I move the council approves the Greenwood / Excelsior Agreement for Water Services as presented (with the following revision(s) _____.)
3. I move the council approves Resolution 05-13, Ordering Excelsior Blvd. Watermain Project Option 1 Improvement and Preparation of Plans as presented (with the following revision(s) _____.)
4. I move the council approves Resolution 05-13, Ordering Excelsior Blvd. Watermain Project Option 1 Improvement and Preparation of Plans with the following revisions: Renummer the "now therefore" statements to allow the insertion of the a new statement between 1 and 2 that says, "To ensure the ability to expand the system in the future, the 8" watermain pipe shall be increased to 12," with the policy that all benefitting property owners will pay for a 12" watermain as the line is extended."
5. I move the city council directs the city engineer to include an extension of the concrete curb and gutter to the east of Maple Heights Road in the Met Council's plans as part of the road restoration after the completion of the sanitary sewer forceman project if it is determined that full-width road reconstruction is not necessary, with the intent that the city will pay the extra cost via the 2013 road budget.
6. Do nothing or other motions ???



EXCELSIOR



**EXCELSIOR-GREENWOOD
WATER SERVICE EXPANSION AGREEMENT
For Excelsior Boulevard, Greenwood, Minnesota**

DRAFT 01-11-13

THIS AGREEMENT the ____ day of _____, 2013 is entered into by and between the CITY OF EXCELSIOR, MINNESOTA, a public corporation (hereinafter “Excelsior”) and the CITY OF GREENWOOD, a public corporation (hereinafter “Greenwood”):

RECITALS

The City of Excelsior has an established water treatment plant, water tower, and distribution system and over the years has extended water service beyond its borders to a portion of the City of Greenwood along Excelsior Boulevard as illustrated on Exhibit “A” (hereinafter the “service expansion area”(SEA)).

The cities desire to establish an agreement addressing the installation and provision of water service by the City of Excelsior to Greenwood residents along the service expansion area.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purpose. The parties adopt the Recitals above set forth as if restated hereat.
2. SEA Project Description. In conjunction with the 2013-14 Metropolitan Council Sewer Interceptor Improvement Project, Excelsior will extend existing water main along Excelsior Boulevard, Greenwood Minnesota from existing service located at the intersection of Excelsior Boulevard and Christmas Lake Road, Greenwood, Minnesota by installation of a 12-inch water main a distance of ____ feet easterly along Excelsior Boulevard including installation of service stubs adjacent all abutting properties and installation of ____ hydrants at locations (to be determined by agreement of Excelsior and Greenwood civil engineers). Greenwood will assess the SEA project costs to abutting property owners and may, in its sole discretion elect to finance the SEA by general assessment, special assessment, or municipal levy increase, and/or municipal bonding. In any event Greenwood shall pay Excelsior within 60 days of demand, and in no event earlier than the ____ day of _____, 2014, the total related SEA Project Cost incurred. Total SEA Project Cost means: _____, but shall not include water service connection fees, water meter purchase and related installation charges due from properties served by the SEA at time of connection to the system, nor does it include delinquency fees and related interest and charges which may arise after SEA Project Completion.
3. Term. The term of this agreement shall run from the date hereof until Excelsior serves Notice of SEA Project Completion, certifying that all planned and related change orders for the construction of the SEA improvements and restoration of public right of way disturbed during SEA construction is complete; provided that in the event Greenwood serves written objection, within thirty (30) days, identifying matters yet to be completed, this agreement and its terms shall not terminate but shall continue in effect until the identified issues are addressed to Greenwood’s satisfaction. In the event of impasse thereon, any unresolved issues shall be referred to mediation and arbitration as provided below.

Subsequent to the term of this agreement the EXCELSIOR-GREENWOOD MUNICIPAL WATER SERVICE AGREEMENT shall control. Provided, however, that in no event shall any Greenwood objections to Notice of SEA Project Completion be cause for Excelsior to delay or refuse connection of Greenwood properties to the SEA /EMPW and provision or denial of service to same.

4. Relationship of the Parties. The city of Excelsior and the city of Greenwood are independent separate public corporations.

5. Excelsior Water System. Excelsior owns and operates the Excelsior Municipal Public Waterworks (EMPW) which includes service lines that extend into Greenwood. Greenwood acknowledges and agrees that it does not own any of the related pipes or water service infrastructure in place in Greenwood and will not gain an ownership interest in such by this agreement or in the planned SEA (see Exhibit "A").

6. Operating Costs. All costs associated with the operation of the (EMPW) are the sole responsibility of Excelsior, including but not limited to, related construction costs of the planned SEA improvements and their future repair, maintenance, or expansion. Nothing herein shall obligate Greenwood to accept or agree to future water service expansions within Greenwood.

7. Water Service Invoicing. Post SEA Project Completion, Excelsior shall have the sole responsibility for invoicing Greenwood properties within the SEA. Greenwood shall not be responsible for collection of delinquent EMPW water service fee invoices due and unpaid by Greenwood properties, except that in the event a Greenwood resident fails to pay EMPW invoiced water service fees and Excelsior notifies Greenwood of such delinquency, Greenwood shall notice the delinquency to the respective property owner, and, if not timely paid, certify the delinquency to the respective property's real estate taxes for payment as provided by law. In the event Greenwood receives payment on a delinquent account in advance of the deadline for submission to the County Treasurer for certification as a special assessment, Greenwood shall, within 30 days, pay to Excelsior the monies received related to such delinquency without deduction or charge. Greenwood shall continue this process as needed to collect the full delinquency. Costs associated with the process of certification by the Greenwood may be added to the certification of assessment and, on receipt, retained by Greenwood.

8. Water Rates. Excelsior shall bill EMPW services rendered to Greenwood properties at the same rate charged Excelsior properties of like type, (i.e., residential, commercial). In the event Excelsior finds it necessary to add a surcharge to the EMPW fees charged Excelsior properties, a like fee may be charged Greenwood properties in the SEA.

9. Maintenance, Repair and Improvements. Excelsior shall have sole discretion in the election to repair, maintain or make improvements to the EMPW system including SEA and shall bear all costs associated with same and may take into account the cost of same in setting service rates and charges. No separate fee shall be charged by Excelsior to Greenwood for normal year-to-year fire hydrant maintenance or periodic flushing of the SEA system. Excelsior shall be responsible for maintaining the EMPW SEA system in proper operating order at all times. Excelsior shall take reasonable steps to insure that in the event of mechanical failure or power disruption, the EMPW SEA system can function on auxiliary power or by means of alternate supporting equipment or water resources.

10. Adequacy of Available Water Service Capacity. Excelsior acknowledges and agrees that the EMPW as built has the needed service capacity for the planned SEA improvement and that the SEA can be fully supported without additional improvements not set forth and described in the SEA feasibility study attached hereto as Exhibit B.

11. Cooperation. Each party shall authorize and direct their city engineers to work together as needed to cause the planned SEA improvement to move forward in a timely manner as construction, bonding, public notice and legal processing may reasonably require.

12. Project processing costs and assessments. Greenwood shall be responsible for all legal and procedural matters related to the consideration of the petition for expansion of water services in Greenwood along Excelsior Boulevard related hereto including all necessary legal advice, its civil engineer's feasibility report and advice and presentation, public hearings, public notices, Minnesota Chapter 429 special assessment proceedings, hearings, and related bonding. The City of Greenwood shall be responsible for the special or general assessment of any approved water main expansion project and may in its sole discretion elect to pay for the service expansion by special assessment, general levy increase, or with cash reserves. In any assessment related to the planned SEA improvement, Greenwood shall include all costs associated with the infrastructure required by Excelsior. Greenwood shall by ordinance require all properties abutting SEA to connect to the EMPW upon either (1) drawing of a building permit related to the abutting property, for any reason, (2) private well failure necessitating drilling of a new ground water well, or (3) May 1, 2023, which ever comes first, whereupon abutting properties shall connect to the EMPW water main and become a paying customers of the EMPW system.

13. Lateral Connections and Water Meters. The planned SEA shall include the installation of stubs for each property tax parcel along the length of the SEA improvement. The cost of the stubs shall be included in the feasibility report and an estimated cost of construction in the proposed assessment. Subsequent to the installation of the system, at time of connection, individual property owners abutting the water main extension shall be responsible for paying to Excelsior a water connection fee and a water meter purchase fee. Said fees shall be at the same rates as Excelsior charges like properties within Excelsior. To aid periodic water meter inspection, Greenwood, in consultation with Excelsior, shall adopt ordinances as needed to empower EMPW inspectors to access Greenwood residential properties within the SEA serviced by the EMPW for periodic inspection and periodic replacement of water meters as deemed necessary by Excelsior, including inspection for leaks or diversion of water. Ordinances deemed necessary by the City of Excelsior in support of its EMPW services may be proposed to the City of Greenwood and the two parties shall work in good faith to reach mutual agreement on the text of related ordinance/regulation and Greenwood shall adopt same in due course.

14. Public Right-of-Way Access. By terms of this agreement, Greenwood does grant to Excelsior a continuing permanent construction easement for access to all public right-of-ways host to EMPW SEA water mains as may be needed from time to time for maintenance, repair, or improvement of EMPW infrastructure. During all repair, maintenance or expansion of EMPW service infrastructure Excelsior shall maintain for the benefit of adjacent properties reasonable physical access to same at all times, temporary access disruptions of up to eight hours excepted. In the event public right-of-ways, including pavement, underlayment, supporting road bed, curb and gutter, sidewalk or other public amenities in Greenwood are disturbed in the course of maintenance, repair, or improvement of EMPW infrastructure, Excelsior shall restore same to preconstruction condition within 90 days of completion of the repair, maintenance, or improvement. Greenwood shall grant Excelsior additional time, as needed, for cause or seasonal necessity to complete the repair or maintenance.

15. SEA Project Mediation. In the event of a lack of agreement on a construction related issue or an issue identified by Greenwood in written objection to Notice of SEA Project Completion, the parties agree to refer the matter to SEA Project mediation on demand of either party. Mediation shall commence within thirty days of demand. Mediation shall be conducted at a neutral non-public location. The mayor of each city and up to one additional council member shall attend and such other advisers and consultants as each city determines beneficial may also attend. Separate meeting rooms for each city are appropriate. Each City's Mayor shall have full binding settlement authority by prior resolution of the city council to exercise the city's prerogative on the pending CAS/ issue. The mediator shall be a mutually agreeable retired Judge of District Court or AIA certified architect or civil engineer trained in mediation. The City Engineers shall attend to answer questions and mutually inform the city representatives and mediator. In the event an agreement is not reached, this matter shall be referred to binding arbitration.

16. Arbitration. In the event the cities cannot reach an agreement through mediation on any given SEA Project issue, the cities agree to refer the pending SEA Project issue to binding arbitration by an Arbitration Committee within thirty days of either city declaring SEA Project Mediation a failure and making a written demand upon the other for arbitration.

The Arbitration Committee shall be comprised of two civil engineers one chosen by each city, neither of whom may be affiliated with WSB or Bolton & Menk, or other engineering firm with a past association with either city. A third arbitrator shall be chosen by the common agreement of the two chosen civil engineer arbitrators. The third arbitrator shall be a civil engineer. The Arbitration committee shall request written presentations from each city and may in its discretion hear oral argument. The arbitration decision shall be issued in writing. The decision of two out of the three arbitrators shall be final and binding upon the cities on the issue posed. Each city agrees to be bound by that arbitration decision and does hereby waive all right to resort to or make application to the District Court for relief.

17. Mediation and Arbitration Fees and Costs. Each city shall bear its own costs of mediation and arbitration as needed or incurred hereunder without right of contribution from the other. The cities shall share equally all fees and expenses of the mediator and Arbitration Committee.

18. Legal Costs. Each party shall bear their own legal expenses and costs associated with the drafting and implementing of this agreement and as otherwise incurred during the term of this agreement without right of contribution from the other City.

19. Notice. Any notice required or permitted under this Agreement shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, as follows:

If to Excelsior: City Clerk, City of Excelsior, 339 Third Street, Excelsior, MN 55331.

If to Greenwood: City Clerk, City of Greenwood, 20225 Cottagewood Road, Deephaven, MN 55331

Each party shall have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

20. Bonding and Insurance. Each party shall obtain full insurance coverage of all related aspects of the EMPW system and this agreement. Neither City shall be obligated to bond for any improvements to the EMPW system, but may elect to do so and make act independently of each other. Each party shall be solely responsible for all bond related consulting fees and costs associated therewith without right of contribution from the other City; provided that to the extent that said bond, related fees and costs, are part and parcel of the initial improvement costs, they may be included in the feasibility study for any proposed improvement and generally or specially assessed. To the extent that such costs or fees are attributable to day-to-day operations of the EMPW, they may be incorporated into Excelsior's operating costs and support adjustments by the City of Excelsior to its EMPW service fees for all customers.

21. Amendment. This agreement may be amended only in a written instrument signed by all parties setting forth the nature of such amendment or waiver and the specific intent to so amend their way.

22. Enforcement. Enforcement of this Agreement shall be by any proceeding at law or in equity against the party violating or attempting to violate any covenant or restriction either to restrain an alleged violation or to recover damages.

23. Interpretation and Effect. This agreement sets forth the entire agreement between the cities with respect to the EMPW and supersedes and revokes all prior negotiations, discussions, representations, understandings, and agreements between the cities with respect to same. This agreement shall bind and run to the benefit of the Cities and their successors and assigns. Any invalidation of any one or more of these covenants and restrictions by judgment or court order shall in no way affect any other provision of this Agreement which shall remain in full force and effect. This agreement is executed and shall be governed by, and construed in accordance with, the provisions and laws of the State of Minnesota. Headings in this agreement are for reference only and shall not be deemed to alter the interpretation of any provisions of this agreement.

IN WITNESS WHEREOF, the parties have entered into this agreement as of the date and year first above written.

Dated: _____

CITY OF EXCELSIOR
A Public Corporation

By Mark Gaylord, it's Mayor

Attest: _____
Kristi Lugar, City Manager

Dated: _____

CITY OF GREENWOOD
A Public Corporation

By Debra J. Kind, it's Mayor

Attest: _____
Gus E. Karpas, City Clerk

Excelsior-Greenwood_Water_Service_Option 1 Agreement_012213



EXCELSIOR



EXCELSIOR-GREENWOOD MUNICIPAL WATER SERVICE AGREEMENT

DRAFT 01-10-13

THIS AGREEMENT the ____ day of _____, 2013 is entered into by and between the CITY OF EXCELSIOR, MINNESOTA, a public corporation (hereinafter "Excelsior") and the CITY OF GREENWOOD, a public corporation (hereinafter "Greenwood"):

RECITALS

The City of Excelsior has an established water treatment plant, water tower, and distribution system and over the years has extended water service beyond its borders to a portion of the City of Greenwood along Excelsior Boulevard and along Minnetonka Boulevard as illustrated on Exhibit "A".

The cities desire to establish an agreement addressing the provision of water service by the City of Excelsior to Greenwood residents, for both present and future Greenwood customers.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purpose. The parties adopt the Recitals above set forth as if restated hereat.
2. Term. The term of this agreement shall run for a term of twenty (20) years from the date of this Agreement, after which time said Agreement shall be automatically renewed for successive periods of ten (10) years, provided that on one-year advance written notice to the other party, either city may give notice to the other of demand to re-negotiate specific terms of this agreement setting forth the provisions to be renegotiated. The re-negotiated agreement shall go into effect no earlier than one year after the written notice.
3. Relationship of the Parties. The city of Excelsior and the city of Greenwood are independent separate public corporations.
4. Excelsior Water System. Excelsior owns and operates the Excelsior Municipal Public Waterworks (EMPW) which includes service lines that extend into Greenwood. Greenwood acknowledges and agrees that it does not own any of the related pipes or water service infrastructure in place in Greenwood (see Exhibit "A") or which may be constructed in the future by extension of same.
5. Operating Costs. All costs associated with the operation of the (EMPW) are the sole responsibility of Excelsior, including but not limited to, related construction costs, repair, maintenance, and improvements deemed necessary from time to time.
6. Water Service Invoicing. Excelsior shall have the sole responsibility for invoicing periodic water service fees to individual residential customers within Greenwood connected to the EMPW. Greenwood shall not be responsible for

collection of delinquent EMPW invoices except that in the event a Greenwood resident fails to pay EMPW invoiced water service fees and Excelsior notifies Greenwood of such delinquency, Greenwood shall notice the delinquency to the respective property owner, and, if not timely paid, certify the delinquency to the respective property's real estate taxes for payment as provided by law. In the event Greenwood receives payment on a delinquent account in advance of the deadline for submission to the County Treasurer for certification as a special assessment, Greenwood shall, within 30 days, pay to Excelsior the monies received related to such delinquency without deduction or charge. Greenwood shall continue this process as needed to collect the full delinquency. Costs associated with the process of certification by the Greenwood may be added to the certification of assessment and, on receipt, retained by Greenwood.

7. Water Rates. Excelsior shall bill EMPW services rendered to Greenwood residences at the same rate charged Excelsior residences. Greenwood commercial properties shall be charged the same rate as Excelsior commercial properties. In the event Excelsior finds it necessary to add a surcharge to the EMPW fees charged Excelsior residents, a like fee may be charged Greenwood residential customers and commercial customers.

8. Maintenance, Repair and Improvements. Excelsior shall have sole discretion in the election to repair, maintain or make improvements to the EMPW system and shall bear all costs associated with same and may take into account the cost of same in setting service rates and charges. No separate fee shall be charged by Excelsior to Greenwood for normal year-to-year fire hydrant maintenance or periodic flushing of the system. Excelsior shall be responsible for maintaining the EMPW system in proper operating order at all times. Excelsior shall take reasonable steps to insure that in the event of mechanical failure or power disruption, the EMPW system can function on auxiliary power or by means of alternate supporting equipment or water resources.

9. Future Extension of the System. Excelsior agrees to entertain requests from Greenwood for additional water service by extension of service pipes within the City of Greenwood, from time to time, on written application by Greenwood. Such application may be initiated by petition of Greenwood residents to the City Council of Greenwood, (which the City Council of the City of Greenwood may in its sole discretion deny), or by independent Greenwood City Council action. Excelsior shall not be obligated to extend the water service at the request of Greenwood, however initiated, if the Excelsior civil engineers advise Greenwood, in writing, that the needed service capacity for the requested improvement is not available from the existing EMPW support infrastructure; provided that nothing shall then prevent independent mutual agreement of the parties to add capacity to the EMPW system as needed for any particular requested expansion of water service to Greenwood. Greenwood understands and agrees that any expansion of the EMPW water service must be done with the level of service capacity and infrastructure deemed necessary by Excelsior to maintain water pressure for residential and commercial users and fire hydrant support throughout the served area and for reasonably foreseeable future water service system expansion within Greenwood. When the parties agree to an expansion of the EMPW system, each party shall authorize and direct their city engineers to work together as needed to cause the agreed expansion to move forward in a timely manner as construction, bonding, public notice and legal processing may reasonably require.

10. Project processing costs and assessments. Greenwood shall be responsible for all legal and procedural matters related to the consideration of a petition for expansion of water services in Greenwood, including all necessary legal advice, civil engineering feasibility reports and advice and presentation, public hearings, public notices, Minnesota Chapter 429 special assessment proceedings, hearings, and related bonding. The City of Greenwood shall be responsible for the special or general assessment of any approved water main expansion project and may in its sole discretion elect to pay for the service expansion by special assessment, general levy increase, or with cash reserves. In any assessment related to expansion of service, Greenwood shall include all costs associated with the infrastructure required by Excelsior. In no event shall Excelsior be responsible for agreeing to any service expansion without the prior written agreement of Greenwood to reimburse Excelsior by a fixed date (to be mutually agreed upon) all costs and expenses associated with the improvement that are not to be deferred until connection. In conjunction with any expansion of water service, Greenwood shall by ordinance establish deadlines for abutting properties to connect to the water main and become a paying customer of the EMPW system.

11. Lateral Connections and Water Meters. Any extension of water main in Greenwood shall include the installation of stubs for each property tax parcel along the length of the improvement. The cost of the stubs shall be included in the feasibility report and an estimated cost of construction in the proposed assessment. Subsequent to the installation of the system, at time of connection, individual property owners abutting the water main extension shall be responsible for

paying to Excelsior a water connection fee and a water meter purchase fee. Said fees shall be at the same rates as Excelsior charges like properties within Excelsior. To aid periodic water meter inspection, Greenwood shall adopt ordinances as needed to empower EMPW inspectors to access Greenwood residential properties serviced by the EMPW for periodic inspection and periodic replacement of water meters as deemed necessary by Excelsior, including inspection for leaks or diversion of water. Ordinances deemed necessary by the City of Excelsior in support of its EMPW services may be proposed to the City of Greenwood and the two parties shall work in good faith to reach mutual agreement on the text of related ordinance/regulation and Greenwood shall adopt same in due course.

12. Public Right-of-Way Access. By terms of this agreement, Greenwood agrees to grant to Excelsior a continuing permanent construction easement access to all public right-of-ways host to EMPW water mains as may be needed from time to time for maintenance, repair, or improvement of EMPW infrastructure. During all repair, maintenance or expansion of EMPW service infrastructure Excelsior shall maintain for the benefit of adjacent properties reasonable physical access to same at all times, temporary access disruptions of up to eight hours excepted. In the event public right-of-ways, including pavement, underlayment, supporting road bed, curb and gutter, sidewalk or other public amenities in Greenwood are disturbed in the course of maintenance, repair, or improvement of EMPW infrastructure, Excelsior shall restore same to preconstruction condition within 90 days of completion of the repair, maintenance, or improvement. Greenwood shall grant Excelsior additional time, as needed, for cause or seasonal necessity to complete the repair or maintenance.

13. Legal Costs. Each party shall bear their own legal expenses and costs associated with the drafting and implementing of this agreement and as otherwise incurred during the term of this agreement without right of contribution from the other City.

14. Notice. Any notice required or permitted under this Agreement shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, as follows:

If to Excelsior: City Clerk, City of Excelsior, 339 Third Street, Excelsior, MN 55331.

If to Greenwood: City Clerk, City of Greenwood, 20225 Cottagewood Road, Deephaven, MN 55331

Each party shall have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

15. Bonding and Insurance. Each party shall obtain full insurance coverage of all related aspects of the EMPW system and this agreement. Neither City shall be obligated to bond for any improvements to the EMPW system, but may elect to do so and make act independently of each other. Each party shall be solely responsible for all bond related consulting fees and costs associated therewith without right of contribution from the other City; provided that to the extent that said bond, related fees and costs, are part and parcel of the initial improvement costs, they may be included in the feasibility study for any proposed improvement and generally or specially assessed. To the extent that such costs or fees are attributable to day-to-day operations of the EMPW, they may be incorporated into Excelsior's operating costs and support adjustments by the City of Excelsior to its EMPW service fees for all customers.

16. Amendment. This agreement may be amended only in a written instrument signed by all parties setting forth the nature of such amendment or waiver and the specific intent to so amend their way.

17. Enforcement. Enforcement of this Agreement shall be by any proceeding at law or in equity against the party violating or attempting to violate any covenant or restriction either to restrain an alleged violation or to recover damages.

18. Interpretation and Effect. This agreement sets forth the entire agreement between the cities with respect to the EMPW and supersedes and revokes all prior negotiations, discussions, representations, understandings, and agreements between the cities with respect to same. This agreement shall bind and run to the benefit of the Cities and their successors and assigns. Any invalidation of any one or more of these covenants and restrictions by judgment or court order shall in no way affect any other provision of this Agreement which shall remain in full force and effect. This agreement is executed and shall be governed by, and construed in accordance with, the provisions and laws of the State of Minnesota. Headings in this agreement are for reference only and shall not be deemed to alter the interpretation of any

provisions of this agreement.

IN WITNESS WHEREOF, the parties have entered into this agreement as of the date and year first above written.

Dated: _____

CITY OF EXCELSIOR
A Public Corporation

By Mark Gaylord, its Mayor

Attest: _____
Kristi Lugar, City Manager

Dated: _____

CITY OF GREENWOOD
A Public Corporation

By Debra J. Kind, its Mayor

Attest: _____
Gus E. Karpas, City Clerk

Excelsior-Greenwood_Water_Service_Agreement_011013

**CITY OF GREENWOOD
RESOLUTION NO. 05-13**

A RESOLUTION ORDERING IMPROVEMENT AND PREPARATION OF PLANS

WHEREAS, a resolution of the city council adopted the 5th day of December 2012 fixed a date for a council hearing on Option 1, the proposed improvement on Excelsior Boulevard between the west line of 21380 Excelsior Boulevard and the east line of 21170 Excelsior Boulevard, Greenwood, Minnesota by installing a watermain; and

WHEREAS, ten days' mailed notice and two weeks' published notice of the hearing was given, and the hearing was held thereon on the 2nd day of January 2013, at which all persons desiring to be heard were given an opportunity to be heard thereon,

NOW THEREFORE, BE IT RESOLVED by the city council of the city of Greenwood, Minnesota:

1. Such improvement is necessary, cost-effective, and feasible as detailed in the feasibility report.
2. Such improvement is hereby ordered as proposed in the council resolution adopted the 6th day of February 2013.
3. The city's planning commission has reviewed the proposed capital improvement and reported to the council its findings as to compliance of the proposed improvement with the comprehensive municipal plan, and found it compliant therewith.
4. City engineer, David Martini of Bolton & Menk shall work in cooperation with the city of Excelsior and the Met Council to prepare the plans. The official plans will be prepared by the Met Council.
5. The city council declares its official intent to reimburse itself for the costs of the improvement from the proceeds of property assessments.

ADOPTED by the city council of the city of Greenwood, Minnesota this ___ day of _____, 2012.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

Excelsior Blvd. Watermain Project Timeline

Updated 01-20-13

		Goal Date	Completion Date
1	Petition received from GW Excelsior Blvd. residents		6/13/12
2	GW resolution declaring adequacy of petition and ordering preparation of feasibility report		7/5/12
3	GW preliminary feasibility report completed for Option 1 (see footnote)		10/3/12
4	Feasibility report reviewed by GW planning commission for compliance with comp plan	10/17/12	10/17/12
5	GW deadline to submit public hearing notice for Option 1 to Sun-Sailor (Thursday before publication)	12/13/12	12/13/12
6	GW publishes notice of hearing for Option 1 (Form 6). Per statute, the city clerk must cause notice thereof to be given by TWO publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. The two publications must be a week apart, and the hearing must be at least three days after the second publication. NOTE: Typically, cities assess all properties abutting or bordering on the improvement, but the council may wish to levy assessments against adjacent, non-abutting properties if the properties benefit from the improvement. In that event the Notice of Hearing must include the following statement: "The area proposed to be assessed for such improvement is"	12/20/12 and 12/27/12	12/20/12 and 12/27/12
7	GW affidavit of mailing notice to affected property owners for Option 1 . Not less than ten days before the hearing, notice of the hearing must also be mailed to the owner of each parcel within the area proposed to be assessed and must contain a statement that a reasonable estimate of the impact of the assessment will be available at the hearing, but failure to give mailed notice or any defects in the notice does not invalidate the proceedings.	12/21/12	12/13/12
8	GW public hearing for Option 1 . Minutes of public hearing showing testimony and findings. NOTE: Council action is required within 6 months of the public hearing date.	1/2/13	1/2/13
9	Deadline for drafts of GW / EX cooperative agreement for the Option 1 watermain project (including pricing) and agreement for water service for all GW users. Draft created by GW city attorney.	2/6/13	
10	GW considers approval of cooperative agreements with EX.	2/6/13	
11	GW considers resolution ordering improvement and preparation of plans (Forms 7, 7A, 8).	2/6/13	
12	EX considers approval of cooperative agreements with GW.	2/18/13	
13	Deadline to post special meeting notice (72 hours notice required).	2/19/13	
14	GW considers resolution approving plans. NOTE: MCES will be advertising for bids.	2/22/13	
15	GW considers resolution approving cooperative agreement with MCES to include the Excelsior Blvd. watermain project and sidewalk improvements to their sanitary sewer project.	2/22/13	
16	MCES advertizes for bids.	Feb. 2013	
17	MCES opens bids.	March / April	
18	GW, EX go / no-go decision (per co-op agreements with MCES).	Fri. or Mon. after bid opening	
19	MCES contracts and approvals.	April	
20	MCES starts construction.	May	
21	GW preparation of assessment roll. (Forms 12, 13)	TBD	
22	GW resolution for hearing on proposed assessment. (Form 14)	TBD	
23	GW affidavit of publication of notice of hearing. (Form 15)	TBD	
24	GW affidavit of mailing notice to affected property owners. (Form 15A)	TBD	
25	GW minutes of public hearing showing testimony and findings.	TBD	
26	GW resolution adopting assessment. (Form 16)	TBD	
27	GW notice of final assessment. NOTE: This may be an optional step. (See Form 17A)	TBD	
28	GW certification of assessment to county auditor. (Form 18, 18A) NOTE: If annual certification plan is followed, the clerk may wish to include a separate sub-step for each year.	TBD	

GW = Greenwood, EX = Excelsior

Option 1: EX watermain extension to GW petition area only



Agenda Number: **7A & 7B**

Agenda Date: 02-06-13

Agenda Item: Ordinance 214 Regarding Impervious Surface Requirements
Ordinance 215 Regarding Small-Lot Rules

Summary: At the 05-16-12 joint worksession between the city council and planning commission, the issue of trading landscaping for structural hardcover in the issuance of variances was discussed. At that time it was decided that the planning commission would discuss the issue further and make a recommendation to the city council. The city council believes this is an important issue worth pursuing and provided a timetable and a draft ordinance for the planning commission to review and make a recommendation to the city council.

In addition to the hardcover issue, the city council directed the planning commission to review and make a recommendation regarding a draft ordinance amending setback and impervious surface requirements to alleviate some of the pressures felt by smaller lots that need to meet R-1A requirements meant for 15,000 square foot lots.

Attached are the original drafts presented to the planning commission, redlined drafts showing the commission's changes, and final clean versions of the ordinances for the public hearing held at the 01-16-13 planning commission meeting. The planning commission unanimously recommended approval of the final clean versions of the ordinances. For the council's reference, the FYI section of the council packet includes the planning commission minutes with the discussion of the ordinances.

NOTE: One discussion item for the council to consider in light of the information learned at the recent planning and zoning workshop, is that the city cannot require a property owner to reduce *legal* nonconforming landscaping hardcover as a condition of approval for a variance. Attached is a memo by the city attorney with suggested language for ordinance 214 to address this issue. Also attached is another language option suggested by Mayor Kind.

Below is the timetable for the ordinance amendments ...

- | | |
|----------|--|
| 11-21-12 | Planning commission reviews and discusses the ordinances. -- COMPLETE |
| 12-19-12 | Planning commission further discusses the ordinances and gives direction to staff for revisions. -- COMPLETE (see planning commission minutes in FYI section) |
| 01-16-13 | Planning commission holds a public hearing for the ordinances and makes a final recommendation to the city council. -- COMPLETE (see planning commission minutes in FYI section) |
| 02-06-13 | City council considers 1st reading of ordinances (revisions may be made) |
| 03-06-13 | City council considers 2nd reading of ordinances (further revisions may be made) |
| 03-14-13 | Ordinance published in Sun-Sailor (effective date) |

City Council Action: Optional. Potential motions ...

HARDCOVER ORDINANCE 214

1. I move the city council approves the first reading of ordinance 214 regarding impervious surface requirements as presented at the public hearing and recommended by the planning commission (with the following revision(s): _____).
2. I move the city council approves the first reading of ordinance 214 regarding impervious surface requirements as written in the original draft ordinance presented to the planning commission (with the following revision(s): _____).

SMALL LOT ORDINANCE 215

3. I move the city council approves the first reading of ordinance 215 regarding small lot rules as presented at the public hearing and recommended by the planning commission (with the following revision(s): _____).
4. I move the city council approves the first reading of ordinance 215 regarding small lot rules as written in the original draft ordinance presented to the planning commission (with the following revision(s): _____).
5. Do nothing or other motions ???

ORD. 214 - AS PRESENTED TO THE PLANNING COMMISSION

ORDINANCE NO. 214

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING GREENWOOD ORDINANCE CODE SECTION 1155 VARIANCES AND SECTION 1176 SHORELAND MANAGEMENT DISTRICT, REGARDING VARIANCE POLICIES, EVALUATION CRITERIA, AND CONDITIONS

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

SECTION 1.

Greenwood ordinance code section 1155.10 subd. 7 is amended to read as follows:

“Subd. 7. Conditions. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Conditions required by section 1176.07.5 of the shoreland management district ordinance must also be imposed. Violation of such conditions and/or safeguards shall be a violation of the zoning code and subject to the enforcement provisions thereof.”

SECTION 2.

Greenwood ordinance code section 1176 is amended to add the following section:

“Section 1176.07.05. Variances.

Subd. 1. Review Procedure. Variance allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of variances established in section 1155. The following additional policies, evaluation criteria, and conditions apply within the shoreland management district.

Subd. 2. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:

1. The prevention of soil erosion or the possible pollution of public waters, both during and after construction.
2. The visibility of structures and other facilities as viewed from public waters is limited.
3. The site is adequate for water supply.

Subd. 3. Conditions. The city council, upon consideration of the criteria listed above and the purpose of this ordinance, shall attach such conditions to the issuance of variances as it deems necessary to fulfill the purpose of this ordinance. Such conditions may include but are not limited to the following:

1. Increased setbacks from the ordinary high water level.
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
3. Special provisions for the location, design, and use of structures, watercraft and aircraft launching and dock areas, and vehicle parking areas.

Subd. 4. Impervious Surface Policies and Conditions.

1. Variance applicants with existing nonconforming impervious surface coverage (hardcover) shall be required to provide a plan to reduce the amount of hardcover by ____%.
2. Nonstructural hardcover cannot be exchanged for an increase in structural hardcover unless the total amount of hardcover complies with the requirements of the shoreland management district ordinance. To implement this policy, variance applicants shall provide a certified survey showing separate calculations for structural hardcover and nonstructural hardcover.
 - Structural hardcover includes buildings, decks, staircases, etc.
 - Nonstructural hardcover includes driveways, sidewalks, retaining walls, steps, plastic landscaping sheets, patios, etc.
3. Conditions to the issuance of variances may include but are not limited to the following:
 - A. Reduction of decks, patios
 - B. Reduction of plastic landscaping
 - C. Reduction of driveways, turnarounds, parking areas

Subd. 5. State Requirements. Variances may only be granted in accordance with Minnesota statutes chapter 462. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required elsewhere in this section also shall include both the planning commission’s and the city council’s summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.”

SECTION 3.

Greenwood ordinance code section 1176.07 subd. 4 is renumbered as follows:

“Section 1176.07.10. Notifications to the Department of Natural Resources.

~~Subd. 4. Notifications to the Department of Natural Resources.~~ Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked at least 10 days before the hearing. Notices of hearing to consider proposed subdivisions/plats must include copies of the subdivisions/plat. Upon final action by the city council, a copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked within 10 days of final action.”

SECTION 4.

Greenwood ordinance code section 1176.07 subd. 5 is deleted (note this paragraph is included in the new section 1176.07.05, subd. 5):

~~“Subd. 5. Variances. Variances may only be granted in accordance with Minnesota statutes chapter 462. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required elsewhere in this section also shall include both the planning commission’s and the city council’s summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.”~~

SECTION 5.

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

Enacted by the city council of the city of Greenwood, Minnesota this ___ day of _____, 2012.

There were ___ AYES and ___ NAYS as follows:

Greenwood City Council	YEAS	NAYS	ABSTAIN	ABSENT
Mayor Debra Kind				
Councilman Bill Cook				
Councilman Tom Fletcher				
Councilman H. Kelsey Page				
Councilman Bob Quam				

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: _____, 2012
Second reading: _____, 2012
Publication: _____, 2012

ORD. 214 - AS EDITED BY THE PLANNING COMMISSION

ORDINANCE NO. 214

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING GREENWOOD ORDINANCE CODE SECTION 1155 VARIANCES AND SECTION 1176 SHORELAND MANAGEMENT DISTRICT, REGARDING VARIANCE POLICIES, EVALUATION CRITERIA, AND CONDITIONS

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

SECTION 1.

Greenwood ordinance code section 1155.10 subd. 7 is amended to read as follows:

“Subd. 7. Conditions. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Conditions required by section 1176.07.5 of the shoreland management district ordinance must also be imposed. Violation of such conditions and/or safeguards shall be a violation of the zoning code and subject to the enforcement provisions thereof.”

SECTION 2.

Greenwood ordinance code section 1176 is amended to add the following section:

“Section 1176.07.05. Variances.

Subd. 1. Review Procedure. Variance allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of variances established in section 1155. The following additional policies, evaluation criteria, and conditions apply within the shoreland management district.

Subd. 2. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:

1. The prevention of soil erosion or the possible pollution of public waters, both during and after construction.
2. The visibility of structures and other facilities as viewed from public waters is limited.
3. The site is adequate for water supply.

Subd. 3. Conditions. The city council, upon consideration of the criteria listed above and the purpose of this ordinance, shall attach such conditions to the issuance of variances as it deems necessary to fulfill the purpose of this ordinance. Such conditions may include but are not limited to the following:

1. Increased setbacks from the ordinary high water level.
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
3. Special provisions for the location, design, and use of structures, watercraft and aircraft launching and dock areas, and vehicle parking areas.

Subd. 4. Impervious Surface Policies and Conditions.

1. Variance applicants with existing nonconforming impervious surface coverage (hardcover) shall be required to ~~provide a plan~~ to reduce the amount of hardcover by 1.5% for each 1% of hardcover added.
2. ~~Nonstructural hardcover~~ Impervious landscaping materials cannot be exchanged for an increase in structural hardcover to obtain a variance unless the total amount of hardcover complies with the requirements of the shoreland management district ordinance. To implement this policy, variance applicants shall provide a certified survey showing separate calculations for structural hardcover and nonstructural hardcover.
 - Structural hardcover includes buildings, decks, staircases, etc.
 - Nonstructural hardcover includes driveways, sidewalks, retaining walls, steps, plastic landscaping sheets, patios, etc.
3. Conditions to the issuance of variances may include but are not limited to the following:
 - A. Reduction of decks, patios
 - ~~B. Reduction of plastic landscaping~~
 - C. B. Reduction of driveways, turnarounds, parking areas

Subd. 5. State Requirements. Variances may only be granted in accordance with Minnesota statutes chapter 462. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required elsewhere in this section also shall include both the planning commission’s and the city council’s summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.”

SECTION 3.

Greenwood ordinance code section 1176.07 subd. 4 is renumbered as follows:

“Section 1176.07.10. Notifications to the Department of Natural Resources.

~~Subd. 4. Notifications to the Department of Natural Resources.~~ Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked at least 10 days before the hearing. Notices of hearing to consider proposed subdivisions/plats must include copies of the subdivisions/plat. Upon final action by the city council, a copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked within 10 days of final action.”

SECTION 4.

Greenwood ordinance code section 1176.07 subd. 5 is deleted (note this paragraph is included in the new section 1176.07.05, subd. 5):

~~“Subd. 5. Variances. Variances may only be granted in accordance with Minnesota statutes chapter 462. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required elsewhere in this section also shall include both the planning commission’s and the city council’s summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.”~~

SECTION 5.

Greenwood ordinance code section 1176.06 Subd 1 is amended to read as follows:

“Subd. 1. Existing Nonconforming Use of Non-Riparian Lots. Existing legal nonconforming multiple use of non-riparian lots may continue as a nonconforming use under terms of the underlying zoning ordinance and may be upgraded and maintained so long as any upgrade is performed within the allowable height, and setback, massing and impervious coverage requirements of this ordinance. ~~and impervious coverage is restricted to 30%.”~~

SECTION 6.

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

Enacted by the city council of the city of Greenwood, Minnesota this ____ day of _____, 20123.

There were ____ AYES and ____ NAYS as follows:

Greenwood City Council	YEAS	NAYS	ABSTAIN	ABSENT
Mayor Debra Kind				
Councilman Bill Cook				
Councilman Tom Fletcher				
Councilman H. Kelsey Page Bob Quam				
Councilman Bob Quam Rob Roy				

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: _____, 20123
Second reading: _____, 20123
Publication: _____, 20123

ORD. 214 - AS PRESENTED AT PUBLIC HEARING

ORDINANCE NO. 214

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING GREENWOOD ORDINANCE CODE SECTION 1155 VARIANCES AND SECTION 1176 SHORELAND MANAGEMENT DISTRICT, REGARDING VARIANCE POLICIES, EVALUATION CRITERIA, AND CONDITIONS

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

SECTION 1.

Greenwood ordinance code section 1155.10 subd. 7 is amended to read as follows:

“Subd. 7. Conditions. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Conditions required by section 1176.07.5 of the shoreland management district ordinance must also be imposed. Violation of such conditions and/or safeguards shall be a violation of the zoning code and subject to the enforcement provisions thereof.”

SECTION 2.

Greenwood ordinance code section 1176 is amended to add the following section:

“Section 1176.07.05. Variances.

Subd. 1. Review Procedure. Variance allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of variances established in section 1155. The following additional policies, evaluation criteria, and conditions apply within the shoreland management district.

Subd. 2. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:

1. The prevention of soil erosion or the possible pollution of public waters, both during and after construction.
2. The visibility of structures and other facilities as viewed from public waters is limited.
3. The site is adequate for water supply.

Subd. 3. Conditions. The city council, upon consideration of the criteria listed above and the purpose of this ordinance, shall attach such conditions to the issuance of variances as it deems necessary to fulfill the purpose of this ordinance. Such conditions may include but are not limited to the following:

1. Increased setbacks from the ordinary high water level.
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
3. Special provisions for the location, design, and use of structures, watercraft and aircraft launching and dock areas, and vehicle parking areas.

Subd. 4. Impervious Surface Policies and Conditions.

1. Variance applicants with existing nonconforming impervious surface coverage (hardcover) shall be required to reduce the amount of impervious surface by 1.5% for each 1% of impervious added added.
2. Impervious landscaping materials cannot be exchanged for an increase in structural hardcover to obtain a variance. To implement this policy, variance applicants shall provide a certified survey showing separate calculations for structural hardcover and nonstructural hardcover.
 - Structural hardcover includes buildings, decks, staircases, etc.
 - Nonstructural hardcover includes driveways, sidewalks, retaining walls, steps, plastic landscaping sheets, patios, etc.
3. Conditions to the issuance of variances may include but are not limited to the following:
 - A. Reduction of decks, patios
 - B. Reduction of driveways, turnarounds, parking areas

Subd. 5. State Requirements. Variances may only be granted in accordance with Minnesota statutes chapter 462. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required elsewhere in this section also shall include both the planning commission's and the city council's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.”

SECTION 3.

Greenwood ordinance code section 1176.07 subd. 4 is renumbered as follows:

“Section 1176.07.10. Notifications to the Department of Natural Resources.

Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked at least 10 days before the hearing. Notices of hearing to consider proposed subdivisions/plats must include copies of the subdivisions/plat. Upon final action by the city council, a copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked within 10 days of final action.”

SECTION 4.

Greenwood ordinance code section 1176.07 subd. 5 is deleted (note this paragraph is included in the new section 1176.07.05, subd. 5):

SECTION 5.

Greenwood ordinance code section 1176.06 Subd 1 is amended to read as follows:

“Subd. 1. Existing Nonconforming Use of Non-Riparian Lots. Existing legal nonconforming multiple use of non-riparian lots may continue as a nonconforming use under terms of the underlying zoning ordinance and may be upgraded and maintained so long as any upgrade is performed within the allowable height, setback, massing and impervious coverage requirements of this ordinance.”

SECTION 6.

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

Enacted by the city council of the city of Greenwood, Minnesota this ___ day of _____, 2013.

There were ___ AYES and ___ NAYS as follows:

Greenwood City Council	YEAS	NAYS	ABSTAIN	ABSENT
Mayor Debra Kind				
Councilman Bill Cook				
Councilman Tom Fletcher				
Councilman Bob Quam				
Councilman Rob Roy				

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: _____, 2013
Second reading: _____, 2013
Publication: _____, 2013

ORD. 215 - AS PRESENTED TO THE PLANNING COMMISSION

ORDINANCE NO. 215

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING GREENWOOD ORDINANCE ZONING CODE CHAPTER 11 REGARDING RULES FOR SMALL LOTS

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

SECTION 1.

Greenwood ordinance code section 1120.15 R-1A setback chart is amended read as follows:

“Subject to the provisions of section 1176 et seq., the following front side and rear yard setbacks shall be considered as minimum standards for buildings:

Land Use	Front Yard*** (ft.)	Lot, Interior - Side Yard (ft.)	Exterior Side Yard (ft.)	Rear Yard (ft.)	Lakeshore (ft.)
Single-Family Principal Structure	30	15****	30	35	50
Municipal Park Equipment	50	50	50	50	—
Single-Family Accessory Structures	*	10	35	10	**
Theaters	50	50	50	50	**

* No accessory structures shall be located in any required front yard (section 1140.10, subdivision 2).

** No accessory structures shall be built on any lot between the lakeshore and the side of the principal structure facing the lakeshore.

*** Lots that meet the definition of “Lot, Corner” shall not be required to provide more than 2 front yard setbacks per lot. The location of the 2 front yard setbacks on lots abutting 3 or more platted right-of-ways shall be at the discretion of the zoning administrator and the remaining yard shall meet the “Lot, Interior - Side Yard” setback requirement in the chart above.

**** For existing lots of less than 15,000 square feet the minimum side yard setback shall be 10 feet plus .5 feet for every full 500 square feet of lot area in excess of 10,000 square feet. For example, a 12,700 square foot lot would have 12.5 ft. minimum side yard setbacks.

SECTION 2.

Greenwood ordinance code section 1176.04 subd. 3 (3)(a) is amended to read as follows:

“a) Impervious coverage in all residential districts as expressed as a percentage of the lot area shall not exceed 30% except that lots of less than 15,000 square feet shall have an additional .5% of hardcover allowed for each full 500 square feet of lot area under 15,000 square feet. For example, the impervious coverage on a 8,500 square foot lot shall not exceed 36.5% (15,000 – 8,500 = 6,500 or 6.5% increase. 30% + 6.5% = 36.5%).”

SECTION 3.

Greenwood ordinance code section 1140.18 subd. 3 (1) is amended to read as follows:

“(1) Lots of 7500 square feet or less in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 5 6 times the lot area.”

SECTION 4.

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

Enacted by the city council of the city of Greenwood, Minnesota this ___ day of _____, 2012.

There were ___ AYES and ___ NAYS as follows:

Greenwood City Council	YEAS	NAYS	ABSTAIN	ABSENT
Mayor Debra Kind				
Councilman Bill Cook				
Councilman Tom Fletcher				
Councilman H. Kelsey Page				
Councilman Bob Quam				

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: _____, 2012
Second reading: _____, 2012
Publication: _____, 2012

ORD. 215 - AS EDITED BY THE PLANNING COMMISSION

ORDINANCE NO. 215

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING GREENWOOD ORDINANCE ZONING CODE CHAPTER 11 REGARDING RULES FOR SMALL LOTS

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

SECTION 1:

~~Greenwood ordinance code section 1120.15 R-1A setback chart is amended read as follows:~~

~~“Subject to the provisions of section 1176 et seq., the following front side and rear yard setbacks shall be considered as minimum standards for buildings:~~

Land Use	Front Yard ^{***} (ft.)	Lot, Interior Side Yard (ft.)	Exterior Side Yard (ft.)	Rear Yard (ft.)	Lakeshore (ft.)
Single Family Principal Structure	30	15 ^{****}	30	35	50
Municipal Park Equipment	50	50	50	50	—
Single Family Accessory Structures	*	40	35	40	**
Theaters	50	50	50	50	**

* ~~No accessory structures shall be located in any required front yard (section 1140.10, subdivision 2).~~

** ~~No accessory structures shall be built on any lot between the lakeshore and the side of the principal structure facing the lakeshore.~~

*** ~~Lots that meet the definition of “Lot, Corner” shall not be required to provide more than 2 front yard setbacks per lot. The location of the 2 front yard setbacks on lots abutting 3 or more platted right-of-ways shall be at the discretion of the zoning administrator and the remaining yard shall meet the “Lot, Interior Side Yard” setback requirement in the chart above.~~

**** ~~For existing lots of less than 15,000 square feet the minimum side yard setback shall be 10 feet plus .5 feet for every full 500 square feet of lot area in excess of 10,000 square feet. For example, a 12,700 square foot lot would have 12.5 ft. minimum side yard setbacks.~~

SECTION 2:

~~Greenwood ordinance code section 1176.04 subd. 3 (3)(a) is amended to read as follows:~~

~~“ a) Impervious coverage in all residential districts as expressed as a percentage of the lot area shall not exceed 30% except that lots of less than 15,000 square feet shall have an additional .5% of hardcover allowed for each full 500 square feet of lot area under 15,000 square feet. For example, the impervious coverage on a 8,500 square foot lot shall not exceed 36.5% (15,000 — 8,500 = 6,500 or 6.5% increase. 30% + 6.5% = 36.5%).”~~

SECTION 3 1.

Greenwood ordinance code section 1140.18 subd. 3 (1) is amended to read as follows:

“(1) Lots of 7500 square feet or less in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to ~~5~~ **6** times the lot area.”

SECTION 4 2.

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

Enacted by the city council of the city of Greenwood, Minnesota this ___ day of _____, 201~~2~~**3**.

There were ___ AYES and ___ NAYS as follows:

Greenwood City Council	YEAS	NAYS	ABSTAIN	ABSENT
Mayor Debra Kind				
Councilman Bill Cook				
Councilman Tom Fletcher				
Councilman H. Kelsey Page Bob Quam				
Councilman Bob Quam Rob Roy				

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: _____, 201~~2~~3
Second reading: _____, 201~~2~~3
Publication: _____, 201~~2~~3

ORD. 215 - AS PRESENTED AT THE PUBLIC HEARING

ORDINANCE NO. 215

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ORDINANCE ZONING CODE CHAPTER 11 REGARDING RULES FOR SMALL LOTS**

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

SECTION 1.

Greenwood ordinance code section 1140.18 subd. 3 (1) is amended to read as follows:

“(1) Lots of 7500 square feet or less in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 6 times the lot area.”

SECTION 2.

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

Enacted by the city council of the city of Greenwood, Minnesota this ___ day of _____, 2013.

There were ___ AYES and ___ NAYS as follows:

Greenwood City Council	YEAS	NAYS	ABSTAIN	ABSENT
Mayor Debra Kind				
Councilman Bill Cook				
Councilman Tom Fletcher				
Councilman Bob Quam				
Councilman Rob Roy				

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: _____, 2013
Second reading: _____, 2013
Publication: _____, 2013

KELLY LAW OFFICES

Established 1948

351 SECOND STREET
EXCELSIOR, MINNESOTA 55331

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

(952) 474-5977
FAX 474-9575

MEMORANDUM

TO: Greenwood Mayor and City Council Members

FROM: Mark W. Kelly, Greenwood City Attorney

DATE: January 17, 2013

RE: Proposed Greenwood Ordinance No. 214

Facts

The City Council has considered what regulation might be added to the Zoning Code to manage impervious surface coverage, especially when variances are requested for lots with hardcover in excess that is allowed by Code. Draft Ordinance No. 214. Subd. 4, paragraph 1, provides that "Variance applicants with existing non-confirming impervious surface coverage (hardcover) shall be required to reduce the amount of hardcover by 1.5% for each 1% of hardcover added. However, at the recent GTS Seminar, it was observed that cities may not demand applicants abandon a *legal* non-confirming use as a condition to obtaining a variance. While the proposed ordinance language does not mandate such, the City should anticipate variance applications that have non-confirming uses related to hardcover. Under Section 1145 and Minnesota Statutes 462.357, legal non-confirming uses may continue indefinitely. They may not, however, be expanded.

A distinction, however, should and can be drawn between legal and non-legal non-confirming uses.

Over the last 40 years, the City has managed construction in the City by building permit. City records relating to building permits are dependable. Since 1992, we have regulated impervious surface (hardcover). At first, the City limited it to 40%, and then 30% with an additional 10% by conditional use permit, and then about 8 years ago, we moved to a maximum of 30% with overages only by variance.

The City continues to be interested in managing hard cover associated with landscaping plastic.

I suggest the City consider the following code language:

“All impervious surface (hardcover) *not* directly attributable to structures (*or driveways*) built under permit first obtained shall be deemed an *illegal* non-conforming use. Applicants for permits to add hardcover to lots with hardcover in excess of 30% shall have the burden of proof to establish that existing hardcover in excess of 30% is, in fact, an existing *legal* non-conforming use. Clear and convincing evidence that the hardcover has been in existence since before December, 1992 shall be required for the City to recognize landscaping hardcover as a legal non-conforming use.”

For the council discussion, Mayor Kind suggests the following language be considered for ordinance 214, section 1176.07.05, subd. 4(1):

Variance applicants with impervious surface coverage (hardcover) in excess of 30% shall have the burden of proof to establish that the excess is a *legal* nonconforming use by showing evidence that the hardcover has been in existence since before the shoreland management ordinance was adopted (December 1992), or by showing the excess was approved by the city. If no such evidence exists, then the hardcover in excess of 30% shall be deemed an *illegal* nonconforming use, and the city council may require the property owner to reduce hardcover as a condition of variance approval.



Agenda Number: **7C**

Agenda Date: 02-06-13

Agenda Item: Potential 2013 City Contribution for Eurasian Watermilfoil and Curly-Leaf Pondweed

Summary: Councilman Rob Roy will update the council regarding baywide treatment plans for Eurasian Watermilfoil and Curly-Leaf Pondweed for St. Alban's Bay in 2013. The 2013 city budget includes a \$5000 contribution from the marina fund towards treatment on St. Alban's Bay.

Council Action: None required. Possible motions ...

1. I move the council approves payment of \$_____ from the marina fund for 2013 St. Alban's Bay milfoil treatment and directs the city treasurer to send the funds to the Lake Minnetonka Association, managers of the treatment program, by _____ 2013.
2. Do nothing.



Agenda Number: **7D**

Agenda Date: **02-06-13**

Agenda Item: Hennepin County Recycling Grant Application, Reports, and Activities

Summary: On 11-30-11 the Hennepin County Board approved the 2012 Hennepin County Residential Recycling Funding Policy to comply with the Minnesota Pollution Control Agency's (MPCA) 2010-2030 Metropolitan Solid Waste Management Policy Plan that establishes a goal that by 2015 at least 45% of municipal waste generated in Hennepin county will be recycled. The county currently has a recycling rate of 38%. The city approved the attached agreement with the county on 06-06-12. In addition to requiring reporting from the city's recycling provider, the city's contract with Hennepin county also requires education and outreach activities. Below is the list showing the city's compliance with these requirements:

- a) County terminology has been used in city communications when describing recycling guidelines.
- b) Images provided by the county have been used when describing the recycling program.
- c) The county's terminology, guidelines, and images are being used on the city website.
- d) The county's recycling guide will be included in the December newsletter mailing.
- e) The city council will determine two education activities to be completed to support the recycling campaign.

The city's agreement with Vintage Waste requires two reports:

1. Each November a written report showing the October household participation in the recycling program shall be provided to the city. (*This attached report was approved by the council on 12-05-12*)
2. At the end of each year, a written report detailing types of recycling and tonnage as required by the Hennepin County Residential Recycling Program shall be provided to the city. (*This report is attached*)

The city is required to update the recycling grant agreement with the county by February 15 of each year through 2015.

Council Action: Required. Potential motions ...

1. I move the council directs the city clerk to submit an updated Hennepin County Recycling Program grant application by February 15, 2013 consisting of the Re-TRAC web-based report and the planning document that describes the programs and activities the city has implemented to increase recycling and make progress toward the county's goals. The updated grant application also shall include copies of the two reports from Vintage Waste:
 - a. October household participation report.
 - b. 2012 year-end report including types of recycling and tonnage.
2. Other motion ???

RESIDENTIAL RECYCLING GRANT AGREEMENT

This Agreement is between the COUNTY OF HENNEPIN, STATE OF MINNESOTA, A-2300 Government Center, Minneapolis, Minnesota 55487 (the "COUNTY"), on behalf of the Hennepin County Department of Environmental Services, 701 Fourth Avenue South, Minneapolis, Minnesota 55415-1600 ("DEPARTMENT") and the CITY OF GREENWOOD, 20225 Cottagewood Road, Deephaven, Minnesota 55331 ("CITY").

WITNESSETH:

WHEREAS, the County Board, by Resolution No. 11-0476S1, adopted on November 29, 2011, approved the Hennepin County Residential Recycling Funding Policy ("Funding Policy") for the period January 1, 2012, through December 31, 2015, and authorized grant funding for municipal recycling programs consistent with the Funding Policy; and

WHEREAS, the CITY operates a municipal curbside residential recycling program and other waste reduction and recycling activities (the "Recycling Program") as described in the grant application (the "Grant Application") referred to in Section 2 below; and

WHEREAS, the Recycling Program is consistent with Minnesota Statutes, Chapter 115A; the Minnesota Pollution Control Agency's Metropolitan Solid Waste Management Policy Plan; Hennepin County's Solid Waste Management Master Plan; and Hennepin County's Residential Recycling Funding Policy.

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the COUNTY, on behalf of the DEPARTMENT, and the CITY agree as follows:

1. TERM AND COST OF THE AGREEMENT

- a. This Agreement shall commence upon execution and terminate on December 31, 2015.
- b. The total grant payment for the year 2012 shall be equal to two thousand six hundred eight dollars (\$2,608). Grant payments for subsequent years shall be calculated as set forth in Section 3.

2. SERVICES TO BE PROVIDED

- a. The CITY shall operate the Recycling Program as more fully described in the Funding Policy and the Grant Application. The CITY agrees to submit an updated Grant Application by February 15 of each year of the term of this Agreement in order to be eligible for grant funds. The application consists of the Re-TRAC web-based report and a planning document submitted to the COUNTY describing the programs or activities the CITY will implement to increase recycling and make progress toward COUNTY goals. The terms of the Grant Application, as updated each year, are incorporated herein by reference.
- b. In addition to the services referred to above, the CITY agrees as follows:

COUNTY. The implementation plan will include the reasons why an extension is needed, the projected timeline, and details about each step of the process. The CITY will also provide the COUNTY with updates to the plan as implementation progresses.

4) Education and Outreach. The CITY shall:

- a.) Use COUNTY terminology when describing recycling guidelines (i.e. description of materials accepted and not accepted, preparation guidelines, etc.)
- b.) Use images provided by the COUNTY or the Solid Waste Management Coordinating Board (SWMCB) if using images of recyclables.
- c.) Use the COUNTY's terminology, preparation guidelines and images on the CITY's website.
- d.) Mail a recycling guide once a year to residents using a template developed jointly through a communications committee and produced and printed by the COUNTY at the COUNTY's expense. If the CITY does not want to use the template produced by the COUNTY, the CITY may develop its own guide at the municipality's expense, but it must be approved by the COUNTY. If the CITY relies on the hauler to provide the recycling guide, this guide would also require approval by the COUNTY.
- e.) Complete two additional education activities from a menu of options developed by the communications committee to support the priority message campaign. Templates will be provided by the COUNTY.

Any print material that communicates residential recycling guidelines that were not provided by the COUNTY template will require COUNTY approval. This does not apply to waste reduction and reuse, articles on recycling that do not include guidelines, and social media posts. The COUNTY will respond within five business days to any communication piece submitted.

5) Use of Grant Funds.

- a.) Grant funds can be used for all Recycling Program expenses including capital and operating costs. Expenses associated with residential collection of organics are considered eligible Recycling Program expenses. However, yard waste expenses are not eligible Recycling Program expenses. If organics and yard waste are commingled, the organics expenses must be tracked separately.
- b.) All grant funds accepted from the COUNTY must be used for Recycling Program capital and operating expenses in the year granted.
- c.) The CITY may not charge its residents through property tax, utility fees or any other method for that portion of the costs of its Recycling Program funded by COUNTY grant funds.
- d.) The CITY shall establish a separate accounting mechanism, such as a project number, activity number, or fund that will separate recycling and waste reduction revenues and expenditures from other municipal activities, including solid waste and yard waste activities.

the COUNTY. The Recycling Improvement Plan will include actions the CITY will take to improve the performance of its Recycling Program to achieve the 2015 goals. The plan will focus on program changes and additional activities in the following areas: materials collected, sort method, type of container, frequency of collection, education and outreach, performance measurement, contract management, and incentives. Funding will be withheld until the CITY's Recycling Improvement Plan is approved by the COUNTY.

In cooperation with the COUNTY, the CITY may be required to participate in waste and recycling sorts to identify recovery levels of various recyclables in their community. Based on the results of the study, the COUNTY and the CITY will collaborate to increase the recovery of select recyclable materials being discarded in significant quantities.

- 8) Public Entity Recycling. Pursuant to Minnesota Statutes, Section §115A.151, the CITY shall ensure that facilities under its control, from which mixed municipal solid waste is collected, have containers for at least three recyclable materials, such as, but not limited to, paper, glass, plastic, and metal, and transfer all recyclable materials collected to a recycler.

3. METHOD OF PAYMENT

- a. The COUNTY will annually distribute to Hennepin County municipalities grant funds only to the extent the COUNTY receives SCORE funds from the State of Minnesota. SCORE funds are based on revenue received by the State of Minnesota from a sales tax on garbage collection and disposal fees. SCORE funds are subject to change based on actual revenue received by the State and funds allocated by the legislature. The following formula will be utilized to determine the CITY's SCORE grant for each year:

$$\begin{array}{rcl}
 \begin{array}{l} \# \text{ of Households Served} \\ \text{Curbside by CITY} \\ \hline \end{array} & \times & \begin{array}{l} \text{Total SCORE Revenue} \\ \text{Received by COUNTY} \\ \text{from State of Minnesota} \end{array} & = & \begin{array}{l} \text{Grant Funds} \\ \text{Distributed to} \\ \text{CITY} \end{array} \\
 \begin{array}{l} \text{Total \# of Households Served} \\ \text{Curbside in COUNTY} \end{array} & & & &
 \end{array}$$

- b. Under no circumstances will the COUNTY's distribution of grant funds exceed the CITY's proportion of SCORE fund revenues received by the COUNTY.
- c. The initial grant fund payment will be forwarded after the County Board receives and approves this Agreement signed by an authorized official of the CITY. Provided the CITY is otherwise in compliance with the terms of this Agreement, future grant fund payments will be made after submittal by the CITY and approval by the COUNTY of the updated Grant Application as described in Section 2 and receipt by the COUNTY of SCORE funds from the State of Minnesota.
- d. Annual grant payments will be made to the CITY in two equal payments. One payment will be made after the COUNTY receives the Grant Application, which consists of the Re-TRAC report and a planning document. A second payment will

Limits

1. Commercial General Liability on an occurrence basis with contractual liability coverage:

General Aggregate	\$2,000,000
Products—Completed Operations Aggregate	2,000,000
Personal and Advertising Injury	1,500,000
Each Occurrence—Combined Bodily Injury and Property Damage	1,500,000

2. Workers' Compensation and Employer's Liability:

Workers' Compensation	Statutory
Employer's Liability. Bodily injury by:	
Accident—Each Accident	500,000
Disease—Policy Limit	500,000
Disease—Each Employee	500,000

3. Professional Liability—Per Claim 1,500,000
Aggregate 2,000,000

The professional liability insurance must be maintained continuously for a period of two years after the termination of this Agreement.

B. An umbrella or excess policy over primary liability insurance coverages is an acceptable method to provide the required insurance limits.

The above establishes minimum insurance requirements. It is the sole responsibility of CITY to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Upon written request, CITY shall promptly submit copies of insurance policies to the COUNTY.

CITY shall not commence work until it has obtained required insurance and filed with the COUNTY, a properly executed Certificate of Insurance establishing compliance. The certificate(s) must name Hennepin County as the certificate holder and as an additional insured for the liability coverage(s) for all operations covered under the Agreement. If the certificate form contains a certificate holder notification provision, the certificate shall state that the insurer will endeavor to mail the COUNTY 30 day prior written notice in the event of cancellation of any described policies. If CITY receives notice of cancellation from an insurer, CITY shall fax or email a copy of the cancellation notice to the COUNTY within two business days.

CITY shall furnish to the COUNTY updated certificates during the term of this Agreement as insurance policies expire. If CITY fails to furnish proof of insurance coverages, the COUNTY may withhold payments and/or pursue any other right or remedy allowed under the contract, law, equity, and/or statute. The

necessary, accomplished by execution of a form prepared by the COUNTY and signed by CITY, the assignee and the COUNTY. Permission to assign, however, shall under no circumstances relieve CITY of its liabilities and obligations under the Agreement.

- C. CITY shall not subcontract this Agreement and/or the services to be performed, whether in whole or in part, without the prior written consent of the COUNTY. Permission to subcontract, however, shall under no circumstances relieve CITY of its liabilities and obligations under the Agreement. Further, CITY shall be fully responsible for the acts, omissions, and failure of its subcontractors in the performance of the specified contractual services, and of person(s) directly or indirectly employed by subcontractors. Contracts between CITY and each subcontractor shall require that the subcontractor's services be performed in accordance with the terms and conditions specified. CITY shall make contracts between CITY and subcontractors available upon request.

12. MERGER AND MODIFICATION

- A. It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items that are referenced or that are attached are incorporated and made a part of this Agreement. If there is any conflict between the terms of this Agreement and referenced or attached items, the terms of this Agreement shall prevail.
- B. Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties.

13. DEFAULT AND CANCELLATION

- A. If CITY fails to perform any of the provisions of this Agreement or so fails to administer the work as to endanger the performance of the Agreement, it shall be in default. Unless CITY's default is excused by the COUNTY, the COUNTY may upon written notice immediately cancel this Agreement in its entirety. Additionally, failure to comply with the terms of this Agreement shall be just cause for the COUNTY to delay payment until CITY's compliance. In the event of a decision to withhold payment, the COUNTY shall furnish prior written notice to CITY.
- B. Notwithstanding any provision of this Agreement to the contrary, CITY shall remain liable to the COUNTY for damages sustained by the COUNTY by virtue of any breach of this Agreement by CITY.
- C. The above remedies shall be in addition to any other right or remedy available to the COUNTY under this Agreement, law, statute, rule, and/or equity.
- D. The COUNTY's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not

per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, CITY shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including any attorney's fees, incurred in bringing the action.

18. PAPER RECYCLING

The COUNTY encourages CITY to develop and implement an office paper and newsprint recycling program.

19. NOTICES

Any notice or demand which must be given or made by a party under this Agreement or any statute or ordinance shall be in writing, and shall be sent registered or certified mail. Notices to the COUNTY shall be sent to the County Administrator with a copy to the originating Department at the address given in the opening paragraph of the Agreement. Notice to CITY shall be sent to the address stated in the opening paragraph of the Agreement.

20. CONFLICT OF INTEREST

CITY affirms that to the best of CITY's knowledge, CITY's involvement in this Agreement does not result in a conflict of interest with any party or entity which may be affected by the terms of this Agreement. CITY agrees that, should any conflict or potential conflict of interest become known to CITY, CITY will immediately notify the COUNTY of the conflict or potential conflict, specifying the part of this Agreement giving rise to the conflict or potential conflict, and will advise the COUNTY whether CITY will or will not resign from the other engagement or representation.

21. PROMOTIONAL LITERATURE

CITY agrees, to the extent applicable, to abide by the current Hennepin County Communications Policy (available upon request). This obligation includes, but is not limited to, CITY not using the term "Hennepin County" or any derivative in any promotional literature, advertisements of any type or form or client lists without the express prior written consent of a COUNTY Department Director or equivalent.

22. MINNESOTA LAWS GOVERN

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the State of Minnesota. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.



520 Tamarack Ave.
Long Lake, MN. 55356

November 15, 2012

Dear Mrs. Mayor Kind and Council Members,

Below is a simple chart illustrating the participation or set-out rates for the City of Greenwood's residential city-wide recycling for the month of October, 2012. The residential dwellings in the City of Greenwood are doing a terrific job on the consistency of set-out and making certain that the material in the cart is acceptable. For the four weeks of collection in October the set-out numbers were as follows:

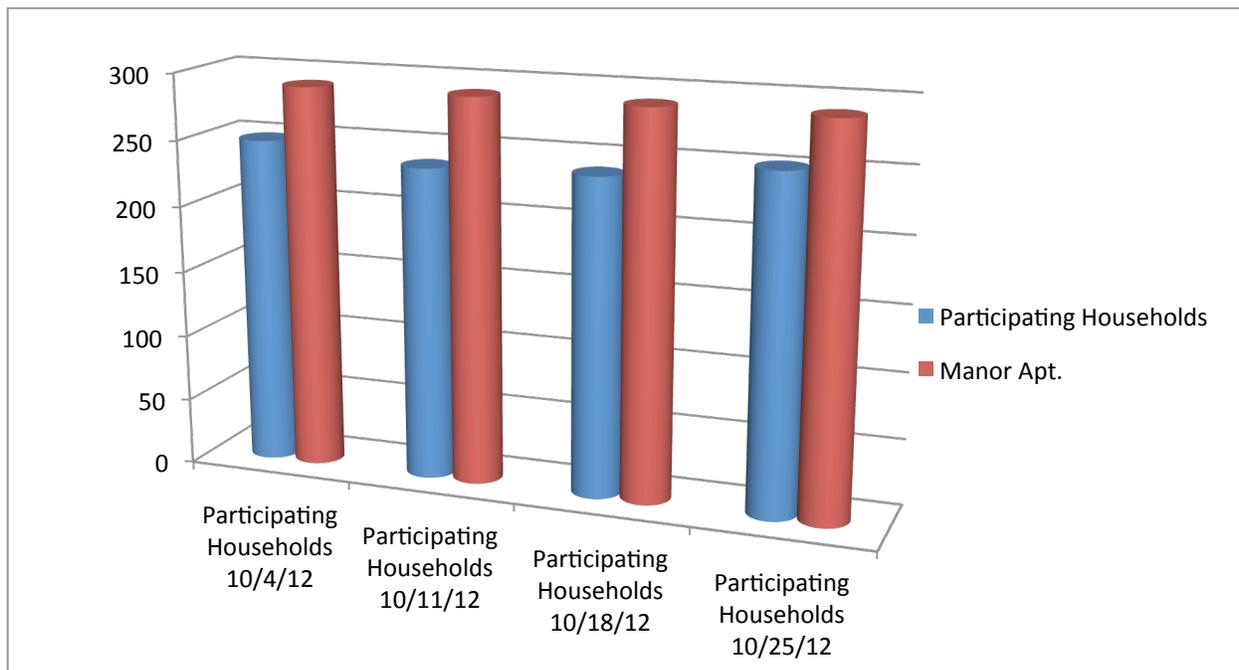
October 04, 2012: 248/290

October 11, 2012: 236/290

October 18, 2012: 239/290

October 25, 2012: 252/290

The one commercial location has a 100% set-out rate and is consistently full each week. All material collected is delivered to Tennis Sanitation and Recycling in St. Paul Park, MN. The percentage of homes consistently not out, have been the same homes that have never participated in the recycling program.



If you have any questions regarding these finds, please feel free to contact us.

Thank you for your time,

Corey & Emilee Metcalf | Vintage Waste Systems, Inc. | 952-472-0401



520 Tamarack Ave.

Long Lake, MN. 55356

January 24, 2013

Dear Mrs. Mayor and Council Members,

Below is a list of items that Vintage Waste Systems, Inc. collected from the City of Greenwood for recycling in the year of 2012. The list has been expanded in recent years to cover the #1-#7 plastics, pizza boxes and more extensive junk mailings. The advancements in the recycling industry has taken in the past years is amazing to us and we are continually changing to meet the standards and regulations of the ever-changing industry. Below the list you will find the totals for 2012 recycling tonnage for the City of Greenwood.

Plastic and metal

- Clean #1-#7 plastic bottles, tubs and containers, landscape edging, plastic toys (Except Styrofoam)
- Glass bottles and jars of any color (please avoid breaking glass; remove and recycle metal lids)
- Aluminum cans
- Aluminum foil (clean only)
- Steel (tin) cans
- Rinsed motor oil bottles
- Empty aerosol cans (no caps)
- Scrap metal, pot and pans with handles removed (household quantities)

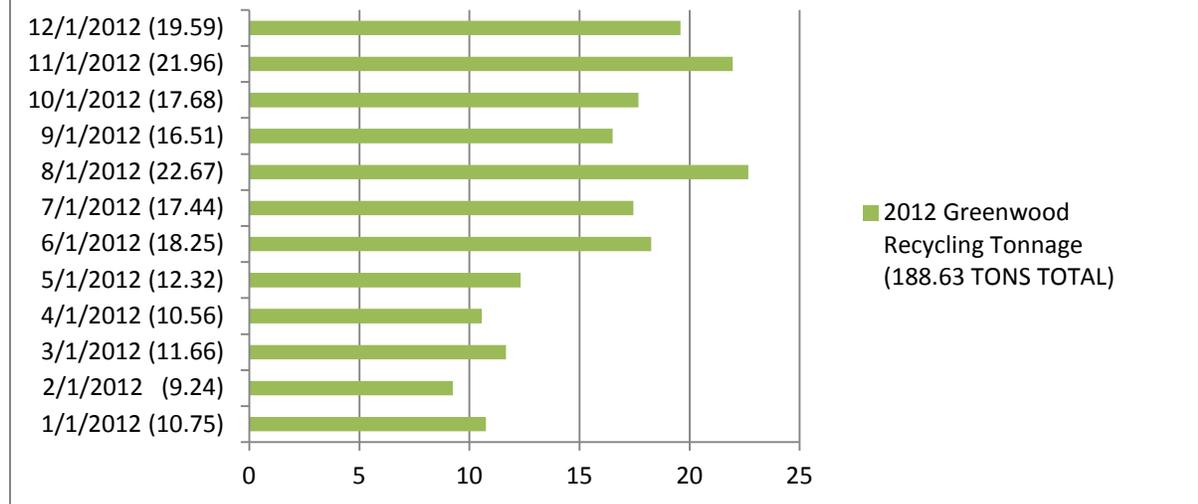
Paper

- Office paper (including computer, copier, plain fax paper, pastel colored paper (please, NO wrapping paper, neon or other bright paper)
- Newspapers and newspaper inserts (NO PLASTIC BAGS)
- Magazines and catalogs
- Shredded Paper (enclosed in sealed paper bag)
- Junk mail (please open your mail to remove any promotional stickers, credit cards, membership cards, or other non-paper items)

Cardboard and paperboard

- Corrugated cardboard (please remove all materials, packing and other items inside boxes, no need to break-down packing boxes)
- Brown paper grocery bags
- Pizza boxes (please clean food particles and grease from box)
- Paperboard (cereal, cake, beer, soda, snack and chip boxes, clothing boxes, frozen food boxes)

2012 Greenwood Recycling Tonnage (188.63 TONS TOTAL)



As you can see, there are months that are relatively higher than others and some that are very low. Factoring in the second homes, snow-birds, Holiday months and set-out rates in those time periods; the numbers look great. The set-out rate for Greenwood residents is high, in the 80-100 percentiles. This means that when residents are home, they put out their recycling for collection. We are exceptionally pleased with the collection and quality of material in the City of Greenwood and look forward to serving your community for many, many years to come.

If you have any questions regarding this data, or anything related, please feel free to contact me.

Thank you so much for your time,

Kindly,

Emilee Metcalf

Vintage Waste Systems, Inc.

520 Tamarack Ave.

Long Lake, MN. 55356

Vice President & Owner

(952) 472-0401



Agenda Number: **7E**

Agenda Date: 02-06-13

Agenda Item: Potential Comments Regarding Reorganization of Watershed Districts

Summary: When Hennepin County Commissioner Jan Callison attended the 01-02-13 city council meeting, she requested council input regarding County Commissioner Jeff Johnson's idea to reorganize the watershed districts. Attached is a summary of the reorganization concept as well as a draft of a possible response for the council's discussion.

Council Action: Optional. Potential motions ...

1. I move the city council directs the city clerk to revise the city council's comments regarding the reorganization of watershed districts as discussed, and email the comments to the Hennepin county board administrator for distribution to the Hennepin county commissioners.
2. Other motion ???

Background

Hennepin County currently contains eleven separate watershed organizations (“WMO”) that include four watershed districts and seven watershed management organizations. Watershed districts have managers appointed by the county commissioners and taxing authority, whereas WMO’s have no direct taxing authority, are joint-powers organizations of the municipalities within the boundaries of the district and have managers who are appointed by the respective city councils. Under the current configuration, four cities in the county are included in four separate watershed organizations, four have three, seventeen have two, and the remainder are fully contained within one.

Over the past decade, watershed organizations within Hennepin County have budgeted expenditures totaling over \$230 million, with an average annual increase exceeding 5%. These investments, combined with cities’ focus on storm water management, building standards and developer requirements and initiatives, have contributed to reducing the number of lakes with declining water quality. The most recent lake quality trends indicate that water quality in Hennepin lakes has stabilized in the past ten years, with the majority of county lakes showing no significant upward or downward trend. The average lake grade in the county over the past decade is a “C”, regardless of watershed organization.

As evidenced by these water quality statistics, we now expect metropolitan watershed organizations to improve water quality at the same time that they act on traditional watershed concerns such as flood control. Hennepin County watershed organizations in the current structure appear to be too fragmented and, in many cases, have insufficient resources to meet current or future expectations. We can design an improved system.

This proposal is a variation of a study and report on county water management completed for Hennepin County by the Center for Science, Technology and Public Policy at the University of Minnesota. The report recommended, among other things, consolidation of watershed districts and watershed management organizations in Hennepin County, each with taxing authority.

Goals

The overall intent of this proposal is to improve water quality, align existing resources and focus investments on measurable outcomes by specifically focusing on the following five goals:

1. Support a comprehensive approach to resource management by promoting the coordination of surface water, ground water, land-use and natural resource management
2. Promote water management in collaboration with local government
3. Increase accountability for water management and improved water quality
4. Allow the locally-controlled creation of water management structures to provide long-term protection of water resources and improve water quality
5. Ensure that adequate fiscal capacity exists in each management unit and that local elected officials engage in shared water governance responsibilities

Proposal Summary

Reorganization: Four watershed districts and seven watershed management organizations are reorganized into three watershed management organizations. The new watershed management organizations have taxing authority and are governed by and subject to the laws and requirements of both watershed management organizations and watershed districts. For watersheds that are not wholly contained within Hennepin County, the new watersheds are afforded the ability to either provide for representative managers based upon population and tax capacity or provide for a boundary that is coterminous with the county boundary. The new watershed management organization managers must be elected officials from municipalities wholly or partially within the organization boundaries and their appointment must be established in the new organizations' adopted bylaws.

Transition: Each municipality will appoint an elected official to serve on a transition plan committee. These committees are charged with aligning comprehensive water management plans, bylaws, rules and developing a method for selection of managers to the watershed management organizations ("WMO's"). The rules, bylaws and comprehensive plans must be submitted to the cities within the watershed and be approved by a two-thirds majority of each city council before submission to the Board of Water and Soil Resources ("BWSR"). The current governing structure of watershed districts and WMO's will continue until these new sets of plans, bylaws and rules have been filed with BWSR. Hennepin County will administratively support and fund the transition planning committees and will be reimbursed from funds of the new WMO's.

Coordinating Board: Hennepin County may establish a coordinating board that includes members from: County Board, Watershed Organizations, park districts and the Hennepin Conservation District. This coordinating board has no prescribed approval authority but may be established to identify priority concerns, coordinate activities and establish countywide initiatives. The coordinating board may work broadly with others to identify, acquire and focus additional resources to improve water resources.

MS4: The WMO's shall be designated as municipal separate storm sewer system operators responsible to identify watershed-wide total maximum daily load and, in cooperation with cities, to determine a strategy for meeting a total maximum daily load allocation.

Desired Benefits

- Establishing more uniform local policies and standards for water management
- Creating economy-of-scale savings that increase available resources for water quality improvement projects
- Simplify the myriad of regulatory complexities resulting from numerous districts through consolidation and by promoting collaborative governance with cities.
- Establishing a watershed-wide TMDL with shared responsibility between municipalities and watershed management organizations
- Reducing the disparity in fiscal resources for water quality improvement projects within the county
- Attracting additional financial resources (such as Legacy Amendment funds) for water quality projects by increasing the capacity and reach of each organization
- Providing additional transparency and accountability to water management by providing taxing authority to each WMO and requiring membership be limited to elected officials

- 1.1 A bill for an act
- 1.2 relating to water; reorganizing watershed management organizations wholly
- 1.3 or partially located in Hennepin County into three watershed management
- 1.4 organizations; proposing coding for new law in Minnesota Statutes, chapter
- 1.5 103B.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. [103B.254] WATERSHED MANAGEMENT IN HENNEPIN COUNTY.
- 1.8 Subdivision 1. Three watershed management organizations established. (a)
- 1.9 Notwithstanding any other law to the contrary, the territory of the watershed management
- 1.10 organizations wholly or partially located in Hennepin County are reorganized into three
- 1.11 watershed management organizations as follows:
- 1.12 (1) North Hennepin Watershed Management Organization includes all territory in
- 1.13 the Elm Creek, Shingle Creek, Bassett Creek, West Mississippi, and Middle Mississippi
- 1.14 joint powers watershed management organizations;
- 1.15 (2) Central Hennepin Watershed Management Organization includes all territory
- 1.16 in the Pioneer-Sarah Creek joint powers watershed management organization and the
- 1.17 Minnehaha Creek Watershed District; and
- 1.18 (3) South Hennepin Watershed Management Organization includes all territory
- 1.19 in the Riley-Purgatory-Bluff Creek, Nine Mile Creek, and Lower Minnesota River
- 1.20 Watershed Districts, and the Richfield-Bloomington joint powers watershed management
- 1.21 organization.
- 1.22 (b) If a watershed management organization listed in paragraph (a) that is
- 1.23 reorganized into one of the three new watershed management organizations includes a

2.3 new watershed management organization. Absent representation of the areas outside of

2.4 Hennepin County, the new watershed management organization boundary is coterminous

2.5 with the county boundary.

2.6 Subd. 2. **Applicable law; exceptions.** Except as otherwise provided in this section,

2.7 the three watershed management organizations established in subdivision 1 are governed

2.8 by and subject to the requirements of chapter 103B, 103D, and other laws governing

2.9 watershed districts.

2.10 Subd. 3. **Governance, plans continued during transition.** Until the managers

2.11 of a watershed management organization established in subdivision 1 are appointed

2.12 as provided in the new watershed management organization's rules and bylaws, the

2.13 governing body of each watershed management organization consolidated into one of the

2.14 new watershed management organizations shall continue to govern the area it governed

2.15 before the new watershed management organization was established. Until a watershed

2.16 management plan is adopted for a new watershed management organization, the plans of

2.17 the watershed management organizations that were consolidated into the new watershed

2.18 management organization remain in effect.

2.19 Subd. 4. **Transition plan committees.** (a) Within 30 days after the effective date

2.20 of this section, each home rule charter or statutory city wholly or partially within the

2.21 jurisdiction of a new watershed management organization established in subdivision 1,

2.22 shall appoint a council member or the mayor to be its nominee to the transition plan

2.23 committee. For any city that does not make an appointment within 30 days of the effective

2.24 date of this section, the mayor or a city council member designated by the mayor shall

2.25 represent the city.

2.26 (b) Within 30 days after the effective date of this section, each watershed

2.27 management organization that is consolidated into a watershed management organization

2.28 established in subdivision 1, shall appoint a manager to the transition plan committee to

2.29 serve as a non-voting member of the committee.

2.30 (c) Within 60 days of the effective date of this section, the Board of Water and Soil

2.31 Resources shall convene the first meeting of each watershed management organization's

2.32 transition plan committee as soon as practicable after appointment of the members of

2.33 the committee. At the first meeting, the committee members shall elect from among

2.34 themselves a member to serve as chair, a member to serve as vice chair, and at least five

2.35 but not more than 13 additional voting members to develop the watershed management

- 3.3 watershed management organization and filed with the Board of Water and Soil Resources.
- 3.4 (d) Hennepin County shall provide to each transition plan committee administrative
- 3.5 support, including meeting space if necessary, and funding for the transition plan
- 3.6 committee's organizational activities. Unless otherwise agreed to by the county, within
- 3.7 one year of filing with the Board of Water and Soil Resources the rules and bylaws of the
- 3.8 watershed management organization, the watershed management organization must repay
- 3.9 to the county the organizational expenses incurred by the county for the work of the
- 3.10 transition plan committee, as provided in section 103D.905.
- 3.11 Subd. 5. **Rules, bylaws, and comprehensive plans.** The new watershed
- 3.12 management organization's rules and bylaws must provide that only elected municipal
- 3.13 officials may serve as managers of the watershed management organization, must include
- 3.14 a formula for weighting the vote of each city wholly or partially within the management
- 3.15 organization, taking into account the city's population and tax capacity relative to all other
- 3.16 cities in the watershed management organization's territory, and must include the method
- 3.17 for selecting managers of the watershed management organization. In addition, the rules
- 3.18 and bylaws must provide for a revised comprehensive watershed management plan for the
- 3.19 watershed management organization. The watershed management organization may file
- 3.20 the rules, bylaws, and revised comprehensive watershed management plan with the Board
- 3.21 of Water and Soil Resources only after at least two-thirds of the cities wholly or partially
- 3.22 within the watershed management organization have approved them.
- 3.23 Subd. 6. **Hennepin Watershed Management Organizations Coordinating**
- 3.24 **Board.** Hennepin County may by resolution establish the Hennepin County Watershed
- 3.25 Management Organizations Coordinating Board to promote coordination and cooperation
- 3.26 among local water management entities, as defined in section 103B.102, work with
- 3.27 other public agencies and citizen volunteers to identify and restore impaired waters, and
- 3.28 establish countywide priorities. The coordinating board shall consist of:
- 3.29 (1) one watershed management organization manager appointed by each watershed
- 3.30 management organization established in subdivision 1;
- 3.31 (2) one county board member appointed by the Hennepin County board, who shall
- 3.32 also serve as chair of the coordinating board;
- 3.33 (3) one park district board member appointed by each park district board of a park
- 3.34 district wholly or partially within the county; and

4.3 Hennepin County, the county board shall appoint a member who is a resident of the county.

4.4 The county shall provide to the coordinating board administrative support, including

4.5 meeting space if necessary.

4.6 Subd. 7. **Hennepin watershed districts as MS4s.** Notwithstanding the petition

4.7 procedure in Minnesota Rules 7090.1010, subpart 4, the commissioner of the Pollution

4.8 Control Agency shall designate each watershed management organization established in

4.9 this section as a municipal separate storm sewer system operator responsible for:

4.10 (1) identifying a watershed-wide total maximum daily load;

4.11 (2) aligning stormwater pollution prevention programs in the watershed with each

4.12 other;

4.13 (3) developing total maximum daily load implementation plans; and

4.14 (4) determining a general strategy, tracking system, and schedule for meeting a total

4.15 maximum daily load allocation, in cooperation with municipalities within the watershed

4.16 management organization's territory.

4.17 Subd. 8. **Taxing authority.** A watershed management organization established in

4.18 this section may levy a tax authorized in section 103B.241, not to exceed ... percent of the

4.19 total taxable market value of the territory of the watershed management organization.

4.20 Subd. 9. **Transfer of personnel, assets, and liabilities; former WMOs abolished.**

4.21 The personnel, assets, and liabilities of the watershed management organizations that

4.22 are reorganized and consolidated into a new watershed management organization are

4.23 transferred to the new watershed management organization established in subdivision 1,

4.24 effective upon the appointment of managers as provided in the rules and bylaws for the

4.25 new watershed management organization. Upon completing transfer of all personnel,

4.26 assets, and liabilities of a watershed management organization to the new watershed

4.27 management organization, the watershed management organization is abolished.

4.28 Subd. 10. **Failure to organize a watershed management organization.** If the

4.29 Board of Water and Soil Resources determines that a watershed management organization

4.30 established in subdivision 1 has not filed its rules, bylaws, and revised comprehensive

4.31 watershed management plan within one year of the effective date of this section:

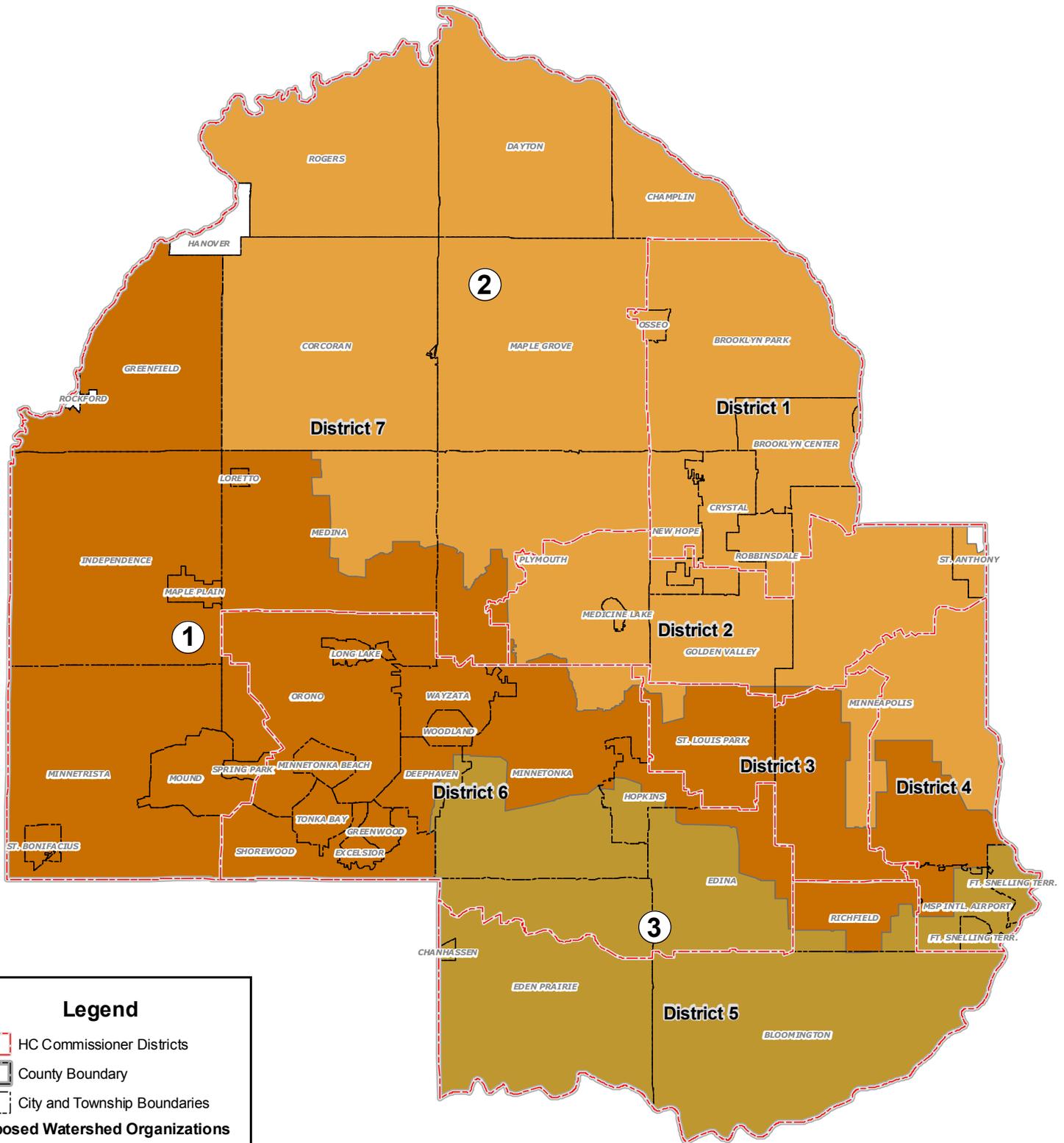
4.32 (1) the political subdivisions located wholly or partially within the watershed

4.33 management organization are not eligible for state funding for water projects or programs;

4.34 (2) state agencies may withhold from political subdivisions in the territory of

4.35 the watershed management organization delegation of state water resource regulatory

Proposed Watershed Organizations in Hennepin County



Legend

- HC Commissioner Districts
- County Boundary
- City and Township Boundaries

Proposed Watershed Organizations

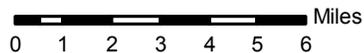
New Entity

- Water Organization #1
- Water Organization #2
- Water Organization #3

Map Creation Date: 3/22/2012

Data Sources: Hennepin County

Disclaimer: This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness for any particular purpose, merchantability, or the accuracy and completeness of the information shown.



Hennepin County
Department of
Environmental Services





DRAFT

Date: February 6, 2013

To: Hennepin County Commissioners
c/o David J. Hough, Acting County Administrator
Email: david.hough@co.hennepin.mn.us

From: Greenwood City Council

Re: **Comments Regarding Hennepin County Watershed Management Reorganization**

The Greenwood city council reviewed and discussed the concept to consolidate 4 watershed districts and 7 management organizations into 3 Watershed Management Organizations (WMOs). The following outlines our comments:

1. Overall we support the concept of consolidation from 11 to 3 WMOs. This will allow the WMOs to take a comprehensive approach to water management and equal the playing field regarding taxing authority. We also would be supportive of funding the WMOs out of city tax levies to provide greater accountability to taxpayers.
2. We support appointing elected city officials (or city staff members) to the WMO manager positions. We believe city officials will provide "accountability" and a balanced approach to water management. In the past, appointed board members tend to have been "activists" who support water quality issues without accountability to taxpayers. Having city officials as managers also will promote collaboration with local government.
3. We agree with using city officials (elected or staff) from each city to serve on the transition plan committee to determine the comp plan, bylaws, rules, and developing a method for selection of managers to the WMOs. We support having 5 to 7 managers for each WMO -- any more than 7 managers makes discussion and decision making too cumbersome.

Thank you for the opportunity to comment on the concept. If you have any questions regarding our comments, please contact Mayor Deb Kind, 952.401.9181, dkind100@gmail.com.



Agenda Number: **7F**

Agenda Date: 02-06-13

Agenda Item: Resolution 06-13 Appointments and Assignments for 2013

Summary: At the 01-02-13 council meeting the council approved a resolution designating appointments and assignments for 2013. Since then a couple issues have been raised regarding "alternates" ...

1. The Lake Minnetonka Conservation District by-laws do not allow for the appointment of an "alternate." Therefore, the attached resolution has been revised to delete Tom Fletcher as the LMCD alternate.
2. The Lake Minnetonka Communications Commission DOES allow alternates to serve on the board in the event that one of the primary board members is unable to attend a meeting. Therefore, the council needs to select someone to serve as the LMCC alternate and amend the attached resolution accordingly.

Council Action: Required. Potential motions ...

1. I move the council approves resolution 06-13 updating the appointments and assignments for 2013, including the designating _____ to serve as the Lake Minnetonka Communications Commission alternate.
2. Other motion ???

Resolution 06-13
City of Greenwood Appointments and Assignments for 2013

Be it resolved that the city council of the city of Greenwood, Minnesota approves the following appointments for Feb. 5, 2013 through Dec. 31, 2013

OFFICE & DESIGNATIONS	2012 HOLDER	2013 HOLDER
Mayor Pro-Tem	Bob Quam	Bob Quam
Administrative Committee	Tom Fletcher, Deb Kind	Tom Fletcher, Deb Kind
Animal Enforcement Officer	South Lake Police Department	South Lake Police Department
Assessor	Hennepin County	Hennepin County
Attorney	Mark Kelly	Mark Kelly
Auditor	CliftonLarsonAllen	CliftonLarsonAllen
Bank Signatures	Kind, Quam, Courtney	Kind, Quam, Courtney
Building Official	Bob Manor	Bob Manor
Clerk	Gus Karpas	Gus Karpas
Depositories	Bridgewater Bank, Beacon Bank	Bridgewater Bank, Beacon Bank
Engineer	Bolton & Menk (Dave Martini)	Bolton & Menk (Dave Martini)
Fire Board Representative – 4th Wed (Jan, Mar, May, Jul, Sep, Nov)	Tom Fletcher, Bob Quam (alt.)	Tom Fletcher, Bob Quam (alt.)
Forester / Tree Inspector	Manuel Jordan	Manuel Jordan
Lake Minnetonka Communications Commission (LMCC) Representative 2 representatives, 1 must be elected official, meets 3rd Tues (Feb, May, Aug, Nov)	Tom Fletcher, Deb Kind	Tom Fletcher, Deb Kind, _____ (alternate)
Lake Minnetonka Conservation District (LMCD) Rep – 2nd and 4th Wed	Kelsey Page (1/31/14)	Rob Roy (1/31/14), Tom Fletcher (alternate)
Marina Clerk		Deborah Hicks
Minnetonka Community Education (MCE) Representative – 4th Mon	Bob Quam	Bob Quam
Newspapers	Sun-Sailor, Star Tribune (alt.)	Sun-Sailor, Star Tribune (alt.)
Planning Commissioners – 3rd Wed	A-1 Douglas Reeder (3/14)	A-1 Douglas Reeder (3/14)
	A-2 John Beal (3/14)	A-2 John Beal (3/14)
	A-3 Dave Paeper (3/14)	A-3 Dave Paeper (3/14)
	B-1 Pat Lucking (3/13)	B-1 Pat Lucking (3/13)
	B-2 Kristi Conrad (3/13)	B-2 Kristi Conrad (3/13)
	Alt-1 Lisa Christian (3/14)	Alt-1 Lisa Christian (3/14)
	Alt-2 Vacant (3/13)	Alt-2 Vacant (3/13)
Planning Commission Liaison – 3rd Wed	Bill Cook	Bill Cook
Prosecutor	Greg Keller	Greg Keller
Responsible Authority (Govt. Data Practices Act)	Gus Karpas	Gus Karpas
Road and Sewer Liaison	Bob Quam	Bob Quam
South Lake Minnetonka Police Department (SLMPD) Coordinating Committee Representative (Must be mayor, meets quarterly)	Deb Kind, Bob Quam (alternate)	Deb Kind, Bob Quam (alternate)
Treasurer	Mary Courtney	Mary Courtney
Utility Billing Clerk		Deborah Hicks
Weed Inspector (Must be mayor), Assistant Weed Inspector	Deb Kind, Assistant Gus Karpas	Deb Kind, Assistant Gus Karpas
Zoning Administrator	Gus Karpas	Gus Karpas

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA

that any and all commissioners, appointees, representatives, delegates, or other non-elected officials of the city shall hold their official status or membership on a basis subject to resolution, subject to reconsideration, and/or removal at the insistence of the city council. This resolution is enacted pursuant to the codes of the city.

ADOPTED by the city council of the city of Greenwood, Minnesota this ____ day of _____, 2013.

There were ___ AYES and ___ NAYS

By: _____
 Debra J. Kind, Mayor, City of Greenwood

Attest: _____
 Gus E. Karpas, City Clerk, City of Greenwood



Agenda Number: **7G**

Agenda Date: 02-06-13

Agenda Item: Resolution 07-13, Regarding Lake Minnetonka Communications Commission Membership / Franchise Renewal

Summary: Attached is a resolution drafted by Councilman Tom Fletcher for the council's consideration. He will give the council a verbal report at the 02-06-13 council meeting.

Council Action: Optional. Potential motions ...

1. I move the council approves resolution 07-13 regarding Lake Minnetonka Communications Commission membership and franchise renewal.
2. Do nothing or other motion ???

LMCC Votes & Estimated Per-City Revenue

	Dwelling Units	LMCC Board Weighted Votes	Cable Subscribers	Subscribers ÷ Dwelling Units	Monthly Franchise Fee Per Subscriber	Estimated Annual Franchise Revenues	Monthly PEG Fee Per Subscriber	Estimated Annual PEG Revenues	Total Fees
Deephaven	1,337	2	722	54.00%	\$4.42	\$38,266	\$1.20	\$10,397	\$48,663
Excelsior	1,125	2	753	66.93%	\$4.42	\$39,909	\$1.20	\$10,843	\$50,752
Greenwood	290	1	149	51.38%	\$4.42	\$7,897	\$1.20	\$2,146	\$10,043
Independence	1,246	2	194	15.57%	\$4.42	\$10,282	\$1.20	\$2,794	\$13,076
Long Lake	734	1	321	43.73%	\$4.42	\$17,013	\$1.20	\$4,622	\$21,635
Loretto	270	1	128	47.41%	\$4.42	\$6,784	\$1.20	\$1,843	\$8,627
Maple Plain	726	1	330	45.45%	\$4.42	\$17,490	\$1.20	\$4,752	\$22,242
Medina	1,711	2	584	34.13%	\$4.42	\$30,952	\$1.20	\$8,410	\$39,362
Minnetonka Beach	203	1	115	56.65%	\$4.42	\$6,095	\$1.20	\$1,656	\$7,751
Minnetrista	2,203	3	750	34.04%	\$4.42	\$39,750	\$1.20	\$10,800	\$50,550
Orono	2,828	3	1,319	46.64%	\$4.42	\$69,907	\$1.20	\$18,994	\$88,900
Shorewood	2,660	3	1,403	52.74%	\$4.42	\$74,359	\$1.20	\$20,203	\$94,562
Spring Park	909	1	357	39.27%	\$4.42	\$18,921	\$1.20	\$5,141	\$24,062
St. Bonifacious	865	1	452	52.25%	\$4.42	\$23,956	\$1.20	\$6,509	\$30,465
Tonka Bay	587	1	332	56.56%	\$4.42	\$17,596	\$1.20	\$4,781	\$22,377
Victoria	2,484	3	1,166	46.94%	\$4.42	\$61,798	\$1.20	\$16,790	\$78,588
Woodland	169	1	98	57.99%	\$4.42	\$5,194	\$1.20	\$1,411	\$6,605
TOTAL	20,347	28	9,173			\$486,168		\$132,091	\$627,432

Mound: What they collect	3987		2,097	52.60%	\$4.42	\$74,359	\$1.20	\$30,197	\$104,556
Mound: What they pay to the LMCC					\$0.67	\$16,860	\$1.20	\$30,197	\$47,057
						\$57,499		\$0	

Grey indicates "underserved" cities.

Households based on most current Met Council Data (2011).

Votes are rounded up, based on past policy.

Cable subscribers numbers are from Mediacom 11/1/2012 data.

FRANCHISE FEES

\$4.42 per month Franchise Fee is 5% of the cable bill (5% is the maximum allowed by FCC regulations).

The use of franchise revenues by the LMCC and cities is not restricted.

PEG FEES

Public Educational Government (PEG) fees are negotiated in the franchise agreement.

2013 PEG fees are \$1.20 per subscriber per month.

PEG fees must be used for programming / equipment.

Amount of revenue kept by Mound (85% of franchise fees)

Mound pays all of their PEG fees to the LMCC (same as other LMCC cities)

**CITY OF GREENWOOD
RESOLUTION NO. 07-13**

**RESOLUTION IN SUPPORT OF EXCLUSIVE REPRESENTATION BY THE
LAKE MINNETONKA COMMUNICATIONS COMMISSION IN CABLE TV FRANCHISE NEGOTIATIONS
AND SUPPORT OF FRANCHISE FEE DISBURSEMENTS TO CITIES**

WHEREAS, the Lake Minnetonka Communications Commission provides the following valued services to the member cities within its Joint Powers Association (JPA):

1. Expertise in franchise negotiations.
2. Expertise in the production of public cable TV programming.
3. Enforcing the terms of the negotiated contract with Mediacom.
4. Dealing with resident complaints about Mediacom.

WHEREAS, the city council of the city of Greenwood, Minnesota finds the following to be true:

1. Some LMCC member cities have been approached by Mediacom to negotiate separate cable TV franchise agreements.
2. Cities cannot in good faith have two separate franchise negotiations proceeding at the same time.
3. The LMCC franchise renewal committee has asked for clarification as to what cities it is representing in their franchise negotiations.
4. The LMCC attorney and franchise committee will have better negotiating power if the majority of the cities stay in the JPA.
5. A disbursement of a portion of franchise fees to the respective cities may encourage cities to stay in the JPA.
6. Some current JPA cities have expressed a concern regarding LMCC spending.
7. Reduced franchise fees retained by the LMCC will encourage re-examination of programming, equipment, facility, and staffing priorities.
8. Some "underserved" member cities would like assurance that build-out of the cable TV system is an LMCC priority in franchise renewal negotiations. Some member cities have expressed interest in reorganizing the oversight structure of the LMCC and clarification regarding the procedure for withdrawal.

NOW THEREFORE, BE IT RESOLVED that city council of the city of Greenwood, Minnesota:

1. Authorizes exclusive representation by Lake Minnetonka Communications Commission in 2013 cable TV franchise negotiations as long as a similar resolution is approved by 50% of the LMCC member cities.
2. Supports the franchise fee disbursement concept as shown on the attached exhibit A where each individual city shall spend their disbursement as they see fit.
3. Understands that there will need to be reductions in LMCC spending on public and educational programming with the franchise fee disbursement concept.
4. Supports that at priority in the franchise negotiations is to build out the underserved cities.
5. Supports a franchise agreement that includes an option where underserved cities may subsidize, to the extent permitted by law, build-out consistent with the terms offered by Mediacom to the city of Medina in its proposed Letter of Intent dated December 13, 2012.
6. Requests that the LMCC board consider recommending to the member cities that the LMCC Joint and Cooperative Agreement be amended to reduce the number of directors from two to one per member city (could be a council member, staff member, or resident), and have the votes per city be weighted based on the number of dwelling units with no limit to the votes per city.
7. Requests that the LMCC board investigate and make recommendations to the member cities regarding other potential amendments to the Joint and Cooperative Agreement including clarification of the procedure for withdrawal from the LMCC by member cities.

MAY IT BE FURTHER RESOLVED that city council of the city of Greenwood, Minnesota directs the city clerk to email a copy of this resolution and exhibit A to the LMCC executive director for distribution to the LMCC board, and to the other LMCC JPA city administrators and mayors for consideration by their respective councils with the recommendation that this or a similar resolution be approved by March 31, 2013.

ADOPTED by the city council of the city of Greenwood, Minnesota this ___ day of _____, 2013.

___ AYES ___ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

EXHIBIT A

CONCEPT: The LMCC disburses 50% of franchise revenues to member cities.

HOW THE CONCEPT WOULD WORK:

The new franchise agreement would require Mediacom to provide quarterly reports to the LMCC showing the per-city franchise and PEG revenues. Based on the Mediacom report the LMCC would in turn disburse to each member city a percentage of the franchise fees that were paid by it's residents and businesses after the LMCC receives it's quarterly payment from Mediacom. For example, if Mediacom's report showed that the residents and businesses in Greenwood paid \$8000 in franchise fees in the fourth quarter of 2012, the LMCC would disburse \$4000 to the city of Greenwood in the first quarter of 2013.

The current LMCC Joint and Cooperative Agreement does not need to be amended to implement this concept. This concept could be implemented by a majority weighted vote of the LMCC directors who are appointed by member cities.

The LMCC 2013 balanced budget for 2013 includes estimated total revenues of \$696,413. Franchise Fees account for \$485,311 or 70% of the total revenues. Since most of the LMCC's operating and capital expenses are related to programming, there would need to be significant reductions in this area as well as in administrative expenses. The most likely areas for programming reduction are public access and events along with some educational programming. The internet and YouTube provide alternatives for this programming that was not available 15 years ago. It is unlikely that the LMCC will continue to produce programming such as "The Safety Expert," cover community concerts, etc. in this scenario.

The LMCC owns it's building and does not have any debt associated with it. Thus, the best strategy is probably to maintain the building for the time being. The public access studio could be maintained on a scaled down basis with no plans for future capital investment. The LMCC's production van may need to be sidelined unless users are willing to fund ongoing operation and future capital expenses.

To reduce expenses the LMCC likely will need to consider contracting with a member city for administrative and accounting support. A successful example of this option is the Excelsior Fire District, which contracts with the city of Deephaven for it's financial and accounting support.

With the above changes the LMCC should be able to continue to manage the Mediacom franchise and provide coverage of local government activities. Note: According to the CBG Communications December 2012 presentation, the LMCC government channels had 18% weekly viewership as compared to 5 to 8% for the LMCC's public and educational channels.



Agenda Number: **7H**

Agenda Date: **02-06-13**

Agenda Item: Potential Comments Regarding Bow-Fishing on Lake Minnetonka

Summary: Attached is a letter from Lake Minnetonka Conservation District Executive Director Greg Nybeck regarding bow-fishing regulations on Lake Minnetonka. He is requesting feedback from the LMCD cities regarding this matter. Attached is a draft of a memo outlining possible comments for the council's consideration and discussion at the 02-06-13 council meeting.

Council Action: Optional. Potential motions ...

1. I move the city council directs the city clerk to revise the city council's comments regarding bow-fishing regulations on Lake Minnetonka as discussed, and email the comments to the Lake Minnetonka Conservation District Executive Director Greg Nybeck for distribution to the LMCD board.
2. Do nothing or other motion ???



LAKE MINNETONKA CONSERVATION DISTRICT

23505 SMITHTOWN ROAD, SUITE 120 • SHOREWOOD, MINNESOTA 55331 • TELEPHONE 952/745-0789 • FAX 952/745-9085

Gregory S. Nybeck, EXECUTIVE DIRECTOR

January 25, 2013

«Adm_Prefix» «Adm_FirstName» «Adm_LastName»
City of «City»
«Address»
«City», MN «Zip»

Dear «Adm_Prefix» «Adm_LastName»:

RE: Bow-Fishing Regulations on Lake Minnetonka

The Lake Minnetonka Conservation District (LMCD) annually receives calls asking whether one can bow-fish on Lake Minnetonka. This has never been an easy question to respond to because the LMCD, Hennepin County Sheriff's Water Patrol (Water Patrol), and the Minnesota Department of Natural Resources (MN DNR) Enforcement Division are unfamiliar with individual member city ordinances and their respective city boundaries over the surface of the Lake.

In an effort to streamline public communication and provide documented guidance to both the Water Patrol and MN DNR enforcement personnel, the LMCD Board of Directors has been working to determine whether it is feasible to have a single bow-fishing ordinance, with consistent lake-wide regulations, for Lake Minnetonka. Your support, consideration, and input in furthering this discussion are important to us. Therefore, we are requesting your collective city council's ranking on the following three options and documentation on your respective ordinance(s).

OPTIONS

1. Continue to operate as we currently do; per state law (see next page) and local city ordinances.

If this is the option the LMCD were to proceed with, please consider the following:

- a) The public will be referred directly to the member cities to receive information on local firearms, weapons, and archery ordinances (as well as whether a permit is required).

Should this option be chosen, the LMCD will be requesting each member city to forward the contact name or department at the city to whom public inquiries should be referred.

- b) MN DNR and Water Patrol enforcement personnel have indicated that it would be each city's responsibility to enforce its own ordinance(s).

2. Prohibit bow-fishing entirely on Lake Minnetonka.

3. Consider an ordinance more restrictive than state law, but less than a total prohibition.

- Prohibit nighttime bow-fishing; or
- Other?

SUMMARY OF STATE LAW

Bow-fishing in the State of Minnesota is allowed per Minnesota Statutes 97C.376 (see attached). However, bow-fishing is subject to a number of restrictions. Some of these restrictions include:

- **Duration of Season**- May 1st through the last Sunday in February.
- **Possession of Bow and Arrows**- A person may possess bows and arrows on or within 100 feet of the waters (subject to local ordinances). A person must take reasonable measures to retrieve arrows and wounded fish.
- **Prohibition on Returning Rough Fish to Waters** – Rough fish taken by bow-fishing shall not be returned to the water and rough fish may not be left on the bank of any water of the state.
- **Nighttime Restrictions**- Additional nighttime restrictions (defined as sunrise to sunset) include:
 - The total noise level shall not exceed 65 decibels (“A” scale at a distance of 50 feet); and
 - A person shall not discharge an arrow while fishing within 150 feet of an occupied structure (such as a house) or within 300 feet from a campsite.

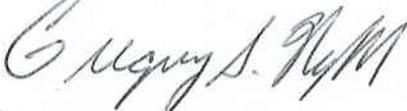
WHAT'S NEXT

The LMCD is working towards bringing closure on this matter, in consultation with the LMCD member cities. Further discussion is planned at the March 13, 2013 Regular LMCD Board Meeting. Therefore, we are seeking feedback from each city council, by March 1st, on the following questions:

- Does your city have an ordinance that prohibits or regulates bow-fishing on Lake Minnetonka?
- What is your collective city council's ranking on the three options detailed above?
- If your city prefers the third option, what additional restrictions would you like the Board to consider in an ordinance?

As always, please feel free to call with any questions or comments you may have. I can be reached at (952) 745-0789 or gnybeck@lmcd.org.

Sincerely,



Gregory S. Nybeck
Executive Director
Lake Minnetonka Conservation District

cc: Mayor, City of «City»
LMCD Board Member, City of «City»

97C.376 BOW FISHING.

Subdivision 1. **Season.** The bow fishing season for residents and nonresidents is from May 1 to the last Sunday in February at any time of the day.

Subd. 2. **Possession of bows and arrows.** A person may possess bows and arrows for the purposes of bow fishing on or within 100 feet of waters at any time from May 1 to the last Sunday in February, subject to local ordinances. A person must take reasonable measures to retrieve arrows and wounded fish.

Subd. 3. **Nighttime restrictions on motors.** From sunset to sunrise, a person bow fishing with the assistance of a gasoline-powered motor must use a four-stroke engine powered generator. The noise limits for total noise while bow fishing from sunset to sunrise shall not exceed a noise level of 65 decibels on the A scale measured at a distance of 50 feet from the motorboat or equivalent noise levels at other distances as specified by the commissioner in a pass-by test or 67 decibels on the A scale measured at idle in a stationary test at least four feet above the water and at least four feet behind the transom of the motorboat being tested. The noise levels under section 86B.321 apply to persons traveling to and from bow fishing sites from sunset to sunrise.

Subd. 4. **Nighttime structure and campground setback requirements.** A person shall not discharge an arrow while bow fishing within 150 feet of an occupied structure or within 300 feet of a campsite from sunset to sunrise.

Subd. 5. **Prohibition on returning rough fish to waters.** Rough fish taken by bow fishing shall not be returned to the water and rough fish may not be left on the banks of any water of the state.

History: 2009 c 176 art 2 s 62



DRAFT

Date: February 6, 2013

To: Lake Minnetonka Conservation District Board
c/o Greg Nybeck, Executive Director
Email: gnybeck@lmcd.org

From: Greenwood City Council

Re: **Comments Regarding Bow-Fishing Regulations**

The Greenwood city council reviewed and discussed your 01-25-13 letter regarding bow-fishing regulations on Lake Minnetonka. The following outlines our comments:

1. Greenwood does not have a specific bow-fishing ordinance. We do have an ordinance (section 900.25, subd. 1(1) that prohibits the reckless handling of a dangerous weapon that endangers the safety of another. But we have no way to enforce the ordinance on the waters of Lake Minnetonka.
2. The Greenwood city council's collective rankings of the three options in the letter are:
#1 Consider an ordinance that more restrictive than state law, but less than a total prohibition.
#2 Continue to operate as we currently do; per state law and local city ordinances.
#3 Prohibit bow-fishing entirely on Lake Minnetonka.
3. We support a lake-wide ordinance to offer clarity to lake users who are unfamiliar with which of the 14 cities they are in as they fish around Lake Minnetonka.
4. We support a lake-wide ordinance that is enforceable by the DNR and Hennepin County Water Patrol – our only enforcement agencies with jurisdiction on the waters of Lake Minnetonka.
5. We support the removal of rough fish from Lake Minnetonka, so we would like to see very few (if any) restrictions added to the state statute.

Thank you for the opportunity to comment on this issue. If you have any questions regarding our comments, please contact Mayor Deb Kind, 952.401.9181, dkind100@gmail.com.



Agenda Number: **9A-E**

Agenda Item: Council Reports

Summary: This is an opportunity for each council member to present updates and get input regarding various council assignments and projects. Related documents may be attached to this cover sheet.

Council Action: None required.



Agenda Number: **FYI**

Agenda Item: FYI Items in Council Packet

Summary: The attached items are included in the council packet for your information (FYI) only. FYI items typically include planning commission minutes, ViBES (Violations Bureau Electronic System) report of traffic citations processed by Hennepin County District Court, monthly report of activity on the Greenwood website, and other items of interest to the council.

Council Action: No council action is needed for FYI items.

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members John Beal, Kristi Conrad, David Paeper and Douglas Reeder

Absent: Commissioners Lisa Christian and Council Liaison Bill Cook

Others Present: City Attorney Kelly and Zoning Administrator Gus Karpas

2. APPROVE AGENDA

Commissioner Beal moved to accept the agenda for tonight's meeting. Commissioner Paeper seconded the motion. Motion carried 5-0.

3. MINUTES OF August 15th, 2012.

There was not a quorum of members at the meeting that were in attendance at the August 15th meeting so the agenda item was continued to the January 16th meeting.

MINUTES OF October 17th, 2012

Commissioner Reeder moved to approve the minutes of October 17, 2012 as presented. Commissioner Conrad seconded the motion. Motion carried 3-0-2. Commissioners Beal and Paeper abstained.

MINUTES OF November 21st, 2012

Commissioner Beal moved to approve the minutes of November 21, 2012 as presented. Commissioner Paeper seconded the motion. Motion carried 3-0-2. Commissioners Conrad and Reeder abstained.

4. PUBLIC HEARINGS

There were no public hearings scheduled for this meeting.

5. OLD BUSINESS

Discuss Draft Ordinances 214 and 215

Commissioner Beal discussed Ordinance 215, which amended rules for small lots in the city. He did not like the idea of a sliding scale for side yard setbacks. Chairman Lucking agreed and thought that language had already been removed. Beal said it was his opinion that non-conforming lots are entitled to their existing non-conformities and anything beyond those require the issuance of a variance. He feels if the ordinance is changed to relax the setbacks, the problem won't be solved because residents would still be approaching the city for variances since most lots are non-conforming in a number of ways, not just setbacks.

GREENWOOD PLANNING COMMISSION
WEDNESDAY, DECEMBER 19, 2012
7:00 P.M.

Chairman Lucking asked if there was a way the city could memorialize the state statute regarding non-conformities in the city code. Commissioner Beal asked if a resident were to build the exact same non conforming structure, given the state statute, would they still have to apply for a variance. City Attorney Kelly said they would, even though the city would have to approve the request, it still has the ability to tweak the request. Commissioner Reeder questioned the need for the process since it seems like a waste of time if the city is basically bound to approve the request. Beal noted it rarely happens but it gives the city an opportunity to document what nonconformity exists and allows it to be monitored in the future.

Commissioner Beal said what some residents are looking for is a guarantee on what can be built on their lot. They are concerned their taxes are being inflated based on assumptions what can be built on the property.

Commissioner Beal said he does like the proposed increase in volume multiplier for massing on lots 7,500 square feet and smaller. He said it was always the intent to revisit the original numbers to see if they may be too restrictive and he feels, given the Fisher request, the five times multiplier may be too tight for smaller lots. Summarizing his thoughts, Beal said he would remove all the proposed changes included in Ordinance 215 except the increase in the volume multiplier.

The Commission agreed and asked about the process and how the ordinances should be drafted for the public hearing. City Attorney Kelly said the ordinances should be in the form the Commission intends pass onto the Council. Commissioner Conrad asked if the Council could amend them and add the provisions removed by the Planning Commission. Kelly said they could. Commissioner Reeder asked if the language could be kept in the documents and removed as part of the motion. Mr. Kelly said the Commission should only keep what they are considering for the final language.

The Commission discussion Ordinance 214, focusing on the impervious surface policies and conditions for variance requests.

Chairman Lucking said he had an issue allowing applicants to trade plastic landscaping material in order to add structural hardcover. Zoning Coordinator Karpas suggested removing that provision from the ordinance. He said it would still count as hardcover, it just wouldn't be allowed to benefit a homeowner when they are proposing to add structural hardcover. Lucking and the Commission agreed to remove the language permitting the removal of plastic landscaping as a means of reducing impervious surface for a variance request.

The Commission agreed that applicants must remove 1.5% impervious surface area for each 1% impervious surface proposed. They also agreed to amend the first sentence in Section 1176.07.05(4)(2) to read "Impervious landscaping materials cannot be exchanged for an increase in structural hardcover to obtain a variance."

The Planning Commission directed staff to amend the ordinances as discussed and schedule a public hearing for the January 16th meeting.

6. LIAISON REPORT

Council Liaison Cook was not in attendance so there was no official liaison report.

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, DECEMBER 19, 2012
7:00 P.M.**

Commissioner Conrad asked about status of the water main project. City Attorney Kelly said the City of Excelsior has not been able to schedule a time to meet with Greenwood's Council which is holding up the process for Option 2. Right now the city can only hold a public hearing for Option 1 which is the proposal that included those who signed the original petition. He said time is running short for the cities of Excelsior and Shorewood to make up their minds on whether they want to connect their systems. If they do, they have to enter into an agreement with the City of Greenwood since they have to run the line through Greenwood's right of way.

7. ADJOURN

Motion by Commissioner Beal to adjourn the meeting. Commissioner Conrad seconded the motion. The meeting was adjourned at 8:00 p.m.

Respectively Submitted
Gus Karpas - Zoning Administrator



January 3, 2013

H. Kelsey Page
5055 Kings Court
Greenwood, MN 55331
page.kelsey@gmail.com

Dear Kelsey,

As you know, the Greenwood city council approved 2013 appointments and assignments at last night's council meeting. And, as you may have anticipated, the council decided to appoint Councilman Rob Roy to be the city's representative on the Lake Minnetonka Conservation District's Board. Note: Per MN statute 103B.611, subd. 2, the city council officially voted to "recall" you as our LMCD Board representative prior to approving the resolution designating 2013 appointments and assignments.

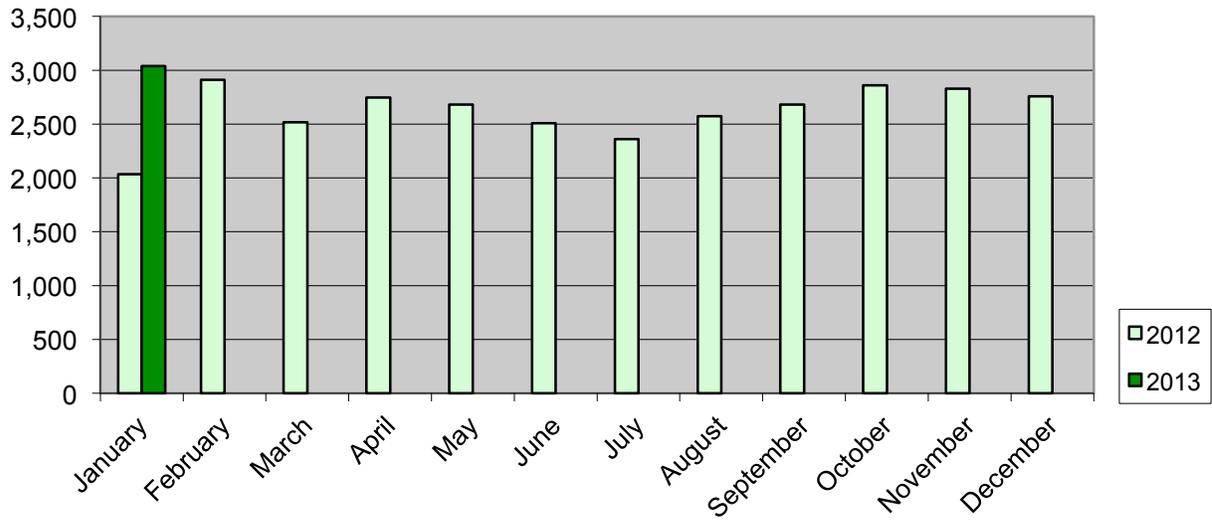
On behalf of the Greenwood city council and the residents of Greenwood, I thank you for your years of service on the LMCD Board.

Sincerely,

A handwritten signature in black ink that reads "Debra J. Kind". The signature is written in a cursive, flowing style.

Debra J. Kind
Mayor, City of Greenwood

**City of Greenwood
Website Total Hits**



Month	2012	2013	Variance with Prior Month	Variance with Prior Year
January	2,034	3,038	280	1,004
February	2,911		-3,038	-2,911
March	2,516		0	-2,516
April	2,746		0	-2,746
May	2,682		0	-2,682
June	2,509		0	-2,509
July	2,361		0	-2,361
August	2,574		0	-2,574
September	2,682		0	-2,682
October	2,860		0	-2,860
November	2,828		0	-2,828
December	2,758		0	-2,758

AVERAGE

3,038

TOTAL NUMBER OF EMAIL ADDRESSES IN BULK MAIL DATABASE: 136

Site Statistics

Use this reporting tool to see your site statistics for your public site for this month or the previous month. Statistics for the Administration (or "admin") side of your site are not included in this report. Additionally, visits you make to your own site while administering it are not included in these statistics. All data collected before the previous month has been purged from our system and is not available for use; therefore, we recommend printing this report each month for your records.

The first report - Page Views by Section - shows total page views for each section. The second report - Unique Visitors by Section - shows the total page views for each section without the return visitors (showing only views from unique IP addresses). For example, if you browse to a page today, and then browse to that same page tomorrow, your viewing of that page would only be counted once in the unique (second) report.

Each report lists sections in page view order (highest number of page views first) and only lists sections that have had traffic within the reporting period. It does not list those sections without traffic.

Begin Date	12/15/2012
End Date	1/15/2013
Report Name	Page Views (Default)
<input type="button" value="Get Report"/>	

Page Views by Section

Section	Page Views	Percent of Total
Default Home Page	1173	38.61%
Agendas, Packets & Minutes	222	7.31%
Swiffers NOT Flushable	197	6.48%
RFPs & Bids	108	3.55%
Planning Commission	97	3.19%
City Departments	89	2.93%
Mayor & City Council	80	2.63%
Budget & Finances	75	2.47%
Code Book	74	2.44%
Welcome to Greenwood	66	2.17%
Forms & Permits	55	1.81%
Assessments & Taxes	55	1.81%
Comprehensive Plan & Maps	50	1.65%
Old Log Community Events	48	1.58%
Xcel Project Update!	46	1.51%
Events	46	1.51%
Garbage & Recycling	41	1.35%
Photo Gallery	41	1.35%
Watercraft Spaces	40	1.32%
Search Results	39	1.28%
Planning & Zoning Workshop	37	1.22%
Lake Minnetonka	35	1.15%
What's New?	31	1.02%
Meetings on TV	30	0.99%
Spring Clean-Up Day	26	0.86%
Links	26	0.86%
Meetings	24	0.79%
Email List	23	0.76%
Elections	22	0.72%

Quick Tips

The reports offered in your Site Statistics tool only track activity on the public side of your site.

In each report, a section named "Default" and a section named "Home" may appear.

A page view gets attributed to "Default" when a visitor to your site types your URL into his or her Web browser. In most cases, the "Default" section is your Home Page.

A page view gets attributed to "Home" each time a visitor clicks the "Home" button on your Web site.

In the Page View (Default) report, only sections with Web traffic are reported and they are listed in page view order.

In the Page View by Section report, sections are listed in the order they appear in the navigation menu and are reported regardless of their traffic level.

In the Referrers report, it is important to remember that your own site acts like a referrer. So, don't be surprised if you see your own Web address(es) listed -- this tracks the number of times people went from one part of your site to another.

Elections	22	0.72%
Emergency Preparedness	20	0.66%
Well Water	19	0.63%
Animal Services	19	0.63%
Crime Alert!	19	0.63%
Health & Safety	18	0.59%
Southshore Center	16	0.53%
Milfoil Project	16	0.53%
Community Surveys	15	0.49%
TOTAL	3038	100%

Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	388	36.47%
Agendas, Packets & Minutes	73	6.86%
City Departments	51	4.79%
Welcome to Greenwood	39	3.67%
Mayor & City Council	39	3.67%
Swiffers NOT Flushable	31	2.91%
Planning Commission	29	2.73%
Old Log Community Events	28	2.63%
Planning & Zoning Workshop	25	2.35%
Code Book	24	2.26%
Forms & Permits	23	2.16%
Xcel Project Update!	23	2.16%
Photo Gallery	22	2.07%
Assessments & Taxes	19	1.79%
RFPs & Bids	19	1.79%
What's New?	18	1.69%
Garbage & Recycling	18	1.69%
Comprehensive Plan & Maps	18	1.69%
Lake Minnetonka	17	1.6%
Search Results	16	1.5%
Budget & Finances	14	1.32%
Watercraft Spaces	13	1.22%
Links	13	1.22%
Spring Clean-Up Day	12	1.13%
Animal Services	11	1.03%
Email List	10	0.94%
Meetings	9	0.85%
Elections	9	0.85%
Events	8	0.75%
Meetings on TV	8	0.75%
Well Water	7	0.66%
Health & Safety	6	0.56%
Southshore Center	6	0.56%
Milfoil Project	6	0.56%
Emergency Preparedness	5	0.47%
Community Surveys	5	0.47%
Crime Alert!	2	0.19%
TOTAL	1064	100%

Generate Download File (.csv) for the current report:

Done

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, JANUARY 16, 2013
7:00 P.M.**

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commissioners Lisa Christian, Kristi Conrad, and Douglas Reeder

Absent: Commissioners John Beal and David Paeper

Others Present: Council Liaison Bill Cook, City Attorney Kelly and Zoning Administrator Gus Karpas.

2. APPROVE AGENDA

Commissioner Reeder moved to accept the agenda for tonight's meeting. Commissioner Christian seconded the motion. Motion carried 4-0.

3. MINUTES OF August 15th, 2012.

Commissioner Christian moved to approve the minutes of August 15, 2012 as presented. Commissioner Conrad seconded the motion. Motion carried 3-0. Commissioners Reeder abstained.

MINUTES OF December 19th, 2012

Commissioner Conrad moved to approve the minutes of December 19, 2012 as presented. Commissioner Reeder seconded the motion. Motion carried 4-0.

4. PUBLIC HEARINGS

ORDINANCE NO. 214 - An Ordinance of the City of Greenwood, Minnesota Amending Greenwood Ordinance Code Section 1155 Variances and Section 1176 Shoreland Management District, Regarding Variance Policies, Evaluation Criteria, and Conditions

Chairman Lucking opened the public hearing. Hearing no comments, the hearing was closed.

Motion by Commissioner Reeder to recommend the City Council adopt Ordinance 214, amending Greenwood Ordinance Code Section 1155 Variances and Section 1176 Shoreland Management District, Regarding Variance Policies, Evaluation Criteria, and Conditions. Conrad seconded the motion. Motion carried 4-0.

ORDINANCE NO. 215 - An Ordinance of the City of Greenwood, Minnesota Amending Greenwood Ordinance Zoning Code Chapter 11 Regarding Rules for Small Lots

Chairman Lucking opened the Public Hearing. Hearing no comments, the hearing was closed.

Motion by Commissioner Reeder to recommend the City Council adopt Ordinance 215, amending Greenwood Ordinance Zoning Code Chapter 11 Regarding Rules for Small Lots. Conrad seconded the motion. Motion carried 4-0.

5. LIAISON REPORT

Council Liaison Cook said the Council held a public hearing on option one of the Excelsior Boulevard water main project which only extends the line partly into the city. All the residents in attendance were in support of the project. The next step is to hold a hearing on the

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, JANUARY 16, 2013
7:00 P.M.**

assessment process. He said in other business, the Council adopted the Barry Findings of Fact for their variance requests, adopted the 2013 meeting schedule and listened to a presentation from County Commissioner Jan Callison.

6. ADJOURN

Motion by Commissioner Christian to adjourn the meeting. Commissioner Conrad seconded the motion. The meeting was adjourned at 7:12 p.m.

Respectively Submitted
Gus Karpas - Zoning Administrator