

# AGENDA

## Greenwood City Council Meeting

7pm, Wednesday, June 5, 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
- 7:00pm 2. CONSENT AGENDA  
*Council members may remove consent agenda items for discussion. Removed items will be put under Other Business.*
- A. Approve: 05-01-13 City Council Meeting Minutes
  - B. Approve: 05-15-13 City Council / Planning Commission Joint Worksession Minutes
  - C. Approve: April Cash Summary Report
  - D. Approve: May Verifieds, Check Register, Electronic Fund Transfers
  - E. Approve: June Payroll Register
  - F. Approve: 2nd Reading of Ordinance 219 Amending Code Section 320 to Establish Minimum Rental Lease Term for Residential Properties
- 7:05pm 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.*
- 7:10pm 4. PRESENTATIONS, REPORTS, GUESTS & ANNOUNCEMENTS
- A. City Engineer Dave Martini:
    - 2013 Inflow & Infiltration Project Bids
    - Excelsior Blvd. Street and Watermain Improvements
  - B. Announcement: Met Council Excelsior Blvd. Project Open House, June 18, 6-7:30pm, at Shorewood City Hall, 5755 Country Club Road
  - C. Announcement: July 4th Parade, 10am Start @ Greenwood Park
- 7:20pm 5. PUBLIC HEARINGS
- A. Public Hearing: Showcase Event Application, Denali Custom Homes, 5190 Meadville Street
  - B. Public Hearing: Liquor License Application, Mayette Enterprises LLC, 5175 Meadville Street
- 7:30pm 6. UNFINISHED BUSINESS
- A. Review: Revised Report of Past Variances Granted for Possible Code Revisions
- 8:00pm 7. NEW BUSINESS
- A. Consider: Resolution 15-13 Findings Regarding Showcase Event Application, Denali Custom Homes, 5190 Meadville Street
  - B. Consider: Liquor License Application, Mayette Enterprises LLC, 5185 Meadville Street
  - C. Consider: Liquor License Refund, Stolz Family LLC, 5175 Meadville Street
  - D. Consider: Resolution 16-13 Findings Regarding Variance Request, Jim & Libby Pastor, 5100 Greenwood Circle
  - E. Consider: July 4th Fireworks Contribution
  - F. Discuss: Draft of Uniform Animal Ordinance
  - G. Discuss: 2014 Lake Minnetonka Conservation District Budget Options
  - H. Discuss: Recycling Education Options
  - I. Discuss: Potential Comments Regarding ...  
Minnehaha Creek Watershed District Draft Minor Plan Amendment  
Met Council Draft 2014-2015 Transportation Improvement Program
- 9:45pm 8. OTHER BUSINESS
- A. None
- 9:45pm 9. COUNCIL REPORTS
- A. Cook: Planning Commission
  - B. Fletcher: Lk Mtka Comm Commission, Fire, Xcel Project, Lake Improvement District
  - C. Kind: Police, Administration, Mayors' Meetings, Website
  - D. Quam: Roads & Sewer, Minnetonka Community Education
  - E. Roy: Lake Minnetonka Conservation District, Lake Improvement District
- 10:00pm 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, May 1, 2013, 7:00 P.M.**  
**Council Chambers, 20225 Cottagewood Road, Deephaven, MN 55331**

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

Mayor Kind called the meeting to order at 7:00 P.M.

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

Others Present: City Attorney Kelly, City Zoning Administrator/City Clerk Karpas and Engineer Martini (departed the meeting at 8:08 P.M.)

Members Absent: None

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

**2. CONSENT AGENDA**

Mayor Kind reviewed the items on the consent agenda.

**Roy moved, Cook seconded, approving the items contained on the Consent Agenda.**

- A. April 3, 2013, City Council Meeting Minutes**
- B. April 11, 2013, Local Board of Appeal and Equalization Minutes**
- C. April 11, 2013, Special Meeting Minutes**
- D. April 25, 2013, Local Board of Appeal and Equalization Minutes**
- E. April 25, 2013, Special Meeting Minutes**
- F. March 2103 Cash Summary Report**
- G. April Verifieds, Check Register, Electronic Fund Transfers (This was moved to Item 8.A under Other Business.)**
- H. May 2013 Payroll Register**
- I. Public Access Procedures Per Code Section 125**

**Motion passed 5/0.**

**3. MATTERS FROM THE FLOOR**

Greg Frankenfield, Shorewood, Minnesota, noted he is in the process of purchasing the Old Log Theater. He stated this evening he wanted to share with Council some of his preliminary plans should his transaction complete. He has been told by Tim Stolz that he has four of the six signatures needed.

Mr. Frankenfield explained his wife's name is Marissa and that he has lived in the area for 25 years. Three of his four children graduated from Minnetonka High School and the fourth is in sixth grade at Minnetonka Middle School West. He is the CEO and co-founder of Magenic a software consulting company. He is not a real estate developer.

Mr. Frankenfield stated the details for the Old Log Theater are still being worked on. The focus has been on getting the sale of the Theater and property to go through. He noted the process has not been easy. He has been working on it for a number of years.

Mr. Frankenfield then stated they want to keep it a place that is for the whole community as it has been for nearly 70 years. They want to keep the comfortable and welcoming ambience with a commitment to the highest quality theater audience. They want local ownership and to keep involvement from the local arts community for the theater. The vision for the Theater is to create a theatrical center for the western suburbs that will perform both modern plays and small scale musicals. They want to keep their current audience to the best that they can. They would like to expand the audience by broadening the genre of plays and involving a larger array of local acting and production talent. They want to upgrade the facility and renovate where necessary to achieve the vision. Although it has not been set in stone, they are thinking they want to run up to four shows a year. They still plan on holding two children's shows a year.

The vision for the restaurant is for it to be better able to support the theater and to be a friendly place for the local community to enjoy. They plan to move to a menu based dinner; a more modern menu reflecting modern diets. They want to keep events such as weddings. The purchase agreement stipulates they will honor the eight weddings that have been booked for the summer. They seek corporate events as well as community events. They intend on continuing to act as the polling place for Greenwood and the meeting place for the rotary. They want to build strong ties to the community through events such as concerts and free shows like the Stolz family has been offering for years.

Councilmember Fletcher stated taking on a theater and a restaurant is quite an undertaking. He asked Mr. Frankenfield if he is sure he wants to take that on. Mr. Frankenfield stated his wife is going to take on the restaurant side and he is planning on having a full-time artistic director. Tim Stolz has been asked to stay on because he knows the theater and general management very well. Jon Stolz may be willing to stay on for a while as well.

Mayor Kind thanked Mr. Frankenfield for coming.

#### **4. PRESENTATIONS, GUESTS & ANNOUNCEMENTS**

##### **A. South Lake Minnetonka Police Department Quarterly Update**

Mayor Kind noted South Lake Minnetonka Police Department (SLMPD) Deputy Chief Dave Pierson and Patrol Officer Justin Kuipers are present this evening to provide Council with a SLMPD quarterly update.

Deputy Chief Pierson stated Patrol Officer Kuipers joined the SLMPD in June 2010. Kuipers was formerly with the Golden Valley Police Department. He then stated Kuipers has been put in charge of the use-of-force issues. Kuipers goes to school and then trains the rest of the Department. The Department takes use-of-force training very seriously.

Patrol Officer Kuipers stated he has always had an interest in use-of-force and that is why he was asked to be an instructor of it. He went through a 50-hour, week-long course on use-of-force training held at Camp

Ripley. It was taught by a certified use-of-force instructor. After completing the training he was then certified to teach other SLMPD personnel. This year he will attend a more advanced class.

Kuipers explained force is what a police officer uses to arrest or control a situation with someone. If an officer tells a person they are under arrest and have to come with the officer and the person says “no” the officer explains what will happen next. That could involve using verbal commands, OC spray, a Taser, a baton, an officer’s hands or legs, or a gun (a deadly force option). Officers do that for their safety and the person’s safety. He noted the SLMPD officers do not have a lot of use-of-force issues. The type of force used varies by situation. It is not a stepped/tiered program.

Kuipers then explained per State Statutes an officer can use force when making a lawful arrest, in the execution of the legal process (e.g., a search warrant or a warrant for someone’s arrest), or in any other duty imposed by law (e.g., a person has a mental health issue and needs to go to the hospital for an evaluation by a doctor). Force is use to gain control. Officers use the least amount of force possible which is mandated by law. They cannot use force that is beyond reasonable. Reasonable is defined by what another officer would do in a similar situation. Deadly force can be used any time an officer or the public is in fear of great bodily harm or death, or a potentially-dangerous person’s escape.

Kuipers displayed a Taser and explained it sends a voltage through the body and incapacitates the muscles for long enough for an officer to gain control. He noted that he has been tasered three times; two times were voluntary and one was mandatory (it was part of skills training). He explained some officers carry pepper spray; he does not because of how it affects him. If a person is sprayed with OC spray they cannot be tasered because there is a possibility the person could be started on fire. All SLMPD officers have to carry a baton that has a three-pound ball on the end of it. It is used to hit above and below the elbow and in the meat of the leg. If someone is hit hard enough in one leg the other leg gives out. That gives the officer an opportunity to handcuff the person. He doesn’t know of many SLMPD officers that have ever used the baton on a person; he has not. Officers do use them to break windows, etc. All officers carry a firearm. The type varies by preference.

Kuipers noted every SLMPD officer has to go through training on each of the tools every year. That involves handcuffing and the use of the baton, OC spray and Taser. They have to be proficient in those things per State Statute. He needs to keep his training up because new case laws come up about use of force.

Kuipers stated the Taser the SLMPD uses is becoming obsolete. The newer model of Taser will allow an officer to Taser one person and then another person right after that. He then stated in addition to using the use-of-force tools to keep the officer and the general public safe it reduces the liability to a city.

Kuipers cited a situation where he was on a scene where someone tried to hang themselves. The officers on the scene told that person that he needed to go to the hospital but the person did not want to do that. The person was substantially bigger than the officers and decided to put one of the officers in a headlock. If the officers would not have had Tasers available it would have instantly escalated into a deadly use-of-force situation.

Councilmember Quam stated about once a year there is situation in other parts of the state where the police pursue someone at high speed and driver of the vehicle being pursued runs a red light or stop sign and kills someone. He asked what the SLMPD’s policy is regarding chasing a vehicle. How serious does the crime have to be to warrant chasing at a very high speed? Deputy Chief Pierson noted the SLMPD does have a pursuit policy that is mandated by the Minnesota Board of Peace Officer Standards and Training (POST). The policies in the State are close to the same. If a chase becomes too dangerous the

officer has to use common sense. If there is a supervisor on they are responsible for the conduct of the officer. Quam expressed concern that a minor burglar can be turned into a killer during a high-speed chase. Deputy Chief Pierson stated every patrol vehicle has a stop stick in it. The sticks are thrown across the roadway and they deflate vehicle tires. It will slow the vehicle down a lot.

Councilmember Fletcher asked if the SLMPD quarterly activity report for Greenwood (a copy of which is included in the meeting packet) is going to be provided regularly. He noted he likes the report. Deputy Chief Pierson stated it will be provided quarterly. Fletcher stated to him it appears that some of the items listed are duplicate. Pierson stated he is not sure, noting the report is relatively new to him. Mayor Kind stated she did not think there were duplicates listed.

**B. City Engineer Dave Martini**

**a. 2013 Road Project Recommendations and Rough Estimates**

Mayor Kind stated each year the conditions of the City's roadways are evaluated by a committee based on a visual inspection, and rough cost estimates are prepared for recommended potential road improvement projects. The evaluation was done on April 10, 2013, by her, Councilmember Quam and Engineer Martini. The meeting packet includes copy of a document describing the potential road projects as well as soft cost estimates for each of the projects. The road project budget for 2013 is \$130,000 for construction and engineering as well as the projects that will be done in conjunction with the Metropolitan Council Environmental Services (MCES) forcemain project. Engineer Martini stated the City's share of the MCES project cost is \$14,245 with \$3,600 being for sewer work so that will come out of the Sewer Fund leaving \$10,645 to be funded out of the road project budget.

Engineer Martini stated the meeting packet contains a map of all of the City's roadways indicating when the last work was done on each roadway and what the work was and a map depicting the current condition of each roadway.

Martini reviewed the recommended potential road projects for 2013.

1. Byron Circle (from Minnetonka Boulevard to the north leg that was resurfaced in 2007) – the recommended improvements include removing the existing bituminous pavement, re-grading and preparing the existing base, 3.5" of new bituminous surface, and turf and driveway restoration as needed. The estimated construction cost for the recommended improvements is \$51,460
2. Covington Street (from Meadville Street to Fairview Street) – the recommended improvements include complete reconstruction of the roadway including drainage improvements. The existing bituminous pavement will be removed and the road will be excavated. A new aggregate base will be constructed along with 3.5" of new bituminous surface. The ditch on the west side of the road will be regarded to improve drainage in the area and allow water to shed from the roadway surface. Turf and driveway restoration will be completed as needed. The design work for this portion of the project will include the collection of topographic survey information so that the needed drainage improvements can be properly designed. The estimated cost for the recommended improvements is \$59,475

Martini stated if there are sufficient funds it's recommended that the City do some preventive maintenance work in the Lodge Lane area or possibly seal coat Sleepy Holly Road and Weeks Road. The last two roads were repaved several years ago and sealcoating them would be a good preventative maintenance practice.

Martini stated the costs for Byron Circle and Covington Street total \$110,935. When the City's cost for the work to be done with the MCES project is added in the total amount comes to \$121,580.

Councilmember Cook asked if any consideration was giving to doing resurfacing the City's half or entire span of the St. Alban's Bay Bridge. Engineer Martini stated the group did not, and noted it could definitely use it. Cook stated from his vantage point now would be the time to do it so there is time to enjoy the improvement prior to the Bridge being replaced. Mayor Kind stated if that were to be done the whole Bridge should be done, not just Greenwood's half.

Engineer Martini stated the City could solicit bids for what resurfacing the Bridge would cost and then that could be considered as an alternate project for consideration. He noted that again the estimates are conservative. He explained if the Bridge surface is taken off it's possible that the condition of what is underneath the surface needs repairs and that could be fairly costly. He suggested the assumption should be the Bridge will not be constructed for 10 years with the hope that it would be done sooner.

Councilmember Quam said the rating of the Bridge for structural integrity was a 51 the last time it was rated. It is supposed to be rated every 3 years but that is not necessarily what happens.

Engineer Martini stated the rating has to be below 50 to be eligible for outside funding.

Councilmember Quam supported getting bids for resurfacing the Bridge.

Councilmember Fletcher asked if there are recommended guidelines for how frequently a road should be seal coated. Engineer Martini explained a lot depends on the condition of the road. The frequency range is 3 – 7 years or longer. But, a lot of factors have to be taken into account such as the condition of the road, the amount of use and the quality of materials used. The purpose of the sealcoat is to protect the road.

Mayor Kind stated the last time Lodge Lane was seal coated was prior to 2004.

Engineer Martini stated the cracks in the surface of Lodge Lane are getting bigger. There is also a lot of settling near the catch basins and storm sewer structure. He then stated a few years ago the estimate for Lodge Lane was \$75,880 to make all of the improvements that should be made. It was an extensive scope of work.

Councilmember Quam stated after the Byron Circle and Covington improvements are done all of the City's roadways should be at least average. He did not think there would be any major projects in 2014.

Councilmember Fletcher asked if it may be better to do some preventative maintenance this year and leave Covington Street repairs for 2014. Then maybe some of Fairview Street could be done in 2014 also. By doing that it may be possible to get a better combined bid than if the two were done separately.

Engineer Martini stated Covington Street is in pretty bad condition now. He then stated doing the preventative maintenance on the Lodge Lane area would keep it in reasonable shape. He noted Byron Circle is beyond preventative maintenance.

Mayor Kind stated she thought for sure Byron Circle should be done this year. She noted the approximate \$59,000 for Covington Circle is not enough to make all the improvements to the Lodge Lane area.

Councilmember Fletcher stated the Lodge Lane project scope could be downsized, while still significantly extending the life of the roadway, to a project cost of \$50,000 – \$55,000.

Councilmember Quam asked if there is something that could be done to Covington Street that would mitigate the water issues in the spring. Engineer Martini responded that some grading could be done alongside of the road. Councilmember Cook stated he does not think grading will do much good.

Councilmember Fletcher stated from his vantage point Covington Street and Fairview Street would be logical to do in 2014 and preventative maintenance could be done in 2013 along with Byron Circle improvements. Mayor Kind and Councilmember Quam agreed.

**Fletcher moved, Cook seconded, directing the City Engineer to secure bids for the recommended roadway improvements to Byron Circle, minimal repair and sealcoating of Lodge Lane, and an alternate bid for resurfacing of the St. Alban's Bay Bridge. Motion passed 5/0.**

**b. Excelsior Boulevard Petition 2 Area Presentation**

Mayor Kind explained the City received a second petition dated March 15, 2013, from the owners of the properties located between 21150 and 21030 Excelsior Boulevard (the Petition 2 Area) requesting watermain be extended to their properties as part of the upcoming Metropolitan Council Environmental Services (MCES) sanitary sewer forcemain project. As a result of the petition Council ordered a feasibility report prepared by the City Engineer. The next step in the process is for Council to hold a public hearing during this meeting.

Engineer Martini stated the watermain currently extends from the City of Excelsior to about 300 feet west of Christmas Lake Road.

Martini provided background on the project. Metropolitan Council Environmental Services (MCES) is proposing improvements to its sewer system. MCES' plan is to construct a second 24-inch force main under Excelsior Boulevard. As part of that project Excelsior Boulevard will need to be torn up and reconstructed. The current schedule for the forcemain project is 2013 and 2014 for construction; the Greenwood portion is scheduled for 2013. There were Greenwood property owners who thought it would be the appropriate time to ask for an extension of the City of Excelsior's watermain.

Councilmember Cook noted that MCES has received bids for its project including the extension of watermain in the Petition 1 Area. He also noted that all of the bids were under the engineering estimates.

Engineer Martini explained the proposed watermain extension for the Petition 2 area is from 21150 to 21030 Excelsior Boulevard as requested in the second petition. The size of the proposed watermain is 8-inch diameter. Excelsior plans to pay the incremental cost to upsize the pipe to 12-inch diameter to Christmas Lake Road for a future interconnection with the City of Shorewood. The watermain construction would include the installation of fire hydrants along the route. Service stubs will be constructed to the edge of the 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.

The proposed reconstructed roadway will be approximately 26 feet wide with concrete curb and gutter on both sides. 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 road surface and existing driveway. Disturbed boulevards will be restored.

The total estimated project cost to Greenwood for the watermain extension for the Petition 2 area is \$65,490.84. The estimate includes construction costs and soft costs. Construction costs consist of the

watermain extension, the service stubs to all lots fronting the watermain, 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 Petition 2 assessment area consists of 6 single-family residential parcels. The proposed assessment is by unit; it assesses like parcels the same amount. The existing service reconstruction, street reconstruction, driveway restoration, and boulevard restoration costs will be funded by MCES.

Based on the proposed assessment method and the estimated project costs for the residential parcels will be \$10,915 for each of the six residential parcels. Each parcel within the assessment area will be assessed this cost regardless if it connects to the watermain.

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 meter cost of \$328.46 plus tax. Those costs are subject to change in the future. 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 and fees after connection.

In response to a question from Councilmember Fletcher, Zoning Administrator/Clerk Karpas stated the owner of the property located at 21080 is on board with the extension.

**C. Spring Clean-up Day, Saturday, May 4, 2013**

Mayor Kind noted the City's spring clean-up day will be held on May 4. Residents are asked to have their items out at curbside by 7:00 A.M.

**D. Annual Joint Work Session of the City Council & Planning Commission**

Mayor Kind noted the annual joint work session of the City Council and Planning Commission is scheduled for May 15, 2013, immediately following the Commission's meeting. The meeting will be held at Jake O'Connor's in Excelsior.

**E. Xcel Energy Scott County-Westgate 69 kV to 115 kV Transmission Upgrade Project Public Utilities Commission Public Hearing May 16, 2013, Chanhassen Recreation Center**

Mayor Kind noted the Public Utilities Commission has scheduled a public hearing about the Xcel Energy Scott County-Westgate 69 kV to 115 kV Transmission Upgrade Project for May 16, 2013, 1:30-4:30 P.M. and 6:00-9:00 P.M. at the Chanhassen Recreation Center.

Councilmember Fletcher stated he met with some residents on April 29 who are going to try and get people to go to the public hearing. He commented that it is important for there to be good turnout at the meeting by Greenwood residents.

**5. PUBLIC HEARING**

**A. Public Hearing Excelsior Boulevard Watermain Project Petition Area 2 (properties between 21150 & 21030 Excelsior Boulevard)**

**Quam moved, Cook seconded, opening the public hearing at 8:02 P.M. Motion passed 5/0.**

Michael Quackenboss, 21030 Excelsior Boulevard, noted that most of the questions he had were answered by Engineer Martini during his presentation. He asked if there are any requirements from the City of Excelsior that the property owners in the Petition 2 Area cap their wells.

Councilmember Fletcher stated in the extension agreement property owners have to connect to municipal water within ten years of the extension being done.

Mayor Kind explained that after a property owner hooks up to municipal water they can continue to use their well water for things outside of the house such as washing a car and watering their lawn.

**Roy moved, Cook seconded, closing the Public Hearing at 8:04 P.M. Motion passed 5/0.**

## **6. UNFINISHED BUSINESS**

### **A. Next Steps Regarding Excelsior Boulevard Watermain Project**

Mayor Kind explained the next step in the Excelsior watermain extension project for the Petition 2 Area is for Council to adopt a resolution ordering the improvement and preparation of plans for the Petition 2 area. When the meeting packet was sent out the Excelsior-Greenwood Water Expansion Agreement and the Excelsior-Greenwood Municipal Water Service Agreement had not been finalized. The Excelsior Council will take final action on the Agreements during its May 6 meeting. She noted she has no indication the Excelsior Council will not approve them.

Kind asked Council how it would like to proceed. Does it want to approve Resolution 14-13 ordering the improvement and preparation of plans? Or, does Council want to hold off until the Agreements have been signed?

In response to a question from Attorney Kelly, Mayor Kind stated the ordering the improvement and preparation of plans for the Petition 1 area already has been done.

**Cook moved, Fletcher seconded, Adopting RESOLUTION NO. 14-13, “A Resolution Ordering Improvement and Preparation of Plans for the Installation of Watermain from 21150 Excelsior Boulevard to 21030 Excelsior” subject to the City of Excelsior approving the Excelsior-Greenwood Water Expansion Agreement and the Excelsior-Greenwood Municipal Water Service Agreement and item 4 in the resolution being clarified to say the city of Excelsior. Motion passed 5/0.**

Mayor Kind stated the next step for Greenwood is to make a go / no-go decision.

Engineer Martini departed the meeting at 8:08 P.M.

### **B. Second Readings: Ordinance 216, Amending Zoning Code Chapter 11, Residential Uses; Ordinance 217 Home Occupations, Amending Code Chapters 4 and 12; and, Ordinance 218, Amending Penal Code Chapter 9 to Add Prohibited Uses of Residential Properties**

Mayor Kind stated this is the second readings of: Ordinance 216, Amending Zoning Code Chapter 11, Residential Uses; Ordinance 217 Home Occupations, Amending Code Chapters 4 and 12; and, Ordinance 218, Amending Penal Code Chapter 9 to Add Prohibited Uses of Residential Properties.

Kind explained that during the April 25, 2013, special Planning Commission meeting a public hearing was held regarding Ordinance 216. During that meeting the Commission recommended approval of the Ordinance. During Council's April 25, 2013, special meeting Council approved the first reading of the Ordinance with changes as shown in the copy of the Ordinance provided to Council on April 25. Since that meeting Attorney Kelly suggested new language and a copy of the modified Ordinances were found at the dais this evening. She asked Kelly to walk Council through his changes.

Attorney Kelly explained that in Ordinance 216 it adds definitions to Section 1102 for in the definitions of event center, lake recreation center and marina. Since the first reading of the Ordinance he deleted "*in exchange for valuable consideration*" because he thought it was superfluous. In event center he also deleted "*provided that the use of a single-family home by the property owner or, if leased, by a leasehold tenant with leasehold possessory rights of not less than 30 days for private family gatherings, or an occasional party host to specific invitees are excepted*" in order to narrow the definition down. Section 7 of the Ordinance includes leasehold term minimums.

The home occupation definition in Code Section 1102 was changed to read "*Home Occupation means a business, business office, and/or business related support services housed, located, operated, or conducted from in or about a residence carried on by individuals residing therein as regulated by section 480.*" The deleted language "*Home occupations must be incidental and secondary to the primary residential use of the dwelling and may not adversely impact or change the residential appearance and character thereof*" was added to Section 480.15(B) in Ordinance 217. The intent of the deleted language "*The zoning administrator shall have authority to review and approve or disapprove home occupations*" was incorporated into the new Section 1180.10 Zoning Administrator Enforcement Authority.

In Code Section 1102 the definition of hotel/motel was changed to read "*Hotel, Motel means any building or portion of a building where residential use, or occupancy, or sleeping accommodations is offered to persons for short-term or transient use in exchange for compensation on a per-use, per-day, per-week, or less than a per-month basis.*" The language "*A residential property that is rented for 30 days or more is not considered to be a "Hotel / Motel" provided that there is a written lease to a specific tenant(s), without right of sub-letting or assignment*" was deleted.

Code Section 1140.05 Subd. 2 Prohibited Uses, All Districts continues to read "*No property or lot of record may be put to a use or employed for a use or purpose other than those specifically enumerated as permitted uses, accessory uses, or conditional uses under the applicable respective zoning code regulations for the district host to such property or lot.*" That is the law in the State of Minnesota. Subd. 3 Specifically Prohibited Uses and Activities in Residential Districts was changed to read "*No property or lot of record zoned residential (R-1A, R-1B, or R-2) may be employed for used for or as (1) a "Hotel, Motel," (2) an "Event Center," (3) a "Marina," or (4) a "Lake Recreation Center."*"

Mayor Kind stated she had proposed adding an exception in Subd. 3 which read "*Exception. The property known as the Old Log Theater may continue to be used as an event center.*" Attorney Kelly stated it is not appropriate to reference a particular property in the City Code.

Attorney Kelly explained the Old Log Theater property started as a special use permit and about 15 years ago it was considered as a conditional use which is the more modern term. He noted that Zoning Administrator/Clerk Karpas has informed him that a copy of the special use permit cannot be found. He also noted the owners of the property did not have to apply for a conditional use permit because the uses were grandfathered in. He explained the property is a legal use and can continue in the use that it is. Whether it should be expandable is a matter for discussion going forward. He stated the changes he is

proposing would not prohibit the Old Log Theater from continuing to be used as an event center for things such as weddings. Going forward good communication about the Old Log Theater property owner's needs and the City's needs for that residential area will be beneficial in creating a good plan. He commented there are no known event centers in the City other than the Old Log Theater.

In Section 1140.05 Subd. 4 Leasehold Term Minimums he added the following language "... *nor may such properties be leased to more than two (2) tenant occupant groups in any one four (4) month period.*"

In Section 8 of Ordinance 216 a new subsection was added. Section 1180.10 Zoning Administrator Enforcement Authority reads "*The zoning administrator shall have authority to make determinations that specific uses are prohibited or are or would be in violation of applicable code. In the case of home occupations, the zoning administrator may make determinations that a specific home occupation adversely impacts or changes the character of a residential area and is therefore barred by code. The zoning administrator may issue and serve written demands that uses in violation of code cease and may issue civil citations as provided under chapter 12 for zoning code and underlying municipal code violations.*"

Councilmember Fletcher stated Ordinance 216 does not have theater as a conditional use. He asked what would happen if the owner of the Old Log Theater wants to make a minor expansion to the Theater building if Theater is no longer a listed as a conditional use. He observed that the Theater is grandfathered in for its current configuration, but wondered if a small five-foot expansion would be allowed under the "grandfathered" status.

Attorney Kelly explained that by eliminating theater as a conditional use, even a small building expansion would not be allowed. The City has no record of the special use permit or a conditional use permit for the Theater. There is habit and course of conduct which are defined by the building footprint. When it gets to the question of what it becomes is a matter of balancing public health, safety and wellness. He stated it is in the City's common interest that the Old Log Theater's legacy continues. The community recognizes that it is a unique site. It has a legacy people admire and it puts the City on the map. The City has been accommodating to the Theater and the Stolz family and the Stolz family has been accommodating to the City.

Councilmember Fletcher asked if the Old Log Theater property is big enough to have a zoning district (e.g., R-1C) applicable to it only. Attorney Kelly stated it is. Fletcher suggested consideration be given to creating an R-1C Zoning District that basically has similar residential zoning to what the City already has in the R-1A district and would allow the conditional uses of theater, restaurant, and event center. The current Theater property would be rezoned to that. Attorney Kelly stated that would be a fine concept to explore, noting it needs to be explored through the Planning Commission.

Attorney Kelly explained that by having the Planning Commission explore the concept of a R-1C Zoning district it will identify specific conditions to discuss, define and impose on the operation of a theater/restaurant either exactly as the City has always known it or as it may need to morph going forward. If theater is left as a conditional use in the R-1A Zoning District the only thing the City can do is impose what it thinks it can justify that is in the best interest of public health, safety and welfare. Attorney Kelly recommends that the City and the Theater operator each need to define what they need and they need to reach an agreement that is acceptable.

Councilmember Fletcher stated he thinks there have to be changes made to the Old Log Theater to be viable in the long run. There needs to be flexibility in the City Code to work with the operators of the Old Log Theater to allow them to do things that make sense. He expressed concern that some changes to the

Code may not allow the City to allow things that make sense. He stated having the Planning Commission explore the concept of an R-1C Zoning District seems reasonable.

Mayor Kind stated she would support the Planning Commission exploring the concept of an R-1C Zoning District.

Councilmember Cook stated he understood Councilmember Fletcher to say the way the City Code is currently written it would not allow the owners of the Old Log Theater to ask for a variance to do something. He asked someone to explain why they could not ask for a variance. Mayor Kind explained because Theater, Restaurant, and Event Center are not listed as permitted or conditional uses for the zoning district where the Old Log is located, the property owner would not be allowed to seek a variance.

Zoning Administrator/Clerk Karpas stated legal nonconforming uses are allowed to operate as is. They cannot be expanded. He explained that taking Theater out as a conditional use gives the Planning Commission and City time to identify more specific conditions for that type of use.

Councilmember Fletcher stated the City allowed the Old Log Theater to operate as a conditional use for many years. There is a legitimate buyer for the property and Theater. He questioned why there is an emergency need to quickly remove Theater as a conditional use now.

In response to a question from Councilmember Roy, Attorney Kelly explained conditional use would be the appropriate way to go with a Theater use. He noted that a year and a half ago the Council discussed rezoning the Old Log Theater property to a new zoning district.

Mayor Kind clarified that the Council at that time wanted a potential new owner of the property to request it be rezoned. It did not want to spend City money on researching rezoning without such a request. She noted the prospective new owner has not made such a request.

Councilmember Fletcher noted that discussion was about a proposal for a major change in the use of the property. He stated if an R-1C Zoning District is created with the same single-family regulations as the R1-A Zoning district and with Event Center, Restaurant and Theater allowed as conditional uses, then the Theater conditional use can be taken out of the R-1A district zoning regulations.

Mayor Kind reiterated she likes the idea of creating a new zoning district for the Old Log Theater property. Councilmember Cook expressed his support for rezoning the Old Log Theater property to a new zoning district for that property alone.

Councilmember Fletcher stated he had previously asked about requiring people to let the City know when they had rented out their property. He noted Council had found a copy of a memorandum from Attorney Kelly titled Registration of Landlord and Tenants at the dais this evening which addresses that. He asked Kelly if the gist of his response was to basically ignore doing that. Kelly stated he thought that would be overreaching and it would create issues for the City.

**Cook moved, Roy seconded, Approving ORDINANCE NO., 216, “An Ordinance of the City of Greenwood, Minnesota, Amending Greenwood Ordinance Code Chapter 11 Regarding Uses in Residential Districts.” Motion passed 5/0.**

Mayor Kind asked Attorney Kelly to review his recommended changes to Ordinance 217 Home Occupations amending Code Chapters 4 and 12.

Attorney Kelly explained in Ordinance 217 he added definitions to Section 1205. They include event center, home occupation, hotel/motel, lake recreation center and marina. The definitions are consistent with the same definitions in Chapter 11. He changed Section 480.15(B) Home Occupations General Regulations to read "*Home occupations must be incidental and secondary to the primary residential use of the dwelling and may not adversely impact or change the residential appearance and character thereof.*" In Section 480.15(K) he inserted "*, nor shall a residential dwelling be used exclusively for business purposes*" at the end of the sentence. He changed Section 480.15(M) to read "*No home occupation may offer, gift or serve intoxicating or non-intoxicating alcoholic beverages to guests, invitees, potential or actual customers or clients, nor serve same at social or sale events.*" It had read "*No home occupation may offer, gift or serve intoxicating or non-intoxicating alcoholic beverages to potential or actual customers or clients, nor serve same at social / sale events.*" Section 480.30 Zoning Administrator Authority was added and it reads "*The zoning administrator shall have authority under section 1180 to enforce this code section and may make determinations that specific home occupations adversely impact or change the character of a residential area in violation of this code. The zoning administrator may issue demands that uses in violation of code cease and may issue civil citations as provided under chapter 12 for violations of this code section.*"

**Cook moved, Quam seconded, Approving ORDINANCE NO. 217, "An Ordinance of the City of Greenwood, Minnesota, Amending Greenwood Ordinance Code Chapter 4 Permits & Licenses to Add Section 480 Home Occupations and Adding Related Definitions to Chapter 12."**

Councilmember Fletcher stated the current Ordinance has its own language regarding parking and storing vehicles. That language is different than what is stated in Ordinance 217.

Attorney Kelly explained that Section 1140.45 Subd. 13 addresses storage of regulated motor vehicles in residential districts. The intent was to avoid commercial vehicles being introduced into residential areas. It was to address an issue about 15-20 years ago where a property was host to a charter boat. The Code was modified to address commercial boats and commercial vehicles. He then explained Section 480.15(C) reads "*No residence host to a home occupation shall be used to store vehicles associated with the home occupation unless kept and stored wholly within a garage upon the premises.*" The City is not prohibiting the vehicle from being there; it just wants it contained.

Councilmember Fletcher asked if store and parked are two different things. Attorney Kelly stated they might be interpreted to be somewhat different; parking sounds temporary and storage sounds longer term.

Zoning Administrator/Clerk Karpas stated if a person is driving their work vehicle home and then back to work the City won't make an issue of that.

Councilmember Fletcher asked if the existing Ordinance is working well when it comes to what people can store and keep on the property. He then asked if the existing Ordinance could just be referenced in Section 480 Home Occupations.

Attorney Kelly stated Section 1145.45 Subd. 13 is based on gross vehicle weight. Section 480.15 is related to the vehicles used in conjunction with the home occupation.

Councilmember Fletcher asked if the impact is any different if people see a regular vehicle parked on a residential property or if they see a home occupation vehicle. Councilmember Quam stated he thought a truck with a lot of graphics or the company name on it has a different visual impact than a personal van. Fletcher stated if a truck with graphics on it is driven to and from work it is not a home occupation

vehicle and therefore would not be covered by Ordinance Section 480.15. Yet a van could be used for the home occupation and it would be covered.

Zoning Administrator/Clerk Karpas stated he would prefer to keep Section 480.15(C) rather than referring people to Section 1140.15 Subd. 13.

**Motion passed 4/1 with Fletcher dissenting.**

Attorney Kelly stated in Ordinance 218 he removed the specific reference to the Old Log Theater property in the penal code. The reason for that was discussed during the discussion of Ordinance 216.

Mayor Kind noted the Old Log Theater is grandfathered as an event center.

Greg Frankenfield, Shorewood, Minnesota, (the prospective new owner of the Old Log Theater and property) stated the Old Log Theater has been in operation for many years and the current ordinances have been in place for years. He asked why they are being changed now.

Mayor Kind stated the three ordinances came about different reasons. It started out as just the home occupation ordinance. Then the City found out a residential property in the City was being marketed as vacation rental/event center. That is why the various definitions were added to the Code. When going through the Zoning Code she realized the Old Log Theater is an event center so she thought there needed to be an exception for that.

Mr. Frankenfield asked how many readings on an ordinance amendment there are. Mayor Kind responded that there are two readings and explained the amendments will go into effect once they are published on May 9 in the Sun-Sailor.

Councilmember Fletcher stated a neighbor of a particular property came before the Council and complained that the property next to him that was recently purchased was being marketed as a short-term rental property and an event center. That was what drove a large part of the amendments. The event center thing is not being driven by the Old Log Theater. He then stated that by rezoning the Old Log Theater property and allowing conditional uses on it keeps things simpler for that property.

Mr. Frankenfield stated earlier this evening there was discussion about a special use which is now called conditional use and that a conditional use cannot be expanded. He asked what the definition of expanded is. Attorney Kelly clarified there is expansion in use and expansion in size. Mr. Frankenfield a show that drew a larger audience would be an expanded use. There was Council consensus that larger audiences would not be considered an "expanded use." Councilmember Quam stated he thought Mr. Frankenfield will find the current Council to be very helpful.

**Quam moved, Fletcher seconded, Approving ORDINANCE NO. 218, "An Ordinance of the City of Greenwood, Minnesota, Amending Greenwood Ordinance Code Chapter 9, Nuisances and Penal Regulations, by the Addition of Section 910.70 Prohibited Use of Residential Property." Motion passed 5/0.**

**C. Revised Report of Past Variances Granted for Possible Code Revisions**

Mayor Kind noted that the meeting packet did not contain information about this item. The information was found at the dais this evening.

**Fletcher moved, Quam seconded, continuing this item until the June 5, 2013, Council meeting. Motion passed 5/0.**

**D. Second Reading: Ordinance 215 Regarding Building Volume Regulations**

Councilmember Fletcher stated he understands that if Ordinance 215 is not acted upon this evening the time limit for it will expire and the Council will have to start over with another first reading of the Ordinance. He suggested Council table this item until after it discusses Item 8.D Report of Past Variances Granted for Possible Code Revisions during its June meeting.

Mayor Kind asked if the Council wanted to approve the second reading of Ordinance 215. She noted the Planning Commission recommended approval of it.

Zoning Administrator/Clerk Karpas stated he likes this Ordinance. He then stated through the last few variances regarding volume it has been shown that the volume calculations for the smaller lots is very low. He noted the Planning Commissioners involved with this Ordinance were very supportive on increasing the volume for the smaller lots. They do not think it would be detrimental to the neighborhoods; Commissioner Beal in particular.

Councilmember Fletcher asked how many lots there have been problems on. Zoning Administrator/Clerk Karpas stated the Fisher property and there is currently a volume variance request for a property on Greenwood Circle. He noted the house size is small.

**Cook moved, Roy seconded, Approving ORDINANCE NO. 215, “An Ordinance of the City of Greenwood, Minnesota, Amending Greenwood Ordinance Zoning Code Section 1140.18 Regarding Building Volume.” Motion passed 5/0.**

**E. Lake Improvement District Concept**

Mayor Kind explained that during Council’s April 3, 2013, meeting Council appointed Councilmembers Fletcher and Roy to a Lake Improvement District (LID) subcommittee to manage aquatic invasive species (AIS) in St. Alban’s Bay. She stated the subcommittee will report on their observations and recommendations this evening.

Councilmember Fletcher stated they met with Gabriel Jabbour, an owner of a marina on Lake Minnetonka. They are working on contacting the City’s representative on the Hennepin County Board of Commissioners and representatives from the Minnesota Department of Natural Resources (MN DNR). They would like examples of what the MN DNR considers to be good LIDs. Those examples could be used as a model when talking to residents about the concept.

Mayor Kind questioned if it is appropriate for Council to take the lead on this. She stated that reports at Council meetings can create the impression that this is a City-driven concept. She stated that it should be a resident/property owner driven effort. She clarified the Council does not approve this or have any say in it.

Councilmember Roy stated that is where the discussion went during the meeting with Mr. Jabbour. The subcommittee believes it is prudent to be as knowledgeable as possible before talking to the City’s residents about this concept. Once the knowledge is obtained the next step would be to talk to the residents.

Councilmember Quam suggested taking baby steps.

Mayor Kind expressed discomfort with the current subcommittee reporting back to Council, noting Council has no say in it. Councilmember Roy stated he does think Council has some say. Kind stated that residents and owners of properties that have lake rights to St. Alban's Bay would not be petitioning the City to set up a LID. Kind noted the City does not have any jurisdiction in this.

Councilmember Fletcher stated the treatment of Eurasian Watermilfoil (milfoil) was not within the City's jurisdiction either, yet Council has been updated on that effort on a regular basis. He then stated the subcommittee would not be asking for anything from the Council; it would just give Council an update. Councilmember Quam cautioned against doing that at every meeting. Mayor Kind suggested updates be given under Council reports.

## 7. NEW BUSINESS

### A. Certificate of Appreciation Recognizing Former Planning Commissioner Lisa Christian

Mayor Kind stated the meeting packet contains a copy of a Certificate of Appreciation recognizing former Planning Commissioner Lisa Christian.

The Certificate read as follows:

*“Certificate of Appreciation*

*WHEREAS, Lisa Christian served as a member of the Greenwood planning commission from June 2012 through March 2013; and*

*WHEREAS, during her term Commissioner Christian gave her time and served her community,*

*NOW, THEREFORE, the city council of the city of Greenwood, Minnesota, on behalf of the residents of Greenwood does present this certificate of appreciation to:*

*LISA CHRISTIAN”*

**Roy moved, Cook seconded, approving the Certificate of Appreciation for former Planning Commissioner Lisa Christian.” Motion passed 5/0.**

Councilmember Roy noted that Ms. Christian was a great help to him during the process of soliciting donations for the treatment for Eurasian Watermilfoil in St. Alban's Bay.

**Mayor Kind recessed the meeting at 8:56 P.M.**

**Mayor Kind reconvened the meeting at 9:05 P.M.**

### B. First Reading: Ordinance 219 Amending Code Section 320 to Establish Minimum Rental Lease Term for Residential Properties

Mayor Kind stated this is the first reading of Ordinance 219 to amend Code Section 320 to establish minimum rental lease term for residential properties. She recommended changing "*Subd 7. Lease Term. The minimum initial lease term for a residential rental property shall be 30 days. License holders shall provide leaseholder name and contact information to the city clerk in writing prior to the commencement of each new lease.*" to "*Subd 7. Lease Term. The minimum initial lease term for a residential rental property shall be 30 days.*"

Councilmember Fletcher noted that he agrees with Mayor Kind's recommendation. He suggested changing the minimum initial lease term for residential properties to mirror the clause in Section 1140.05 Dwelling / Lot – Prohibited Uses which in Subd. 5 states "...nor may such properties be leased to more than 2 tenant occupant groups in any one 4-month period." That would make the two ordinances consistent.

Councilmember Cook asked what problem this Ordinance is trying to fix. Mayor Kind explained that Councilmember Fletcher requested that minimal least term be included in the City's Rental Code.

Mayor Kind stated the title of Section 320 is being changed to Rental Properties from Multiple Dwellings.

**Cook moved, Quam seconded, approving the first reading of Ordinance 219, amending Ordinance Code Section 320 subject to changing "*Subd 7. Lease Term. The minimum initial lease term for a residential rental property shall be 30 days. License holders shall provide leaseholder name and contact information to the city clerk in writing prior to the commencement of each new lease.*" to "*Subd 7. Lease Term. In no event shall a residential rental property leasehold or sub-leasehold be for an initial term of less than 30 days, nor may such properties be leased to more than 2 tenant occupant groups in any one 4-month period.*" Motion passed 5/0.**

### **C. Possible Moratorium to Review the R-1A Zoning District**

Mayor Kind stated that Attorney Kelly requested the topic of a possible moratorium to review the R-1A Zoning District be placed on the agenda for discussion. She noted the meeting packet contains a copy of a memorandum from Kelly on it.

Attorney Kelly stated the information he provided supplements what was discussed earlier regarding conditional uses. He explained a moratorium is planning tool State Statute allows. A moratorium is presumed to be predicated on having decided to do a study and develop a plan to regulate any particular zone with and what the specifics should be. If the City decides that it wants to start a review process of the City's Comprehensive Plan or the appropriate zoning regulation in any particular area it does not require a public hearing. It could be adopted on a first and second reading of the ordinance without a referral to the Planning Commission. It would be predicated at that time on a referral to the Commission of what the proper zoning would be for the R-1A district and perhaps rezoning the Old Log Theater property into its own zone carrying forward the ideas Mayor Kind and Councilmember Fletcher articulated earlier this evening.

Mayor Kind stated she did not think a moratorium would be needed to rezone the Old Log Theater property. Attorney Kelly clarified Council could direct the Planning Commission to start that process now. Kelly explained the moratorium would keep the City from issuing any building permits to do something in the R-1A district except by a variance justifying why that property is not in the area the City is worried about. It gives the City the opportunity to say it is studying an area for up to twelve months; there is the option to extend it six months.

Mayor Kind stated it's her understanding that Mr. Frankenfield, who hopes to be the new owner of the Old Log Theater and property, wants to remodel the Old Log Theater. If the City approved a moratorium he would not be able to do that. Councilmember Fletcher asked why the City would not want him to improve the Theater right now. Kind expressed concern that a moratorium would halt all building permits in the entire R-1A district.

Mayor Kind recommended sending the concept of rezoning the Old Log Theater property to a unique zone to the Planning Commission.

**Fletcher moved, Kind seconded, directing the Planning Commission to investigate the rezoning of the property currently occupied by the Old Log Theater.**

Mayor Kind stated she thought that would accomplish the same thing without a moratorium. She expressed concern about putting a hold on issuing building permits for things in the R1-A district noting that is a very large district. Attorney Kelly clarified exceptions could be granted but that would have to be done through a variance process. Kind noted the variance process could take 120 days.

Councilmember Fletcher stated that typically a city uses a moratorium when a developer wants to do something that riles the residents. He asked what people are concerned about with the Old Log Theater and property. What is the issue?

Councilmember Quam asked what if the potential new owner sells the property and a new owner wants to do something different.

Zoning Administrator/Clerk Karpas explained it is a legal nonconforming use that can't be expanded.

Councilmember Fletcher noted the City could not grant a variance to expand the Old Log Theater based on the Ordinances approved under Item 6.B on the agenda. He stated he would like the discussion about rezoning to get started sooner versus later.

Attorney Kelly noted that it was his responsibility to let Council know a moratorium is an available tool.

Greg Frankenfield, Shorewood, Minnesota, (the prospective new owner of the Old Log Theater and property) stated the roof on the Theater leaks. He asked if he needs a building permit to repair the roof. The response was he does. He asked if a moratorium would stop him from being able to fix the roof.

Attorney Kelly stated if the Council approved a moratorium he still would be able to repair a roof. He then stated moratoriums are a planning tool cities use when they need time to study things for the benefit of the public interest. He noted that has been accomplished by taking theater off the R-1A list of conditional uses.

Mayor Kind noted the R-1A district never had restaurant or event center listed as uses. She explained the Planning Commission will be asked to discuss an R-1C district that mirrors the R-1A district and adds theater, restaurant, and event center as conditional uses. The Old Log Theater property would be rezoned to that new district.

Councilmember Quam stated he thought doing that would be to Mr. Frankenfield's advantage.

Mr. Frankenfield stated he would like to work with Council and the Planning Commission on that. But, in the meantime the facility needs some repair.

**Motion passed 5/0.**

Mayor Kind stated this will be on the May 15, 2013, Planning Commission agenda for discussion.

**D. Excelsior Park and Dock Patrol Proposal**

Mayor Kind stated this is a routine request from the City of Excelsior for the South Lake Minnetonka Police Department to provide park and dock patrol services. Excelsior pays for all the services.

**Quam moved, Cook seconded, approving the South Lake Minnetonka Police Department providing Park and Dock Patrol Services for the City of Excelsior in 2013 as mutually agreed upon by both parties. Motion passed 5/0.**

**E. Potential City Council Input Regarding the Minnehaha Creek Watershed District's Proposed Aquatic Invasive Species Program and Total Maximum Daily Load Distribution Policy**

Mayor Kind stated the Minnehaha Creek Watershed District (MCWD) is seeking feedback on a draft amendment to its Comprehensive Water Resource Management Plan for aquatic invasive species (AIS) management and prevention. It also is seeking feedback on its draft Board Policy for the distribution of pollution reduction credit from MCWD projects for the purpose of TMDL (total maximum daily load) reporting. She noted the AIS amendment is now considered a minor amendment so the process is slightly different.

Councilmember Quam stated he has not given a lot of thought to the AIS minor amendment.

Councilmember Roy stated he likes the MCWD's commitment to working with partners. He then stated he would like the MCWD to say they will take charge of prevention rather than having a number of government agencies doing that. That would help in getting people going in the same direction and doing the same thing. Mayor Kind asked Roy if he intentionally chose the word prevention to which he responded yes.

Mayor Kind stated it appears the MCWD's focus is on prevention. She asked about management.

Councilmember Roy stated in other discussions the idea of providing the Lake Minnetonka Conservation District (LMCD) with another cleaning station came up. That was not in the budget. He then stated the LMCD will be doing level one AIS inspections; an eyeball type of inspection. He went on to state from his perspective the LMCD would be better off being out of that business. He noted there are lakes in the MCWD that don't having any prevention process in place. It would be best if for all of the launches there would be the same equipment and processes in place. He stated there needs to be pre-launch equipment and equipment for cleaning a boat when it comes out of an infested lake.

In response to a comment from Councilmember Quam, Councilmember Roy stated the MCWD may be striving to manage this but he is just a little impatient with how government agencies work.

Councilmember Roy stated he can support what has been presented by the MCWD.

Councilmember Fletcher stated in the response letter he suggested saying something positive because he does appreciate the MCWD's involvement. He then stated it seems the MCWD's approach is all of the

above and he does not like that. Because of limited resources there should probably be something to focus on be it management or prevention. He explained the document from the MCWD states “*The policies and goals in the District’s Comprehensive Plan are designed around the ecological integrity of water resources within the District. Accordingly, the District’s involvement in the long term management (i.e.; control) of AIS present would be based on the watershed’s ecological systems. Other benefits would be secondary.*” The MCWD’s focus is about the ecological environment.

Councilmember Roy noted that is why he suggests the MCWD take over. He stated hydrilla is like milfoil on steroids and it’s not too far away from this area now. Asian carp is not too far away now; they have showed up in minnow buckets. He stated he would like to have the MCWD or an agency like that to manage things throughout Minnesota with the same protocols and the same equipment.

Councilmember Fletcher stated his preference would be for them to focus on prevention.

Mayor Kind asked if Council feels strongly enough that it wants to comment on the AIS amendment.

Councilmember Cook suggested Councilmember Fletcher write a focused comment that could be incorporated in a response.

**Cook moved, Roy seconded, asking Councilmember Fletcher to write a focused comment to the Minnehaha Creek Watershed District regarding its Comprehensive Water Resource Management Plan for aquatic invasive species (AIS) management and prevention. Motion passed 5/0.**

Mayor Kind asked how Council wants to respond to the MCWD’s draft Board Policy for the distribution of pollution reduction credit from MCWD projects for the purpose of TMDL (total maximum daily load) reporting.

Councilmember Fletcher suggested conveying that the City supports what is proposed.

**Cook moved, Roy seconded, asking the Mayor to write a focused comment regarding the Minnehaha Creek Watershed District’s Board Policy for the distribution of pollution reduction credit from MCWD projects for the purpose of total maximum daily load reporting. Motion passed 5/0.**

## **8. OTHER BUSINESS**

### **A. April Verifieds, Check Register, Electronic Fund Transfers**

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

Councilmember Fletcher stated a few years ago the City decided to have a contractor plow the trails in the City. The verified claims list shows that the City spent \$1,568.75 to plow trails. It also shows that City spent \$2,425.38 with the City of Deephaven to plow roads. He suggested Council carefully consider how much it wants to spend on plowing trails for the 2013/2014 season.

**Fletcher moved, Quam seconded, approving the April verifieds, check register and electronic fund transfers. Motion passed 5/0.**

Mayor Kind stated the Deephaven Public Works Director asked her how the City liked the trail plowing services it received from Cornerstone Industries because he noticed Deephaven was done with plowing

roads before the trails were plowed. Deephaven provides other public works services for Greenwood. She expressed confidence that Deephaven would be willing to again plow the City's trails.

## **9. COUNCIL REPORTS**

### **A. Cook: Planning Commission**

Councilmember Cook stated during its last meeting the Planning Commission discussed a proposal from the owners of the Pastor property. He explained that site is particularly difficult because it has a zero lot line on three sides. On the fourth corner the roadway pavement may actually be on the property. There is a very small house on the very small lot. There is a garage on the northwest corner of the lot and another on the southwest corner. The small house is in between. The access to the northerly garage is difficult.

There was a lot of discussion about the proposal during that meeting. The property owner gave the Planning Commission an extension and it's assumed the Commission will discuss the changes to the proposal again during its next meeting. The original proposal would result in a significant amount of hardcover.

There was additional Council discussion about the proposed new zoning district the Planning Commission will discuss during its next meeting.

### **B. Fletcher: Lake Minnetonka Communications Commission, Excelsior Fire District, Xcel Energy Project, Lake Improvement District**

With regard to the Lake Minnetonka Communications Commission (LMCC) activities, Councilmember Fletcher stated there is a meeting of the committee formed to discuss the LMCC joint powers agreement. He is the City's representative on the committee.

With regard to the Xcel Energy Transmission Line Upgrade Project, Fletcher stated that was already discussed.

### **C. Kind: Police, Administration, Mayors Meetings, Website**

With regard to the South Lake Minnetonka Police Department (SLMPD), Mayor Kind stated the next SLMPD Coordinating Committee is scheduled for May 21 at 5:00 P.M.

With regard to administration, Kind stated there was a Greenwood Circle street light issue that was resolved earlier in the day. She explained there are seven power poles along Greenwood Circle. A new property owner in that area wants to bury the power lines in the area and is approaching other property owners about sharing in the cost to do that. Things seemed to be going along smoothly until one property owner realized that there are street lights on three of the poles. The property owner was interested in keeping at least one of the lights. She noted a resident cannot take down a City street light without getting permission from the Council. She stated as far as she knows all three lights are staying up.

Mayor Kind asked Zoning Administrator/Clerk Karpas to give a brief history on why there are street lights in some areas of the City and not others. Karpas explained that about ten years ago there was a movement to take back the sky at night. The City did a review of the street lights and decided to remove some of them.

Councilmember Fletcher stated if a group of residents in an area came before Council and explained they did not want the street lights he asked if Council would listen to them.

Councilmember Quam stated that people walking down a street after their car broke down need to see where they are going.

Mayor Kind stated there are no street lights along the many Greenwood streets including hers. She then stated the City is not going to add street lights along every City street, and noted there is no budget for that.

Councilmember Quam stated public safety is the City's highest responsibility. He cautioned against having totally dark streets.

Mayor Kind stated there are studies that indicate street lights don't make a difference. She then stated she receives calls from residents who say it's too dark and from others who say it is too light.

Councilmember Quam clarified he is not suggesting the City add street lighting. Only that he does not want to take down lights.

Mayor Kind stated that on April 17 she co-hosted a school district lunch along with the Deephaven City Administrator and the Mayor of Woodland at Deephaven City Hall. Attendees included the Superintendent of the Minnetonka School District, representatives from Deephaven, Chanhassen and Minnetonka. She reviewed things she learned during the luncheon. There is a senior housing project going on in Deephaven. The Vine Hill Bridge will be replaced sooner versus later. Both Deephaven and Woodland have received requests for allowing residents to raise chickens. Greenwood does not allow residents to raise chickens nor does Chanhassen. Chanhassen just completed a new water tower near Minnetonka Middle School West. Chanhassen received bids that were lower than anticipated for its 2013 roadway improvements. Minnetonka is working with the owners of the Ridgedale Mall on improvements to the Mall. Nordstrom is going to become a tenant and some high-end restaurants also will become tenants.

Kind noted that residents can contribute to the herbicide treatment of St. Alban's Bay by going to the City's website [www.greenwoodmn.com](http://www.greenwoodmn.com)

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

With regard to roads and sewers, Councilmember Quam stated Council discussed them earlier this evening.

With regard to Minnetonka Community Education (MCE), Councilmember Quam stated MCE is again running a youth triathlon on May 3. It will be held at the Minnetonka Middle School East.

Quam noted that he attended the Excelsior Fire District (EFD) Board budget work session on April 17. He explained EFD Chief Gerber reviewed the details of the proposed 2013 Operating Budget and the 2014 capital improvement program (CIP). The budget reflects a 2 percent increase in the 2014 municipal contribution when compared to 2013. There was discussion about the benefits and cost of having a 4-person duty crew (2 at each station) that would be at the stations from 6:00 P.M. Friday to 6:00 P.M. Sunday. If that were to be implemented in 2014 there would be an approximate 9 percent increase in the municipal contribution. Doing that would improve the response time to the scene. Chief Gerber will

assemble response time data that breaks out night and weekend response times. He noted that it's unlikely that would be implemented in 2014.

Mayor Kind stated after doing a ride along with a South Lake Minnetonka Police Department (SLMPD) Officer it seems like a police officer is at the scene first. Officers are also trained as medical first responders.

**E. Roy: Lake Minnetonka Conservation District**

Councilmember Roy stated the Lake Minnetonka Conservation District (LMCD) passed a bow fishing ordinance. The LMCD Board approved two budget options for 2014. LMCD Executive Directory Nybeck is willing to attend Council's June 5 meeting to talk about the increases. A 3 percent increase would basically keep things at the level they are at because of the loss in property values. The levy is based on property values. The 16 percent budget increase option includes \$45,000 for aquatic invasive species prevention. He asked Council if they want Nybeck to come to the June meeting or if they would prefer him to talk about the two budget options. Council consensus was that it was not necessary for Nybeck to attend the June 5 meeting. Roy stated he will ask Nybeck to send a copy of the budget options to the City.

**10. ADJOURNMENT**

**Roy moved, Cook seconded, adjourning the City Council Regular Meeting of May 1, 2013, at 9:51 P.M. Motion passed 5/0.**

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

**Greenwood City Council and Planning Commission Joint Meeting  
Wednesday, May 15, 2015  
9:00 P.M.**

1. Call to Order/Roll Call/Approval Agenda

Mayor Kind called the meeting to order at 9:00 pm.

Council members present: Deb Kind, Bill Cook, Tom Fletcher, Bob Quam and Rob Roy

Planning Commission members present: John Beal, Kristi Conrad, Pat Lucking, David Paeper and Douglas Reeder

Council members absent: None

Planning Commission members absent: None

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

2. Open Discussion

The group discussed a number of issues of interest.

A. Discussion on Chip Fisher driveway grade on Greenwood Circle

The group discussed the origin of the issue and whether it was self-created and steps necessary to solve the problem. They discussed a preliminary site plan submitted by Mr. Fisher which would alter the grade to permit access to their garage but would require the construction of retaining walls within the city right-of-way. City Attorney Kelly expressed concern that the plan essentially gives the Fisher's control of city property.

Councilmember Roy asked why this is the city's problem since it should have been "caught" by the builder when they placed the garage floor. Mayor Kind said some of the issue is that the grade was not caught at the time the building permit was issued. Roy asked if other issues have been considered or is this the most economically advantageous to the Fishers. Councilmember Fletcher noted the issue is not going to be solved tonight and the Fishers are permitted to park on Greenwood Circle until it is solved.

Mayor Kind said her intent on raising the issue is to gauge the temperature of the group on whether this needed to go through the regular variance process. If so, she has concerns whether it could meet all the practical difficulty criteria. Commissioner Paeper asked about the significance of losing the use of the city property. Kind said it currently is a utility easement and Councilmember Cook added it provides parking for the city docks.

Councilmember Cook noted the existing plan submitted by the Fisher's would direct water onto his property and since they cannot legally do that, the plan would need to be redrawn. He supports what they want to do provided the drainage is addressed, though he is concerned about the impact it could have on parking along Greenwood Circle.

City Attorney Kelly said any use of city property would require the Fishers to enter into a license agreement for maintenance. Chairman Lucking, referencing the property owner's claim that the city's requirement to reduce

the volume caused the issue, said the city never required the applicant to lower the basement level which has caused the current situation.

The group decided the Fishers need to go through the regular variance process in order to correct the current situation.

**B. Creation of an R-1C Zoning District**

The proposed R-1C ordinance was summarized. Chairman Lucking said the ordinance is a long term way of adjusting the use on the Old Log property to permit uses that the city may not want to allow in the entire R-1A District.

Councilmember Cook said it also gives an opportunity to clarify the types of Restaurants and Event Centers that would be permitted. He's still concerned about the rapid changes in technology and the potential unintended consequences.

Commissioner Beal is concerned about the property being passed onto a developer who creates the type of development that the city doesn't want. Commissioner Conrad said the ordinance would set the parameters of what could be done of the property.

Commissioner Paeper does not want to legislate a property owner's business plan. Commissioner Reeder agrees he doesn't want to create an ordinance that hurts the business.

City Attorney Kelly feels that the city needs the attributes such as wetland areas, including the required buffers, parking spaces, available developable land, etc. prior to developing the ordinance to help guide the city. Mayor Kind stated that she did not believe the city had the authority to make these requests until the property owner submits an application to the city.

Commissioner Beal said the land in the R-1C could be dedicated entirely to a theatre uses and if necessary it could be regulated as a conditional use. Mayor Kind said it could also be a permitted use. Councilmember Fletcher said there probably is an expectation from the neighborhood that it continue to operate as a conditional use.

The group discussed the residential options for the property, including cluster development, if the theatre were to become unprofitable.

It was decided the Planning Commission would develop a definition of Dinner Theatre.

**C. Miscellaneous**

Councilmember Fletcher briefed the group on the recent public hearing on the Excel Energy power line project.

Councilmember Quam gave an update on the condition of former Councilmember Page.

**Greenwood City Council and Planning Commission Joint Meeting  
Wednesday, May 15, 2015  
9:00 P.M.**

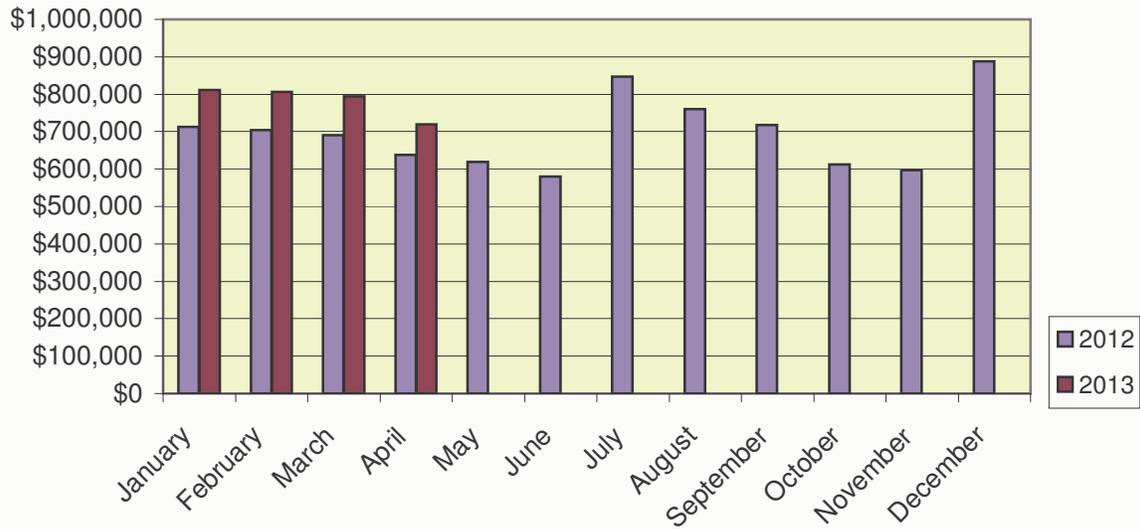
Commissioner Conrad suggested the idea of a park survey and the potential creation a beach to permit non-lakeshore residents access to the lake.

3. Adjournment

Cook moved to adjourn. Second by Reeder. The meeting was adjourned at 10:02.

Respectfully submitted  
Gus Karpas  
City Clerk

## City of Greenwood Monthly Cash Summary



Month	2012	2013	Variance with Prior Month	Variance with Prior Year
January	\$712,814	\$812,019	-\$76,100	\$99,205
February	\$704,873	\$805,692	-\$6,327	\$100,819
March	\$690,422	\$793,435	-\$12,257	\$103,013
April	\$637,990	\$720,170	-\$73,265	\$82,180
May	\$618,262	\$0	-\$720,170	-\$618,262
June	\$580,578	\$0	\$0	-\$580,578
July	\$846,897	\$0	\$0	-\$846,897
August	\$760,682	\$0	\$0	-\$760,682
September	\$717,852	\$0	\$0	-\$717,852
October	\$611,894	\$0	\$0	-\$611,894
November	\$597,127	\$0	\$0	-\$597,127
December	\$888,119	\$0	\$0	-\$888,119

Bridgewater Bank Money Market	\$450,693
Bridgewater Bank Checking	\$6,155
Beacon Bank CD	\$240,000
Beacon Bank Money Market	\$23,222
Beacon Bank Checking	\$100
<hr/>	
	\$720,170

### **ALLOCATION BY FUND**

General Fund	\$132,461
General Fund Designated for Parks	\$27,055
Bridge Capital Project Fund	\$78,613
Stormwater Special Revenue Fund	\$8,565
Sewer Enterprise Fund	\$423,453
Marina Enterprise Fund	\$50,023
<hr/>	
	\$720,170

Check Issue Date(s): 05/01/2013 - 05/31/2013

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
05/13	05/06/2013	10814	51	BOLTON & MENK, INC.	502-20100	3,251.50
05/13	05/06/2013	10815	9	CITY OF DEEPHAVEN	101-20100	8,134.68
05/13	05/06/2013	10816	761	DEBRA KIND	101-20100	48.58
05/13	05/06/2013	10817	68	GOPHER STATE ONE CALL	602-20100	24.75
05/13	05/06/2013	10818	3	KELLY LAW OFFICES	101-20100	4,128.50
05/13	05/06/2013	10819	742	Marco, Inc.	101-20100	222.90
05/13	05/06/2013	10820	105	METRO COUNCIL ENVIRO SERVICES	602-20100	2,497.36
05/13	05/06/2013	10821	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	14,754.00
05/13	05/06/2013	10822	136	Sun Newspapers	101-20100	268.03
05/13	05/06/2013	10823	745	Vintage Waste Systems	101-20100	1,628.25
05/13	05/06/2013	10824	145	XCEL ENERGY	101-20100	225.83
05/13	05/20/2013	10825	245	ALLIED BLACKTOP, INC.	502-20100	1,216.00
05/13	05/20/2013	10826	738	AVENET, LLC	101-20100	65.00
05/13	05/20/2013	10827	51	BOLTON & MENK, INC.	101-20100	3,642.00
05/13	05/20/2013	10828	792	CORNERSTONE INDUSTRIES INC	101-20100	635.00
05/13	05/20/2013	10829	315	DOCK & LIFT INC.	605-20100	1,500.00
05/13	05/20/2013	10830	742	Marco, Inc.	101-20100	274.12
05/13	05/20/2013	10831	136	Sun Newspapers	101-20100	961.26
05/13	05/20/2013	10832	745	Vintage Waste Systems	101-20100	2,307.12
05/13	05/20/2013	10833	145	XCEL ENERGY	101-20100	424.36
Totals:						<u>46,209.24</u>

Dated: \_\_\_\_\_

Mayor: \_\_\_\_\_

City Council: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

City Recorder: \_\_\_\_\_

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
<b>ALLIED BLACKTOP, INC.</b>					
245	ALLIED BLACKTOP, INC.	17442	STREET SWEEPING	05/13/2013	1,216.00
Total ALLIED BLACKTOP, INC.					1,216.00
<b>AVENET, LLC</b>					
738	AVENET, LLC	32301	WEB-BASED EMAIL SVC - 2013	01/09/2013	65.00
Total AVENET, LLC					65.00
<b>BOLTON &amp; MENK, INC.</b>					
51	BOLTON & MENK, INC.	0155453	WATERMAIN FEASIBILITY REPORT	03/31/2013	1,658.50
		0155454	2013 DEVELOPMENT REVIEW	03/31/2013	135.00
		0155455	2013 I & I PROJECT	03/31/2013	29.00
		0155456	2013 MISC ENGINEERING	03/31/2013	269.50
		0155479	SUMP PUMP FNDTN DRAIN INS	03/31/2013	552.00
		0155528	EXC BLVD DRAINAGE IMPROV	03/31/2013	607.50
		0156139	WATERMAIN FEASIBILITY REPORT	04/30/2013	1,551.00
		0156140	2013 STREET IMPROVEMENTS	04/30/2013	1,080.00
		0156141	2013 EXC BLVD WATERMAIN	04/30/2013	342.00
		0156160	2013 MISC ENGINEERING	04/30/2013	202.00
			2013 MISC ENGINEERING		210.00
			2013 MISC ENGINEERING		165.00
		0156161	SUMP PUMP FNDTN DRAIN INS	04/30/2013	92.00
Total BOLTON & MENK, INC.					6,893.50
<b>CITY OF DEEPHAVEN</b>					
9	CITY OF DEEPHAVEN	MAY 2013	RENT & EQUIPMENT	04/30/2013	542.95
			Postage (Jan - April 2013)		130.04
			COPIES		46.00
			SEWER		1,010.16
			SNOW PLOWING/SANDING/SALT		3,051.61
			STREETS		715.53
			Clerk Services		2,589.60
			SCHOOL DISTRICT LUNCH		48.79
Total CITY OF DEEPHAVEN					8,134.68
<b>CORNERSTONE INDUSTRIES INC</b>					
792	CORNERSTONE INDUSTRIES INC	1276	SNOW PLOWING	05/01/2013	635.00
Total CORNERSTONE INDUSTRIES INC					635.00
<b>DEBRA KIND</b>					
761	DEBRA KIND	050613	FEDEX - CODE BOOK PRINTING	05/06/2013	48.58
Total DEBRA KIND					48.58
<b>DOCK &amp; LIFT INC.</b>					
315	DOCK & LIFT INC.	22538	INSTALL FLOATING DOCK	05/06/2013	1,500.00
Total DOCK & LIFT INC.					1,500.00
<b>GOPHER STATE ONE CALL</b>					
68	GOPHER STATE ONE CALL	71580	Gopher State calls	04/30/2013	24.75

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total GOPHER STATE ONE CALL				24.75
<b>KELLY LAW OFFICES</b>					
3	KELLY LAW OFFICES	6099	GENERAL LEGAL	04/30/2013	3,806.50
			GENERAL LEGAL		322.00
	Total KELLY LAW OFFICES				4,128.50
<b>Marco, Inc.</b>					
742	Marco, Inc.	226527745	Copier lease	04/13/2013	222.90
		228487583	Copier lease	05/14/2013	274.12
	Total Marco, Inc.				497.02
<b>METRO COUNCIL ENVIRO SERVICES</b>					
105	METRO COUNCIL ENVIRO SERVIC	0001015973	Monthly wastewater Charge	05/03/2013	2,497.36
	Total METRO COUNCIL ENVIRO SERVICES				2,497.36
<b>SO LAKE MINNETONKA POLICE DEPT</b>					
38	SO LAKE MINNETONKA POLICE DE	MAY 2013	OPERATING BUDGET	05/01/2013	14,754.00
	Total SO LAKE MINNETONKA POLICE DEPT				14,754.00
<b>Sun Newspapers</b>					
136	Sun Newspapers	1157242	Ord #216	04/11/2013	48.71
		1157243	RESOLUTION	04/11/2013	81.19
		1157245	RESOLUTION	04/11/2013	68.20
		1158227	Legal Notice	04/25/2013	69.93
		1162049	Ord #215	05/09/2013	77.94
		1162050	Ord #216	05/09/2013	402.69
		1162053	Ord #217	05/09/2013	402.69
		1162055	Ord #218	05/09/2013	77.94
	Total Sun Newspapers				1,229.29
<b>Vintage Waste Systems</b>					
745	Vintage Waste Systems	042613	City Recycling Contract	04/26/2013	1,628.25
		050813	City Recycling Contract	05/08/2013	2,307.12
	Total Vintage Waste Systems				3,935.37
<b>XCEL ENERGY</b>					
145	XCEL ENERGY	042513	SIREN	04/25/2013	4.14
			Sleepy Hollow Road *		9.72
			4925 MEADVILLE STREET *		9.71
			LIFT STATION #1		40.11
			LIFT STATION #2		38.72
			LIFT STATION #3		23.58
			LIFT STATION #4		32.22
			LIFT STATION #6		67.63
		050313	Street Lights *	05/03/2013	424.36
	Total XCEL ENERGY				650.19

Total Paid:	46,209.24
Total Unpaid:	<u>-</u>
Grand Total:	<u><u>46,209.24</u></u>

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Description	GL Account	Amount
06/01/13	PC	06/01/13	6011301	COOK, WILLIAM B.	37		001-10101	184.70
06/01/13	PC	06/01/13	6011302	Fletcher, Thomas M	33		001-10101	84.70
06/01/13	PC	06/01/13	6011303	Kind, Debra J.	34		001-10101	277.05
06/01/13	PC	06/01/13	6011304	Quam, Robert	32		001-10101	184.70
06/01/13	PC	06/01/13	6011305	ROY, ROBERT J.	38		001-10101	184.70
Grand Totals:								<u>915.85</u>

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA  
AMENDING GREENWOOD ORDINANCE CODE SECTION 320  
REGARDING RENTAL PROPERTIES**

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

SECTION 1.

Greenwood ordinance code section 320 heading is amended to read as follows:

**“SECTION 320. RENTAL PROPERTIES.”**

SECTION 2.

Greenwood ordinance code section 320.30 Registration of Rental Properties Required is amended by the addition of the following subdivision:

“Subd 7. Lease Term. In no event shall a residential rental property leasehold or sub-leasehold be for an initial term of less than 30 days, nor may such properties be leased to more than 2 tenant occupant groups in any one 4-month period.”

SECTION 3.

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.

\_\_\_ AYES \_\_\_ NAYS

CITY OF GREENWOOD

By: \_\_\_\_\_  
Debra J. Kind, Mayor

Attest: \_\_\_\_\_  
Gus E. Karpas, City Clerk

First reading: \_\_\_\_\_, 2013  
Second reading: \_\_\_\_\_, 2013  
Publication: \_\_\_\_\_, 2013



Agenda Number: **4A**

Agenda Date: 06-05-13

**Agenda Item:** City Engineer Dave Martini:  
2013 Inflow & Infiltration Project Bids  
Excelsior Blvd. Street and Watermain Improvements

**Summary:** 2013 I/I Project Bids – Based on council direction, bids have been secured for 2013 I/I projects. Dave will attend the June council meeting to present the bid results and answer questions.

Excelsior Blvd. Street and Watermain Improvements – Attached are copies of the signed agreements with Excelsior. Also attached is the updated project timeline. The council will discuss next steps at the June council meeting.

**Council Action:** No action required. Possible motions ...

1. I move the council approves the \$\_\_\_\_\_ bid from \_\_\_\_\_ (company) for the 2013 inflow and infiltration project and directs that the costs be paid from the sewer fund.
2. Do nothing or other motion ???



# BOLTON & MENK, INC.<sup>®</sup>

## Consulting Engineers & Surveyors

2638 Shadow Lane, Suite 200 • Chaska, MN 55318-1172

Phone (952) 448-8838 • Fax (952) 448-8805

www.bolton-menk.com

May 29, 2013

City of Greenwood  
Attn: Bob Quam  
20225 Cottagewood Road  
Deephaven, MN 55331

RE: Bids for 2013 Sanitary Sewer Rehabilitation

Dear Mr. Quam:

A total of 4 bids were solicited for the 2013 Sanitary Sewer Rehabilitation Project. One bid was received, from Infratech in the amount of \$45,004.88. The Engineers Estimate for the project was \$52,522. The City has been awarded \$19,728 from the Met Council to help fund this project.

Based on our review of the bids, we recommend awarding the project to Infratech in the amount of \$45,004.88. I will be at the City Council meeting on June 5<sup>th</sup> to discuss the bids with the Council. Please let me know if you have questions before then or if you need additional information.

Sincerely,  
BOLTON & MENK, INC.

David P. Martini, P.E.  
Principal Engineer

**ABSTRACT OF BIDS**  
**2013 SANITARY SEWER REHABILITATION**  
**CITY OF GREENWOOD, MINNESOTA**  
**BMI PROJECT NO. C13.106045**

				1 INFRATECH	
ITEM NO.	BID ITEM	APPROX. QUAN.	UNIT	UNIT PRICE	AMOUNT
1	MOBILIZATION	1	LS	\$1,400.00	\$1,400.00
2	SEWER CLEANING, INCLUDING TREE ROOTS AND MINERAL DEPOSITS	3,774	LF	\$1.62	\$6,113.88
3	CHEMICAL GROUT SEALING OF JOINT OR CRACK	6	EA	\$752.00	\$4,512.00
4	LATERAL SERVICE CONNECTION SEALING AND RE-ESTABLISHMENT OF FLOW	7	EA	\$757.00	\$5,299.00
5	SHORT-SECTION LINER - UP TO 4' LENGTH	5	EA	\$1,980.00	\$9,900.00
6	SHORT-SECTION LINER AT SERVICE CONNECTION AND RE-ESTABLISHMENT OF FLOW, UP TO 4' LENGTH	6	EA	\$2,430.00	\$14,580.00
7	ADDITIONAL LENGTH SHORT-SECTION LINER OVER 4'	8	LF	\$125.00	\$1,000.00
8	TRIM PROTRUDING TAP, NON IRON	4	EA	\$550.00	\$2,200.00
				<b>TOTAL BID:</b>	<b>\$45,004.88</b>

# Excelsior Blvd. Watermain Project Timeline

Updated 04-24-13

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	Publish resolution declaring adequacy of petition.	4/11/13
4	GW preliminary feasibility report completed for Option 1 (see footnote)	10/3/12
5	Feasibility report reviewed by GW planning commission for compliance with comp plan	10/17/12
6	GW deadline to submit public hearing notice for <b>Option 1</b> to Sun-Sailor (Thursday before publication)	12/13/12
7	GW publishes notice of hearing for <b>Option 1</b> (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
8	GW affidavit of mailing notice to affected property owners for <b>Option 1</b> . 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
9	GW public hearing for <b>Option 1</b> . Minutes of public hearing showing testimony and findings. NOTE: Council action is required within 6 months of the public hearing date.	1/2/13
10	Deadline for drafts of EX-GW cooperative agreement for the <b>Option 1</b> watermain project (including pricing) and agreement for water service for all GW users. Draft created by GW city attorney.	2/6/13
11	GW reviews EX-GW cooperative agreements for submitting to EX.	2/6/13
12	GW considers resolution ordering improvement and preparation of plans (Forms 7, 7A, 8).	2/6/13
13	Deadline to post notice for 2/20 special meeting (72 hours notice required).	2/15/13
14	GW considers resolution approving plans. NOTE: MCES will be advertising for bids.	2/20/13
15	GW considers resolution approving cooperative agreement with MCES to include the Excelsior Blvd. watermain project, sidewalk improvements, and tree replacement plan.	2/20/13
16	MCES advertizes for bids.	3/4/13
17	EX reviews EX-GW cooperative agreements.	3/4/13
18	GW reviews EX edits of EX-GW cooperative agreements.	3/6/13
19	<b>Petition 2</b> received from next 6 properties.	3/15/13
20	GW considers resolution declaring adequacy of <b>Petition 2</b> and ordering preparation of feasibility report.	4/3/13
21	Publish resolution declaring adequacy of <b>Petition 2</b> to start 30-day appeal clock ticking.	4/11/13
22	GW preliminary feasibility report completed for <b>Petition 2 Area</b> .	4/11/13
23	GW considers resolution receiving feasibility report and ordering public hearing for <b>Petition 2 Zone</b> (after previously scheduled 6pm Local Board of Appeal meeting)	4/11/13
24	GW deadline to submit public hearing notice for <b>Petition 2 Area</b> to Sun-Sailor (Thursday before publication)	4/11/13
25	GW publishes notices (2 consecutive weeks) of public hearing for <b>Petition 2 Area</b> . See line 6 above.	4/18 & 4/25
26	GW affidavit of mailing notice to affected property owners for <b>Petition 2 Area</b> . See line 7 above.	4/19/13
27	GW public hearing for <b>Petition 2 Area</b> . See line 8 above.	5/1/13
28	GW approves water <i>expansion</i> and water <i>service</i> agreements with city of Excelsior.	5/1/13
29	GW considers resolution ordering <b>Petition 2 Area</b> improvement and preparation of plans.	5/1/13
30	GW signs cooperative agreement with MCES	5/2/13
31	MCES opens bids.	TBD
32	GW go / no-go decision (per co-op agreement with MCES).	TBD
33	GW considers "change order" to MCES project.	TBD
34	MCES notice to proceed.	TBD
35	MCES starts construction.	TBD
36	GW preparation of assessment roll. (Forms 12, 13)	TBD
37	GW resolution for hearing on proposed assessment. (Form 14)	TBD
38	GW affidavit of publication of notice of hearing. (Form 15)	TBD
39	GW affidavit of mailing notice to affected property owners. (Form 15A)	TBD
40	GW minutes of public hearing showing testimony and findings.	TBD
41	GW resolution adopting assessment. (Form 16)	TBD
42	GW notice of final assessment. NOTE: This may be an optional step. (See Form 17A)	TBD
43	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** = 21380 - 21170 Excelsior Blvd, **Petition 2 Zone** = 21150 - 21030 Excelsior Blvd.



EXCELSIOR



## EXCELSIOR-GREENWOOD MUNICIPAL WATER SERVICE AGREEMENT

THIS MUNICIPAL WATER SERVICE AGREEMENT ("Agreement"), made the 25th day of April 2013, is entered into by and between the CITY OF EXCELSIOR, MINNESOTA, a municipal corporation (hereinafter "Excelsior") and the CITY OF GREENWOOD, MINNESOTA, a municipal corporation (hereinafter "Greenwood"):

### RECITALS

Excelsior has an established water treatment plant, water tower, and distribution system and has extended water service beyond its borders to a portion of the Greenwood along Excelsior Boulevard and along Minnetonka Boulevard.

At the request of Greenwood, Excelsior is in the process of extending water service further into Greenwood along Excelsior Boulevard (as illustrated on Exhibit "A") and the cities may agree to further extensions in the future.

The cities desire to establish an agreement addressing the provision of water service by 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 herein.
2. Term. The term of this Agreement shall run for twenty (20) years from the date of this Agreement (the "Initial Term"). The Agreement shall be automatically renewed for successive periods ("Renewal Terms") of ten (10) years unless one of the parties to the Agreement provides written notice to the other at least one year in advance of the expiration of the Initial Term or any Renewal Term that it does not want the Agreement renewed.
3. Relationship of the Parties. Excelsior and Greenwood are independent and separate municipal corporations.
4. Excelsior Water System. Excelsior owns and operates the Excelsior Municipal Public Waterworks (EMPW) which includes watermain and associated service lines that extend into Greenwood. Greenwood acknowledges and agrees that it does not own any of the related pipes or water service infrastructure currently in place in Greenwood or which may be constructed in the future by extension of same. Properties located in Greenwood ("Greenwood Customers") connecting to the EMPW shall be subject to the provisions of Excelsior's City Code, as enacted or amended from time to time, regarding water service including, but not limited to, provisions relating to connection fees, water service pipes, metering, and water billing and rates ("Water System"). Any changes that Excelsior makes to its Water System ordinances shall also apply to Greenwood Customers.
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 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 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 Greenwood may be added to the certification of assessment and, on receipt, retained by Greenwood. Nothing herein shall prevent Excelsior from taking other steps authorized by law (including, but not limited to, shutting off water service) to ensure payment of water service fees by Greenwood Customers.

7. Water Rates. Excelsior shall bill EMPW services rendered to Greenwood Customers at the established non-resident rate provided that the non-resident base rate shall not be more than 121% of the resident base rate as established from time to time by Excelsior and the non-resident usage rates shall not be more than 107% of the resident usage rates as established from time to time by Excelsior. 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 be responsible for maintaining and repairing the watermain and hydrants located in Greenwood in the same manner that it maintains and repairs that portion of the EMPW located within Excelsior and shall bear all costs associated with same. Excelsior's responsibility for maintaining and repairing the watermain and hydrants located in Greenwood shall include the cost of repairing any right-of-way damage caused by such repair and maintenance. Excelsior 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's obligation hereunder to maintain and repair the watermain and hydrants located in Greenwood shall not, however, obligate it to maintain or repair service lines connected thereto. Pursuant to the Excelsior City Code, property owners receiving service from the watermain shall be responsible for maintenance and repair of service lines connected to the watermain and costs related thereto.

9. Future Extension of the System. Excelsior agrees to entertain requests from Greenwood for additional water service by extension of service pipes within the 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 and, in its sole discretion, may grant or reject such a request for any reason or no reason.

10. Public Right-of-Way Access. By terms of this Agreement, Greenwood agrees to grant to Excelsior a continuing permanent easement access to all public right-of-ways hosting EMPW watermains 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 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.

11. 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.

12. 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

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.

13. 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.

14. 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.

15. 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 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.

16. Force Majeure. The parties to this Agreement recognize that, notwithstanding the obligations imposed herein, extraordinary events beyond the control of Excelsior may prevent the delivery of water service as described herein. Accordingly, the parties agree that Excelsior shall not be obligated to provide water service as provided herein if there is an occurrence of an extraordinary event or circumstance beyond Excelsior's control, such as a war, strike, riot, crime, or an event described by the legal term "Act of God" (such as hurricane, flooding, earthquake, volcanic eruption, etc.), that prevents Excelsior from fulfilling its obligations under this Agreement provided, however, that Excelsior's obligation shall only be suspended for the duration of the force majeure and, during such suspension, Excelsior and Greenwood customers shall not be treated differently absent logistical reasons related to the need to suspend service.

17. Mediation. In the event of an issue arising out of this Agreement, the parties agree to refer the matter to 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 advisors and consultants as each city determines beneficial may also attend. The mediator shall be selected by mutual agreement of Excelsior and Greenwood. Efforts shall be made to use a retired Judge of District Court or AIA certified or civil engineer trained in mediation as the mediator. The city engineers may attend to answer questions and mutually inform the city representatives and mediator. If agreement is not reached, the parties may pursue enforcement under Paragraph 14 of this Agreement.

18. Mediation Fees and Costs. Each party shall bear its own costs of mediation as needed or incurred hereunder without right of contribution from the other. The party initiating the mediation shall bear all fees and expenses of the mediator.

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

Dated: May 7, 2013

CITY OF EXCELSIOR  
A Municipal Corporation

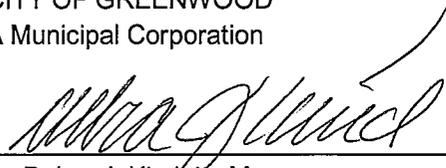
Mark W. Gaylord  
By Mark Gaylord, its Mayor

Attest: Kristi Luger  
Kristi Luger, City Manager

Dated: \_\_\_\_\_

4/29/13

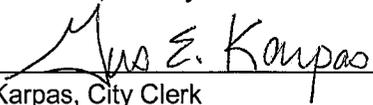
CITY OF GREENWOOD  
A Municipal Corporation



By Debra J. Kind, its Mayor

Attest: \_\_\_\_\_

Gus E. Karpas, City Clerk





EXCELSIOR



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

THIS WATER SERVICE EXPANSION AGREEMENT ("Agreement") approved on the \_\_\_\_ day of April 2013 is entered into by and between the CITY OF EXCELSIOR, MINNESOTA, a municipal corporation (hereinafter "Excelsior") and the CITY OF GREENWOOD, MINNESOTA, a municipal corporation (hereinafter "Greenwood"):

### RECITALS

Excelsior has an established water treatment plant, water tower, and distribution system and has extended water service beyond its borders to a portion of Greenwood along Excelsior Boulevard.

Greenwood has asked Excelsior to extend the existing water service to serve additional properties along Excelsior Boulevard in Greenwood as illustrated on Exhibit A (hereinafter the "service expansion area" (SEA)).

Excelsior is willing to extend water service into the SEA.

### NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purpose. The parties adopt the Recitals above set forth as if restated herein.
2. SEA Project Description. In conjunction with the 2013-14 Metropolitan Council Sewer Interceptor Improvement Project, Excelsior will extend the existing watermain along Excelsior Boulevard in Greenwood from the existing terminus, located approximately 300 feet west of Christmas Lake Road up to 21030 Excelsior Blvd. (as schematically shown on Exhibit A). Extension of the watermain shall include installation of fire hydrants, 12-inch watermain, and associated service stubs and curb stops. Location of the fire hydrants is to be determined by agreement of Excelsior and Greenwood civil engineers.

SEA Project Cost shall include the cost of installation of 300 feet of 12-inch watermain to serve 2 commercial properties, and 900 to 1480 feet of 8-inch watermain as needed to service 10 to 16 residential properties. Greenwood agrees to assess the SEA Project Cost to abutting property owners and may, in its sole discretion, elect to finance the SEA Project Cost by general assessment, special assessment, municipal levy increase, and/or municipal bonding. In any event, Greenwood shall pay Excelsior within 60 days of demand the SEA Project Cost incurred. Notwithstanding the foregoing, SEA Project Cost includes the cost of installation of the watermain, service stubs/curb stops, fire hydrants, engineering/inspection costs, and additional costs as may be required by Metropolitan Council Environmental Services to amend or otherwise change the contract documents to include additional properties within the SEA including, but not limited to, increased unit prices, additional mobilization, administrative, and engineering costs. SEA Project Cost 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; such fees, charges, and costs shall be covered by the Excelsior-Greenwood Water Service Agreement, the Excelsior City Code, and paragraph 8 of this Agreement.

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

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 resolved. In the event of impasse thereon, any unresolved issues shall be referred to mediation and arbitration as provided below, 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 watermain and Excelsior Municipal Public Waterworks or provision of service to same.

4. Relationship of the Parties. Excelsior and the Greenwood are independent separate municipal corporations.

5. Excelsior Water System. Excelsior owns and operates the Excelsior Municipal Public Waterworks (EMPW) which includes a watermain that extends into Greenwood. Greenwood acknowledges and agrees that it does not own the watermain or water service infrastructure in place in Greenwood and that this Agreement will not provide Greenwood an ownership interest in such or in the watermain and water service infrastructure being installed as part of the SEA Project.

6. 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.

7. 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. Greenwood shall also be responsible for the special or general assessment of any approved watermain 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. In conjunction with any expansion of water service, Greenwood shall by ordinance establish deadlines for abutting properties to connect to the watermain and become a paying customer of the EMPW system no later than ten (10) years after completion of the SEA Project. Said ordinance shall prohibit property owners within the parts of Greenwood served by the EMPW from drilling new wells upon failure of an existing well after the completion of installation of the watermain improvement in the SEA.

8. Service Connections and Water Meters. The SEA Project 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 by Greenwood. Subsequent to the installation of the system, at time of connection, individual property owners abutting the watermain 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 Excelsior in support of its EMPW services may be proposed to 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.

9. Public Right-of-Way Access. For the term of this Agreement, Greenwood grants to Excelsior a continuing construction easement for access to all public right-of-ways necessary for installation of the watermain and associated improvements.

10. 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. The mediator shall be selected by mutual agreement of Excelsior and Greenwood. Efforts shall be made to use a retired Judge of District Court or AIA certified architect or civil engineer trained in mediation as the mediator. The city engineers may 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.

11. Arbitration. In the event the cities cannot reach an agreement through mediation pursuant to paragraph 10 above, the cities agree to refer the dispute 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.

12. 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.

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. 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 Excelsior's day-to-day operations of the EMPW, they may be incorporated into Excelsior's operating costs and support adjustments by 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: 04-18-13

CITY OF EXCELSIOR

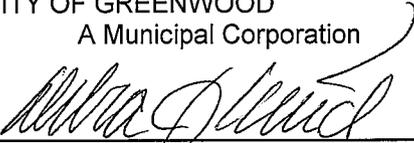
A Municipal Corporation

Mark W. Gaylord  
By Mark Gaylord, it's Mayor

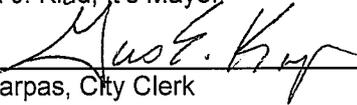
Attest: Kristi Luger  
Kristi Luger, City Manager

Dated: 4/29/13

CITY OF GREENWOOD  
A Municipal Corporation

  
\_\_\_\_\_

By Debra J. Kind, it's Mayor

Attest:   
\_\_\_\_\_

Gus E. Karpas, City Clerk



Agenda Number: **5A**

Agenda Date: 06-05-13

**Agenda Item:** Public Hearing, Showcase Event Application, Denali Custom Homes, 5190 Meadville Street

**Summary:** Per city code section 450, anyone desiring to hold a showcase event in the city must apply for a permit, all property owners within 350 feet of the site must be notified, and a public hearing is required. On 05-22-13 the city received an application from Denali Custom Homes to participate in a showcase event on weekends from June 7 through June 23. The public hearing date was set for 06-05-13, a letter was mailed to property owners within 350 feet on 05-23-13, and a notice for the public hearing was published in the Sun-Sailor on 05-30-13. As of the council packet deadline no written comments have been received by the city. See 7A packet memo for more details about the application.

**Council Action:** Council action is needed to open and close the public hearing. Suggested motions for the public hearing:

1. I move the council **opens** the public hearing.
2. I move the council **closes** the public hearing.

The next step in the process is for the council to take action regarding the application. That will be done under item 7A on the agenda.



Agenda Number: **5B**

Agenda Date: 06-05-13

**Agenda Item:** Public Hearing, Liquor License Application, Mayette Enterprises LLC, 5175 Meadville Street

**Summary:** Per city code section 820.50, a public hearing is required for initial liquor license applications. On 04-18-13 the city received liquor license application from Mayette Enterprises LLC, 5175 Meadville Street. The public hearing date was set for 06-05-13 and notice for the hearing was published in the Sun-Sailor on 05-23-13. As of the council packet deadline no written comments have been received by the city. See 7B packet memo for more details about the application.

**Council Action:** Council action is needed to open and close the public hearing. Suggested motions for the public hearing:

1. I move the council **opens** the public hearing.
2. I move the council **closes** the public hearing.

The next step in the process is for the council to take action regarding the application. That will be done under item 7B on the agenda.



## **PUBLIC HEARING NOTICE**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Greenwood will hold a public hearing at 20225 Cottagewood Road, Deephaven, MN 55331 on the 5th day of June, 2013, at 7:00 PM, or as soon thereafter as the matter can be heard. The purpose of this meeting is to receive public comment on the following;

The issuance of a Liquor License to Mayette Enterprises, LLC, 5185 Meadville Street.

Such persons as desire to express their opinion with reference to this proposal will be heard at this meeting. Comments can be mailed to City of Greenwood, 20225 Cottagewood Road, Deephaven, MN 55331, emailed to [guskarpas@mchsi.com](mailto:guskarpas@mchsi.com), or you can call (952) 358-9938.

Gus E. Karpas  
City Clerk

Publish:  
MN Sun Publications  
May 23, 2013



**Agenda Item:** Review Report of Past Variances Granted for Possible Code Revisions

**Summary:** At the 03-06-13 meeting the city council directed the zoning administrator to research past variances to help determine whether there is a pattern to indicate that code changes should be made. Attached is the spreadsheet showing the results of the research.

The following observations are noted from the research:

1. Variances for properties 15,000 sq. ft. or greater tend to maintain the status quo or improve existing nonconformities for of hardcover and setbacks.
2. The number of the variances and magnitude of new variances tend to be higher for properties under 15,000 sq. ft.
3. Most of the properties under 15,000 sq. ft. were granted hardcover variances, with an average variance of 9.36% for properties that were not granted a conditional use permit for up to 40% hardcover prior to 2003.
4. Most of the properties under 15,000 sq. ft. were granted front yard variances, with an overall average of 21.36 feet from the 30-foot requirement.
5. Most of the properties under 15,000 sq. ft. were granted side yard variances, with an overall average of 7.2 feet from the 15-foot requirement.

Based on this information the council may want to consider an ordinance that relaxes hardcover, front yard, and side yard rules for properties under 15,000 sq. ft. If the council desires to move forward with zoning code changes, the changes will need to go to the planning commission for their review and recommendations.

Note: This matter is not urgent. Due to full agendas the past several months the city council has "continued" the discussion of the research for several meetings and may wish to do so again.

**City Council Action:** Optional. Potential motions ...

1. I move the city council directs that an ordinance be drafted that addresses the ideas for revising the zoning code as discussed by the city council, and that the draft be included on the \_\_\_\_\_, 2013 council agenda for review prior to sending to the planning commission for a public hearing and recommendation.
2. I move the city council "continues" the discussion of ordinance changes based on the variance research to the 07-03-13 city council meeting.
3. Do nothing or other motion ???

**Greenwood Variances 2000 to 2012 ~ Sorted by Lot Size**

Year	Address	Zoning District	Lot Area	Type of Project	Front Yard	Side Yard				Exterior Side Yard	Rear Yard	Lake Yard	Impervious Surface Area	Structure Height	Additional Notes
						N	S	E	W						
2008	5535 Maple Heights Road	R1-A	5,913	Construct New Foundation Under Non-Conforming House	8'	11'									Previous Structure Encroached onto Neighbor's Property on North Side, No Change in Front Yard Encroachment
2002	5125 Greenwood Circle	R1-A	6,418	Reconstruction of a Detached Garage	28'			9'							Maintained Existing Encroachments
2012	5185 Greenwood Circle	R1-A	6,478	New Single Family Home	26'							6.30%			Additional Variance Approved to Exceed the Maximum Permitted Structure Volume by 2,556 Cubic Feet
2011	5195 Greenwood Circle	R1-A	7,724	Construct Lakeside Deck				2'3"	21'6"				2%		Deck Was Approved as Part of a 1999 Variance for the Construction of the Home, but Never Built
2000	4900 Meadville Street	R1-A	7,817	Reconstruction of a Detached Garage	23'	1'	7'						9.40%		1) Increased Front Setback From 0' to 7' 2) Increased North Side Yard From 3' to 9' 3) Increased South Side Yard From 2' to 3' 4) Impervious Surface Area Increased by .4%
2003	5135 West Street	R1-A	7,844	New Single Family Home	23'-6"				1'10"				5.20%		Encroachments and Impervious Surface Coverage Negotiated with the City
2002	5210 Meadville Street	R1-A	9,280	New Single Family Home		11'5"					10'		9.50%		1) Increased North Setback from 3' to 3'-7" 2) Lake Setback Increased From 16' to 40' 3) Impervious Surface Area Reduced by 18.8%
2007	21500 Fairview Street	R1-A	9,292	New Detached Garage	18'								5.40%		Increased Front Yard Encroachment, Approved to Improve Lake Yard Setback, Increase in Impervious Surface Area - Never Built
2005	4970 Meadville Street	R1-A	9,461	Increase the Height of a Non-Conforming Structure					8'				14%		Adding Height to an Existing Structure, No Change in Existing Encroachments
2006	4970 Meadville Street	R1-A	9,461	New Single Family Home on Existing Non-Conforming Footprint				4'	8'5"				6%		Slight increases in both side yard setbacks, 3" on East Side Yard and 7" on West Side Yard. Impervious Surface Area Reduced by 8%.
2002	21885 Fairview Street	R1-A	9,609	New Deck	32'								2.50%		1) Increased Rear Encroachment From 25'-7" to 32' 2) Increased Impervious Surface Area by .7%
2004	5040 Meadville Street	R1-A	9,800	Second Story Addition Over a Non-Conforming Structure	8'	6'2"	1'6"						13%		Built Over Existing Footprint, No Further Encroachments or Impervious Surface Area
2002	4700 Linwood Circle	R1-A	9,833	Reconfigure Non-Conforming Roofline							21'				The Closest Portion of the Home Encroached 41' Into the Required Setback. The Alteration was Set Back Further
2012	5160 Greenwood Circle	R1-A	9,833	Retaining Walls											Approved Variance to Alter the Grade by a Maximum of 13'
2007	5520 Maple Heights Road	R1-A	10,147	Reconstruct Non-conforming Deck		12'7"	7'3"						4%		No Increase in Existing Encroachments or Impervious Surface Area
2005	5510 Maple Heights Road	R1-A	11,916	Reconstruct Non-conforming Deck		3'	6'						17.80%		No Change in Existing Encroachments
2001	21490 Fairview Street	R1-A	11,963	Repair and Expand Existing Deck							46'		24.80%		Decreased Lake Encroachment from 11' to 4' Impervious Area Increased by 1.1%
2004	21490 Fairview Street	R1-A	11,963	New Single Family Home			10'				34'		21%		Reduced Existing Non-Conforming Footprint: 1) Eliminated West Side Encroachment 2) Reduced South Side Encroachment From 15' to 12'-6" 3) Lake Encroachment Reduced From 39' to 34' 4) Impervious Surface Area Reduced by 1%
2006	5545 Maple Heights Road	R1-A	12,780	Raise Existing Non-Conforming Home and Construct New Addition	21'-3"	1'4"					5'				Maintained Existing Front Encroachment, Created North Side Yard Encroachment and Decreased Rear Yard Encroachment by 10"
2012	5370 Manor Road	R1-A	12,993	Construct Second Story and Addition on a Non-Conforming Structure			10'				4'				South Side Yard is an Exterior Side Yard with a 30' Required Setback
2007	5050 Meadville Street	R1-A	13,034	New Single Family Home						12'			4.70%		South Side Yard is a Exterior Side Yard the Existing Setback was Increased from 3'-1" to 18", the Impervious Surface Area was Increased by 3.4%
2007	5060 Covington Street	R1-A	13,157	Reconstruct Non-conforming Deck	26'-1"										Front Yard Setback Increased by 2'-11", Eight Foot Increased Encroachment Into Wetland Setback
2007	21845 Byron Circle	R1-A	14,175	New Single Family Home	20'-10"			8'							No Change in Encroachments, Including Placement in Bluff
2008	5110 West Street	R1-A	14,842	Reconstruction of a Detached Garage					11'				8.80%		No Change in Existing Encroachments or Impervious Surface Area
2002	5500 Maple Heights Road	R1-A	15,766	New Second Story and Addition			11'								Second Story Maintained Existing 11' Setback. Addition Behind Existing Home Granted 8' Setback.

Year	Address	Zoning District	Lot Area	Type of Project	Front Yard	N	S	E	W	Exterior Side Yard	Rear Yard	Lake Yard	Impervious Surface Area	Structure Height	Additional Notes
2002	21885 Byron Circle	R1-A	16,247	Second Story Addition Over a Non-Conforming Structure	8'										Built Over Existing Footprint, No Further Encroachment
2000	21905 Minnetonka Boulevard	R1-A	16,605							3'					Simple Subdivision Creating a New Vacant Lot Leaving the Existing "Homestead" Lot With Existing Setbacks - No Change in Setbacks
2006	21550 Excelsior Boulevard	R1-A	16,932	Deck Addition								5'-5"	15%		Deck Addition Setback Further From Closest Lake Encroachment, No Change in Impervious Surface Area
2012	21550 Excelsior Boulevard	R1-A	16,932	Place Frost Footing Under Existing Non-Conforming Garage								8'	16%		No Change in Existing Encroachment or Impervious Surface Area
2001	4680 Linwood Circle	R1-A	17,332	New Air Conditioning Unit					13'						Required Setbacks for A/C Units are 20'
2000	5220 Meadville Street	R1-A	17,977	Addition									14%		Reduction of Original Impervious Surface Area by 4%
2012	20965 Channel Drive	R1-A	19,045									25'	6.50%		
2003	21320 Excelsior Boulevard	R1-A	19,600	Addition					5'				3.60%		Existing Deck Encroached 9' Into the Required Setback
2009	21290 Excelsior Boulevard	R1-A	19,880	New Attached Garage									9.46%		Slight Decrease in Impervious Surface Area, Approximately 1%
2009	21780 Fairview Street	R1-A	20,018	New Single Family Home						15'					15' Encroachment Into Required 30' Exterior Side Yard Setback from a non-developed street ROW
2003	5180 St. Alban's Bay Road	R1-A	20,137	Reconstruction of a Detached Garage				11'6"					8.90%		Larger Garage to Replace Existing Garage, no Increase in Encroachment, 2% increase in Impervious Surface Area
2007	5180 St. Alban's Bay Road	R1-A	20,137	Additions		3'	8'						7.20%		Proposed Additions Set Back Further Than Current Encroachments, Increase of .4% in Overall Impervious Surface Area
2007	4940 Meadville Street	R1-A	20,151	Reconstruct Non-conforming Deck								28'-6"	7%		No Change in Existing Encroachments or Impervious Surface Area
2002	21620 Minnetonka Boulevard	R1-A	20,177	Reconstruction of a Detached Garage	3'-3"							1'-4"	0.30%		Maintained Existing Encroachments and Impervious Surface Area
2002	21270 Excelsior Boulevard	R1-A	20,366	Accessory Structure Repair								46'	2.60%		Repair Existing Non-conforming Structure, no Change in Non-Conformity
2008	21250 Excelsior Boulevard	R1-A	21,229	Convert Flat Roof to Pitched Roof on Non-Conforming Structure				6'6"							No Change in Existing Encroachment
2007	5200 Meadville Street	R1-A	21,903	Reconstruct Non-conforming Deck								3'			No Increase in Existing Encroachments
2008	5085 Greenwood Circle	R1-A	23,577	Garage Addition									6.60%		Reduction in Impervious Surface Area of .4%
2002	5600 Maple Heights Road	R1-A	25,870	Garage Addition	4'-5"										New Encroachment
2011	21520 Fairview Street	R1-A	27,712	Reconstruct Non-conforming Deck								7'	5.30%		1'-6" Decrease in Lake Yard Encroachment, .3% Increase in Impervious Surface Area
2003	4980 Sleepy Hollow Road	R1-A	30,900	New Attached Garage	6'		6'								New Encroachments
2005	5125 Weeks Road	R1-A	33,360	Reconstruct Non-conforming Deck								10'			No Change in Existing Encroachments
2005	4640 Linwood Circle	R1-A	37,778	Increase the Height of a Non-Conforming Structure		3"						10'			Adding Height to an Existing Structure, No Change in Existing Encroachments
2003	5560 Maple Heights Road	R1-B	59,840	Height Variance for a Tower, Variance to Place an Accessor Structure Between Principal Structure and Lake											Tower Denied. Accessory Structure met all Setbacks. Request Approved, no Location on Property Structure Could be Placed in Compliance with Ordinance.
2012	5220 Maple Heights Road	R1-A	100,018	Reconstruct Non-conforming Deck and Lakeside Accessory Structure		6'7"	7'2"						16%		No Increase in Existing Encroachments or Impervious Surface Area for Deck Replacement, Also Approved Variance to Alter Existing Accessory Structure
2000	21250/21270 Excelsior Boulevard	R1-A		Electronic Lift				15'				50'			0' Lot Line, Lift Agreement Between Neighbors

**DENIED**

2007	21890 Byron Circle (Denied)	R1-A	9,991	New Single Family Home											Request to Construct a Home on a Non-Conforming Lot - Request Denied
2006	20885 Channel Drive (Denied)	R1-A	18,311	Height Variance For House										1'-6"	Flat Roof Structure - Added Design Feature for Average Height Measurement

Year	Address	Zoning District	Lot Area	Type of Project	Front Yard	N	S	E	W	Exterior Side Yard	Rear Yard	Lake Yard	Impervious Surface Area	Structure Height	Additional Notes
2000	20920 Oak Lane (Denied)	R1-B	22,969	New Single Family Home							20'				Proposed Single Family Home Pushed to the Rear of the Lot

 Lot Area Less Than 15,000  
 40% Hardcover Permitted with  
 Conditional Use Permit Prior to  
 2003



**Agenda Item:** Resolution 15-13 Findings Regarding Showcase Event Application, Denali Custom Homes, 5190 Meadville Street

**Summary:** Denali Custom Homes, Inc. constructed a new single family home at 5190 Meadville Street. This structure did not require any city approval outside the issuance of a building permit. The project is nearly complete and the contractor would like to include it in the Luxury Home Tour. City code requires a showcase event permit for this type of activity. The application process for a showcase event permit is outlined in section 450 of the city code:

Section 450.10(1) requires the issuance of a permit from the city council for the inclusion of a property in a showcase even and limits the display of project to three consecutive weekends. The Luxury Home Tour is a three-week event.

Section 450.20 outlines the submittal procedures for obtaining a permit. This includes a public hearing notice mailed to neighboring properties and public notice published in Sun-Sailor. Staff has completed these tasks. After the public hearing, the council must make a decision on whether to grant or deny the application by resolution (see the attached resolution).

Section 450.25 outlines the required submittal information (see attached documents):

- (a) A site plan that identifies buildings, driveways, local streets, parking locations for employees and the public, temporary structures, temporary restrooms, any cordoned off area(s) and the location of all proposed on-site and off-site signage.
- (b) Proposed shuttle pick-up point and route to the showcase property.
- (c) A letter of approval from the police department state that all of their conditions have been met.
- (d) A Certificate of General Liability Insurance – The application shall provide public liability insurance in the amounts determined by the city council and set forth in chapter 5 of this code book. The city, its agents and employees must be named as additional insured.

Section 450.30 outlines the review and approval process. The city shall consider the following criteria before issuing a permit (see attached resolution):

- (a) The showcase event or garage sale will not endanger the public health, safety or general welfare of its resident; and
- (b) The showcase event or garage sale will not cause undue traffic hazards, congestion or parking shortages; and
- (c) The showcase event or garage sale will not impose excessive burden on the city or its residents or cause damage to private property, parks, street, right-of way, or other public property.

Section 450.35. The city may impose additional conditions upon the permit holder as deemed necessary for the protection of the public including the properties located in the vicinity of the showcase event or garage sale and to ensure compliance with the requirements of this section.

**Council Action:** Required. Possible motions ...

1. I move the council adopts resolution 15-13 **approving** the Showcase Event Permit request by Denali Custom Homes.
2. I move the council **denies** the Showcase Event Permit request by Denali Custom Home, Inc. The applicant does not meet the criteria outlined in section 450.30 of the city code because: \_\_\_\_\_.

# Garage Sale & Showcase Event Permit Application (this form is not a permit)



Any given residential property may be host to one garage sale each year without a permit. Thereafter a permit is required. Garage sales may be held Thursdays through Sundays over a single weekend period. Showcase events may be held Thursdays through Sundays over a consecutive 3-week period. Applicants are limited to obtaining one showcase event permit per calendar year at the same street address.

**Non-refundable application fee: \$50 plus cost of mailing and publishing notification, plus proof of insurance (\$300,000 per person, \$500,000 per incident, \$50,000 property damage)**

**Person completing form:**  Property Owner  Owner's Representative (builder, realtor, architect, etc.)

*If you prefer to complete this form electronically, it is available for downloading at [www.greenwoodmn.com](http://www.greenwoodmn.com).*

Date application received (office use only)	
Date(s) of sale or event	JUNE 7, 8, 9, 14, 15, 16, 21, 22, 23 (12 noon - 7 PM)
Property address	5190 MEADVILLE ST
Names of all property owners	DAN HANRAHAN, REBECA LERGIER
Cell phone and email of property owner(s)	DAN 305-582-8643 Rebea 786-290-0153
Name of owner's representative (if any)	DAVID BIEKER
Company name of owner's representative	DEWALI CUSTOM HOMES, INC.
Company address	18352 MINNETONKA BLVD DEEPAVEN, MN
Company license number	BC 175394
Cell phone and email of owner's rep	612-718-1671 DEWALI.HOMES@HOTMAIL.COM

The undersigned hereby make this application for:  Garage Sale Permit  Showcase Event Permit, describe type of event:

Luxury Home Tour

**Required documents for all applications:**

A site plan that identifies buildings, driveways, local streets, parking locations for employees and the public, temporary structures, temporary restrooms, any cordoned off area(s) and the location of all proposed on-site and off-site signage whether for parking, advertising, and/or directions.

A letter of approval from the police department stating that all of their conditions have been met.

A certificate of general liability insurance. The city, its agents and employees must be named as additional insured.

**Garage sale applications:** Number of garage sales at this site in last three years:

Goods for sale are:  Used personal property  New items purchased specifically for the sale

**Showcase event applications:** Will you be using a shuttle service  No  Yes, attached is a site plan showing the proposed shuttle pick-up point and route to the showcase property. OFF STREET PARKING AVAILABLE

The undersigned hereby acknowledge the receipt of: Code Section 450 Garage Sales and Home Showcase Events (attached)

The undersigned hereby acknowledge the following: The property owner(s) listed above are the sole fee title owner(s) of the above described property; information provided on this application is true, complete and accurate; if the application is approved, the event will be in accordance with the city code and all conditions imposed by the city in granting the permit; authorization for photographs of the property and reasonable entry onto the property by city staff, consultants, agents, and city council members; agreement to hold the city of Greenwood harmless from all liabilities that may arise directly or indirectly from the sale or event; agreement to pay for the services of security officers (if required).

Signature of property owner (required)

*[Signature]*

Date: 5-21-13

Signature(s) of additional property owner(s) (if any)

*[Signature]*

Date: 5-22-13

Signature of owner's representative (if any)

*[Signature]*

Date: 5-21-13

For Office Use Only	Approved By:	Fee Paid: <input type="checkbox"/> Cash <input type="checkbox"/> Check	Amount \$	Approval Date:
---------------------	--------------	--	-----------	----------------

Form Updated 11-10-11

## **SECTION 450. GARAGE SALES AND HOME SHOWCASE EVENTS.**

### **Section 450.00. Purpose and Objectives.**

The purpose of this section is to establish standards to protect the health, safety and general welfare of the public from the undesirable effects associated with garage sales and home showcase events conducted at residentially zoned property.

### **Section 450.05. Definitions.**

See chapter 12 for definitions.

### **Section 450.10. Permits Required.**

Subd. 1. No showcase event may occur at a residential property unless a showcase event permit has been first procured from the city. A person seeking issuance of a permit shall file an application with the city. The application shall be accompanied by the fee listed in chapter 5 of this code book. To ensure an orderly approval process, a permit application must be filed not less than 60 days before the first date of the showcase event. The application shall set forth all such information as the city shall find necessary to properly evaluate the application. Failure to file a complete application in a timely manner is grounds for denial of the permit.

Subd. 2. In the event a given residential property has been the site of a garage sale at anytime in the preceding 12-month period, no other garage sale may occur at such residential property unless a garage sale permit has been first procured from the city. A person seeking issuance of a permit shall file an application with the city. The application shall be accompanied by the fee listed in chapter 5 of this code book. To ensure an orderly approval process, a permit application must be filed not less than 60 days before the first date of the garage sale. The application shall set forth all such information as the city shall find necessary to properly evaluate the application. Failure to file a complete application in a timely manner is grounds for denial of the permit.

### **Section 450.15. Limits on Garage Sales and Showcase Events.**

Subd. 1. Showcase events may be held Thursdays through Sundays over a consecutive 3-week period. Applicants are limited to obtaining one showcase event permit per calendar year at the same street address.

Subd. 2. Garage sales may be held Thursdays through Sundays over a single weekend period. Any given residential property may be host to a single garage sale each year without a permit first required. Thereafter permits are required. Applicants are limited to obtaining one garage sale permit per calendar year at the same street address.

### **Section 450.20. Procedure.**

Subd. 1. Notice. The city shall send mailed notice of the date of the council meeting at which the application will be heard at least 10 days before the meeting. The notice will be published in the official city newspaper and mailed to all property owners within 350 feet of the property in which the proposed showcase event or garage sale is to be held. The cost for mailing and publication of the notice shall be paid by the applicant.

Subd. 2. Public Hearing. The council shall hold a public hearing on the application at any regularly scheduled or special meeting. The public hearing may be continued after this first regular meeting to a subsequent regular or special meeting, but the continuance may not be more than 60 days after the first regular meeting at which the application was heard.

Subd. 3. Council Decision. After the public hearing, the council will grant or deny the application by resolution. The resolution shall be supported by specific findings of fact. If a permit is approved, the resolution also shall include any specific conditions imposed in connection with the issuance of a showcase event or garage sale permit that the council deems necessary for protection of the public health, safety, or welfare including limitations on hours and traffic and parking regulations.

### **Section 450.25. Required Submittal Information.**

Subd. 1. Showcase Events.

- (a) A site plan that identifies buildings, driveways, local streets, parking locations for employees and the public, temporary structures, temporary restrooms, any cordoned off area(s) and the location of all proposed on-site and off-site signage.
- (b) Proposed shuttle pick-up point and route to the showcase property.
- (c) A letter of approval from the police department stating that all of their conditions have been met.

- (d) A Certificate of General Liability Insurance – The applicant shall provide public liability insurance in the amounts determined by the city council and set forth in chapter 5 of this code book. The city, its agents and employees must be named as additional insured.

Subd. 2. Garage Sales.

- (a) Number of garage sales held at the residential site in the past 3 years.
- (b) Whether the goods to be sold at the garage sale are used personal property of the owner and owner's family or include new goods or goods purchased specifically for the sale at the proposed garage sale.
- (c) A site plan that identifies buildings, driveways, local streets, parking locations for the public, and a parking management plan and the location of all proposed on-site and off-site signage whether for parking, advertising, and or directions.
- (d) A letter of approval from the police department stating that all of their conditions have been met.
- (e) A certificate of general liability insurance. The applicant shall provide public liability insurance in the amounts determined by the city council and set forth in chapter 5 of this code book. The city, its agents and employees must be named as additional insured.

**Section 450.30. Review and Approval Process.**

The city shall consider the following criteria before issuing a permit:

- (a) the showcase event or garage sale will not endanger the public health, safety or general welfare of its residents; and
- (b) the showcase event or garage sale will not cause undue traffic hazards, congestion or parking shortages; and
- (c) the showcase event or garage sale will not impose an excessive burden on the city or its residents or cause damage to private property, parks, streets, rights-of-way, or other public property.

**Section 450.35. Conditions.**

The city may impose additional conditions upon the permit holder as deemed necessary for the protection of the public including the properties located in the vicinity of the showcase event or garage sale and to ensure compliance with the requirements of this section.

SPECIAL SPONSORED SECTION

# MIDWEST HOME <sup>13th annual</sup> luxuryhometour

THREE WEEKENDS! June 7-9, 14-16, & 21-23, 2013



17 Doorways to  
*Luxury*



Co-Presenting Sponsor



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HOMES VALUED FROM \$1 MILLION TO \$5 MILLION!

## 2013 BUILDER

6



5190 Meadville St., Greenwood, MN 55331

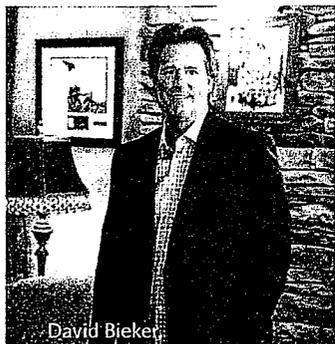
952-476-2679 • www.DenaliCustomHomes.com

## DENALI CUSTOM HOMES, INC.

The linear profile of this modern house is unlike any other home on the street. The one-of-a-kind design combines the impeccable detailing and fine craftsmanship customary of David Bieker, president of Denali Custom Homes.

Located on the shore of Lake Minnetonka, the primary focus of the unusual exterior includes a 20-foot self-supporting roof span designed to provide unobstructed views of the lake; while the focus of the interior was to create a welcoming space ideal for entertaining family and friends. Interesting elements include a beautiful glass-walled wine cellar noticeable from the dining room and kitchen, a separate scullery room for doing dishes after the party ends, and a kitchen island with a live edge walnut countertop. The lower level provides ample space for when the kids visit over holiday vacation and summer break, and doubles as the perfect spot for the exercise room.

The great room's 24-foot floor-to-ceiling retractable Marvin sliding door system provides an immediate connection to the outdoors (and since this is Minnesota, a retractable screen drops into place to combat mosquitoes). When the weather cooperates, the vast covered veranda allows for taking in the lake view while grilling or sitting beside a wood-burning fireplace.



David Bieker



BC20175394

Proudly featuring

MARVIN

Built around you.

## DIRECTIONS

- Take I-494 to Hwy 7 West
- Take Hwy 7 West to Christmas Lake Rd. and drive .5 mile
- Turn right/north on Christmas Lake Rd. to Excelsior Blvd. and drive 1/2 block
- Turn left/west on Excelsior Blvd. to Minnetonka Blvd. and drive 1/2 mile
  - Turn right/north on Minnetonka Blvd. to Meadville St. and drive 1/2 mile
- Turn left/west on Meadville St. and drive 1/2 block to house
- House will be on west/left side of street – watch for parking signs
  - The home is located directly across from the Old Log Theater

## NEARBY



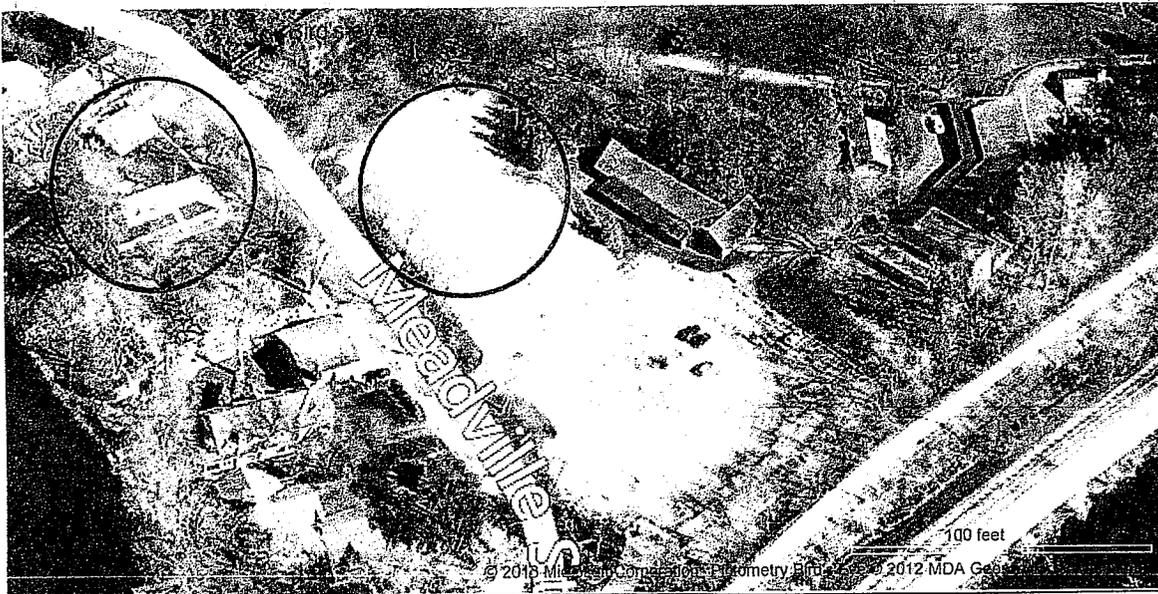
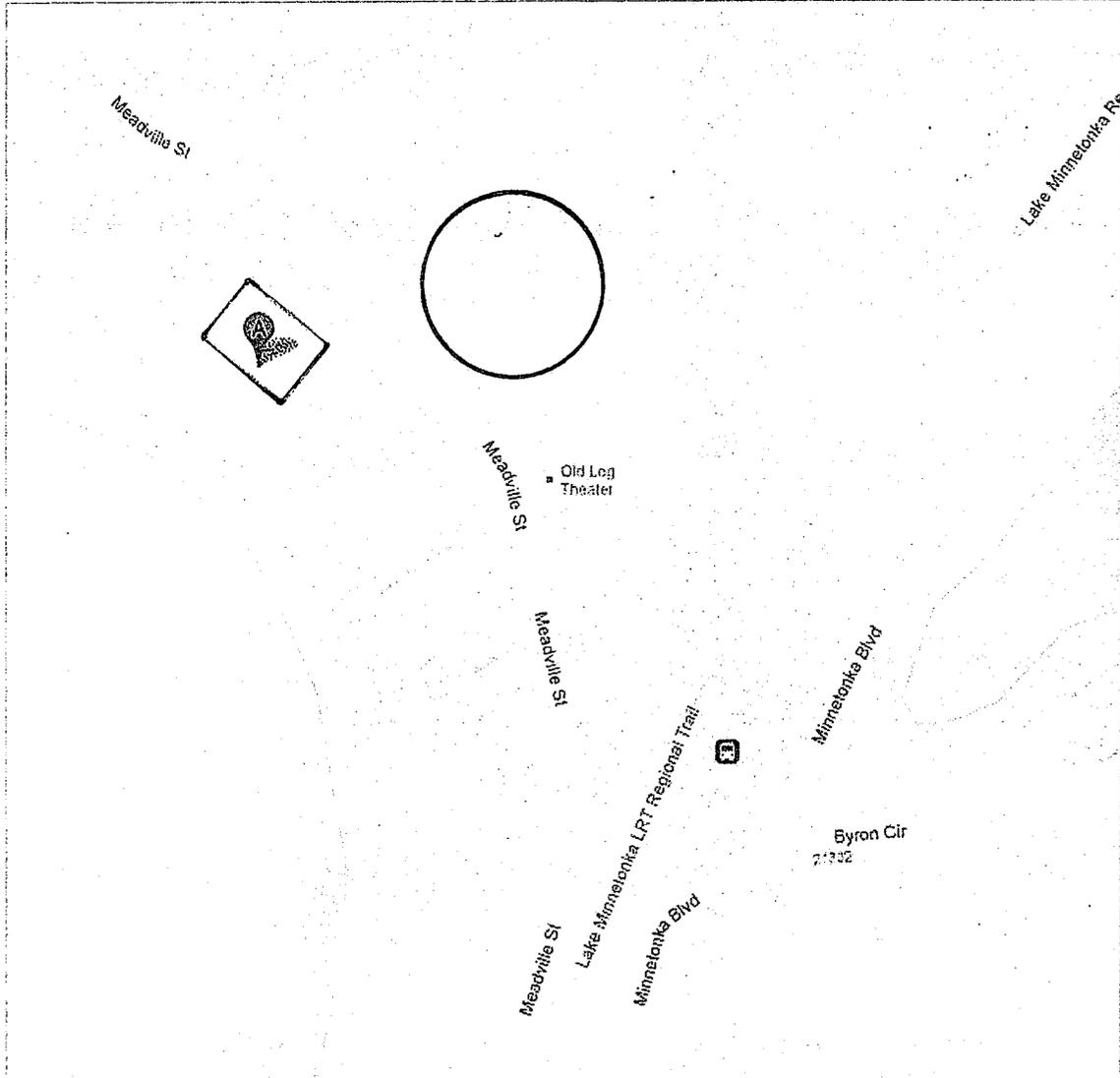
(7 HI) 4754 County  
Road 101 Minnetonka  
or 23520 Highway 7,  
Shorewood



Address 5190 Meadville St  
Excelsior, MN 55331

Get Google Maps on your phone

Text the word "GMAPS" to 466453





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/21/13

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  WYMER INSURANCE INC. 1718 Hill Ave., PO Box 236 Spirit Lake, IA 51360	CONTACT NAME: <b>Connie J. Wymer</b>	
	PHONE (A/C, No, Ext): <b>712-336-0028</b> FAX (A/C, No): <b>336-0029</b> E-MAIL ADDRESS: <b>connie@wymerinsurance.com</b> PRODUCER CUSTOMER ID #:	
INSURED  DENALI CUSTOM HOMES, INC. David Bieker 18352 Minnetonka Blvd. Deephaven, MN 55391	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: <b>EMPLOYERS MUTUAL CASUALTY</b>	
	INSURER B: <b>#4917</b>	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			2PO 4758	5/13/13 to 5/13/14		EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	GENTL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			2EO 4758	5/13/13 to 5/13/14		COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$			2JO 4758	5/13/13 to 5/13/14		EACH OCCURRENCE \$ AGGREGATE \$ \$ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	Property located at:			5190 Meadville St., Greenwood, MN 55331			

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
**ADDITIONAL INSURED: City of Greenwood MN, its agents & employees and Dan Hanrahan and Rebeca Lerqier**

CERTIFICATE HOLDER  GREENSPRING MEDIA GROUP 600 U.S. Trust Bldg 730 2nd Ave. So., Minneapolis, MN 55402	CANCELLATION  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. <b>CONNIE J. WYMER</b> AUTHORIZED REPRESENTATIVE 
--	---



**SOUTH LAKE MINNETONKA  
POLICE DEPARTMENT**

24150 SMITHTOWN ROAD  
SHOREWOOD, MN 55331-8598

BRYAN T. LITSEY  
Chief of Police

Office (952) 474-3261  
Fax (952) 474-4477

May 23, 2013

Mayor Debra Kind  
City of Greenwood  
20225 Cottagewood Rd  
Deephaven, MN 55331

Dear Mayor Kind:

On Wednesday, May 21, 2013 I met with a representative of Denali Custom Homes, Inc. He presented me with a Garage Sale & Showcase Event Permit Application from the City of Greenwood.

The permit application requested the showcase events for the address of 5190 Meadville St., Greenwood, MN. The dates and times for these events was listed as every Saturday and Sunday in June, 12:00 PM to 7:00 PM. Denali Custom Homes, Inc. identified off street parking for guests of the event in the parking lot of the Old Log Theater, 5185 Meadville St., Greenwood, MN.

It appears that Danali Custom Homes, Inc. has made adequate parking provisions for their event. Any parking on Meadville shall not obstruct police, fire or ambulance vehicles. The South Lake Minnetonka Police Department recommends approval of this permit.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Pierson". The signature is fluid and cursive, written over a faint, large watermark of the South Lake Minnetonka Police Department badge.

David W. Pierson  
Deputy Chief

**CITY OF GREENWOOD  
RESOLUTION NO. 15-13**

**A RESOLUTION APPROVING THE SHOWCASE EVENT PERMIT APPLICATION  
FOR DENALI CUSTOM HOMES, 5190 MEADVILLE STREET**

**WHEREAS**, Denali Custom Homes is the builder of a home owned by Dan Hanrahan and Rebecca Lergier located at 5190 Meadville Street, Greenwood, Minnesota 55331; and

**WHEREAS**, an application was made for a showcase event permit for this property to participate in a Luxury Home Tour to be held from 12 noon to 7pm on June 7, 8, 9, 14, 15, 16, 21, 22, 23; and

**WHEREAS**, notice of public hearing was published, notice has been mailed to neighboring property owners, and a public hearing was held before the city council to consider the application; and

**WHEREAS**, public comment was taken at the public hearing before the city council on June 5, 2013; and

**WHEREAS**, the city council of the city of Greenwood has received the staff report and considered the application, the comments of the applicant, and the comments of the public.

**NOW, THEREFORE**, the city council of the city of Greenwood, Minnesota does hereby make the following:

**FINDINGS OF FACT**

1. The real property located at 5190 Meadville Street, Greenwood, Minnesota 55331 is a single-family property located within the R-1A single-family residential district.
2. The applicant, in compliance with Section 450.25 Subd 1, has submitted the following requisite information:
  - (a) A site plan that identifies buildings, driveways, local streets, parking locations.
  - (b) A letter of approval from the police department stating that all of their conditions have been met.
  - (d) A certificate of general liability insurance in the amount of \$ 4,000,000, naming the city, its agents and employees as additional insureds.
3. The foregoing are code compliant and adequately meet the needs of public health, safety, and welfare, provided the conduct of the showcase event conforms with the description and specifications in the submitted plans.
4. Section 450.30 permits the city to impose additional conditions upon the permit holder as deemed necessary for the protection of the public including the properties located in the vicinity of the showcase event or garage sale and to ensure compliance with the requirements of this section.
5. In the interests of public health, safety, and welfare the following additional conditions should be imposed on the applicant as a condition of issuance of the permit:
  - (a) Applicant shall comply with prior noticed conditions from the police department and all subsequent orders of the police department issued during course of event related thereto.

**CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the city council makes the following Conclusions of Law:

1. That applicant has met the site plan, police approval, and insurance prerequisites of Section 450.25, Subd 1.
2. The applicant has made an adequate demonstration of facts meeting the standards of section 450 necessary for the granting of a showcase permit, demonstrating:
  - a. The proposed showcase event will not endanger the public health, safety or general welfare of the city's residents; and
  - b. The proposed showcase event will not cause undue traffic hazards, congestion or parking shortage; and
  - c. The proposed showcase event will not impose an excessive burden on the city or its residents or cause damage to private or public property.
3. In the interests of public health, safety and welfare the following additional condition should be imposed on the permit:
  - a. Applicant shall comply with prior noticed conditions from the police department and all subsequent orders of the police department issued during course of event related thereto.

**NOW, THEREFORE, BE IT RESOLVED** by the city council of the city of Greenwood, Minnesota hereby approves the issuance of a showcase event permit to Denali Custom Homes for the planned event at 5190 Meadville Street, Greenwood, Minnesota for the dates of June 7, 8, 9, 14, 15, 16, 21, 22, and 23 subject to compliance with the following conditions:

1. The showcase event must comply with the application's stated site plan, shuttle plan, police approval, and certificate of insurance, (to be delivered to City Clerk prior to issuance of permit in form meeting city approval); and
2. Applicant shall comply with prior noticed conditions from the police department and all subsequent orders of the police department issued during course of event related thereto.

**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 Number: **7B**

Agenda Date: 06-05-13

**Agenda Item:** Consider Liquor License Application, Mayette Enterprises LLC, 5175 Meadville Street

**Summary:** The city has received an on-sale intoxicating liquor license application from Greg Frankenfield of Mayette Enterprises LLC (the buyer of the Old Log Theater property). The application process for the license is outlined in section 820 of the city code. The process includes a background investigation, a public hearing (held earlier on the 06-05-13 council agenda), and 3/5 vote of the council. For the council's reference, attached are copies of the application, background investigation authorization documents, and background investigation results.

**Council Action:** Council action is required. Potential motions:

1. I move the city council approves the on-sale intoxicating liquor license requested by Greg Frankenfield, Mayette Enterprises LLC conditioned upon the receipt of \$6333.33 (\$500 investigation fee, plus \$5833.33 for prorated portion of the \$10,000 fee set forth in section 510 of the city code for an on-sale intoxicating liquor license).
2. Other motion ???

City of Greenwood  
2010 On-Sale Intoxicating Liquor License  
(including On-Sale Wine and Sunday Sales)

DATE 18 APR 2013

1. Type of Applicant

natural person     partnership     LIMITED LIABILITY COMPANY     corporation  
(partnerships must identify all partners including limited partners – corporations must identify all directors and officers. Post office addresses are not accepted.)

**NOTE:** No License may be issued to an applicant unless the applicant makes a bona fide estimation that at least 60% of the gross receipts of the establishment during its first year of business will be attributed to the sale of food.

2. Full Name(s) of Applicant

*Mayette Enterprises, LLC*

A. Name GREGORY George Frankentfield CEO OF

Date of Birth 10/7/1959 Place of Birth MINNEAPOLIS, MN

Residential Street Address 5750 MERRY LANE, SHOREWOOD  
MN, 55331

Office Address 1600 UTICA AVE S. SUITE 800  
ST. LOUIS PARK, MN 55416

B. Name \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Residential Street Address \_\_\_\_\_

Office Address \_\_\_\_\_

C. Name \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Residential Street Address \_\_\_\_\_

Office Address \_\_\_\_\_

3. If any applicant, partner, director, or officer of applicant, has ever used or been known by a name other than his true name listed on the application – state name(s) used and give full particulars concerning dates and places of use:

N/A

4. Business Name of Liquor License establishment to be employed:

(If an assumed name, attach copy of Secretary of State Certificate of Assumed Name)

5. For each applicant, partner, director, or officer of applicant, state their home addresses for the past 5 years:

A. Applicant Name Gregory George Frankentfield  
Address: 5750 Merry Lane, Sherwood, MN 55331 dates: 2000 - Present

Address: \_\_\_\_\_ dates: \_\_\_\_\_

Address: \_\_\_\_\_ dates: \_\_\_\_\_

B. Applicant Name \_\_\_\_\_

Address: \_\_\_\_\_ dates: \_\_\_\_\_

Address: \_\_\_\_\_ dates: \_\_\_\_\_

Address: \_\_\_\_\_ dates: \_\_\_\_\_

C. Applicant Name \_\_\_\_\_

Address: \_\_\_\_\_ dates: \_\_\_\_\_

Address: \_\_\_\_\_ dates: \_\_\_\_\_

Address: \_\_\_\_\_ dates: \_\_\_\_\_

6. If any applicant, partner, director, or officer of applicant, has been convicted or pled guilty to a crime, be it a felony, gross misdemeanor, or misdemeanor, give full particulars of offense, date of offense, and place of offense:

N/A

7. If applicant, partner, director, or officer of applicant, have ever served as an employee, manager, or operating officer of a saloon, hotel, restaurant, café, tavern, bar, or other business licensed to sell intoxicating liquor or non-intoxicating liquor, state name of person so employed, employer, employer address, length of employment, and dates of employment, and dates of employment:

N/A  
\_\_\_\_\_  
\_\_\_\_\_

8. If a manager or operating supervisor will be employed by applicant to run the business to be licensed, provide the following:

A. Name \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Residential Street Address \_\_\_\_\_  
\_\_\_\_\_

B. Other names of manager/operating supervisor has been known by – give full particulars of name(s), dates of use, place of use, and reason for alias:

\_\_\_\_\_  
\_\_\_\_\_

C. Home street address for past five (5) years:

\_\_\_\_\_ Dates: \_\_\_\_\_

\_\_\_\_\_ Dates: \_\_\_\_\_

\_\_\_\_\_ Dates: \_\_\_\_\_

D. Manager/operating supervisor employment past 5 years. If self-employed, give name and address of all partners and business name and address of operation:

Occupation \_\_\_\_\_

Employer Name and Address \_\_\_\_\_  
\_\_\_\_\_

Dates of Employment \_\_\_\_\_

Immediate Supervisor \_\_\_\_\_

Self Employment Information \_\_\_\_\_  
\_\_\_\_\_

Occupation \_\_\_\_\_

Employer Name and Address \_\_\_\_\_

Dates of Employment \_\_\_\_\_

Immediate Supervisor \_\_\_\_\_

Self Employment Information \_\_\_\_\_

Occupation \_\_\_\_\_

Employer Name and Address \_\_\_\_\_

Dates of Employment \_\_\_\_\_

Immediate Supervisor \_\_\_\_\_

Self Employment Information \_\_\_\_\_

E. If the manager/operating supervisor has ever been convicted or pled guilty to a crime, be it a felony, gross misdemeanor, or misdemeanor, give full particulars of date of offense, place of offense, and convicted offense:

9. Corporations – Additional Information Required:

A. Name of Corporation MAYETTE ENTERPRISES, LLC

Date of Incorporation 7/19/2013

State of Incorporation MINNESOTA

B. Names and Addresses of all directors:

- GREGORY GEORGE FRANKENFELD sole Director  
5750 Merry Lane, Shorewood, MN 55391

2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_  
\_\_\_\_\_

C. Names and addresses of all officers:

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_  
\_\_\_\_\_

10. Financial Interest: Applicant shall identify the total value of its unencumbered interest in the licensed premises and identify all persons or individuals, including corporations who have a financial or security interest in the business to be conducted, the premises to be licensed or the equipment furnishings or fixtures to be employed herein; as well as all persons who have or are expected to advance money to the applicant for the purpose of financing the operation including but not limited to lessors, mortgagees, chattel mortgagees, trusts, banks, or other financial institutions. Identify all co-signers or guarantors of promissory notes issued and outstanding by the applicant. Describe security pledged: (attach additional pages as necessary)

100% Interest to be established.  
Anticipated there will be no debt

11. State the value of the fixtures, furniture, and equipment to be employed:

Estimated value \$150,000 USD

State the value of the land and buildings of the licensed site:

Estimated value \$1,500,000 USD

12. DELIMITED LICENSE: If this application is for a delimited license, attach complete schedule of operating hours in conformance with state statutes 820:40, subd.2 of the Greenwood Ordinance code.

ACKNOWLEDGEMENT

I/we state the foregoing information is true and correct to the best of our knowledge and belief and agree to update all information set forth above should such changes during the license period. I/we further agree that the above information is subject to investigation and verification by the City, its Police Department, and City Attorney.

*Greg, George Fontana*  
applicant signature

CEO, MAYETTE ENTERPRISES, LLC  
title

Gregory George Fontana  
printed name

4/18/2013  
date

\_\_\_\_\_  
applicant signature

\_\_\_\_\_  
title

\_\_\_\_\_  
printed name

\_\_\_\_\_  
date

\_\_\_\_\_  
applicant signature

\_\_\_\_\_  
title

\_\_\_\_\_  
printed name

\_\_\_\_\_  
date

If applicant is a Partnership, all partners must sign. If applicant is a Corporation, the President and Secretary must sign.



City of Greenwood  
20225 Cottagewood Road  
Deephaven, MN 55331  
952-474-6633

I, GREGORY GEORGE FRANKENFIELD, am listed in a liquor license application with the City of Greenwood. I hereby grant my informed consent to, and authorize the City of Greenwood to conduct any and all inquiries they deem necessary to process this application.

This may include, but is not limited to, criminal history inquiries, driver's license checks, internal records checks, etc. I hereby release the City of Greenwood from any and all liability for using this information for a liquor license background check.

  
applicant signature

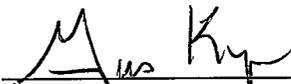
18 April 2013  
date

GREGORY GEORGE FRANKENFIELD  
print full name (first, middle, last)

7 OCT 1959  
date of birth

1695216274820  
driver's license number

**OFFICE USE:**

  
Gus Karpas, City Clerk

4/23/13  
Date

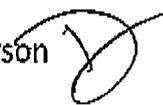
**SOUTH LAKE MINNETONKA POLICE DEPARTMENT  
24150 Smithtown Road  
Shorewood, Minnesota 55331**

Bryan T. Litsey  
Chief of Police

Office (952) 474-3261  
Fax Line (952) 474-4477

**MEMORANDUM**

**TO:** City of Greenwood

**FROM:** Lt. Dave Pierson 

**DATE:** May 1<sup>st</sup>, 2013

**RE:** **Liquor License Background – New Owner  
Old Log Theater - #13003482**

We have completed our investigation for the new liquor license applicant for the Old Log Theater in Greenwood. We have checked PC Enfors (previous record management system), LETG (current record management system), State of Minnesota Criminal History files, Warrants, Department of Corrections/Jail Records, Odyssey/Court Records, and the Secretary of State.

Unless noted below, there were no disclosable records in the files for convictions within the past five years for any violation of laws of the State of Minnesota or city ordinances relating to intoxicating liquor.

***Due to regulations on the dissemination of criminal history information, we can not access nationwide criminal history files for the purpose of background liquor license checks.***

The City of Greenwood should also review past reports for additional information should old records been inadvertently overlooked during this investigation.

**Liquor License –New Owner - Old Log Theater - #13003482**

**Page 2**

**The Old Log Theater**

PC Enfors

***01/10/2001 - Liquor - Selling to minor***

Alcohol & Gambling Enforcement Division/State of Minnesota

***\*No memo sent***

Secretary of State – Active/Good Standing

***\* The Old Log Theater obtained their liquor license renewal in December of 2012 and there were no violations on file, therefore, a memo was not sent to Alcohol & Gambling Enforcement Division/State of Minnesota. This background check has only been conducted due to a new owner of the establishment \****

**Gregory George Frankenfield, DOB 10/07/1959**

PC Enfors - No arrests

LETG – No arrests

MN Criminal History - No record

Warrants – Clear

Department of Corrections/Jail Records - No record

Odyssey/Court Records – No record

***\*\* State of Minnesota/Department of Vehicle Services no longer permits police departments to conduct driver's license checks for liquor license background investigations. Driver's license records must be obtained by the respective city \*\****

If you have any questions, please feel free to contact our office.

DP/lt



Agenda Number: **7C**

Agenda Date: 06-05-13

**Agenda Item:** Consider Liquor License Refund, Stolz Family LLC, 5175 Meadville Street

**Summary:** The city has received a request for a liquor license refund from the Stolz Family LLC (the sellers of the Old Log Theater property). MN statues section 340.408 states that liquor license fees may be refunded on a prorated basis if the "licensee ceases to carry on the licensed business under the license."

**Council Action:** Council action is required. Potential motions:

1. I move the city council **approves** the prorated refund amount of \$1666.67 for the liquor license fee paid by Stolz Family LLC, due to the fact that the licensee has ceased to carry on the licensed business under the license.
2. Other motion ???



**Agenda Item:** Consider Resolution 16-13 Findings of Fact, Variance Requests, Jim and Libby Pastor, 5100 Greenwood Circle

**Summary:** Copies of the application materials and staff report are attached for the council's reference. The planning commission considered public comment, applicant's comments, application materials, staff report, and city code variance standards (section 1155.10, attached) when making their recommendation and conditions. See the planning commission motion below and the FYI section of the council packet for a copy of planning commission minutes. For the city council's reference, copies of the staff report, and city code building requirements for residential districts (sections 1120.20, 1122.20, 1125.20) are attached. For the council's consideration, a resolution with findings of fact drafted by the city attorney also is attached.

**Planning Commission Action:** Motion by Commissioner Beal to recommend that the council approves variance requests to construct a new single family home on a nonconforming foundation which encroaches 22 feet into the minimum required 30 foot exterior east side yard setback, and a garage that encroaches 1 foot into the required 15 foot west side yard setback and 26 feet into the required rear yard setback. The variance to exceed the maximum permitted impervious surface is necessary to place a driveway in compliance with the ordinance and does not include approval of the requested encroachment for the west side deck. The motion is conditioned that the applicant submit a completely updated impervious surface table for the city council's review. Reeder seconded the motion. Motion carried 5-0.

<b>Key Dates:</b>	03-19-13	Application complete
	04-04-13	Notice of the public hearing published in Sun-Sailor
	04-17-13	Public hearing held by the planning commission
	05-15-13	Continuation of the public hearing held by the planning commission
	05-18-13	60-day deadline
	06-05-13	City council consideration
	07-17-13	120-day deadline

**Council Action:** The planning commission HAS exercised the city's authority to take a 60-day extension. Therefore the city council must take action by 07-17-13 unless the applicant grants an additional extension to the city in writing. Suggested motions ...

1. I move the city council approves resolution 16-13 laying out the findings of fact **approving** the variance application of Jim and Libby Pastor as presented (or with the following revisions: \_\_\_\_\_). I further move that the council directs the city clerk to mail a copy of the findings to the applicant and the DNR, and place an Affidavit of Mailing for each of the mailings in the property file.
2. I move the city council directs the city attorney to draft "findings for **denial**," so the council may consider both "findings for approval" and "findings for denial" at the 07-03-13 city council meeting.

*MN statute 15.99 requires a council decision within 60 days. If the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).*



# STAFF REPORT

Agenda Date: 06-05-13

## ***Agenda Item: Consider Variance Requests, Jim and Libby Pastor, 5100 Greenwood Circle***

**Summary:** Jim and Libby Pastor are requesting variances to demolish an existing non-conforming single family home down to the foundation and construct a new single family home on the existing foundation with additions onto the north and front of the home and the inclusion of a wrap-around deck beginning at the midpoint of the east face of the home and wrapping around the entire front of the home. The proposed alterations would encroach into minimum required east exterior side yard setback, encroach into the minimum required rear yard setback, exceed the maximum permitted impervious surface, and exceed the maximum permitted grade alteration with the installation of a new driveway to access the proposed attached garage. The applicant proposes to remove an existing non-conforming accessory structure located within the required west side and rear yard setbacks on the north side of the property and an existing non-conforming accessory structure located within the required front and west side yard setbacks on the south side of the property.

The property is non-conforming in that it contains a lot area of 6,450 square feet, a single family house that encroaches fifteen (15) feet into the required thirty (30) foot east exterior side yard setback and one foot, two inches (1'-2") into the required fifteen (15) foot west side yard setback, has a detached garage on the north side of the property located two inches off the north property line and one inch off the west property line, has a detached garage on the southwest corner of the property that sits two feet, seven inches (2'-7") from the front property line and one foot, ten inches (1'-10") from the west side property line and exceeds the maximum permitted impervious surface area by 6%.

The applicant proposes to remove the existing single family home down to the foundation, reinforce and expand the foundation then reconstruct the single family home on the "new" foundation. In addition to the existing footprint, the applicant would add a one-hundred and twenty (120) square foot addition on the front of the home and an eight-five (85) square foot addition on the rear of the home. The two detached structures would be removed and a small attached garage would be added to the north side of the home.

The applicant also proposes to construct a four hundred and fifty (450) square foot deck which begins at the midpoint of the east face of the home and extends southward and wraps around the front face of the home.

<b>Proposed Home</b>	Front Yard	Exterior East Side Yard	West Side Yard	Rear Yard	Structure Height	Impervious Surface	Structure Volume
Required/Permitted	30'	30'	15'	35'	28' - Eaves	30%	38,700 cu. ft.
Existing	55'	15'	13'-10"	24'		36%	Unknown
Proposed -Home -Deck	49'-5" 35'-5"	15' 8'	13 N/A	4' N/A	27'-6" Overall	47.2%	36,720 cu. ft.

- **Section 1120:15 of the Zoning Ordinance requires a minimum exterior east side yard setback of thirty (30) feet. The applicant proposes an exterior east side yard setback of eight (8) feet for the proposed deck attached to the single family home. The proposal requires a twenty-two (22) foot variance of the exterior east side yard setback.**

Aside from the deck, which is the closest encroachment into the exterior east side yard setback, there are three more proposed additions along the east face of the home, on the north and south sides and one towards the center of the home. Those located on the north and south portion of the home encroach fifteen (15) feet into the required exterior east side yard, while the addition located near the center of the home encroaches seventeen (17) feet into the required exterior east side yard setback.

- **Section 1120:15 of the Zoning Ordinance requires a minimum west side yard setback of fifteen (15) feet. The applicant proposes a west side yard setback of thirteen feet (13) feet for the proposed attached garage addition. The proposal requires a two (2) foot variance of the west side yard setback.**
- **Section 1120:15 of the Zoning Ordinance requires a minimum rear yard setback of thirty-five (35) feet. The applicant proposes a rear yard setback of four (4) feet for the proposed attached garage addition. The proposal requires a thirty-one (31) foot variance of the rear yard setback.**

The survey submitted by the applicant indicates the existing impervious surface on the property is 36%. The proposal would increase the impervious surface area by 11.2% for a total impervious surface area percentage of 47.2%. This impervious surface area may change due to the exact driveway area which the applicant is has not finalized with the city engineer.

The minimum lot area for the zoning district in which the lot is located is 15,000 square feet. The applicant has a lot area of 6,450 square feet.

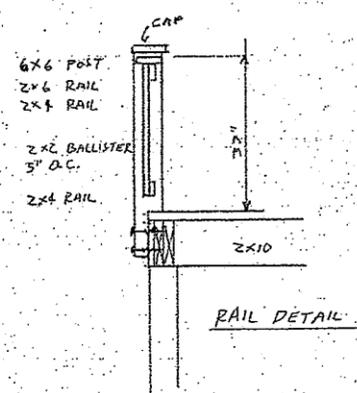
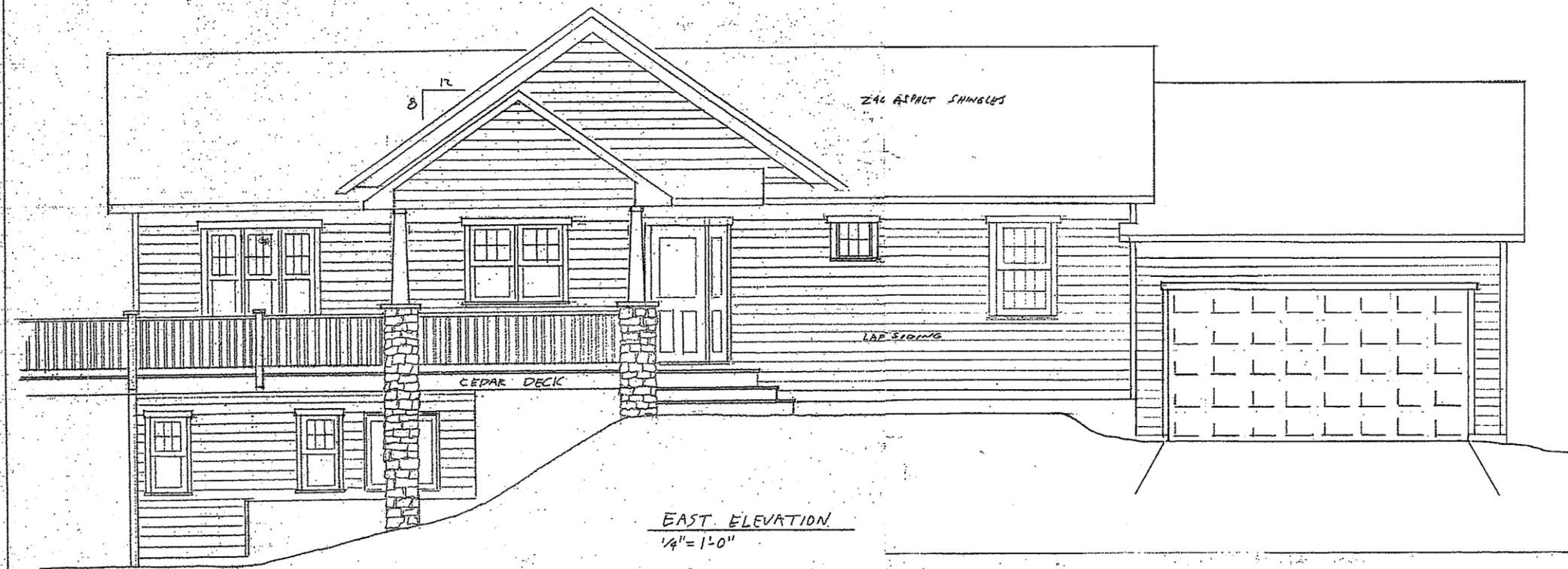
- **Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The applicant proposed an impervious surface area of 47.2%. The applicant is seeking a variance to exceed the maximum permitted impervious surface area by 17.2%.**

The applicant is expanding the total volume of structure area on the property. Based on the applicant's lot area of 6,450 square feet, the permitted structure volume for the property is 38,700 cubic feet. Based on the applicant's calculations there would 34,560 cubic feet contained in the main structure and 2,160 total cubic feet for the detached garages for a total of 36,720 cubic feet of above grade structure area. The applicant complies with the maximum permitted above grade structure volume.

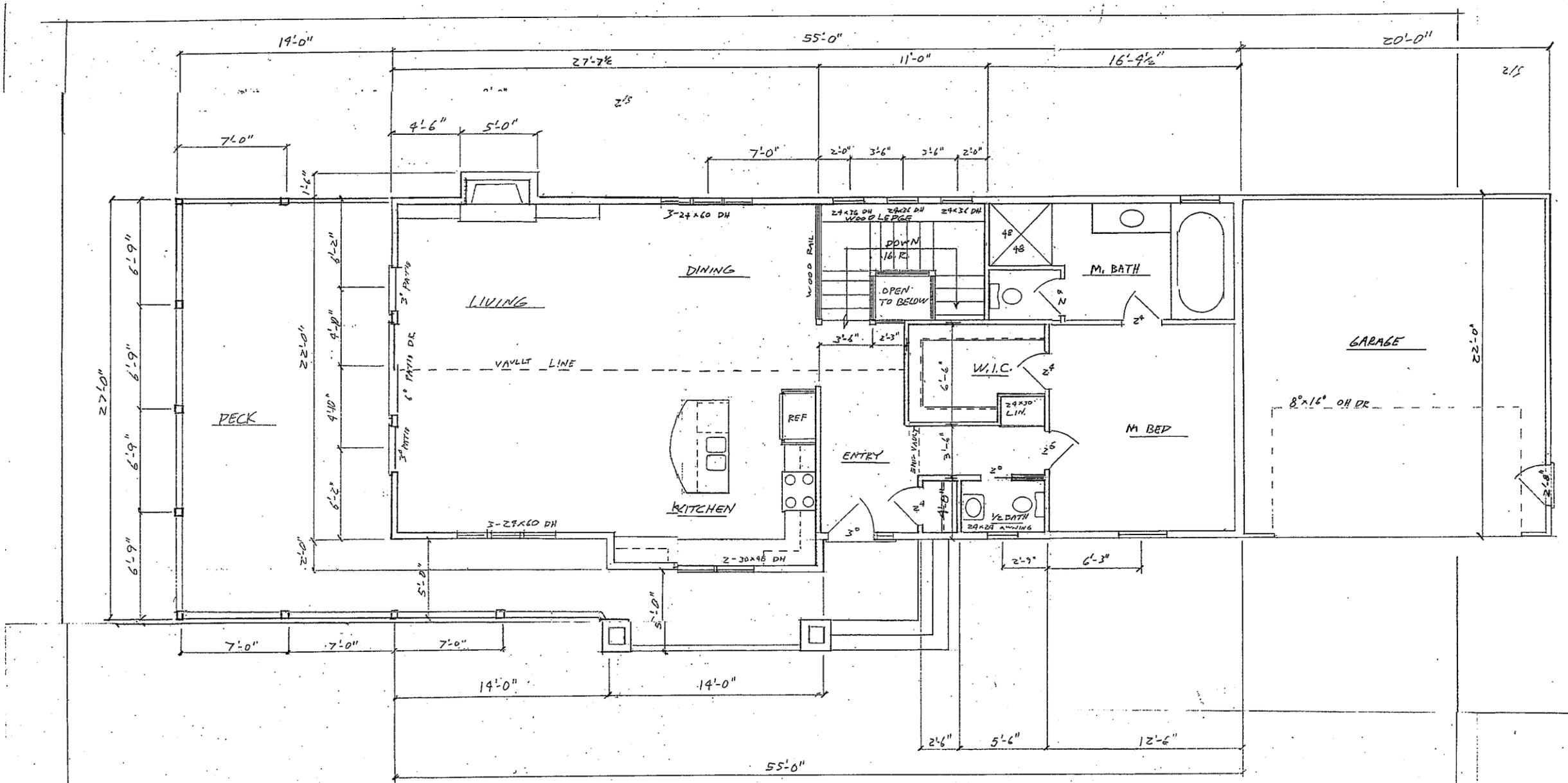
The property is currently served by two non-conforming one-stall detached garages located on the opposite ends of the property. The garages will be removed and a small attached garage will be added to the north side of the home. The garage will not have direct access to the home.

Key Dates:

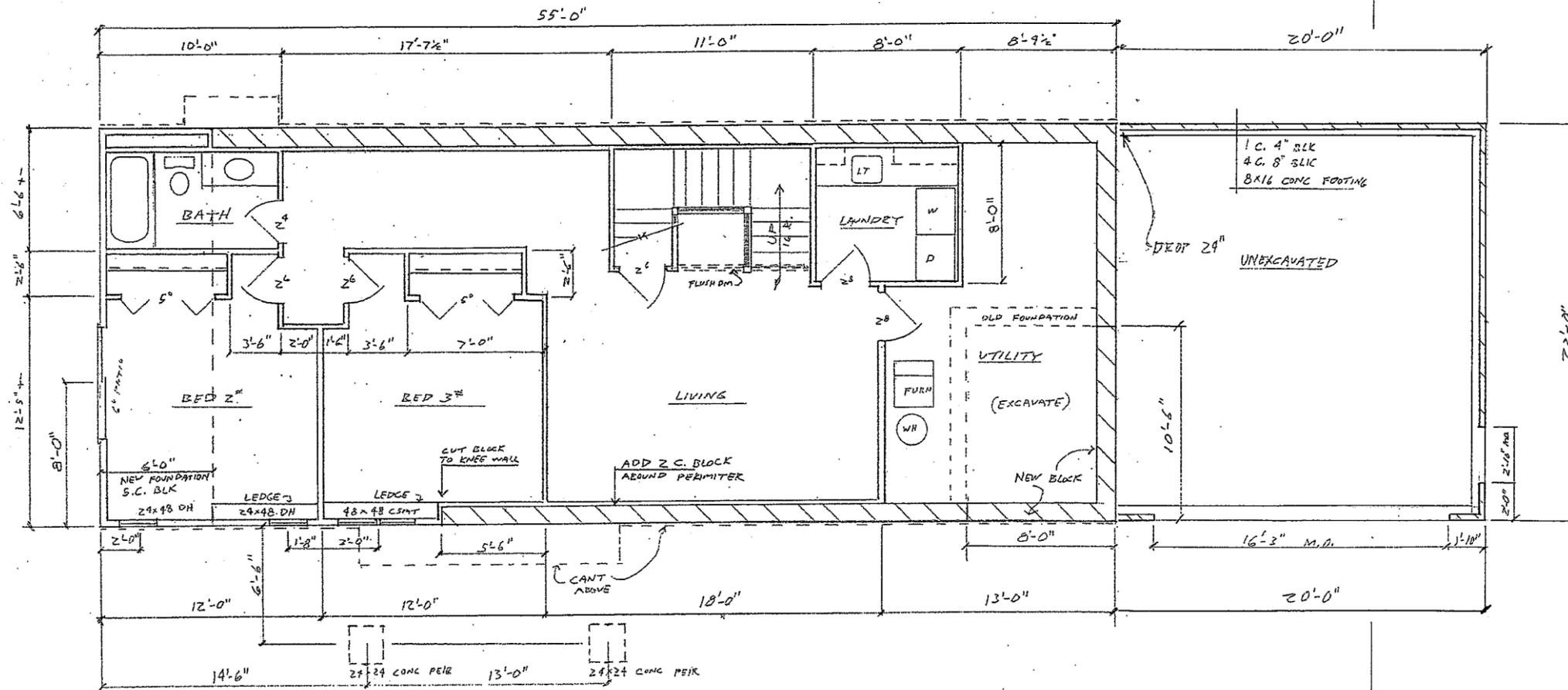
Application complete:	March 19, 2013
Notice of Public Hearing published:	April 4, 2013
Planning Commission Public Hearing:	April 17, 2013
Public Hearing Continuation:	May 15, 2013
City Council Consideration:	June 5, 2013
60 Day Deadline:	May 18, 2013
120- Day Deadline:	July 17, 2013



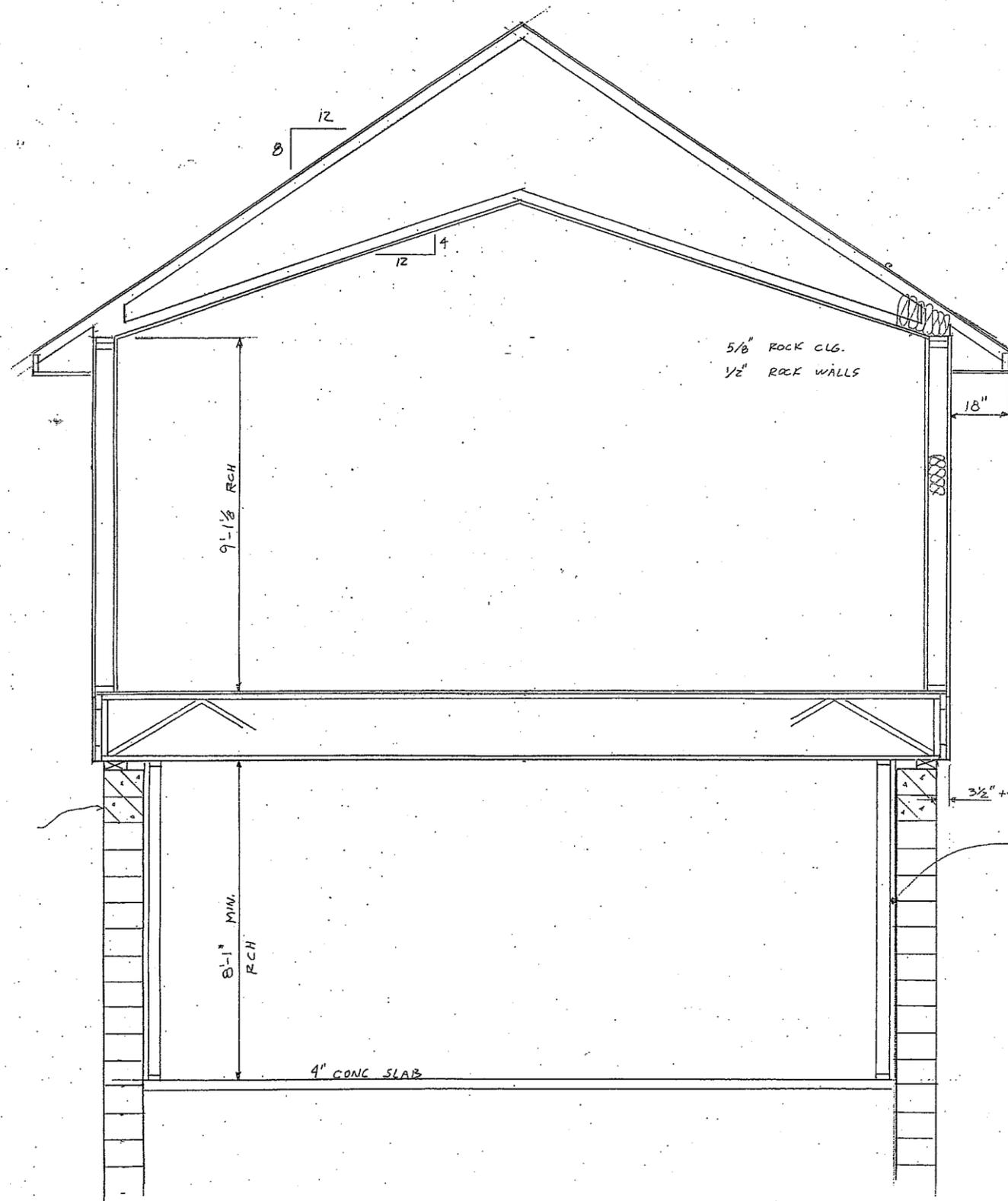
S



MAIN FLOOR PLAN  
 1/8" = 1'-0"



LOWER LEVEL PLAN  
 1/4" = 1'-0"



240# ASPHALT SHINGLES  
 6' ICE & WATER BARRIER  
 15" FELT  
 7/16 OSB SHT (ROOF)  
 MFG TRUSS 24" O.C.  
 R-40 BLOWN INSULATION  
 2x6 SUB FACIA  
 ALUMINUM SOFFIT & FACIA

3/4" BUILT RITE  
 2x6 STUD 15" O.C.  
 R-19 INSUL  
 4 MILL POLY

3/4" T&G PLYWOOD  
 MFG FLOOR TRUSS 24" O.C.  
 (BUILT FOR A 3"± CANT. EACH END)  
 3/4" CDX PLYWOOD (END OF TRUSS SHEATHING)

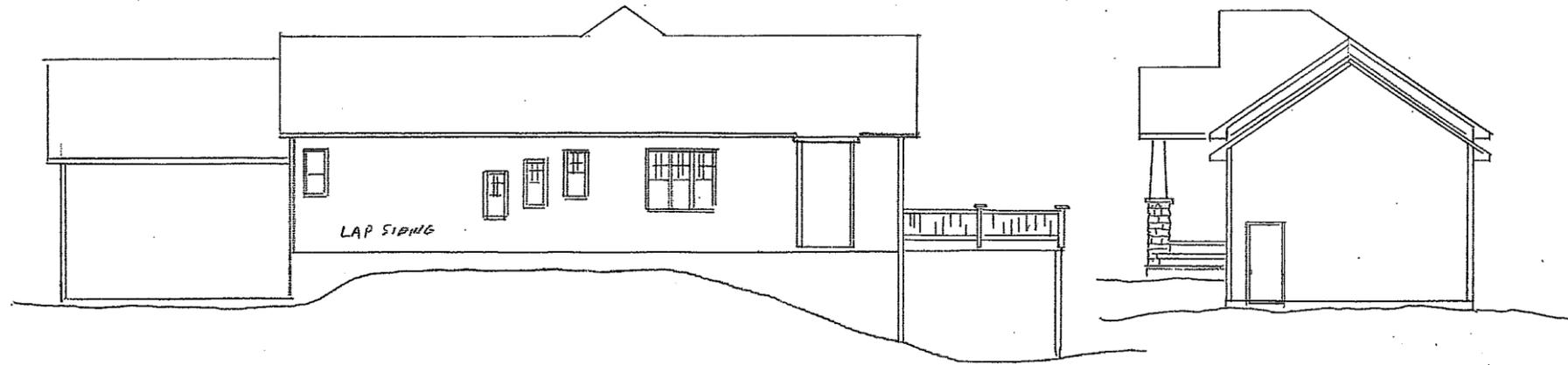
TREATED 2x6 SILL  
 1/2" A. BOLT 6'-0" O.C.  
 2 COARSE OF BLOCK (ADDED TO ORIGINAL)

1" RIGID INSUL  
 2x4 STUD 16" O.C.

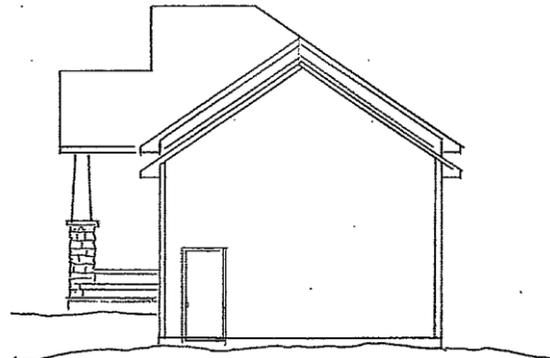
ADD 2.C. BLK.



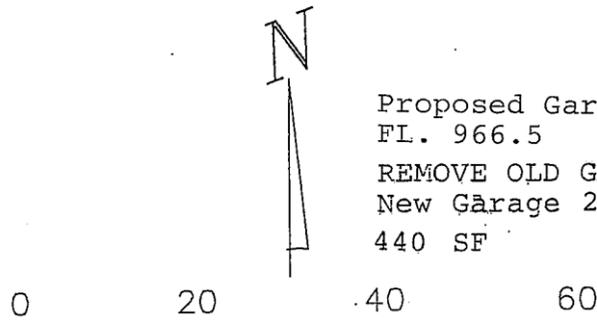
SOUTH ELEVATION



WEST ELEVATION  
 $\frac{1}{8}'' = 1'-0''$



NORTH ELEVATION



SCALE IN FEET

X992.5 = EXISTING SPOT ELEVATION.

X(998.0) = PROPOSED SPOT ELEVATION

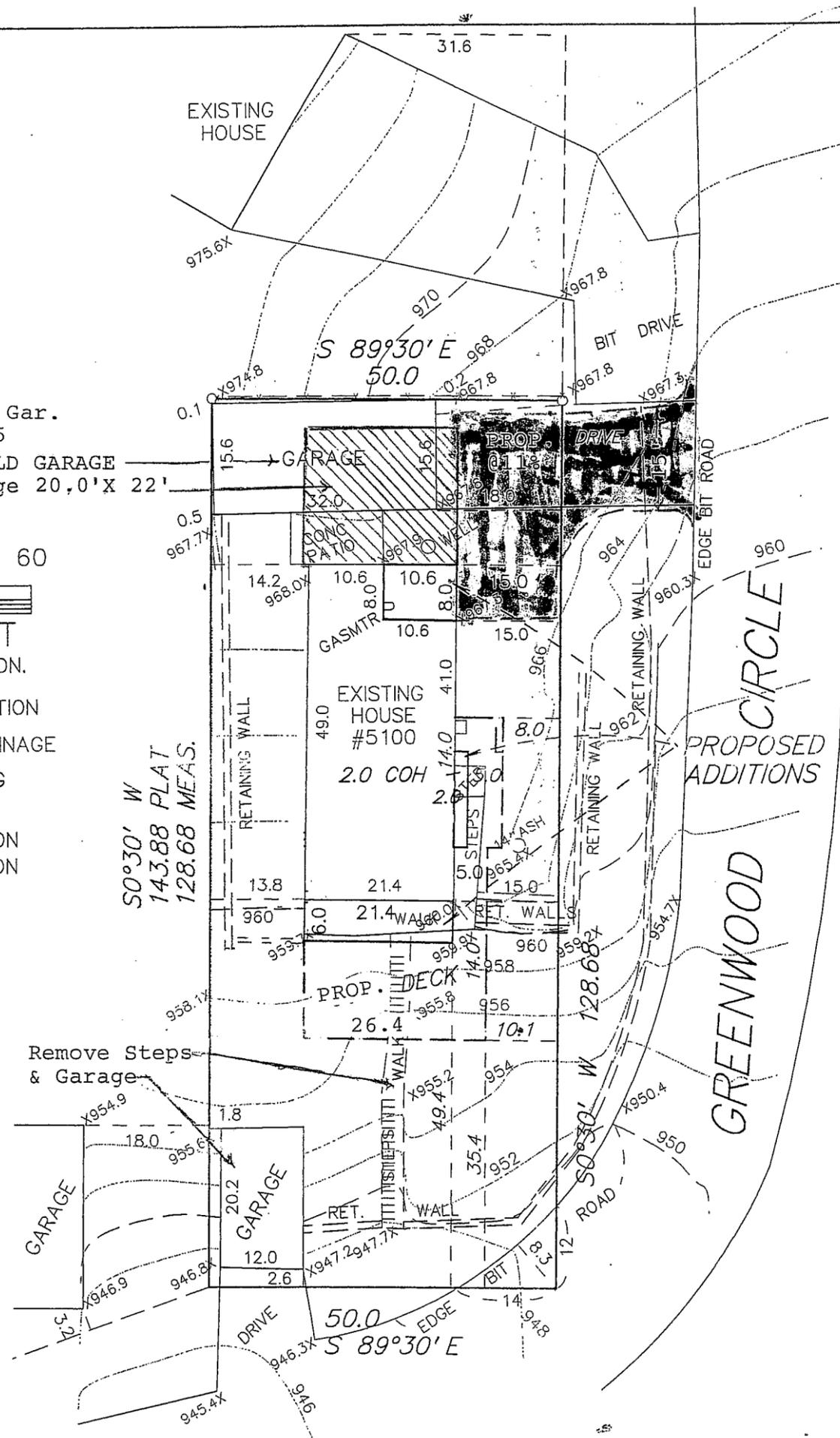
..... = DIRECTION SURFACE DRAINAGE

COH = CANTILEVERED OVERHANG

OHL = OVERHEAD UTILITY LINE

GFE = GARAGE FLOOR ELEVATION

LFE = LOWEST FLOOR ELEVATION



HARDCOVER

EXISTING  
 HOUSE = 960 SF  
 GARAGE = 440 SF  
 PATIO = 100 SF —100  
 WALKS = 210 SF (REM)  
 DRIVES = 450 SF  
 TOTAL = 2060 SF / 32%

PROPOSED  
 ADDITONS = 85 SF  
 DECK = 450 SF  
 TOTAL = 535 SF / 8%

TOTAL EXISTING AND PROPOSED  
 = 2595 SF / 40.2 %

LEGAL DESCRIPTION:  
 LOT 14, BLOCK 14, MINNETONKA MANOR, HENNEPIN CO., MN.

ADDRESS — 5100 GREENWOOD CIRCLE  
 PID#26-117-23-42-0011

LOT AREA = 6450 SF / 0.14 AC

SURVEY IS SUBJECT TO CHANGE PER TITLE OR EASEMENT INFORMATION

VERIFY ALL DIMENSIONS AND ELEVATIONS WITH HOUSE PLANS

VERIFY ALL SETBACKS WITH CITY

Land Surveyor  
 Frank R. Cardarelli  
 6440 FLYING CLOUD DRIVE  
 EDEN PRAIRIE, MN 55344  
 952-941-3031

BUILDING PERMIT SURVEY  
 for PASTOR RESIDENCE

Rev. 5/3/13  
 2/20/13 HARDCOVER  
 Rev. 5-23-13

PROJECT NO.	BOOK
DATE DEC 28, 2011	PAGE
REVISIONS	
2/18/13- PROPOSED DECK, ADDTN	
I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.	
FRANK R. CARDARELLI REG. NO. 6506	

GREENWOOD ORDINANCE CODE, CHAPTER 11

The following subdivisions are from:

**Section 1120.20 (R-1A), 1122.20 (R-1B), 1125.20 (R-2) Building Minimum Requirements**

Subd. 1. Principal structures shall:

- (a) not exceed 28 feet in building height and 42 feet in structure height,
- (b) be of a minimum width of 25 feet,
- (c) have a minimum floor space of 800 square feet,
- (d) be supported by foundation walls and frost footings of 42 inches in depth or current state building code requirements whichever is greater,
- (e) meet all current standards of city building codes and appendices,
- (f) be served with a private garage and hard-surfaced (e.g. cement or blacktop) driveway to the public street.

Subd. 2. Accessory structures shall:

- (a) be limited to 1 private garage, and 1 tool house shed or similar storage building per principal structure,
- (b) not exceed 15 feet in building height,
- (c) have a maximum combined floor space of all accessory structures on the lot of 1,000 square feet and in no event shall the accessory structures of private garage, tool house shed and similar storage buildings combined exceed 60% of the total at grade, main floor square footage of the principal structure,
- (d) meet all current standards of city building codes and appendices.

GREENWOOD ORDINANCE CODE, CHAPTER 11, SECTION 1155, VARIANCES

The following subdivisions are from:

**Section 1155.10. Requests for Variances from the Literal Provisions of the Ordinance**

Subd. 3. Variance Standard. A variance to the requirements of the zoning code, shoreland management district ordinance, wetland ordinance and other related zoning controls shall only be permitted when they are in harmony with the purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

Subd. 4. Practical Difficulties Standard. "Practical difficulties," as used in connection with the granting of a variance, means:

- (a) that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) the plight of the landowner is due to circumstances unique to the property and not created by the landowner;
- (c) and the variance, if granted, will not alter the essential character of the locality

Economic considerations alone shall not constitute practical difficulties.

Subd. 5. Findings. The board, in considering all requests for a variance, shall adopt findings addressing the following questions:

- (a) Is the variance in harmony with the purposes and intent of the ordinance?
- (b) Is the variance consistent with the comprehensive plan?
- (c) Does the proposal put property to use in a reasonable manner?
- (d) Are there unique circumstances to the property not created by the landowner?
- (e) Will the variance, if granted, alter the essential character of the locality?

Subd. 6. Additional Requirements for Grants of Variance Requests. The board, in considering all requests for a variance, shall determine that the proposed variance, if granted, will not:

- (a) Impair an adequate supply of light and air to adjacent property.
- (b) Unreasonably increase the congestion in the public street.
- (c) Increase the danger of fire or endanger the public safety.
- (d) Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

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 1176.07.05 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. (REVISED MAR. 2013 ORD. 214)

**RESOLUTION NO. 16-13**

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

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**APPROVING**

**IN RE: The Application of James Pastor for Variances to Section 1120:15 (east and west side yard setbacks and rear yard setbacks), and 1176:04 (impervious surface), to permit the remodeling of an existing home on an existing lot.**

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**WHEREAS**, James Pastor is the owner of property commonly known as 5100 Greenwood Circle, Greenwood, Minnesota 55331 (PID No. 26-117-23-42-0011); and

**WHEREAS**, application was made for variances to Section 1120:15, and 1176:04, to permit remodeling of an existing home on an existing lot; and

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

**WHEREAS**, public comment was taken at the Public Hearing before the Planning Commission on April 17, 2013 and May 19, 2013; and

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

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

**FINDINGS OF FACT**

1. That the real property located at 5100 Greenwood Circle, Greenwood, Minnesota 55331 (PID No. 26-117-23-42-0011) is a single family lot of record located within the R-1A Single Family Residential District.
2. The applicant proposes to remodel an existing nonconforming house

which, due to lot area (6,450 square feet), requires side and rear yard setbacks and planned hardcover variances.

3. Section 1120:15 of the Zoning Ordinance requires a minimum interior (west) side yard setback of fifteen feet and a minimum exterior (east) side yard of 30 feet and a minimum rear yard of 35 feet. The lot is 50.0 feet wide leaving a building envelope width of 17.35 feet.
4. The applicant proposes an east side yard setback of eight (8) feet, requiring a twenty-two (22) foot variance. The applicant *proposed* a west side yard setback of 8 feet, 6 inches to accommodate a side deck (a proposal now withdrawn). The applicant now proposes that the deck projecting southerly align with the west side of the existing house for a side yard of 13 feet and 10 inches, a variance of 1 foot 2 inches. The applicant proposes a rear yard setback of 4 feet for a variance of 31 feet.
5. The existing hardcover is 36%. The applicant proposes hardcover of 47.2% necessitating a variance of 17.2% to Section 1176.04. The proposed hardcover is an increase of 11.2% over the existing 36% impervious surface.
6. The applicant proposes a structure volume of 37,964 cubic feet, which is code compliant.
7. Applicant proposes to abandon an existing south side garage, provided the City allows a larger 2-car garage addition on the north with a reduced northwest rear yard setback of 4.
8. The lot area is 42.6% of the minimum required lot area for the R-1A zoning district.
9. The applicant advises that the variances, if granted, will be keeping with the spirit and intent of the zoning code because the remodeled structure will be in keeping with the existing character of the neighborhood in terms of materials, scale and landscape amenities, and the density of the proposed improvements. The needed variances, if granted, will not allow the structure to be greater in size than many other existing structures in the neighborhood.
10. The applicant advises the property cannot be put to a reasonable use if used under the conditions allowed by the official controls due to the lot being only 6,400 square feet, 42.6% of minimum lot size.
11. The applicant advises that the plight of the owner is due to circumstances unique to the property and not created by the land owner because of extreme narrowness in the lot, 50.0 feet east to west, and a

lot size of 6,400 square feet creating a building envelope too small for any code compliant house without a variance.

12. The applicant advises the variance, if granted, will not alter the essential of the locale.
13. The applicant represents that the variances, if granted, will not affect the neighboring properties access to light or air, not contribute to traffic congestion or increase danger of fire or create a danger to public safety, and if granted, the property to be built as proposed will not adversely impact surrounding property values.
14. The Planning Commission discussed the proposed plan and recommended approval of the project but without a deck extension on the west side of the house; and suggested that if the applicant elected to abandon the existing south garage, the City approve a wider remodeled attached garage on the north with a foreshortened rear yard of 4 feet. As proposed, the Planning Commission found the variances should be granted for the reason that the lot size creates a practical difficulty in that it is less than half the minimum lot area required in the zoning district, that the maximum impervious surface area of a variance of 11.3% be granted based on the practical difficulty related to the size of the parcel and that the planned home is of modest size and would not be out of character with other homes in the area as built. The planning commission also concluded that the variance to encroach on the rear yard 31 feet and 15 feet and into the required 30-foot east side yard setback be granted as a practical difficulty exists related to the size of the existing lot. Lastly, all things considered overall the proposal will not alter the essential character of the neighborhood.
15. Section 1155.10, Subd. 4, 5 & 6 provide:  
  
“Subd. 4. Practical Difficulties Standard. “Practical difficulties,” as used in connection with the granting of a variance, means:
  - (a) That the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
  - (b) The plight of the landowner is due to circumstances unique to the property and not created by the landowner; and
  - (c) The variance, if granted, will not alter the essential character of the locality

Economic considerations alone shall not constitute practical difficulties.

Subd. 5. Findings. The board, in considering all requests for a variance, shall adopt findings addressing the following questions:

- (a) Is the variance in harmony with the purposes and intent of the ordinance?
- (b) Is the variance consistent with the comprehensive plan?
- (c) Does the proposal put property to use in a reasonable manner?
- (d) Are there unique circumstances to the property not created by the landowner?
- (e) Will the variance, if granted, alter the essential character of the locality?

Subd. 6. Additional Requirements for Grants of Variance Requests. The board, in considering all requests for a variance, shall determine that the proposed variance, if granted, will not:

- (a) Impair an adequate supply of light and air to adjacent property.
- (b) Unreasonably increase the congestion in the public street.
- (c) Increase the danger of fire or endanger the public safety.
- (d) Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.”

16. Based upon the foregoing, the City Council determined that the variance to permit the remodeling as proposed, if granted, would be in harmony and keeping with the spirit and intent of the Zoning Code because it will maintain the character of the neighborhood. The variance, if granted, will be consistent with the Comprehensive Plan’s guiding use for the subject property in the applicable zone because the character of the proposed use is consistent with the applicable zoning.
  
17. The City Council finds that the property owner’s proposed manner of use of the property, although not permitted under the Zoning Code in a lot of this size without a variance, is reasonable because the setbacks do not allow a reasonable size house on the property, and the existing house is not a reasonable use of the property because it is substandard for a residential property. Also, the City street, as built, encroaches on the lot. The planned home is of modest and appropriate size for an R1 zoned property of this lot size in this neighborhood. That the plight of the land owner/applicant is due to circumstances unique to the property and not created by the land owner because the property’s geometry, elevation differences in topography and small lot dimensions are unique. The variances, if granted, will not alter the essential character of the locality, that the proposed single family home is consistent with the locality. The variances, if granted, will not impair an adequate supply of light and air to adjacent property, unreasonably increase congestion on public street, increase danger of fire or endanger public health, safety, and welfare or unreasonably diminish or impair established property values in the neighborhood.

18. That the addition of a full width (20 feet wide), 2-car garage attached to the north side of the house is appropriate and reasonable as it provided a needed accessory use, provided the south garage is abandoned and removed.
19. The foregoing variances being deemed appropriate, the grant of variances to exceed the maximum permitted impervious surface area of 30% by 17.2% is appropriate and should be granted to accommodate the submitted building plan and the still-to-be-determined driveway location.
20. The following conditions should be imposed on any variance grant:
  - A. The project must be completed according to the specifications and design requirements in the submitted plans, including the removal of the detached garage as shown.
  - B. The applicant shall work with the city engineer to determine the appropriate location and size of the driveway.
  - C. A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the City of Greenwood before any permits may issue or the project commence.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, The City Council acting as the Board of Appeals makes the following Conclusions of Law:

1. The applicant has made an adequate demonstration of facts meeting the standards of Section 1155.10 necessary for the grant of the following variances to Sections 1120:15 and 1176.04:
  - A. A variance to Section 1120:15 permitting a west side yard encroachment of one foot 2 inches (1'2") into the required west side yard setback should be granted.
  - B. A variance to Section 1120:15 permitting an east (exterior) rear yard encroachment of twenty-two feet (22') into the required exterior rear yard setback should be granted.
  - C. A variance to Section 1120:15 permitting a rear yard encroachment of thirty-one feet (31') into the required 35' setback should be granted.
  - D. A variance to Section 1176:04 permitting the impervious surface to exceed maximum permitted impervious surface of 30% by 17.2% should be granted to accommodate the submitted building plan and the still-to-be-determined driveway location.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments:

That the application of James Pastor for variances to Greenwood Ordinance Code Sections 1120:15 and 1176.04, are granted as follows:

- A. A variance to Section 1120:15 permitting a west side yard encroachment of one (1') foot 2 inches, (1'2") into the required west side yard setback should be granted.
- B. A variance to Section 1120:15 permitting an east (exterior) rear yard encroachment of twenty-two feet (22') into the required exterior rear yard setback should be granted.
- C. A variance to Section 1120:15 permitting a rear yard encroachment of thirty-one feet (31') into the required 35' setback should be granted.
- D. A variance to Section 1176:04 permitting the impervious surface to exceed maximum permitted impervious surface of 30% by 17.2% should be granted to accommodate the submitted building plan and the still-to-be-determined driveway location.
- E. Should be granted on the following conditions:
  - 1. The project must be completed according to the specifications and design requirements in the submitted plans, including the removal of the detached garage as shown.
  - 2. The applicant shall work with the city engineer to determine the appropriate location and size of the driveway.
  - 3. A certified copy of this resolution shall be filed by the applicant
  - 4. with the Hennepin County Register of Titles and proof of filing provided to the City of Greenwood before any permits may be issued or the project commences.

PASSED THIS \_\_\_\_ DAY OF JUNE, 2013 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

\_\_\_\_ Ayes, \_\_\_\_ Nays

**CITY OF GREENWOOD**

ATTEST:

By \_\_\_\_\_  
Debra J. Kind, Mayor

\_\_\_\_\_  
Gus Karpas, Clerk/Administrator



Agenda Number: **7E**

Agenda Date: 06-05-13

**Agenda Item:** Discuss July 4th Fireworks Contribution

**Summary:** The Excelsior / Lake Minnetonka Chamber of Commerce once again is coordinating the July 4th Celebration. This community event draws people from the entire South Lake Minnetonka area. As in past years, the city received a letter requesting a contribution to support the July 4th Celebration. The council budgeted \$1400 for this contribution in 2013. This expenditure must be authorized by the council.

**Council Action:** No action required. Possible motions ...

1. I move the council directs the city treasurer to disburse a check in the amount of \$\_\_\_\_\_ to the Excelsior / Lake Minnetonka Chamber of Commerce for the 2013 July 4th celebration fund.
2. Other motion ???



**Dear Friends of the 4<sup>th</sup> of July,**

**The Excelsior – Lake Minnetonka Chamber of Commerce** proudly produces and hosts the only public 4<sup>th</sup> of July fireworks event on Lake Minnetonka! Our community will celebrate our Nation's favorite holiday in the tried and true way, with a day full of activity! Beginning early in the morning, until well past dark, we welcome you to be a part of the 2013 4<sup>th</sup> of July experience on the shores of Lake Minnetonka, at the Commons Park in downtown Excelsior. Bring your family and friends to enjoy a 4<sup>th</sup> of July that kicks off with a Firecracker and ends with a BANG!

### **Schedule of Events**

8:00AM	2 Mile Firecracker Family Fun Run
8:30	Firecracker 10K
9:00-10:30	Sand Sculpture Contest
9:30-noon	Popsicle Social
11:00	Water Street Parade
11:30-1:00	Kids' Fishing Contest
6:15 - 8:15	The Wolverines Big Band performs
8:15 - 8:45	Lucas Oil Air Show
8:45	Salute to our Veterans
8:50	Presentation of the Colors
8:55 - 9:55	The Wolverines Big Band
9:55	The National Anthem
Dusk	Fireworks Display over Lake Minnetonka

A few of you have already expressed interest in sponsorship, and with the array of activities we offer throughout the day, there are plenty of opportunities to fit your budget. We invite you and your business to become part of the flair in 2013 by joining our team of sponsors of the Lake Minnetonka 4<sup>th</sup> of July. Please let us know your intentions by **May 10, 2013**, so we can include you in the pre-event publicity efforts, which will be plentiful!

Sincerely,

Laura Hotvet  
Chamber Director  
and  
Jill Farina  
4<sup>th</sup> of July Chair



**EXCELSIOR-LAKE MINNETONKA CHAMBER OF COMMERCE**



Agenda Number: **7F**

Agenda Date: 06-05-13

**Agenda Item:** Discuss Draft of Uniform Animal Ordinance

**Summary:** On May 9, 2012, in response to concerns raised by animal enforcement officers, the South Lake Minnetonka Police Department (SLMPD) coordinating committee directed SLMPD staff to draft a uniform animal ordinance to make enforcement consistent between the jurisdictions served by the department. Attached is a memo outlining the long process for drafting the ordinance. Also attached is the final draft of the ordinance that was approved by the coordinating committee for consideration by the 4 city councils. If the Greenwood city council desires to move forward with the ordinance, it will be converted into a format that fits with our code book.

City Attorney Mark Kelly was instrumental in providing input during the draft process for the uniform animal ordinance. His memo regarding the final draft is attached for the council's consideration.

**Council Action:** No action required. Possible motions ...

1. I move the council directs that the uniform animal ordinance be formatted for a 1st reading to be considered at the 07-03-13 city council meeting.
2. I move the council directs that the uniform animal ordinance be formatted for a 1st reading to be considered at the 07-03-13 city council meeting, with the following changes: \_\_\_\_\_.
3. Other motion ???

# 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: May 28, 2013**

**RE: Final Draft Uniform Animal Ordinance**

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### Introduction

For some months now, a committee has been preparing a Uniform Animal Control Ordinance on which my office has had opportunity, from time to time, to comment in writing. The final iteration has now been circulated for your consideration.

### Comment

I have reviewed the final iteration and find that it largely carries forward the ordinance text as last reviewed March 4<sup>th</sup>. At that time, I issued written comments thereon. See copy of memo attached.

A review of the current iteration finds my March 4<sup>th</sup> comments on the third draft of the proposed Animal Control Ordinance not to have been implemented.

While I believe those comments still have merit, some of the implementation thereof redrafting that would highlight earlier drafting choices that are not streamlined.

### Action

The City Council has the authority to join with its fellow cities in adopting this common Animal Control Ordinance and in so doing, the law enforcement will have a common ordinance and methodology in which to act when dealing with animals.

The City should carefully consider formatting and consider the Permitted Non-domestic Animal language.

# KELLY LAW OFFICES

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*Established 1948*

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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

**DATE:** March 4, 2013

**RE:** 3<sup>rd</sup> Draft proposed Animal Control Ordinance

---

### Introduction

A 3<sup>rd</sup> draft of the Animal Control Ordinance has been circulated for comment. My comments follow, by section.

Purpose Comment: Text is good

### Definitions –

City – Comment: Text is good

DOMESTICATED (DOMESTIC) ANIMAL. Comment: Text is good

NON-DOMESTICATED (NON-DOMESTIC) ANIMAL.  
Comment: See suggested edits below

Animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be

inherently dangerous to the health, safety, and welfare of people.  
Unless otherwise defined, such animals shall include:

- (1.) Any member of the cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;
- (2.) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;
- (3.) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;
- (4.) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;
- (5.) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and,
- (6.) Insert: Bear, deer, buffalo, moose, monkeys, apes, camels and other common zoo animals not subject to domestication. Delete: Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subsection, including but not limited to bears, deer, monkeys and game fish

#### Public Nuisance – Dog

Comment: It is suggested that the title of this definition be revised to Public Nuisance and the following definition adopted:

Any animal that (1) violates a prohibition of this ordinance (2) habitually, threatens, chases or molests persons travelling peaceably on a public road or persons off the premises of its owner, (3) frequents public grounds, parks, or beaches, or property of a person other than the owner unaccompanied by its owner or a custodian, (4) chases vehicles, (5) chases, molests, threatens or bites any person if the person is not on the property of the owner or custodian of the animal, (6) destroys any public or private property or (7) defecates upon public property or the private property of another without permission without the owner immediately removing the deposit

If the foregoing is adopted, then Animal Nuisances should also be revised (see below)

Restraint – Comment: Text is good

Definitions General Comments: The following definitions would be useful:

"Barking and Excessive barking: As used in this ordinance "barking" means barking, whining, howling, baying, crying, or the making of other noise by the animal. "Excessive barking" means to bark excessively, continuously, or untimely Delete: includes, but is not limited to, barking, whining, howling, baying, crying, or making other noise excessively, such that the creation of the noise by any single or combination of dogs can be heard (1) by any person, including a law enforcement officer or animal control officer, (2) from a location outside of the building or premises where the dog is being kept Delete: and (3) which noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period, and (4) which a reasonable person would consider to excessive, continuous, or untimely. For purposes of this definition, "Untimely" means Delete: includes, but is not limited to, the barking Delete: noise which occurs repeatedly over a two-minute period of time with one-minute or less lapse of time between each animal noise during the two-minute period, between 10:00 p.m. and 7:00 a.m.

"Person: As used in this ordinance, "person" means any individual, firm, partnership, corporation or similar entity." Then remove all references to person, firm, or corporation in favor of "person".

Registration and Licensing Requirement – Comment: Text of Subd 1, 3, 4, & 5 are good.

Subd. 2: Reference to *appendix* should be changed to read "The license period shall be that specified from time to time by resolution."

Permitted Domesticated Animals Comment: Text is good

Permitted Non- Domesticated Animals – Comment: This provision imposes a prohibition. Therefore its title would be better stated as: Non-Domesticated Animal Regulation. The text should then read: It is illegal to possess any "non-domesticated animal" as defined herein.

Impoundment Authority – Comment: See suggested edits below.

The animal enforcement officer shall have authority to take into custody and impound those animals, found at large within the city. If the animal enforcement officer is unable to take an animal into custody the officer may, where possible, follow the animal to the property of its owner, and may issue a citation to the owner for violation of this ordinance. The officer shall not

Delete: be authorized to take into custody an animal once it is upon the property of its owner except:

- (a) Where the officer finds no one present upon the property and custody is necessary to prevent the animal from further running at large; or
- (b) The animal is previously declared as a dangerous dog or dangerous animal; or
- (c) Is a non-domesticated animal Insert: prohibited hereunder or which is inherently dangerous and if left uncontrolled poses a danger to public health, safety or welfare.

Animal Nuisances – Comment: See suggested edits below.

Subd. 1. It shall be unlawful for any owner to fail to exercise reasonable Delete: proper care and control of Delete: his or her Insert: their animals to prevent them from becoming a public nuisance.

Subd. 2. It is unlawful for an animal to bark excessively or to be a public nuisance. Delete: shall be considered a nuisance for any animal to bark excessively, continuously or untimely, to frequent school grounds, parks, or public beaches, to chase vehicles, to chase, molest, annoy or bite any person if the person is not on the property of the owner or custodian of the animal, to molest, defile or destroy any property, public or private, or to defecate in or upon public property or the property of another without being cleaned up immediately by the person in charge of the animal. The person having custody of the animal is responsible for disposing of the animal feces in a sanitary manner. Failure on the part of the owner or custodian to prevent his animals from committing an act of nuisance shall subject the owner or custodian to the penalty hereinafter provided.

Delete: Subd. 3. The phrase "to bark excessively, continuously, or untimely" includes, but is not limited to, barking, whining, howling, baying, crying, or making other noise excessively, such that the creation of the noise by any single or combination of dogs can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the dog is being kept and which noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period. "Untimely" includes, but is not limited to, the noise which occurs repeatedly over a two-minute period of time with one-minute or less lapse of time between each animal noise during the two-minute period, between 10:00 p.m. and 7:00 a.m.

Subd. 34. No person when in the immediate custody of an animal in or on any public trail, sidewalk, city park, street, public right-of-way, or on any other property, public or private, not the premises of owner or custodian of the animal, shall have in their possession a device for removal of feces. The person having immediate custody of the animal is responsible for immediate

removal and sanitary disposal of the animal's feces deposits. A violation of this subdivision is a misdemeanor.

Subd. 45. No person shall allow any domesticated animal on any public swimming beach or any public grounds where any prohibitory sign is posted, except a recognized animal for life assistance.

Potentially Dangerous Dogs – Comment: I suggest the following edits:

The animal control authority shall issue Delete: make such a declaration of Potentially Dangerous Dog upon a finding that ...

And

.... In making such a determination, the animal enforcement officer may rely upon statements of describing events or facts meeting the above definition of potentially dangerous dog found in any or all of the following:

Dangerous Animals; Declaration -- Comment: I suggest the following edits:

#### **DANGEROUS ANIMALS; DECLARATION**

The animal control authority shall issue Delete: make such a declaration of Dangerous Dog upon a finding that....

And

.....In making such a determination, the animal enforcement officer may rely upon statements of describing events or facts meeting the above definition of dangerous dog found in any or all of the following:

Confiscation -- Comment Text is good

**SOUTH LAKE MINNETONKA POLICE DEPARTMENT**  
**24150 Smithtown Road**  
**Shorewood, Minnesota 55331**

Bryan T. Litsey  
Chief of Police



Office (952) 474-3261  
Fax (952) 474-4477

## Uniform Animal Ordinance Proposal - General Timeline

- May 9, 2012: SLMPD Coordinating Committee informed that SLMPD staff will be renewing efforts to create a uniform animal ordinance.
- June 20, 2012: First draft presented to SLMPD Coordinating Committee members at the budget work session. Coordinating Committee requests that SLMPD staff send draft to city representatives for review and comment.
- June 26, 2012: First draft sent to city representatives for review prior to first work session.
- July 25, 2012: Work session – Attended by SLMPD staff and city representatives. Issues discussed at this session are incorporated into draft 2.
- September 12, 2012: Draft 2 is completed and sent to city representatives and Attorney Karen Marty, who has extensive experience and expertise in animal regulation issues, for review in preparation for next work session. Comments and suggestions received from them are incorporated into draft 3.
- October 30, 2012: Work session – Attended by SLMPD staff, city representatives, and Attorney Karen Marty. Several issues as highlighted by Ms. Marty and Greenwood City Attorney Mark Kelly were discussed and will be incorporated into draft 4, which is currently in progress. The City of Greenwood did not have a representative at this session.
- February 26, 2013: General discussion meeting – Attended by SLMPD Chief Litsey, Deputy Chief Dave Pierson, Support Services Manager David Hohertz, Shorewood Mayor Scott Zerby, and Shorewood City Inspector Brad Nielson.
- April 15, 2013: Work session - Attended by SLMPD staff, city representatives, and Attorney Karen Marty. Several issues as highlighted by Ms. Marty and Greenwood City Attorney Mark Kelly were discussed and incorporated into final draft.
- May 7, 2013: Final draft completed and sent electronically to city representatives and Attorney Karen Marty.



# Uniform Animal Ordinance Proposal

*for cities of*

Excelsior, Greenwood, Shorewood, and Tonka Bay

## Section

- \_\_\_\_\_ Purpose
- \_\_\_\_\_ Definitions
- \_\_\_\_\_ Registration and licensing requirements
- \_\_\_\_\_ Permitted Domesticated Animals
- \_\_\_\_\_ Permitted Non-Domesticated Animals
- \_\_\_\_\_ Limitations on number of dogs
- \_\_\_\_\_ Limitations on number of cats
- \_\_\_\_\_ Animal breeders
- \_\_\_\_\_ Running at large
- \_\_\_\_\_ Impoundment authority
- \_\_\_\_\_ Animal nuisances
- \_\_\_\_\_ Confinement of certain animals
- \_\_\_\_\_ Impounded animal redemption
- \_\_\_\_\_ Rabies control
- \_\_\_\_\_ Abuse/neglect of animals
- \_\_\_\_\_ Dangerous animals and potentially dangerous animals
- \_\_\_\_\_ Penalties for violation
- \_\_\_\_\_ Enforcement
- \_\_\_\_\_ Appendices

1        **PURPOSE.**

2        To preserve the public health, safety and welfare, and guard against public  
3        nuisances, the ownership and possession of animals must be regulated.

4        **DEFINITIONS.**

5        For the purpose of this ordinance, the following definitions shall apply unless the  
6        context clearly indicates or requires a different meaning.

7        **ANIMAL CONTROL AUTHORITY.** An agency of the state, county, municipality  
8        or other governmental subdivision of the state which is responsible for animal  
9        control operations in its jurisdiction.

10       **ANIMAL ENFORCEMENT OFFICER.** The designated law enforcement  
11       personnel charged by the City with enforcement of this ordinance.

12  
13       **ANIMAL SHELTER.** Any premises designated by the City Council or the SLMPD  
14       for the purpose of impounding and caring for animals held under the authority of  
15       this ordinance.

16  
17       **AT LARGE.** An animal is at large when it is off the premises of the, person, firm,  
18       corporation, organization, or department possessing, harboring, keeping,  
19       having an interest in, or having care, custody, or control of the animal, and  
20       the animal is not under restraint.

21  
22       **BARKING.** The phrase “to bark excessively, continuously, or untimely” includes,  
23       but is not limited to, barking, whining, howling, baying, crying, or making other  
24       noise excessively, such that the creation of the noise by any single or  
25       combination of dogs can be heard by any person, including a law enforcement  
26       officer or animal control officer, from a location outside of the building or  
27       premises where the dog is being kept and which noise occurs repeatedly over at  
28       least a five minute period of time with one minute or less lapse of time between  
29       each animal noise during the five minute period. “Untimely” includes, but is not  
30       limited to, the noise which occurs repeatedly over a two-minute period of time  
31       with one-minute or less lapse of time between each animal noise during the two-  
32       minute period, between 10:00 p.m. and 7:00 a.m.

33  
34       **BODILY HARM.** Physical pain or injury, illness, or any impairment of physical  
35       condition.

36  
37       **SUBSTANTIAL BODILY HARM.** Bodily injury which involves a temporary but  
38       substantial disfigurement, or which causes a temporary but substantial loss or  
39       impairment of the function of any bodily member or organ, or which causes a  
40       fracture of any bodily member.

41  
42       **GREAT BODILY HARM.** Bodily injury which creates a high probability of death,  
43       or which causes serious permanent disfigurement, or which causes a permanent  
44       or protracted loss or impairment of the function of any bodily member or organ or  
45       other serious bodily harm.

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**CITY.** The City of \_\_\_\_\_ .

**COMMERCIAL KENNEL.** A kennel used for boarding and breeding or selling dogs for a profit.

**DANGEROUS ANIMAL.** An animal, including dangerous dogs as defined in Minnesota Statutes, Section 347.50, as amended, which has:

(a) without provocation, inflicted substantial bodily harm on a human being on public or private property; or

(b) killed a domestic animal without provocation while off the owner's property; or

(c) been found to be potentially dangerous, and after the owner has received notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

**DEALER.** A public or private agency, person, society, or corporation that sells or transfers dogs or cats to corporations, institutions or to other dealers who sell or transfer to corporations or institutions.

**ANIMAL WASTE DEVICE.** A device for sanitary removal of animal feces.

**DOMESTICATED (DOMESTIC) ANIMAL.** Such animals as dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar domesticated animals.

**NON-DOMESTICATED (NON-DOMESTIC) ANIMAL.** Animals which are naturally wild and not naturally trained or domesticated, or which are inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

(1.) Any member of the cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;

(2.) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;

(3.) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;

(4.) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and,

(5.) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subsection, including but not limited to bears, deer, monkeys and other species non-indigenous to Minnesota.

1 (6.) Any animal defined as livestock by Minnesota Department of Agriculture rule  
2 1515.3100.

3  
4 **OWNER.** Any person, firm, corporation, organization, or department  
5 possessing, harboring, keeping, having an interest in, or having care,  
6 custody, or control of an animal.

7 **POTENTIALLY DANGEROUS ANIMAL.** Any animal, including a potentially  
8 dangerous dog as defined in Minnesota Statutes, Section 347.50, as amended,  
9 that:

10  
11 (a) When unprovoked, inflicts bites on a human or domestic animal on public or  
12 private property; or

13  
14 (b) when unprovoked, chases or approaches a person, including a person on a  
15 bicycle, upon the streets, sidewalks, or any public or private property, other than  
16 the animal owner's property, in an apparent attitude of attack; or

17  
18 (c) has a known propensity, tendency, or disposition to attack unprovoked,  
19 causing injury or otherwise threatening the safety of humans or domestic  
20 animals; or

21  
22 (d) Has been declared a potentially dangerous dog or potentially dangerous  
23 animal by any lawful authority of this or any other state or subdivision thereof.  
24

25 **PREMISES.** A building, structure, shelter, or land where a dog or other  
26 domesticated or non-domesticated animal is kept or confined, and specifically  
27 excludes all public rights-of-way, sidewalks, and streets.

28 **PROPER ENCLOSURE.** Securely confined indoors or in a securely enclosed  
29 and locked pen or structure suitable to prevent the animal from escaping and  
30 providing protection from the elements for the animal. A proper enclosure  
31 does not include a porch, patio, or any part of a house, garage, or other  
32 structure that would allow the animal to exit of its own volition, or any house  
33 or structure in which windows are open or in which door or window screens  
34 are the only obstacles that prevent the animal from exiting.  
35

36 **PROVOCATION.** An act that an adult could reasonably expect may cause an  
37 animal to attack or bite. With regard to an animal other than a dog, provocation  
38 also means an act that an adult could reasonably expect may cause an animal of  
39 that species to attack or bite.  
40

41 **PUBLIC NUISANCE - ANIMAL.** Any animal that habitually worries, chases or  
42 molests persons travelling peaceably on a public road or off the premises of its  
43 owner, or violates a prohibition of this ordinance, is a public nuisance. It shall be  
44 considered a nuisance for any animal to bark excessively, continuously or  
45 untimely; to frequent school grounds, parks, or public beaches; to chase  
46 vehicles; to chase, molest, annoy or bite any person if the person is not on the  
47 property of the owner or custodian of the animal; to molest, defile or destroy any  
48 property, public or private; or to defecate in or upon public property or the

1 property of another without being cleaned up immediately by the person in  
2 charge of the animal. The person having custody of the animal is responsible for  
3 disposing of the animal feces in a sanitary manner. Failure on the part of the  
4 owner or custodian to prevent his animals from committing an act of nuisance  
5 shall subject the owner or custodian to the penalty hereinafter provided.

6 **RESTRAINT.** An animal is considered to be under restraint, provided that:

7 (1) It is on the premises of the person, firm, corporation, organization, or  
8 department possessing, harboring, keeping, having an interest in, or  
9 having care, custody, or control of the animal; or

10

11 (2) It is in a private motor vehicle or camper, with secured windows and  
12 doors, of a person, firm, corporation, organization, or department  
13 possessing, harboring, keeping, having an interest in, or having care,  
14 custody, or control of the animal; or

15

16 (3) In all other locations, other than animals in a designated "off-leash" park, it  
17 is on a secure leash.

18

19 **SLMPD.** The South Lake Minnetonka Police Department.

20 \_\_\_\_\_ **REGISTRATION AND LICENSING REQUIREMENTS.**

21 Subd. 1. *Licensure required.* All dogs over the age of six months kept in this  
22 city, including those allowed by multiple dog license, shall be licensed and  
23 registered by the owner with the city. The fee for the license and registration  
24 shall be set by resolution of the City Council. License applications shall be  
25 made at the office of the City Clerk on city forms setting forth the name and  
26 address of the owner; the name, breed, age, color, and gender of the dog; and  
27 such other information as may be considered necessary by the city.  
28 Applicants shall provide proof that each dog has current vaccination against  
29 rabies. License tags, if issued at the election of the city, shall be securely  
30 attached around the dog's neck at all times during the license term. If the tag is  
31 lost or stolen, the owner may obtain a duplicate license and tag upon payment  
32 of a fee set by resolution of the City Council.

33 Subd. 2. *Term of license.* The license period shall be that specified by the city in  
34 appendix.

35 Subd. 3. *New residents of city.* Any person who moves into and becomes a  
36 resident of the city and who owns a dog within the city shall cause the same to  
37 be registered and licensed as provided hereinbefore within a period of not more  
38 than 30 days after becoming a resident of the city.

39 Subd. 4. *Transfer of license.* The license of any dog, licensed by the city, may be  
40 transferred to a new owner of the licensed dog for the duration of that license.  
41 The transfer is when the information regarding the new owner is filed with the city  
42 clerk. The fee for license transfers shall be set by resolution of the City Council.

43 Subd. 5. *Revocation.* Any person making any false statement on any license  
44 application required by this section shall be guilty of a misdemeanor. The city

1 clerk/treasurer shall revoke any license issued under this section if the owner has  
2 made any false statement on the license application. No refund of any fees shall  
3 be due to the licensee whose license has been revoked.

4 Subd. 6. *Reinstatement.* Any person whose license has been revoked under this  
5 section may reapply for such license after all deficiencies have been corrected.  
6 Any person making application after any revocation shall follow the procedures  
7 set out for the initial issuance of the license and shall pay the fees in the full  
8 amount that would be required for an original license.

9 \_\_\_\_\_ **PERMITTED DOMESTICATED ANIMALS**

10 Any person may own, keep, harbor, or maintain any of the various domesticated  
11 animals, including but not limited to dogs and cats, adapted so as to live with  
12 humans in a tame condition.

13 \_\_\_\_\_ **PERMITTED NON-DOMESTICATED ANIMALS**

14 No person may own, keep, harbor, or maintain any non-domestic animal within  
15 the city limits.

16 *Individual cities may address exceptions in an appendix*

17 \_\_\_\_\_ **LIMITATIONS ON NUMBER OF DOGS.**

18 Within the limits of the city, no person may own, keep, harbor, or maintain more  
19 than 2 dogs over the age of 6 months unless a multiple dog license is first  
20 obtained from the city.

21 \_\_\_\_\_ **LIMITATIONS ON NUMBER OF CATS.**

22 Within the limits of the city, an owner or household may not own, keep, harbor, or  
23 maintain more than 3 cats over the age of 6 months.

24 \_\_\_\_\_ **ANIMAL BREEDERS AND DEALERS.**

25 No person, firm, or corporation shall establish, maintain, conduct, or operate  
26 a commercial kennel or operate as a breeder or dealer of any animal within  
27 this city without first obtaining approval by the city council.

28 \_\_\_\_\_ **RUNNING AT LARGE.**

29 No owner of any animal shall permit such animal to run or move at large at any  
30 time within the city. The finding of any animal running at large shall be prima  
31 facie evidence of violation of this section by the owner of the animal.

32 \_\_\_\_\_ **IMPOUNDMENT AUTHORITY.**

33 The animal enforcement officer shall have authority to take into custody and  
34 impound those animals, found at large within the city. If the animal enforcement  
35 officer is unable to take an animal into custody the officer may, where possible,

1 follow the animal to the property of its owner, and may issue a citation to the  
2 owner for violation of this ordinance. The officer shall not take into custody an  
3 animal once it is upon the property of its owner except:

4  
5 (a) Where the officer finds no one present upon the property and custody is  
6 necessary to prevent the animal from further running at large; or  
7

8 (b) The animal is previously declared as a dangerous dog or dangerous  
9 animal; or

10 (c) Is a prohibited non-domesticated animal or which is inherently dangerous  
11 and if left uncontrolled poses a danger to public health, safety or welfare.

## 12 \_\_\_\_\_ **ANIMAL NUISANCES.**

13 Subd. 1. It shall be unlawful for any owner to fail to exercise reasonable care and  
14 control of his or her animals to prevent them from becoming a public nuisance.

15 Subd. 2. The person having custody of the animal must have in their possession  
16 a device for removal of animal feces when in or on any public trail, sidewalk, in  
17 any city park, or along any public right-of-way (for example, along roadways and  
18 streets), or any other property, public or private, which is not the premises of the  
19 person owning, keeping, harboring, or maintaining the animal.

20 Subd. 3. No person having custody or control of a domesticated animal shall  
21 allow such animal on any public swimming beach or any public grounds where  
22 any sign is posted prohibiting animals in that area, except a recognized animal  
23 for life assistance.

## 24 \_\_\_\_\_ **CONFINEMENT OF CERTAIN ANIMALS.**

25 Every female animal in heat shall be confined in a building or other secure  
26 enclosure in such manner that such female animal cannot come into contact with  
27 another animal, except for planned breeding.

## 28 \_\_\_\_\_ **IMPOUNDED ANIMAL REDEMPTION.**

29 Subd. 1. *Pound.* The city shall provide an adequate pound or facilities where  
30 animals taken into custody by an animal enforcement officer shall be kept and  
31 properly fed and cared for until disposed of according to the provisions of this  
32 ordinance.

33 Subd. 2. *Notice of impoundment.* Within 24 hours of taking an animal into  
34 custody, the Animal Enforcement Officer shall give notice of the animal  
35 impoundment to the last known owner(s) and/or custodian(s) of the animal. If no  
36 address is available from police records, city license records, or available  
37 microchip identification, notice shall be given to the residence with which the  
38 animal was last associated. The notice shall reasonably describe the animal and  
39 advise that in the event the animal is not redeemed within five regular business  
40 days after a stated date the animal may be destroyed.

41 Subd. 3. *Redemption by owner.* The owner of any animal seized pursuant to this

1 section may retrieve the animal from the city's animal impound shelter, provided  
2 that the owner purchases the appropriate license within seven days if the animal  
3 is not already properly licensed, pays all impound fees to cover the cost of  
4 apprehending the animal, boarding fees to cover the cost of sheltering the  
5 animal, any veterinary costs incurred by the animal control authority, and any  
6 other costs incurred by the animal control authority. Any owner who fails to  
7 comply with these requirements within five regular business days shall be  
8 deemed to have forfeited any property right to the animal and the animal control  
9 authority may dispose of it pursuant to subdivision 5 of this section. In  
10 determining the impounding fee, the city may establish a schedule of fees based  
11 on the number of times an animal has been impounded. Boarding fees shall be  
12 according to a schedule adopted and maintained by the SLMPD. License fees  
13 shall be adopted by the city council by resolution.

14 Subd. 4. *Disposition of unclaimed or injured animals.* Upon expiration of the five  
15 regular business day period, an animal in the custody of the animal enforcement  
16 officer may be surrendered to the Animal Humane Society or euthanized.  
17 Nothing in this ordinance shall prevent the animal enforcement officer from  
18 causing the animal to be euthanized in less than the five regular business days  
19 waiting period as aforesaid where the animal is injured and, in the opinion of the  
20 animal enforcement officer or a veterinarian, the only humane act would be one  
21 of euthanization.

22 Subd. 5. *Records kept.* The animal enforcement officer shall keep an accurate  
23 account of all animals received at the pound and all animals euthanized or  
24 released there from.

## 25 \_\_\_\_\_ **RABIES CONTROL.**

26 Subd. 1. Rabies Vaccination Required.

27 It is unlawful for any person to own, keep, harbor, or maintain any animal over  
28 the age of six months which is susceptible to rabies unless that animal is  
29 vaccinated against rabies.

30 Subd. 2. Quarantine of biting animals.

31 a) Upon a written report being filed with the animal control authority stating  
32 that a animal has bitten a human being and setting forth the name of the  
33 animal, if known, and the name and address of the owner or custodian, if  
34 known, the name of the person bitten and when and where the incident  
35 occurred, the animal enforcement officer shall order the animal  
36 quarantined for a period of ten days. During quarantine, the animal shall  
37 be securely confined and kept from contact with any other animals.  
38

39 b) At the discretion of the animal enforcement officer, the quarantine may  
40 be on the premises of the owner. If the animal enforcement officer so  
41 requires, the owner shall, at his or her own expense, place the animal in  
42 a veterinary hospital for the period of confinement or surrender the  
43 animal to the animal enforcement officer for confinement. The animal  
44 shall not be released from confinement until the animal control officer  
45 has determined that the animal is free from rabies and until the owner

1 has paid the costs of any veterinary tests made upon the animal as well  
2 as the costs of any confinement on premises other than that of the  
3 owner.

4  
5 c) If the costs are not paid by the owner or custodian within ten days  
6 following written notice to the owner or custodian that the animal is  
7 available for release, the animal enforcement officer shall forthwith  
8 cause the animal to be surrendered to the Animal Humane Society or to  
9 be euthanized.

10  
11 d) Any person who shall fail to deliver to the animal enforcement officer any  
12 animal which has bitten a human being and against which a sworn,  
13 written complaint has been filed shall be guilty of a misdemeanor. Each  
14 day's neglect or failure to comply with the provisions of this subdivision  
15 shall be deemed a separate offense.

16  
17 e) A dog or other animal displaying symptoms of being rabid, may be  
18 seized at any place or time and shall be confined in the city impounding  
19 facility at the expense of the owner until found to be free from rabies.

20  
21 f) If a dog or other animal appears to be diseased, vicious, dangerous,  
22 rabid, or has been exposed to rabies, and the dog or other animal  
23 cannot be impounded without serious risk of personal injury, the dog or  
24 other animal may be destroyed if reasonably necessary for the safety of  
25 any person or person.

26 Subd. 3. Rabies in city, proclamation.

27 The city adopts Minnesota statute 35.68 and 35.69 and any revisions thereof  
28 regarding rabies proclamations.

29 \_\_\_\_\_ **ABUSE/NEGLECT OF ANIMALS.**

30 Subd. 1. *Improper care.*

31 *Food.* Animals must be provided with food of sufficient quantity and quality to  
32 allow for normal growth and maintenance of body weight.

33 *Water.* Animals must be provided with clean, fresh water in sufficient quantity to  
34 satisfy the animal's needs or supplied by free choice. Snow or ice is not an  
35 adequate water supply.

36 *Shelter.* Animals must be provided with proper shelter and protection from the  
37 weather. A person in charge or control of any animal which is kept outdoors  
38 or in an unheated enclosure shall provide the animal with shelter and bedding  
39 as prescribed in this section as a minimum. The shelter shall include a  
40 moisture proof and wind proof structure of suitable size to accommodate the  
41 animal and allow retention of body heat. It shall be made of durable material  
42 with a solid, moisture-proof floor or a floor raised at least two inches from the  
43 ground. Between November 1 and March 31 the structure must have a  
44 windbreak at the entrance. The structure shall be provided with a sufficient  
45 quantity of suitable bedding material consisting of hay, straw, cedar shavings,

1 blankets, or the equivalent, to provide insulation and protection against cold  
2 and dampness and promote retention of body heat. Shade from the direct  
3 rays of the sun, during the months of May to October shall be provided.

4 *Sanitation.* It shall be unlawful for any person to allow food and water  
5 receptacles, kennels, yards, or the premises where the animal is kept to be or to  
6 remain in an unhealthy, unsanitary, or obnoxious condition, or to permit the  
7 premises to be in such condition that obnoxious odors can be plainly detected on  
8 adjacent public or private property.

9 *Veterinary Care.* The owner or custodian of a domesticated or non-  
10 domesticated animal shall provide adequate health care, including parasite  
11 and pest control, and care needed to prevent suffering.

12 *Cruelty to animals.* It shall be unlawful for any owner to beat, cruelly ill-treat,  
13 torment or otherwise abuse or neglect any animal. A person may not inflict  
14 cruelty on a pet or companion animal by the use of a cruel training or  
15 handling device or method.

16 *Interpretation of Terms.* A dispute as to the meaning of abuse, cruelty,  
17 neglect or adequate healthcare shall be resolved by an expert opinion.

18 *Animals in motor vehicles.* A person may not leave an animal unattended in a  
19 standing or parked motor vehicle in a manner that endangers the animal's health  
20 or safety. Animals carried in open vehicles, including trucks, boats, motorcycles,  
21 dirt bikes, trailers, etc., must be restrained in a crate or carrier or restrained by a  
22 chain or cable to prevent the animal from leaving the vehicle or being tossed out.

23 *Subd. 2. Removal of animals.* A peace officer, animal enforcement officer, or a  
24 volunteer or professional member of a fire or rescue department of a political  
25 subdivision may use reasonable force to enter a motor vehicle and remove an  
26 animal which has been left in the vehicle in violation of this section. A person  
27 removing an animal under this subdivision shall use reasonable means to contact  
28 the owner of the animal to arrange for its return home. If the person is unable to  
29 contact the owner, the person may take the animal to an animal shelter.

### 30 \_\_\_\_\_ **DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS.**

31 The city is authorized pursuant to Minnesota statute section 347.53 to regulate  
32 potentially dangerous and dangerous dogs or other animals.

### 34 **POTENTIALLY DANGEROUS ANIMALS; DECLARATION**

35  
36 The animal control authority shall make such declaration upon a finding that the  
37 animal in question has:

38  
39 (a) When unprovoked, inflicts bites on a human or domestic animal on public or  
40 private property; or

41  
42 (b) when unprovoked, chases or approaches a person, including a person on a  
43 bicycle, upon the streets, sidewalks, or any public or private property, other than  
44 the animal owner's property, in an apparent attitude of attack; or

45

1 (c) has a known propensity, tendency, or disposition to attack unprovoked,  
2 causing injury or otherwise threatening the safety of humans or domestic  
3 animals; or  
4

5 (d) Has been declared a potentially dangerous animal by any lawful authority of  
6 this or any other state or subdivision thereof.  
7

8 In making such a determination, the animal enforcement officer may rely upon  
9 any or all of the following:  
10

11 (a) Citizen complaint from an identified member of the public;  
12

13 (b) Police or citizen reports of running at large or other public nuisance;  
14

15 (c) Citation or convictions of an ordinance or statutory violation independent of  
16 site of violation involving the animal in question with the exception of a charge of  
17 failure to license;  
18

19 (d) Determination by any state or subdivision thereof that the animal in question  
20 is a potentially dangerous animal.  
21

## 22 **POTENTIALLY DANGEROUS ANIMALS; REQUIREMENTS**

23  
24 *Microchip Identification.* The owner of a potentially dangerous animal must have  
25 a microchip implanted in the animal for identification, and the name of the  
26 microchip manufacturer and identification number of the microchip must be  
27 provided to the animal control authority. If the microchip is not implanted by the  
28 owner, it may be implanted by the animal control authority. In either case, all  
29 costs related to purchase and implantation of the microchip must be borne by the  
30 animal's owner. It is a misdemeanor to remove a microchip from a dangerous or  
31 potentially dangerous animal.  
32

33 *Confinement.* All potentially dangerous animals shall be securely confined  
34 indoors or in a securely enclosed and locked pen, kennel, or fenced yard except  
35 when leashed as required. Confinement does not include a porch, patio,  
36 unfenced yard, "invisible fence" or any part of a house, garage, cage, or other  
37 structure that would allow the animal to exit of its own volition or any house or  
38 structure in which screens are the only obstacles to preventing the animal from  
39 exiting.  
40

41 *Impoundment.* Any potentially dangerous animal found off the premises of the  
42 owner, harborer, keeper, or custodian of same, is subject to immediate seizure  
43 and impoundment.  
44

## 45 **DANGEROUS ANIMALS; DECLARATION**

46  
47 The animal control authority shall make such declaration upon a finding that the  
48 animal in question has:  
49

50 (a) without provocation, inflicted substantial bodily harm on a human being on  
51 public or private property; or  
52

- 1 (b) killed a domestic animal without provocation while off the owner's property; or  
2  
3 (c) been found to be potentially dangerous, and after the owner has notice that  
4 the animal is potentially dangerous, the animal aggressively bites, attacks, or  
5 endangers the safety of humans or domestic animals.  
6

7 In making such a determination, the animal enforcement officer may rely upon  
8 any or all of the following:  
9

- 10 (a) Citizen complaint from an identified member of the public;  
11  
12 (b) Police or citizen reports of running at large or other public nuisance;  
13  
14 (c) Citation or convictions of an ordinance or statutory violation independent of  
15 site of violation involving the animal in question with the exception of a charge of  
16 failure to license;  
17  
18 (d) Determination by any state or subdivision thereof that the animal in question  
19 is a dangerous animal.  
20

## 21 **DANGEROUS ANIMALS; REGISTRATION** 22

23 *Subd 1. Requirement.* No person may own a dangerous animal in the city unless  
24 the animal is registered as provided in this section.  
25

26 *Subd. 2. Registration.* The animal control authority shall issue a certificate of  
27 registration to the owner of a dangerous animal if the owner presents sufficient  
28 evidence that:  
29

30 (1) a proper enclosure exists for the dangerous animal and a posting on the  
31 premises with a clearly visible warning sign that there is a dangerous animal on  
32 the property, including a warning symbol to inform children;

33 (2) a policy of liability insurance issued by an insurance company authorized  
34 to conduct business in this state in the amount of at least \$1,000,000.00 insuring  
35 the owner for any personal injuries inflicted by the dangerous animal;

36 (3) the owner has paid an annual fee to the SLMPD, in addition to any  
37 regular licensing fees, to obtain a certificate of registration for a dangerous  
38 animal under this section; and

39 (4) the owner has had microchip identification implanted in the dangerous  
40 animal.  
41

42 *Subd. 2a. Warning symbol.*

43 If the animal control authority issues a certificate of registration to the owner of a  
44 dangerous animal pursuant to subdivision 2, the animal control authority must  
45 provide, for posting on the owner's property, a copy of a warning symbol to  
46 inform children that there is a dangerous animal on the property. The warning  
47 symbol must be the uniform symbol provided by the Minnesota Commissioner of  
48 Public Safety. The animal control authority may charge the registrant a

1 reasonable fee to cover its administrative costs and the cost of the warning  
2 symbol.

3 *Subd. 3. Dangerous animal designation review.*

4 Beginning six months after an animal is declared dangerous, an owner may  
5 request annually that the designating animal control authority review the  
6 designation. The owner must provide evidence that the animal 's behavior has  
7 changed due to age, neutering, environment, completion of obedience training  
8 that includes modification of aggressive behavior, or other factors. If the animal  
9 control authority finds sufficient evidence that the animal 's behavior has  
10 changed, the authority may rescind the dangerous animal designation.

11 *Subd. 4. Law enforcement; exemption.*

12 The provisions of this section do not apply to dogs used by law enforcement  
13 officials for police work.

14 *Subd. 5. Exemption.*

15 Animals may not be declared dangerous if the threat, injury, or damage was  
16 sustained by a person:

17 (1) who was committing, at the time, a willful trespass or other tort upon the  
18 premises occupied by the owner of the animal;

19 (2) who was provoking, tormenting, abusing, or assaulting the animal or who  
20 can be shown to have repeatedly, in the past, provoked, tormented, abused, or  
21 assaulted the animal; or

22 (3) who was committing or attempting to commit a crime.

23 *Subd. 6. Tag.*

24 A dangerous animal registered under this section must have a standardized,  
25 easily identifiable tag identifying the animal as dangerous and containing the  
26 uniform dangerous animal symbol, affixed to the animal 's collar at all times.

27  
28 **DANGEROUS ANIMALS; REQUIREMENTS**  
29

30 (a) An owner of a dangerous animal shall keep the animal, while on the  
31 owner's property, in a proper enclosure. If the animal is outside the proper  
32 enclosure, the animal must be muzzled and restrained by a substantial  
33 chain or leash and under the physical restraint of a responsible adult. The  
34 muzzle must be made in a manner that will prevent the animal from biting  
35 any person or animal but that will not cause injury to the animal or  
36 interfere with its vision or respiration.

37 (b) The owner of a dangerous animal must have a microchip implanted in the  
38 animal for identification, and the name of the microchip manufacturer and  
39 identification number of the microchip must be provided to the animal  
40 control authority. If the microchip is not implanted by the owner, it may be  
41 implanted by the animal control authority. In either case, all costs related  
42 to purchase and implantation of the microchip must be borne by the  
43 animal 's owner. It is a misdemeanor to remove a microchip from a  
44 dangerous or potentially dangerous animal.

1 (c) An owner of a dangerous animal must renew the registration of the animal  
2 annually until the animal is deceased. If the animal is removed from the  
3 jurisdiction, it must be registered as a dangerous animal in its new jurisdiction.

4 (d) An owner of a dangerous animal must notify the animal control authority in  
5 writing of the death of the animal or its transfer to a new location where the  
6 animal will reside within 30 days of the death or transfer, and must, if requested  
7 by the animal control authority, execute an affidavit under oath setting forth either  
8 the circumstances of the animal 's death and disposition or the complete name,  
9 address, and telephone number of the person to whom the animal has been  
10 transferred or the address where the animal has been relocated.

11 (e) An animal control authority shall require a dangerous animal to be sterilized at  
12 the owner's expense. If the owner does not have the animal sterilized within 30  
13 days, the animal control authority shall seize the animal and have it sterilized at  
14 the owner's expense.

15 (f) A person who owns a dangerous animal and who rents property from another  
16 where the animal will reside must disclose to the property owner prior to entering  
17 the lease agreement and at the time of any lease renewal that the person owns a  
18 dangerous animal that will reside at the property.

19  
20 *Right to hearing.* The owner of any animal declared dangerous has the right to a  
21 hearing concerning the dangerous dog or dangerous animal declaration and,  
22 if applicable, prior potentially dangerous dog or potentially dangerous  
23 animal declarations for the animal. The animal owner must make the request in  
24 writing, on a form provided by the SLMPD, within 14 days of receiving notice of  
25 the declaration. Failure to do so within 14 days of the date of receiving the notice  
26 will terminate the owner's right to a hearing under this section.

27  
28 Any hearing must be held within 14 days of the request to determine the validity  
29 of the declaration. The hearing officer must be an impartial person retained by  
30 the city or by the SLMPD to conduct the hearing. In the event that the declaration  
31 is upheld by the hearing officer, actual expenses of the hearing up to a maximum  
32 of \$1,000 will be the responsibility of the animal's owner. The hearing officer shall  
33 issue a decision on the matter within ten days after the hearing. The decision  
34 must be delivered to the animal's owner by hand delivery or registered mail as  
35 soon as practical and a copy must be provided to the animal control authority.

36  
37 *Requirements during appeals process.*

38  
39 (a) While awaiting final disposition of an appeal of a dangerous animal  
40 declaration, the owner of the animal shall keep the animal, while on the owner's  
41 property, in a proper enclosure. If the animal is outside the proper enclosure, it  
42 must be muzzled and restrained by a substantial chain or leash and under the  
43 physical restraint of a responsible person. The muzzle must be made in a  
44 manner that will prevent the animal from biting any person or animal but that will  
45 not cause injury to the animal or interfere with its vision or respiration. A person  
46 who transfers ownership of a dangerous dog or dangerous animal must  
47 notify the new owner that the animal control authority has identified the  
48 animal as dangerous. The current owner must also notify the animal control  
49 authority in writing of the transfer of ownership and provide the animal

1 control authority with the new owner's name, address, and telephone  
2 number.

3  
4 **CONFISCATION**

5  
6 Subd. 1. *Seizure.*

7  
8 (a) The animal control authority having jurisdiction shall immediately seize  
9 any dangerous animal if:

10  
11 (1) after 14 days after the owner has notice that the animal is dangerous, the  
12 animal is not validly registered under this section; or

13  
14 (2) after 14 days after the owner has notice that the animal is dangerous, the  
15 owner does not secure the proper liability insurance or surety coverage as  
16 required under this section; or

17  
18 (3) The animal is not maintained in the proper enclosure; or

19  
20 (4) The animal is outside the proper enclosure and not under physical  
21 restraint of a responsible person as required in the previous section.

22  
23 (5) The animal is not sterilized within 30 days.

24  
25 (b) If an owner of an animal is convicted of a crime for which the animal was  
26 originally seized, the court may order that the animal be confiscated and may  
27 be disposed of in a manner permitted by law, and that the owner pay the  
28 costs incurred in confiscating, confining, and destroying the animal.

29  
30 Subd. 2. *Animals reclaimed.* A dangerous animal seized under subdivision 1  
31 may be reclaimed by the owner of the animal upon payment of impounding  
32 and boarding fees, and presenting proof to the animal control authority that  
33 the requirements of the previous section will be met. An animal not reclaimed  
34 under this subdivision within seven days may be surrendered to the Animal  
35 Humane Society or humanely euthanized and the owner is liable to the  
36 animal control authority for costs incurred in confining and disposing of the  
37 animal.

38  
39 **DESTRUCTION OF ANIMALS IN CERTAIN CIRCUMSTANCES**

40  
41 Subd. 1. *Circumstances*

42  
43 An animal may be destroyed in a proper and humane manner by the animal  
44 control authority if the animal:

45  
46 (1) Inflicted substantial or great bodily harm on a human on public or private  
47 property without provocation; or

48  
49 (2) Inflicted multiple bites on a human on public or private property without  
50 provocation; or

51  
52 (3) Bit multiple human victims on public or private property in the same attack

1 without provocation; or

2

3 (4) Bit a human on public or private property without provocation in an attack  
4 where more than one animal participated in the attack.

5

6 Subd. 2. *Right to hearing.*

7

8 The animal control authority may not destroy an animal until the animal owner  
9 has had the opportunity for a hearing before an impartial hearing officer  
10 designated by the animal control authority. The animal owner must request a  
11 hearing within 14 days after the animal control authority provides notice that it  
12 intends to destroy the animal.

13

14 **PENALTIES**

15

16 (a) A person who violates a provision of this ordinance is guilty of a  
17 misdemeanor.

18 **\_\_\_\_\_ ENFORCEMENT.**

19 Citations are issued for certain violations. The animal control officer or police  
20 officer is authorized to issue a citation to any person, firm, or entity for any  
21 alleged violations of this ordinance and any other ordinances or statutes  
22 which provide the basis for prosecution of violations of this ordinance. Nothing  
23 within this ordinance shall be construed to limit the authority of animal control  
24 officers or police officers to enforce any provisions of this ordinance or related  
25 statutes or ordinances.

26 **APPENDIX**

*April 24, 2013*



Agenda Number: **7G**

Agenda Date: 06-05-13

**Agenda Item:** Discuss 2014 Lake Minnetonka Conservation District Budget Options

**Summary:** At the 06-05-13 council meeting, Greenwood's Lake Minnetonka Conservation District representative Councilman Rob Roy will walk the council through two LMCD budget options being considered and explain the budget process.

**Council Action:** No action required. Possible motions ...

1. I move the council supports the 2014 Lake Minnetonka Conservation District budget option \_\_\_.
2. I move the council supports the 2014 Lake Minnetonka Conservation District budget option \_\_\_, with the following changes: \_\_\_\_\_.
3. Other motion ???



April 26, 2013

TO: LMCD City Administrators  
 LMCD Board Members

FROM: Greg Nybeck, Executive Director 

SUBJECT: Draft 2014 LMCD Budget

Enclosed are two options of the draft 2014 Lake Minnetonka Conservation District (LMCD) Budget. A meeting has been scheduled at the LMCD office on Thursday, June 6<sup>th</sup>, at 11 a.m. to review and receive your input on them.

In March of 2013, the LMCD adopted a Comprehensive Eurasian Watermilfoil (EWM) and Curly-Leaf Pondweed (CLP) Plan for Lake Minnetonka. This plan has identified mechanical harvesting and large scale/whole bay herbicide treatments as tools to manage EWM and CLP in public areas. Recommendations were identified relating to public funding for mechanical harvesting, including equipment depreciation, and large scale/whole bay herbicide treatments. However, the consensus of the LMCD Board of Directors was to address this through the 2014 LMCD Budget process.

Highlights of these two options include the following:

<b>Draft 2014 LMCD Budget</b>	
<b>Option #1</b>	<b>Option #2</b>
Similar to the activities and projects in the adopted 2013 LMCD Budget	This option proposes funding for some of the recommendations in the adopted plan
Levy to the LMCD member cities would increase <u>3.0%</u> (\$330,604 in 2013 compared to \$340,615 in 2014)	Levy to the LMCD member cities would increase <u>16.6%</u> (\$330,604 in 2013 compared to \$385,615 in 2014)
Total expenditures would increase <u>1.3%</u> (\$581,309 in 2013 compared to \$588,805 in 2014)	Total expenditures would increase <u>9.0%</u> (\$581,309 in 2013 compared to \$633,805 in 2014)
A <u>\$25,000</u> transfer is proposed from the Administration Reserve Fund to the Equipment Replacement Fund	<b><u>Primary Differences from Option 1</u></b> 1. Funding for unspecified AIS prevention and management projects would be reduced to <u>\$20,000</u> (targeted for watercraft inspections) 2. <u>\$55,000</u> is proposed for whole bay or large scale herbicide treatments (in suitable management areas) 3. Net increase of <u>\$45,000</u> from Option 1
Compensation adjustments are proposed at <u>2%</u> under "Contingency"- see enclosed Compensation and Salary Survey	
<u>\$30,000</u> for unspecified aquatic invasive species (AIS) prevention and management programs (historically used for watercraft inspections)	

LMCD City Administrators

LMCD Board Members

April 26, 2013

Page 2

During the month of May, I would like to offer attending a city council meeting to discuss the draft 2014 LMCD Budget, as well as to answer any questions that the city council might have on the LMCD activities and projects. If you are unable to attend the June 6<sup>th</sup> meeting and would like to comment on it, please feel free to call me or forward your comments to the LMCD office by Wednesday, June 5<sup>th</sup>. My e-mail address is [gnybeck@lmcd.org](mailto:gnybeck@lmcd.org).



## LAKE MINNETONKA CONSERVATION DISTRICT 2014 BUDGET AND LEVY (DRAFT- OPTION 2)

City	2010 U.S. Census Population Data	2012 Taxable Market Value	2012 Net Tax Capacity	% of Total Net Tax Capacity (Note 1)	Share of Admin. Levy in 2014	Share of AIS Levy in 2014	Share of Total Levy in 2014	Share of Total Levy in 2013	Increase in Total Levy from 2013	% of Increase from 2013
DEEPHAVEN	3,642	922,807,292	10,327,976	4.8%	\$16,442	\$9,333	<b>\$25,774</b>	\$21,692	\$4,082	18.8%
EXCELSIOR	2,188	315,145,221	3,949,333	1.8%	\$6,287	\$3,569	<b>\$9,856</b>	\$8,173	\$1,683	20.6%
GREENWOOD	688	274,144,600	3,120,892	1.4%	\$4,968	\$2,820	<b>\$7,788</b>	\$6,450	\$1,338	20.8%
MINNETONKA	49,734	7,256,381,123	91,746,541	42.6%	\$49,198	\$27,925	<b>\$77,123</b>	\$66,121	\$11,002	16.6%
MTKA BEACH	539	251,180,550	2,911,789	1.4%	\$4,636	\$2,631	<b>\$7,267</b>	\$6,399	\$868	13.6%
MINNETRISTA	6,384	1,197,793,354	12,732,540	5.9%	\$20,270	\$11,505	<b>\$31,775</b>	\$27,595	\$4,180	15.1%
MOUND	9,052	924,089,329	9,822,668	4.6%	\$15,638	\$8,876	<b>\$24,513</b>	\$21,878	\$2,635	12.0%
ORONO	7,437	2,364,623,516	26,790,406	12.4%	\$42,650	\$24,208	<b>\$66,858</b>	\$58,407	\$8,451	14.5%
SHOREWOOD	7,307	1,367,209,584	15,025,751	7.0%	\$23,921	\$13,578	<b>\$37,498</b>	\$31,671	\$5,827	18.4%
SPRING PARK	1,669	208,910,996	2,505,237	1.2%	\$3,988	\$2,264	<b>\$6,252</b>	\$5,195	\$1,057	20.3%
TONKA BAY	1,475	490,783,274	5,565,705	2.6%	\$8,861	\$5,029	<b>\$13,890</b>	\$12,077	\$1,813	15.0%
VICTORIA	7,345	954,264,600	9,983,858	4.6%	\$15,894	\$9,022	<b>\$24,916</b>	\$20,526	\$4,390	21.4%
WAYZATA	3,688	1,353,914,070	17,839,841	8.3%	\$28,401	\$16,120	<b>\$44,521</b>	\$37,945	\$6,576	17.3%
WOODLAND	437	259,774,364	3,038,376	1.4%	\$4,837	\$2,746	<b>\$7,583</b>	\$6,474	\$1,109	17.1%
	101,585	18,141,021,873	215,360,913	100.0%	\$245,990	\$139,625	<b>\$385,615</b>	\$330,603	\$55,012	16.6%

Maximum Levy Per MN statute 103B.635 (Total Taxable Market Value \* .00242%):

\$439,013

(Note 1) Per MN statute 103B.631, no city may pay more than 20% of the total levy. The City of Minnetonka would pay a constant 20% of any amounts to be levied.

Remaining cities factor for determining levy amounts is computed as: (City Net Tax Capacity / ( Total Net Tax Capacity - Minnetonka Net Tax Capacity ) ) \* 80%

Total Net Tax Capacity	215,360,913
less Minnetonka Net Tax Capacity	(91,746,541)
Net Tax Capacity for remaining 13 cities	123,614,372

## 2014 BUDGET DETAIL (Draft- Option 2)

	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Actual Projected	2014 Budget	Footnote # See Appendix A
<b>REVENUES</b>							
<b>1. Administration</b>							
a) LMCD Communities Levy	250,231	231,875	231,875	238,654	238,654	245,990	
b) Use from Administration Reserve	0	20,000	0	19,655	19,655	19,565	1
c) Court Fines	71,783	54,000	105,036	55,000	55,000	55,000	
d) Licenses	116,859	115,000	110,128	115,000	115,000	115,000	
e) Other Public Agencies	0	0	0	0	0	0	
f) Interest	1,012	1,500	1,941	1,000	1,000	1,250	
g) Other Income	2,939	2,000	3,795	2,000	2,000	2,000	
<b>SUB-TOTAL ADMINISTRATION</b>	<b>442,824</b>	<b>424,375</b>	<b>452,775</b>	<b>431,309</b>	<b>431,309</b>	<b>438,805</b>	
<b>2. Aquatic Invasive Species</b>							
a) LMCD Communities Levy	80,419	90,333	90,331	91,950	91,950	139,625	
b) Other Public Agencies	54,238	32,800	50,750	32,800	59,307	30,000	2
c) Use from AIS Reserve	0	0	0	0	0	0	
d) Interest	207	500	379	250	250	375	
<b>SUB-TOTAL AQUATIC INVASIVE SPECIES</b>	<b>134,864</b>	<b>123,633</b>	<b>141,460</b>	<b>125,000</b>	<b>151,507</b>	<b>170,000</b>	
<b>3. Equipment Replacement</b>							
a) Transfers from Admin. and AIS Reserves		25,000	45,856	25,000	25,000	25,000	
b) Receipt from LMCIT		0	32,500	0	0	0	
c) Use from Equipment Replacement Reserve		0	96,036	0	0	0	
<b>SUB-TOTAL EQUIPMENT REPLACEMENT</b>		<b>25,000</b>	<b>174,392</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	
<b>TOTAL REVENUES</b>	<b>577,688</b>	<b>573,008</b>	<b>768,627</b>	<b>581,309</b>	<b>607,816</b>	<b>633,805</b>	
<b>Total Levy</b>	<b>330,650</b>	<b>322,208</b>	<b>322,206</b>	<b>330,604</b>	<b>330,604</b>	<b>385,615</b>	
<b>DISBURSEMENTS</b>							
<b>ADMINISTRATION</b>							
<b>1. Personnel Services:</b>							
a) Salaries-Excludes EWM Project Mgmt. Time	184,767	192,537	195,445	196,401	200,524	200,524	3
b) FICA & Medicare	14,118	14,729	14,945	15,025	15,340	15,340	4
c) Employer Benefit Contributions	28,730	29,855	29,811	32,015	30,609	33,279	5
<b>SUB-TOTAL PERSONNEL SERVICES</b>	<b>227,615</b>	<b>237,121</b>	<b>240,201</b>	<b>243,441</b>	<b>246,473</b>	<b>249,143</b>	
<b>2. Contractual Services:</b>							
a) Office Lease & Storage	43,005	44,054	44,032	45,112	46,297	47,409	6
b) Professional Services	18,862	3,500	3,202	2,700	2,500	2,500	7
<b>SUB-TOTAL CONTRACTUAL SERVICES</b>	<b>61,867</b>	<b>47,554</b>	<b>47,234</b>	<b>47,812</b>	<b>48,797</b>	<b>49,909</b>	

## 2014 BUDGET DETAIL (Draft- Option 2)

	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Actual Projected	2014 Budget	Footnote # See Appendix A
<b>3. Office &amp; Administration:</b>							
a) Office, General Supplies	3,165	5,000	4,071	4,500	4,500	4,500	
b) Telephone	2,062	2,500	2,069	2,500	2,200	2,160	
c) Postage	4,863	5,000	3,800	5,000	5,000	5,000	
d) Printing, Publications, Advertising	8,453	11,000	9,927	10,000	10,000	10,500	8
e) Maintenance, Office Equipment	1,021	1,200	837	1,200	1,200	1,100	
f) Subscriptions, Memberships	1,488	1,000	1,550	1,000	1,625	1,700	
g) Insurance, Bonds	7,156	6,500	6,031	7,000	7,000	7,000	9
h) Public Information, Legal Notices	1,781	1,500	139	1,500	500	1,000	
i) Meeting Expenses	3,473	3,500	4,399	4,000	4,500	4,500	
j) Mileage	1,504	2,000	1796	2000	2000	2000	
k) Employee Training	0	400	0	400	400	400	
<b>SUB-TOTAL OFFICE &amp; ADMINISTRATION</b>	<b>34,966</b>	<b>39,600</b>	<b>34,619</b>	<b>39,100</b>	<b>38,925</b>	<b>39,860</b>	
<b>4. Capital Outlay:</b>							
a) Furniture & Equipment	743	1,500	948	1,500	1,250	1,000	
b) Computer Software & Hardware	483	2,000	1,553	2,000	1,750	2,000	10
<b>SUB-TOTAL CAPITAL OUTLAY</b>	<b>1,226</b>	<b>3,500</b>	<b>2,501</b>	<b>3,500</b>	<b>3,000</b>	<b>3,000</b>	
<b>5. Legal:</b>							
a) Legal Services	30,771	37,000	21,576	35,000	34,000	32,000	11
b) Prosecution Services	25,585	47,000	39,875	45,000	45,000	45,000	12
c) Hennepin County Room & Board	1,104	750	732	1,000	1,000	1,000	
<b>SUB-TOTAL LEGAL</b>	<b>57,460</b>	<b>84,750</b>	<b>62,183</b>	<b>81,000</b>	<b>80,000</b>	<b>78,000</b>	
<b>6. Contract Services/Studies:</b>							
a) Audit	6,651	6,850	6,850	7,056	7,056	7,268	
b) Information Technology	0	0	0	0	500	500	
<b>SUB-TOTAL CONTRACT SERVICES/STUDIES</b>	<b>6,651</b>	<b>6,850</b>	<b>6,850</b>	<b>7,056</b>	<b>7,556</b>	<b>7,768</b>	
<b>7. Code Enforcement Program</b>					<b>3,500</b>	<b>4,000</b>	
<b>8. Administration Reserve Fund</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>9. Equipment Replacement Fund</b>		<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	13
<b>10. Contingency</b>	<b>5,247</b>	<b>5,000</b>	<b>4,693</b>	<b>9,400</b>	<b>2,500</b>	<b>7,125</b>	
<b><u>TOTAL ADMINISTRATION</u></b>	<b><u>395,032</u></b>	<b><u>449,375</u></b>	<b><u>423,281</u></b>	<b><u>456,309</u></b>	<b><u>455,751</u></b>	<b><u>463,805</u></b>	

**2014 BUDGET DETAIL (Draft- Option 2)**

	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Actual Projected	2014 Budget	Footnote # See Appendix A
<b>AQUATIC INVASIVE SPECIES (AIS)</b>							
1. Eurasian Watermilfoil (EWM) Harvesting Program	79,761	93,633	84,863	95,000	95,000	95,000	14
2. Equipment Replacement Fund	0	0	0	0	0	0	
3. AIS Reserve Fund	0	0	0	0	0	0	
4. Herbicide Treatment Program	0	0	0	0	0	55,000	15
5. AIS Prevention & Management Programs	34,247	30,000	38,905	30,000	43,115	20,000	16
<b>EQUIPMENT REPLACEMENT FUND</b>							
1. Purchase of New Mechanical Harvester		0	174,392	0	0	0	
<b><u>TOTAL AQUATIC INVASIVE SPECIES</u></b>	<b><u>114,008</u></b>	<b><u>123,633</u></b>	<b><u>298,160</u></b>	<b><u>125,000</u></b>	<b><u>138,115</u></b>	<b><u>170,000</u></b>	
<b><u>TOTAL DISBURSEMENTS</u></b>	<b><u>509,040</u></b>	<b><u>573,008</u></b>	<b><u>721,441</u></b>	<b><u>581,309</u></b>	<b><u>593,866</u></b>	<b><u>633,805</u></b>	

**Lake Minnetonka Conservation District (LMCD)  
Draft 2014 LMCD Budget (Option 2)  
Appendix A**

**Use from Administration Reserve  
Fund (Footnote #1)**

A \$19,565 reserve fund transfer has been budgeted for 2014. Further analysis of this reserve fund balance is detailed on page 2.

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It is anticipated that the MN DNR will fund the LMCD with a grant of \$30,000 for the 2014 EWM Harvesting Program.

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**2014 estimated actual**

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Less 1 pay period for EWM Project Manager	-\$2,320.93
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	<b>\$200,524.15 (**)</b>

(\*) Salaries will be grossed up to pay for long-term disability insurance for full-time LMCD employees

(\*\*) Salary adjustments (including F.I.C.A., medicare, & P.E.R.A.) are included in Contingency (line-item 10)

**F.I.C.A. & Medicare (Footnote #4)**

Total Salaries- including EWM Project Management (7.65%)	\$15,517.65
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**Herbicide Treatment Program (Footnote #15)** \$55,000 has been budgeted for whole bay or large scale herbicide treatments on suitable management areas on Lake Minnetonka. These treatments would be coordinated consistent with the Comprehensive EWM and CLP Plan for Lake Minnetonka (adopted by the LMCD Board of Directors on March 13, 2013).

**AIS Prevention & Management Programs (Footnote #16)** This line-item will focus on comprehensive watercraft inspections to manage the spread of zebra mussels from Lake Minnetonka and reduce the chances of introducing new aquatic invasive species. A \$20,000 levy to the 14 LMCD member cities has been budgeted for 2014.

**RESERVE FUND ANALYSIS:**

	<b>Administration</b>	<b>AIS</b>	<b>Equipment Replacement Fund</b>
<b>2013</b>			
12/31/12 Balance	\$301,204	\$64,433	\$17,184
Reserve Fund Contribution	\$0	\$0	\$0
Transfer from Reserve Fund	(\$19,565)	\$0	\$0
Transfer to Equip. Repl. Fund	(\$25,000)	\$0	\$25,000
Projected 12/31/13 Balance	<u>\$256,639</u>	<u>\$64,433</u>	<u>\$42,184</u>
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<b>Projected % of 2013 Annual Budget</b>	<b>46.5%</b>	<b>51.5%</b>	



## LAKE MINNETONKA CONSERVATION DISTRICT 2014 BUDGET AND LEVY (DRAFT- OPTION1)

City	2010 U.S. Census Population Data	2012 Taxable Market Value	2012 Net Tax Capacity	% of Total Net Tax Capacity (Note 1)	Share of Admin. Levy in 2014	Share of AIS Levy in 2014	Share of Total Levy in 2014	Share of Total Levy in 2013	Increase in Total Levy from 2013	% of Increase from 2013
DEEPHAVEN	3,642	922,807,292	10,327,976	4.8%	\$16,442	\$6,325	<b>\$22,767</b>	\$21,692	\$1,075	5.0%
EXCELSIOR	2,188	315,145,221	3,949,333	1.8%	\$6,287	\$2,419	<b>\$8,706</b>	\$8,173	\$533	6.5%
GREENWOOD	688	274,144,600	3,120,892	1.4%	\$4,968	\$1,911	<b>\$6,880</b>	\$6,450	\$430	6.7%
MINNETONKA	49,734	7,256,381,123	91,746,541	42.6%	\$49,198	\$18,925	<b>\$68,123</b>	\$66,121	\$2,002	3.0%
MTKA BEACH	539	251,180,550	2,911,789	1.4%	\$4,636	\$1,783	<b>\$6,419</b>	\$6,399	\$20	0.3%
MINNETRISTA	6,384	1,197,793,354	12,732,540	5.9%	\$20,270	\$7,797	<b>\$28,067</b>	\$27,595	\$472	1.7%
MOUND	9,052	924,089,329	9,822,668	4.6%	\$15,638	\$6,015	<b>\$21,653</b>	\$21,878	-\$225	-1.0%
ORONO	7,437	2,364,623,516	26,790,406	12.4%	\$42,650	\$16,406	<b>\$59,056</b>	\$58,407	\$649	1.1%
SHOREWOOD	7,307	1,367,209,584	15,025,751	7.0%	\$23,921	\$9,202	<b>\$33,122</b>	\$31,671	\$1,451	4.6%
SPRING PARK	1,669	208,910,996	2,505,237	1.2%	\$3,988	\$1,534	<b>\$5,522</b>	\$5,195	\$327	6.3%
TONKA BAY	1,475	490,783,274	5,565,705	2.6%	\$8,861	\$3,408	<b>\$12,269</b>	\$12,077	\$192	1.6%
VICTORIA	7,345	954,264,600	9,983,858	4.6%	\$15,894	\$6,114	<b>\$22,008</b>	\$20,526	\$1,482	7.2%
WAYZATA	3,688	1,353,914,070	17,839,841	8.3%	\$28,401	\$10,925	<b>\$39,326</b>	\$37,945	\$1,381	3.6%
WOODLAND	437	259,774,364	3,038,376	1.4%	\$4,837	\$1,861	<b>\$6,698</b>	\$6,474	\$224	3.5%
	101,585	18,141,021,873	215,360,913	100.0%	\$245,990	\$94,625	<b>\$340,615</b>	\$330,603	\$10,012	3.0%

Maximum Levy Per MN statute 103B.635 (Total Taxable Market Value \* .00242%):

\$439,013

(Note 1) Per MN statute 103B.631, no city may pay more than 20% of the total levy. The City of Minnetonka would pay a constant 20% of any amounts to be levied.

Remaining cities factor for determining levy amounts is computed as: (City Net Tax Capacity / ( Total Net Tax Capacity - Minnetonka Net Tax Capacity ) ) \* 80%

Total Net Tax Capacity	215,360,913
less Minnetonka Net Tax Capacity	(91,746,541)
Net Tax Capacity for remaining 13 cities	123,614,372

## 2014 BUDGET DETAIL (Draft- Option 1)

	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Actual Projected	2014 Budget	Footnote # See Appendix A
<b>REVENUES</b>							
<b>1. Administration</b>							
a) LMCD Communities Levy	250,231	231,875	231,875	238,654	238,654	245,990	
b) Use from Administration Reserve	0	20,000	0	19,655	19,655	19,565	1
c) Court Fines	71,783	54,000	105,036	55,000	55,000	55,000	
d) Licenses	116,859	115,000	110,128	115,000	115,000	115,000	
e) Other Public Agencies	0	0	0	0	0	0	
f) Interest	1,012	1,500	1,941	1,000	1,000	1,250	
g) Other Income	2,939	2,000	3,795	2,000	2,000	2,000	
<b>SUB-TOTAL ADMINISTRATION</b>	<b>442,824</b>	<b>424,375</b>	<b>452,775</b>	<b>431,309</b>	<b>431,309</b>	<b>438,805</b>	
<b>2. Aquatic Invasive Species</b>							
a) LMCD Communities Levy	80,419	90,333	90,331	91,950	91,950	94,625	
b) Other Public Agencies	54,238	32,800	50,750	32,800	59,307	30,000	2
c) Use from AIS Reserve	0	0	0	0	0	0	
d) Interest	207	500	379	250	250	375	
<b>SUB-TOTAL AQUATIC INVASIVE SPECIES</b>	<b>134,864</b>	<b>123,633</b>	<b>141,460</b>	<b>125,000</b>	<b>151,507</b>	<b>125,000</b>	
<b>3. Equipment Replacement</b>							
a) Transfers from Administration and AIS Reserves		25,000	45,856	25,000	25,000	25,000	
b) Receipt from LMCIT		0	32,500	0	0	0	
c) Use from Equipment Replacement Reserve		0	96,036	0	0	0	
<b>SUB-TOTAL EQUIPMENT REPLACEMENT</b>		<b>25,000</b>	<b>174,392</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	
<b>TOTAL REVENUES</b>	<b>577,688</b>	<b>573,008</b>	<b>768,627</b>	<b>581,309</b>	<b>607,816</b>	<b>588,805</b>	
<b>Total Levy</b>	<b>330,650</b>	<b>322,208</b>	<b>322,206</b>	<b>330,604</b>	<b>330,604</b>	<b>340,615</b>	
<b>DISBURSEMENTS</b>							
<b>ADMINISTRATION</b>							
<b>1. Personnel Services:</b>							
a) Salaries- excludes EWM Project Management time	184,767	192,537	195,445	196,401	200,524	200,524	3
b) FICA & Medicare	14,118	14,729	14,945	15,025	15,340	15,340	4
c) Employer Benefit Contributions	28,730	29,855	29,811	32,015	30,609	33,279	5
<b>SUB-TOTAL PERSONNEL SERVICES</b>	<b>227,615</b>	<b>237,121</b>	<b>240,201</b>	<b>243,441</b>	<b>246,473</b>	<b>249,143</b>	
<b>2. Contractual Services:</b>							
a) Office Lease & Storage	43,005	44,054	44,032	45,112	46,297	47,409	6
b) Professional Services	18,862	3,500	3,202	2,700	2,500	2,500	7
<b>SUB-TOTAL CONTRACTUAL SERVICES</b>	<b>61,867</b>	<b>47,554</b>	<b>47,234</b>	<b>47,812</b>	<b>48,797</b>	<b>49,909</b>	

## 2014 BUDGET DETAIL (Draft- Option 1)

	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Actual Projected	2014 Budget	Footnote # See Appendix A
<b>3. Office &amp; Administration:</b>							
a) Office, General Supplies	3,165	5,000	4,071	4,500	4,500	4,500	
b) Telephone	2,062	2,500	2,069	2,500	2,200	2,160	
c) Postage	4,863	5,000	3,800	5,000	5,000	5,000	
d) Printing, Publications, Advertising	8,453	11,000	9,927	10,000	10,000	10,500	8
e) Maintenance, Office Equipment	1,021	1,200	837	1,200	1,200	1,100	
f) Subscriptions, Memberships	1,488	1,000	1,550	1,000	1,625	1,700	
g) Insurance, Bonds	7,156	6,500	6,031	7,000	7,000	7,000	9
h) Public Information, Legal Notices	1,781	1,500	139	1,500	500	1,000	
i) Meeting Expenses	3,473	3,500	4,399	4,000	4,500	4,500	
j) Mileage	1,504	2,000	1796	2000	2000	2000	
k) Employee Training	0	400	0	400	400	400	
<b>SUB-TOTAL OFFICE &amp; ADMINISTRATION</b>	<b>34,966</b>	<b>39,600</b>	<b>34,619</b>	<b>39,100</b>	<b>38,925</b>	<b>39,860</b>	
<b>4. Capital Outlay:</b>							
a) Furniture & Equipment	743	1,500	948	1,500	1,250	1,000	
b) Computer Software & Hardware	483	2,000	1,553	2,000	1,750	2,000	10
<b>SUB-TOTAL CAPITAL OUTLAY</b>	<b>1,226</b>	<b>3,500</b>	<b>2,501</b>	<b>3,500</b>	<b>3,000</b>	<b>3,000</b>	
<b>5. Legal:</b>							
a) Legal Services	30,771	37,000	21,576	35,000	34,000	32,000	11
b) Prosecution Services	25,585	47,000	39,875	45,000	45,000	45,000	12
c) Hennepin County Room & Board	1,104	750	732	1,000	1,000	1,000	
<b>SUB-TOTAL LEGAL</b>	<b>57,460</b>	<b>84,750</b>	<b>62,183</b>	<b>81,000</b>	<b>80,000</b>	<b>78,000</b>	
<b>6. Contract Services/Studies:</b>							
a) Audit	6,651	6,850	6,850	7,056	7,056	7,268	
b) Information Technology	0	0	0	0	500	500	
<b>SUB-TOTAL CONTRACT SERVICES/STUDIES</b>	<b>6,651</b>	<b>6,850</b>	<b>6,850</b>	<b>7,056</b>	<b>7,556</b>	<b>7,768</b>	
<b>7. Code Enforcement Program</b>					<b>3,500</b>	<b>4,000</b>	
<b>8. Administration Reserve Fund</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>9. Equipment Replacement Fund</b>		<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	13
<b>10. Contingency</b>	<b>5,247</b>	<b>5,000</b>	<b>4,693</b>	<b>9,400</b>	<b>2,500</b>	<b>7,125</b>	
<b><u>TOTAL ADMINISTRATION</u></b>	<b><u>395,032</u></b>	<b><u>449,375</u></b>	<b><u>423,281</u></b>	<b><u>456,309</u></b>	<b><u>455,751</u></b>	<b><u>463,805</u></b>	

**2014 BUDGET DETAIL (Draft- Option 1)**

	2011 Actual	2012 Budget	2012 Actual	2013 Budget	2013 Actual Projected	2014 Budget	Footnote # See Appendix A
<b>AQUATIC INVASIVE SPECIES (AIS)</b>							
1. Eurasian Watermilfoil (EWM) Harvesting Program	79,761	93,633	84,863	95,000	95,000	95,000	14
2. Equipment Replacement Fund	0	0	0	0	0	0	
3. AIS Reserve Fund	0	0	0	0	0	0	
4. Herbicide Treatment Program	0	0	0	0	0	0	
5. AIS Prevention & Management Programs	34,247	30,000	38,905	30,000	43,115	30,000	15
<b>EQUIPMENT REPLACEMENT FUND</b>							
1. Purchase of New Mechanical Harvester		0	174,392	0	0	0	
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**AIS Prevention & Management Programs (Footnote #15)** \$30,000 has been budgeted for unspecified AIS management and prevention programs. Potential programs include: 1) watercraft inspections, 2) herbicide treatments, and 3) biological (weevil) research. Similar to past years, the LMCD will seek partnerships for the implementation of these projects, in particular funding partners.

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**Lake Minnetonka Conservation District (LMCD)  
Salary and Hourly Rate Survey (2010-2013)**

Public Agency	2010 (% Increase)	2011 (% Increase)	2012 (% Increase)	2013 (% Increase)
Deephaven	0%	2%	1%	2%
Excelsior	0%	2%	1%	2%
Greenwood	Contracts with the City of Deephaven			
LMCD	0%	2%	1.5%	2%
Minnehaha Creek Watershed District	2%	2%	3%	5%
Minnetonka	1.81%	1.56%	1.46%	1.44%
	Increases in 2011 were split in January and July. This is the overall average (non-union). Every employee receives a 1% & based on a market analysis, some positions receive a market increase.			
Minnetonka Beach	2%	2%	1%	1%
	(Plus 3.5% step increases to those eligible)			
Minnetrista	1%	0%	2%	1%
Mound	0%	1%	1%	In Negotiations
Orono	1%	1%	1% (July, 2012)	1%
Shorewood	2% budgeted each year from 2010-2013 for non-union employees. Funds were put in a pool and adjustments were based on performance and position in the market range for each employee. The average has been 1.5% the past couple of years (varies by position).			
Spring Park	2%	3%	3%	3.75%
	(These numbers include COLA increases)			
Tonka Bay	0.83%	1%	1%	1%
Victoria	1%	1%	1%	2%
Wayzata	0%	0%	1.5%	2%
Woodland	Contracts with the City of Deephaven			



# 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

May 28, 2013

## **NOTICE OF PUBLIC MEETING REVIEW OF DRAFT 2014 LMCD BUDGET THURSDAY, JUNE 6, 2013 11 A.M.**

You are invited to attend a meeting scheduled for Thursday, June 6<sup>th</sup>, at the Lake Minnetonka Conservation District (LMCD) office (23505 Smithtown Road, Suite 120). The purpose of this meeting will be to review the draft 2014 LMCD Budget, including an opportunity to ask questions and comment on it.

Members from the public interested in attending are welcomed. Questions can be directed to Greg Nybeck, LMCD Executive Director.



**Agenda Item:** Recycling Education Options

**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. In 2011 the county had 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 June 2013 newsletter mailing.

Missing from the above list is (e) "two additional education activities" from section 4 on page 3 of the agreement with the county. This requirement was waived in 2012 because the county was unable to provide a "menu of options." However, the city recently received information regarding education options, so the expectation from the county is that the city needs to complete two additional education activities in 2013. Attached are documents that list options for the council's consideration.

The next *Greenwood Quarterly* newsletter will be sent to homes at the end of June. The newsletter will include a Recycling flyer provided by the county. If the council wishes to promote two education activities in the newsletter, the two activities need to be determined as soon as possible.

**Council Action:** Required. Potential motions ...

1. I move the council authorizes the city clerk and mayor to select and implement two education activities to fulfill the requirements of the city's recycling agreement with Hennepin county.
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.

# Environmental Education Toolkit: Activity Ideas and Resources

Each section of the toolkit has activity ideas to help you get others involved in learning and taking action. Click on an activity below for a description of the activity, list of supplies, links to related handouts or activity sheets, and discussion starters.

## Toolkit activities - organized by topic and appropriate age group

Activity	Youth	Teen	Adult
<b>Waste Reduction</b>			
<a href="#"><u>Make your own gift wrap, bags, and cards</u></a>	X	X	X
<a href="#"><u>Eco-Fashion Show</u></a>	X	X	X
<a href="#"><u>Wise up about waste quiz</u></a>		X	X
<a href="#"><u>Product packaging: comparing waste and cost</u></a>		X	X
<b>Recycling</b>			
<a href="#"><u>Make a Recycling Chart</u></a>	X		
<a href="#"><u>Make a Recycling Monster</u></a>	X		
<a href="#"><u>Close the recycling loop</u></a>		X	X
<a href="#"><u>What's in your trash can</u></a>		X	X
<b>Toxicity Reduction</b>			
<a href="#"><u>Techno Trash</u></a>		X	X
<a href="#"><u>Make non-toxic cleaner</u></a>		X	X
<a href="#"><u>Video: Are you Exposing your Children to a Toxic Brew?</u></a>			X
<a href="#"><u>Label reading</u></a>		X	X
<a href="#"><u>Grow Grass Seeds</u></a>	X		
<b>Energy Conservation</b>			
<a href="#"><u>Take the Minnesota Energy Challenge</u></a>		X	X
<a href="#"><u>Use an Energy Meter to Learn About Electricity Consumption</u></a>		X	X
<a href="#"><u>Create your own windsock</u></a>	X		

<a href="#"><u>Make a weather collage</u></a>	X		
<b>Water Resources</b>			
<a href="#"><u>Where in the Watershed</u></a>	X	X	X
<a href="#"><u>Maintain your Drain</u></a>	X	X	X
<a href="#"><u>Volunteer to Monitor Water Quality</u></a>		X	X
<a href="#"><u>Build or Buy a Rain Barrel</u></a>			X
<a href="#"><u>Lawn Care Contest (Also Toxicity)</u></a>			
<a href="#"><u>Bio Bingo</u></a>	X	X	X
<b>All Topic Activities</b>			
<a href="#"><u>Eco-Drama</u></a>	X	X	
<a href="#"><u>Book or Movie Club</u></a>		X	X

Did you find what you were looking for?  Yes  No

## Contact

**Community POWER**  
**Grant Coordinator**  
**Email**

Phone: 612-348-3777

FAX: 612-348-8532

TDD: 612-596-6985

8:00 a.m. - 4:30

p.m.

# Solid Waste Management Coordinating Board

## Residential Recycling Toolkit

Beginning in Spring 2012, many Twin Cities recycling service providers are accepting more materials as new markets for recyclable materials have become available. The SWMCB has updated this Residential Recycling Toolkit with new language, images, and tools to reflect the additional materials accepted and help partners promote recycling in the metro area.

Thank you for your interest in the Residential Recycling toolkit. Participation by county and municipal recycling staff, recycling service providers and other organizations is the key to the success of this campaign. By working together and being consistent with our messages we will be able to break through the communications clutter.

### Terms of Use - Style and Usage Guide

Please read "[Style & Usage Guide: SWMCB Toolkit Materials and Rethink Recycling Logo](#)" before using this or other Rethink Recycling toolkit pieces. By downloading toolkit pieces, you agree to the terms of use outlined in the guide.

### Feedback

The SWMCB hopes to continuously improve this toolkit and welcomes feedback on all toolkit materials. Please send feedback on the toolkit to [Info@RethinkRecycling.com](mailto:Info@RethinkRecycling.com).

### Questions

For questions, comments, or suggestions on the toolkit, please contact:

Yeamah Brewer, SWMCB  
651-222-7227  
[info@rethinkrecycling.com](mailto:info@rethinkrecycling.com)

## Communications Resources

 [Residential Recycling Terminology Guidelines \(92 KB\)](#)

 [Recycling Tips & Myths \(84.5 KB\)](#)

 [Recycling Facts \(83 KB\)](#)

 [Global Warming \(79 KB\)](#)

 [Magazines & Catalogs \(81.5 KB\)](#)

 [Newspapers & Inserts \(80 KB\)](#)

 [Paper Recycling Process \(80 KB\)](#)

 [Paper Recycling Tips \(81.5 KB\)](#)

 [Recycling Beyond the Kitchen \(90 KB\)](#)

 [Cartons Recycling \(84.5 KB\)](#)

DOC

[Social Media Posts](#) (92.5 KB)

DOC

[How & What to Recycle](#) (97 KB)

DOC

[Benefits of Recycling](#) (81 KB)

DOC

[New Materials Accepted, Spring 2012](#) (77 KB)

Don't just sit there. Recycle.



[Residential Recycling Print Templates](#)

Templates are provided in PDF and InDesign formats.



[Logos](#)

[View Resource »](#)



[Residential Recycling Images](#)



**Agenda Item:** Potential City Council Comments Regarding ...  
Minnehaha Creek Watershed District Draft Minor Plan Amendment  
Met Council Draft 2014-2015 Transportation Improvement Program

**Summary:** The city recently received notifications for the following issues:

1. The Minnehaha Creek Watershed District is seeking comments from cities regarding their Draft Minor Plan Amendment to amend the Capital Improvement section of its Comprehensive Water Resource Management Plan. A copy of the email requesting city input is attached.
2. The Met Council is seeking comments from cities regarding the draft of the Twin Cities Draft 2014-2015 Transportation Improvement Program. A copy of the email requesting city input is attached.

If the city council may wishes to weigh in on these topics, the attached memo format needs to be fleshed out.

**Council Action:** None required. Potential motions ...

1. I move the council authorizes \_\_\_\_\_ to draft and send a memo from the Greenwood City Council to the Minnehaha Creek Watershed District regarding the Draft Minor Plan Amendment to amend the Capital Improvement section of its Comprehensive Water Resource Management Plan.
2. I move the council authorizes \_\_\_\_\_ to draft and send a memo from the Greenwood City Council to the Met Council regarding the draft of the Twin Cities Draft 2014-2015 Transportation Improvement Program.
3. Do nothing or other motions ???



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.

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, April 17, 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 Commission members John Beal, Kristi Conrad, and Douglas Reeder

Absent: Commissioner David Paeper

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

**2. OATH OF OFFICE** – City Attorney Kelly Administered the Oath of Office to Commissioner Kristi Conrad and Chairman Patrick Lucking.

**3. APPROVE AGENDA**

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

**4. MINUTES OF January 16, 2013.**

Commissioner Conrad moved to approve the minutes of January 16, 2013 as presented. Commissioner Lucking seconded the motion. Motion carried 3-0-1. Commissioner Beal abstained.

**5. PUBLIC HEARING**

**Jim Pastor, 5100 Greenwood Circle**, variance requests to construct a new single family home on a non-conforming foundation which encroaches into the minimum required exterior east side, west side and rear yard setbacks and exceeds the maximum permitted impervious surface. The home would also exceed the maximum permitted structure volume.

The applicant also proposes to replace the roof on an existing non-conforming detached accessory structure within the required rear and west side yard setbacks.

Section 1120:15 of the Zoning Ordinance requires a minimum exterior east side yard setback of thirty feet. The applicant proposes an exterior east side yard setback of eight feet for the proposed single family home. The proposal requires a variance of twenty-two feet of the exterior east side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum west side yard setback of fifteen feet. The applicant proposes a west side yard setback of eight feet, two inches for the proposed single family home. The proposal requires a variance of six foot, ten inches of the west side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum rear yard setback of thirty-five feet. The applicant proposes a rear yard setback of twenty-four feet for the proposed single family home. The proposal requires a variance of eleven feet of the rear yard setback.

Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The applicant is proposing an impervious surface area of 47.3% and is seeking a variance to exceed the maximum permitted impervious surface area by 17.3%.

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, April 17, 2013**  
**7:00 P.M.**

Section 1140.18(3) regulates the maximum permitted above grade structure volume based on lot area. Based on the applicant's lot area, the permitted above grade structure volume for the property is 32,250 cubic feet. The applicant proposed a structure volume of 37,964 cubic feet. The applicant is seeking a variance to exceed the maximum permitted above grade structure volume by 5,714 cubic feet.

Chairman Lucking summarized the request and opened the public hearing.

Jim Pastor said the plan was to square off the back of the home, construct an addition to the front of the home and wrap a deck around the front and side portions of the home. He said the flat roof on the north side garage would be altered to a pitched roof to match the home and railings would be added to the garage on the south side to match the deck.

Commissioner Beal noted both garages were located on the property lines and said the city didn't have the authority to approve an encroachment onto adjacent properties even if it were just a roof overhang. He said the applicant would need to alter the roof design on the north garage or obtain an easement from the neighbor.

Brian Malo, 5070 Greenwood Circle asked about the lower garage and if any additional overhang would be counted as impervious surface. Mr. Pastor said no additional overhang would be added.

Chairman Lucking asked the applicant how important the deck was to his overall plan for the property. Mr. Pastor said the house is very narrow and he thought the deck would give the house some character and width while taking advantage of the lake. Lucking asked if that could be accomplished with a deck the width of the house on just the front portion, since it feels it may be hard to convince the Council a practical difficulty exists for the deck as it is currently proposed. Mr. Pastor felt the deck would be too small.

City Attorney Kelly noted that Greenwood Circle cut across the lot on the southeast corner which adds impervious surface to the calculation. He said the principle reason for the corner lot setback was for visibility considerations. He feels the nature of this road as a curve and its grade may not warrant such a strict standard. Kelly said the existing footprint is grandfathered. He said the deck may be reasonable use, not impact the character of the neighborhood and a good idea to take advantage of a lake view, but it's a matter to what degree the city is willing to approve and Chairman Lucking's question as to whether limiting the deck to the front of the house is a fair question.

Commissioner Beal expressed concern about the increase in height, noting the applicant is permitted the height he currently has. Commissioner Conrad said the homes along the north side of Greenwood Circle are rather large and doesn't feel the proposed height will impact the adjacent homes. Beal asked about the height of the home. Chairman Lucking said the height is about twenty-two feet.

The Commission discussed the proposed deck projections into the required west side setback. It was noted only a garage exists on that lot now and that the property was legally attached to the lot across the street even though it has a separate property id number. There is a question as to whether this lot could be sold separately. Commissioner Conrad said she would never support a variance granted for aesthetics but if there would never be a structure on the west lot, she wouldn't have the same concern she normally would.

The Planning Commission discussed the current driveway access and the challenges it poses. There may be some grade alterations necessary that exceed the ordinance requirements. Mr. Pastor is not sure exactly what they are going to do at this time.

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

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, April 17, 2013**  
**7:00 P.M.**

Council Liaison Cook said he would like to hear the comments of the Commission on the impervious surface request. City Attorney Kelly commented that the home is very nominal as it exists. Zoning Coordinator Karpas said that there could be some steps through the reduction of the deck to reduce the impervious surface area, but noted the lot is very small.

Commissioner Beal discussed the proposed east side encroachment noting the actual structure is located a long way from the paved edge of the road. He said the property is small and required to comply with two "front" yard setbacks.

City Attorney Kelly discussed the retaining wall located between the east property line and the edge of the road stating it serves the applicant's property and there may be an issue with future maintenance. Maybe some sort of agreement could be reached about maintenance through this process. He said the applicant may even want to petition the city to vacate that portion of property which would give him ownership of the wall. In addition it would increase his lot area decreasing his variance request in terms of east side yard setback and impervious surface area.

Chairman Lucking discussed the options available to the applicant since it appeared the application would not receive a positive recommendation from the Commission. City Attorney Kelly said there will be a struggle on exactly what portions of the request this body has the authority to approve. Commissioner Conrad said the Commission is tied to meeting a practical difficulty standard.

Commissioner Reeder feels the applicant has done a good job with what he's got given what he had to work with. Chairman Lucking commented he doesn't recall ever approving a variance request where an existing encroachment was permitted to be increased into a required yard.

The Commission discussed the options for potentially reconfiguring the garages. City Attorney Kelly said removing one of the curb cuts may be beneficial in terms of aesthetics. Chairman Lucking said relocating the garages may impact the floor plan of the home.

Chairman Lucking suggested the applicant continue his request to the May meeting. City Attorney Kelly said the applicant may look at removing the south garage as a way of reducing impervious surface area and developing a way to redirect runoff from the deck to a central point. Commissioner Beal suggest it would be wise to investigate vacating the city property along Greenwood Circle.

Commissioner Reeder felt the Planning Commission should give the applicant clearer direction on what they expected for the impervious surface percentage. Council Liaison Cook cautioned about giving too much direction to an applicant since their advice may not be shared by the City Council who is the body that makes the final decision.

Mr. Pastor said he's very frustrated since he thought he had a nice plan for this property and felt it would receive a more positive response. City Attorney Kelly feels a solution can be crafted.

Council Liaison Cook also cautioned about making the right of way too narrow.

Motion by Commissioner Reeder that the request be continued to the May meeting to permit the applicant to consider the comments of the Planning Commission and amend the plan if he felt it necessary. Beal seconded the motion. Motion carried 4-0.

## **6. NEW BUSINESS**

**Discuss - ORDINANCE NO. 216** – Amendment of Greenwood Zoning Ordinance Code, Chapter 11, Regarding Rules for Uses in Residential Districts and Amendments of Definitions within Said Chapter.

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, April 17, 2013**  
**7:00 P.M.**

Zoning Coordinator presented the ordinance noting a portion of the ordinance was creating definitions to address issues to be included in the Home Occupation ordinance currently under review by the City Council and the other portion was amending the permitted and conditional uses in the residential districts to bring them into compliance with state statutes.

Commissioner Beal discussed the establishment of a minimum lease period and the notion that those who rent for less than a thirty day period are less desirable and annoying and somehow those who rent longer are considered better.

City Attorney Kelly said a property owner has an inherent right to rent their property, but the length of time is a grey area and there is a concern about absentee and reckless landlords renting their properties on a nightly basis. He said this issue was raised due to an advertised vacation rental in the city.

Council Liaison Cook feels the process may take more steps to protect resident's rights to rent their property. He said those most concerned about rental properties are seeking leases between twelve and eighteen months.

Zoning Coordinator Karpas said this ordinance has been scheduled for a public hearing at the Commission's special meeting on April 25<sup>th</sup>. He asked if there were any proposed changes at this time.

The Commission had no changes and directed staff to proceed with the public hearing.

**7. LIAISON REPORT**

Council Liaison Cook informed the Commission that the Council is currently going through the Board of Review process and that a number of residents are appealing their valuations, but overall taxes have went down, noting that the trend is indicating valuations are most likely going up next year. He said the Council is currently reviewing a Home Occupation ordinance. The Council heard a presentation from its Auditors and no deficiencies were found. He said the Council has been working on a joint agreement with the City of Excelsior for water service which has been going back and forth and will be settled in the near future, it has yet to been determined if a final agreement can be reached. Finally, the Council is discussing the creation of a Lake Improvement District which would have taxing authority to fund milfoil removal in St. Alban's Bay.

**8. ADJOURN**

Motion by Commissioner Beal to adjourn the meeting. Commissioner Conrad seconded the motion. The meeting was adjourned at 9:17 p.m.

Respectively Submitted  
Gus Karpas - Zoning Administrator



Date: May 2, 2013

To: Minnehaha Creek Watershed District  
Becky Houdek, MCWD Planner  
bhoudk@minnehahacreek.org

From: Greenwood City Council

Re: **Comments Regarding MCWD Board Policy for Distribution of Pollutant Reduction Credit from District Projects for the Purpose of TMDL Reporting**

At our 05-01-13 meeting the Greenwood city council reviewed and discussed the draft of the MCWD Board policy for the distribution of pollutant reduction credit from MCWD projects for the purpose of TMDL reporting. We STRONGLY support the TMDL distribution policy as proposed.

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



# Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | [www.pca.state.mn.us](http://www.pca.state.mn.us) | Equal Opportunity Employer

May 8, 2013

Leisa Thompson, General Manager  
MCES  
390 Robert St N  
St. Paul, MN 55101-1805

RE: Plans and Specification and Addendum Number 1 and 2 Approvals  
MCES Blue Lake Interceptor System Improvements; Excelsior Area Improvements- Phase 1  
Excelsior Interceptor 7017  
MCES Project 802850  
MPFA Project 279356-PS07

Dear Ms. Thompson:

The Minnesota Pollution Control Agency (MPCA) is pleased to inform you that we are hereby granting approval of the final plans and specifications, along with Addendums 1 and 2. The approved proposal is for the rehabilitation improvements to the Excelsior Interceptor System 7017.

The final plans and specifications related information indicates that the project will consist of the following:

## 1. LOCATION OF WORK

A. Location is in the Cities of Excelsior, Greenwood and Shorewood, MN. The project begins at the intersection of Excelsior Boulevard and Division Street and goes east along Excelsior Boulevard through the Cities of Excelsior, Greenwood, and Shorewood, crosses under Highway 7 to Covington Road in Shorewood.

## 2. WORK DESCRIPTION

A. This Project includes, but is not limited to the construction of the following:

1. Removal of existing pavement, walks, trails, and other surfaces.
2. Location of existing underground utilities using the pothole method.
3. Removal or abandonment of sanitary sewers, storm sewers, water mains, and appurtenances.
4. Support, protection, and/or relocation of existing underground and overhead utilities.
5. Construction of 6,550 linear feet of 24 inch PVC force main and appurtenances.
6. Construction of cleanout and air release structures and maintenance manholes.
7. Tunneling under Highway 7.
8. Construction of City utilities and improvements in Excelsior Boulevard and Covington Road.
9. Reconstruction of Excelsior Boulevard and Covington Road.
10. Landscaping and plantings.
11. Erosion Control of the work area while complying with all the requirements of the project permits.
12. Traffic control as shown on the drawings.

### 3. RELATED WORK BY OTHERS

- A. Private utility companies with existing underground and aboveground facilities will be on site during the project.
- B. MCES will perform inspection and testing on the existing MCES force main when the force main is exposed.
- C. The City of Excelsior will be operating and maintaining lift station located in Oak Hill Cemetery.

### 4. WORK SEQUENCE AND PROJECT PHASING

- A. The project is broken into 3 phases and the phases are broken down into stages . The boundaries for the stages are chiefly related to traffic, public access and detours. As described on the drawings there are restrictions for the construction timing for certain stages to allow traffic flow, business access or due to specific construction sequencing requirements.
- B. Phase 1 (Division St to Christmas Lake Road) must be completed by July 3, 2013 including bituminous base course or not started until after July 6, 2013. If preliminary project schedule indicates that Phase 1 cannot be completed prior to July 3, 2013 then Phase 2 will be the first phase constructed.
- C. Contractor is required to comply with the sequencing in the contract documents. If during construction the contractor believes an alternate sequence is required, the contractor shall submit for MCES review and approval, a detailed description of the proposed sequence with justification for the change. Contractor shall include a schedule and any proposed contract time and contract amount changes. Submittal shall be at least 14 calendar days prior to beginning construction on any affected phase or stage of the project.
- D. The proposed 24-inch diameter PVC force main must be completed, video inspected and all testing completed prior to allowing flow from other connected force mains into the completed 24-inch diameter PVC force main.
- E. Contractor shall conduct pavement removal activities such that no more than 300 feet of pavement is removed in advance of pipe installation, unless approved by the council area representative.
- F. Contractor shall conduct pipe installation activities such that no more than 200 feet of excavated trench is open at any given time, unless approved by the council area representative.
- G. Maintain at least one lane of traffic (eastbound) for through traffic on Excelsior Boulevard between Division Street and Christmas Lake Road.
- H. Construct driving surface within 48 hours of completion of backfilling underground utility work.
- I. Project includes work on private properties. Contractor shall coordinate access to site with property owner.
- J. Restore access to all properties at the end of each work day unless contractor has coordinated other means of access with the property owner and Council Area Representative.

### 5. EVENTS

- A. Excelsior Boulevard between Division Street and Christmas Lake Road shall have one lane of traffic in each direction open from July 3rd to July 6th. The driving surface shall be the existing paved surface or new bituminous non-wear course.

B. Contractor shall provide additional event signage or flaggers as directed by the council area representative.

C. City of Excelsior Events:

1. Artic Fever – Saturday and Sunday, January 18 and 19, 2014
2. Pond Hockey Championship – Saturday and Sunday, January 25 and 26, 2014
3. Half Marathon – Sunday May 5, 2013
4. Concours d'Elegance Event – Sunday June 2, 2013
5. Art On The Lake –Friday through Sunday, June 7 through June 9, 2013
6. Minnetonka Triathlon – Saturday June 15, 2013
7. 4th of July Celebration – Wednesday and Thursday, July 3 and 4, 2013
8. Crazy Days – Saturday and Sunday July 20 and 21, 2013
9. Apple Day – Saturday, September 14, 2013

D. City of Greenwood Events:

1. 4th of July

E. City of Shorewood Events:

1. 4<sup>th</sup> of July

The project is further described in the facility plan approved on October 20, 2006. The project is described in detail in the plans and specifications titled, "Excelsior Area Improvements - Excelsior Interceptor 7017 MCES Project 802850," signed by Thomas W. Melody, P.E., and dated on March 1, 2013. Addendum Number 1 is dated April 10, 2013 and Addendum Number 2 is dated April 17, 2013.

The following items are not considered loan fundable for the reasons stated:

1. Storm sewer related items. Storm sewers are not a necessary component of a wastewater conveyance and treatment system.
2. Water mains, water wells, and other water supply items. Water supply systems are not a necessary component of a wastewater treatment system.
3. Portions of street, curb and gutter, and sidewalks that are not a result of the construction of sanitary sewers. Reconstruction fundability should be limited to the width of the pipe trench necessary to install the sanitary sewer. In areas where both sewer and water are installed, the reconstruction costs should be divided proportionally between sewer and water costs.

This constitutes a formal decision in accordance with Minn. R. 7077.2000. Any request for review or reconsideration of this decision must be submitted within 45 days of the date of this letter. For clarification concerning Disputes Procedures, please contact your review engineer.

The MPCA's officers, employees and agents review, comment upon, and approve plans and specifications for the limited administrative purpose of determining whether there is reasonable assurance that the treatment system when constructed, will comply with the regulations and criteria of the MPCA.

The MPCA reviews and comments upon the advertisement for bids, information for bidders, contract, and other front-end documents which provide the basis for this approval solely for the limited

administrative purpose of determining whether there is reasonable assurance that these documents are in conformance with Minn. R. 7077.0274.

This approval shall not in any way relieve you or the engineer of responsibility, nor shall it make the MPCA responsible for the technical adequacy of the engineer's work. This approval shall not relieve you from complying with all conditions and requirements of the NPDES/SDS permit and shall be retained by the Permittee with the permit.

You are responsible for obtaining an NPDES Storm Water Permit, separate from the above-mentioned wastewater discharge permit, for any construction project which disturbs a surface area of one acre or more. To obtain a copy of the construction storm water permit application, go to the MPCA website and the stormwater program webpage at:

<http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>

or to request a paper application from the MPCA at 651-296-6300 or 800-657-3864 and ask to speak to the Construction Stormwater Administrative Lead.

Any alterations or additions to the treatment system's approved plans and specifications must be submitted to the MPCA as a Plan and Specification Addendum and be approved by the MPCA prior to bid opening. Significant alterations or additions to the treatment system's approved plans and specifications, proposed after the award of the contract, must be submitted as a change order and approved by the MPCA. Significant change orders are defined as contract deviations which:

1. substantially alter the type of treatment process, or its efficiency, versatility, or reliability
2. alter the approved project schedule affecting the initiation of operation date

Significant change orders require prior approval, from the MPCA, before the work can be done. Verbal approval may be agreed to if the work is of an emergency nature.

All change orders shall be retained by you for review by the MPCA. Each change order shall include an execution date, a complete description of the change, and signatures from your authorized representative, the engineer, and the contractor.

Regulations may change regarding administrative requirements in effect at the time of this approval.

A final inspection of the project shall be performed by MPCA staff when all construction is complete except for minor weather-related components. You should request in writing that a final inspection be performed when you believe construction is complete.

One year after the initiation of operation of the project, you must submit to the MPCA the following items, as appropriate for the project:

- a. A certification on a form prescribed by MPCA, signed by a professional engineer registered in the state of Minnesota stating that the project meets the following performance standards:

Leisa Thompson, General Manager

Page 5

May 8, 2013

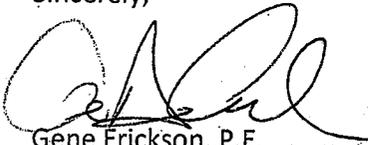
- 1) The project has been completed in according to approved construction plans and specifications and change orders.
- 2) The project accepts hydraulic and organic loading to the extent described in the approved design specifications.

The certification form submittal shall also include one copy of "as-built" plans and specifications, also known as record drawings. The as-built documents must be submitted in a format approved by the MPCA. The fact sheet titled: "Wastewater Treatment Facility Construction Record Documents, As-built Submittal Requirements" contains specific information regarding the required format of the submittal. The document is located on the MPCA web page at:

<http://www.pca.state.mn.us/index.php/view-document.html?gid=15492>.

Any questions regarding this approval should be directed to Corey Mathisen at 651-757-2554.

Sincerely,



Gene Erickson, P.E.

Engineer

Municipal Wastewater Section

Municipal Division

GE:ah

cc: Dan Fick, MCES  
David Karras, MCES  
Dave Wisdorf, City of Excelsior  
Gus Karpas, City Greenwood  
Larry Brown, City of Shorewood  
Becky Sabie, MPFA  
Bill Dunn, MPCA  
Corey Mathisen, MPCA





**SOUTH LAKE MINNETONKA  
POLICE DEPARTMENT**

24150 SMITHTOWN ROAD  
SHOREWOOD, MN 55331-8598

BRYAN T. LITSEY  
Chief of Police

Office (952) 474-3261  
Fax (952) 474-4477

MEMO TO: City of Greenwood

FROM: Nancy Swanson  
Office Manager

RE: Forfeiture Proceeds  
Ronald Floyd Evenson – 2002 GMC Yukon  
Our Case #07003171

DATE: May 9, 2013

Enclosed is a check payable to the City of Greenwood in the amount of \$2,625.00 regarding the Ronald Floyd Evenson forfeiture. Distribution of the forfeiture proceeds is indicated below.

Gross Proceeds	\$8,900.00
Less Auction Fee	= 150.00
Net Proceeds	<u>\$8,750.00</u>

Proceeds due City of Greenwood	\$2,625.00 (30%)
Proceeds due SLMPD	\$6,125.00 (70%)

If you have any questions, please do not hesitate to contact me.



**South Lake Minnetonka Police Department**

24150 Smithtown Road  
Shorewood, Minnesota 55331

BEACON BANK  
SHOREWOOD, MN 55331  
75-870/919

14385

5/9/2013

© 2011 INTELIT INC. # 785 1-800-433-8810

PAY TO THE ORDER OF City of Greenwood

\$ \*\*2,625.00

Two Thousand Six Hundred Twenty-Five and 00/100\*\*\*\*\* DOLLARS

City of Greenwood  
20225 Cottagewood Road  
Deephaven, MN 55331

*Alma J. Lund*  
*M. J. Evenson* MP

MEMO Forfeiture Proceeds

⑈014385⑈ ⑆091908700⑆ 101 8173⑈

South Lake Minnetonka Police Department

City of Greenwood  
31090 · Fund - DWI Forfeitures

Evenson - 07003171 - Yukon Forfeiture

5/9/2013

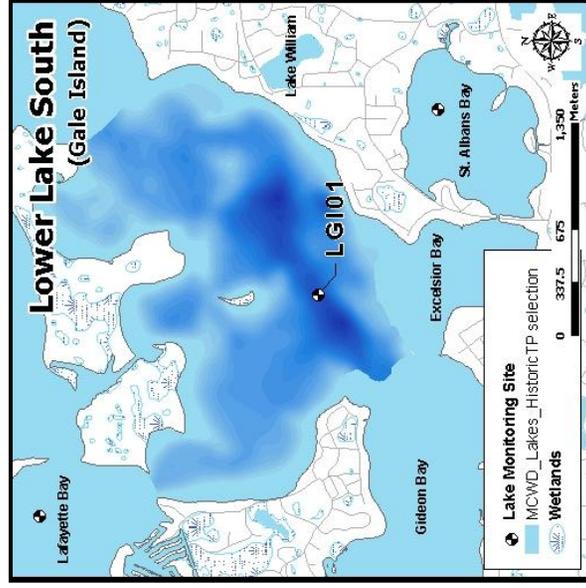
14385

2,625.00

Beacon Checking Forfeiture Proceeds

2,625.00

## Lower Lake South (Gale Island) (DNR ID: 27-0133-02)



### General Characteristics

MCWD Site ID: LG101  
 Sampling GPS Coordinates: N 44.9149, W -93.5667  
 Town/City: Greenwood/Excelsior  
 County: Hennepin  
 Ecoregion: North Central Hardwood Forest  
 Public Access: Yes

### Physical Characteristics

Surface Area: 268.2 acres  
 Littoral Area: 77 acres  
 Max. Depth: 87 ft  
 Mean Depth: 36 ft  
 Depth Classification: Deep  
 % Littoral Area: 28.76 %  
 Watershed Size: 387 acres  
 Watershed to Lake Area Ratio: 1.4:1

### Impairments

Aquatic Consumption:  
 Mercury in fish tissue

### Aquatic Invasive Species

Eurasian watermilfoil, Zebra Mussels  
 Flowering Rush

### Fishery Information

<http://www.dnr.state.mn.us/lakefind/showreport.html?downum=27013300>

### Ten Year Historic Lake Grades Based on May – September Averages

Lower Lake South	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
	A	A	A-	B+	B+	A	A	A	A-	A

### 2012 MPCA Ecoregion Water Quality Guidelines and State Standards

North Central Hardwood Forest Ecoregion	Water Quality Lake Guidelines (25 <sup>th</sup> -75 <sup>th</sup> percentile)	Water Quality State Standards		Lower Lake South (June-Sept)	
		Deep Lakes	Means	TSI Score	TSI Score
Secchi Depth (m)	1.5 - 3.2	> 1.4	5.59	35	35
Chlorophyll- <i>a</i> (µg/L)	5 - 22	< 14	2.13	38	38
Total Phosphorus (µg/L)	23 - 50	< 40	13.25	41	41
Total TSI Score					38

**2012 MPCA Water Quality State Standards**

Secchi Depth: Meets Standards

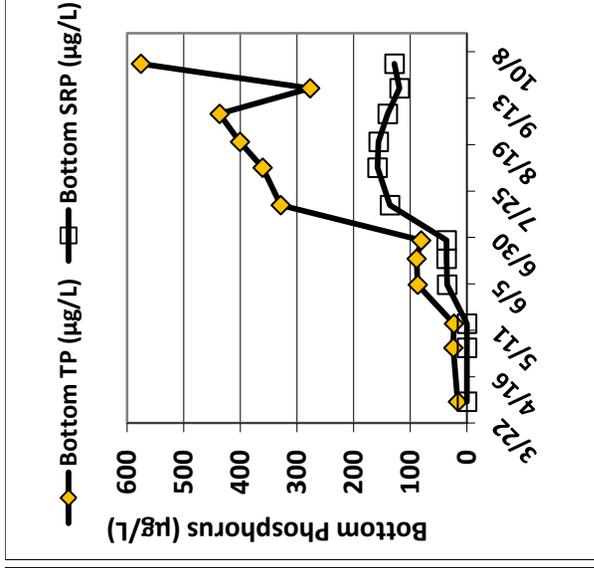
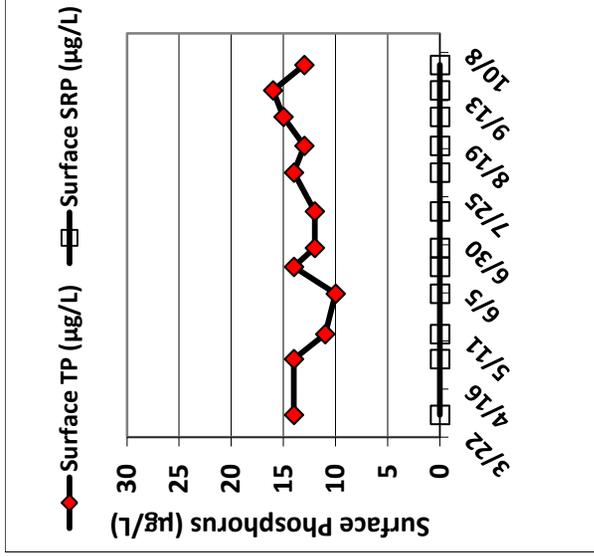
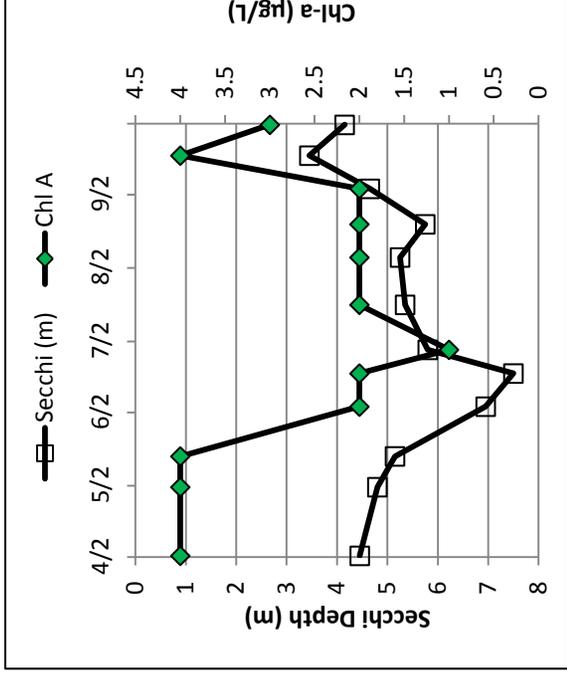
Chlorophyll-a: Meets Standards

Total Phosphorus: Meets Standards

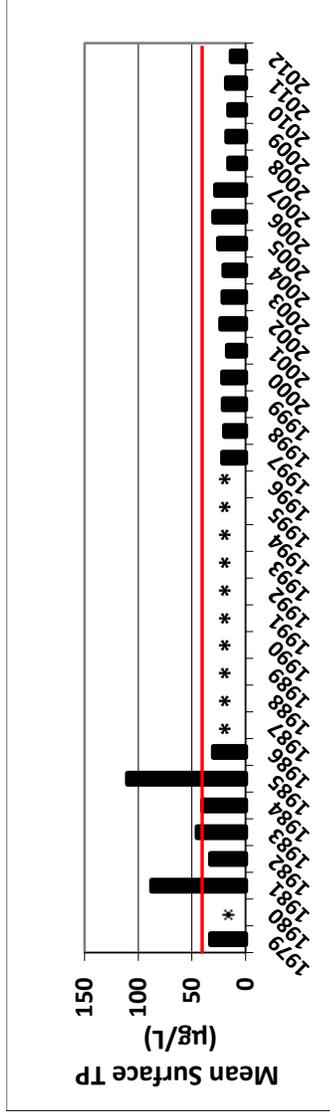
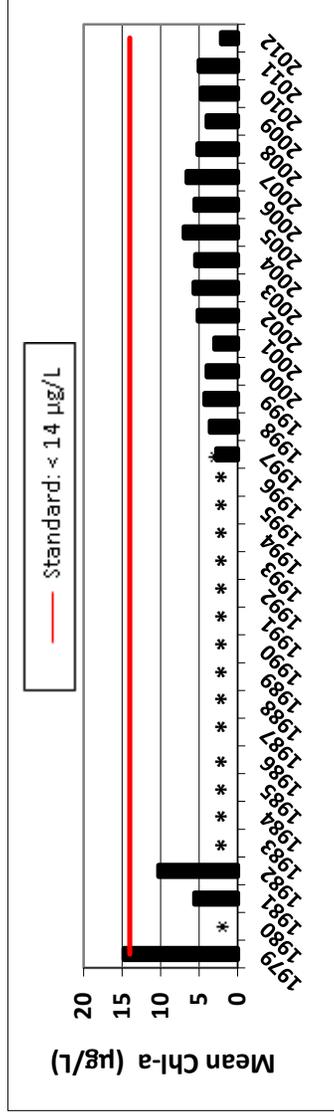
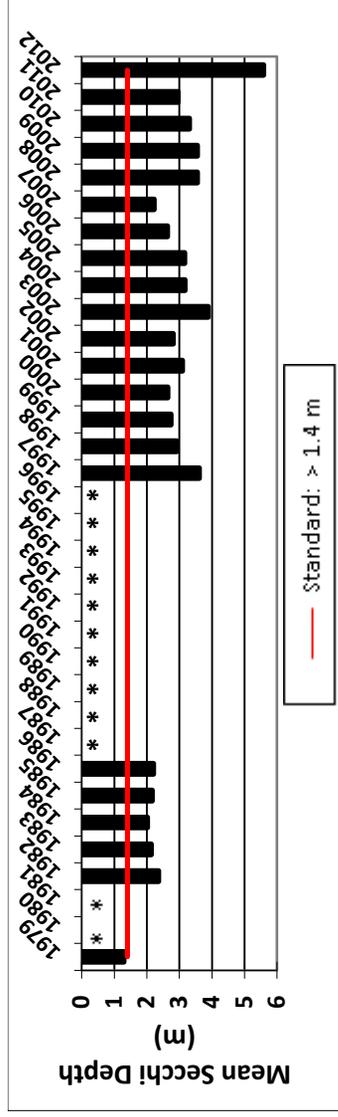
**2012 Water Quality Summary**

Parameter	Mean	Min	Max	Lake Grade
Months	May - September			
Secchi Depth (m)	5.47	3.45	7.5	A
Chlorophyll-a (µg/L)	2.50	1	4	A
Total Phosphorus (µg/L)	13.10	10	16	A
	Overall Grade			A

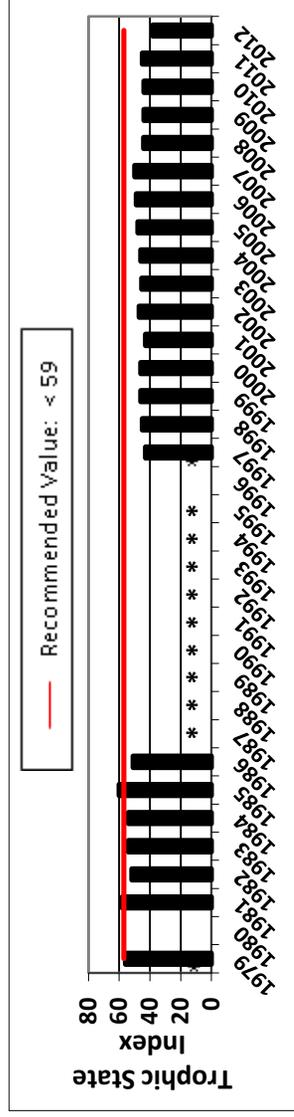
**2012 Water Quality Data**



Annual Mean Lake Data Based on June-September Averages

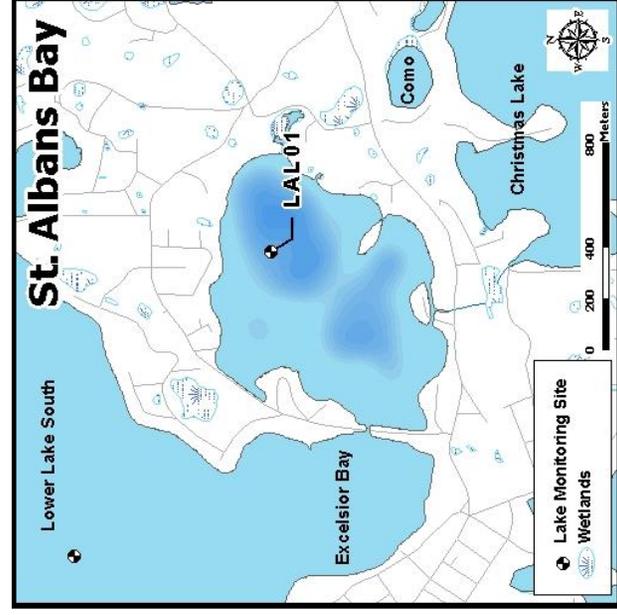


Trophic State Index Based on the Average of the Three Parameters Above



\* Indicates that there was insufficient data to calculate a mean for the year

**St. Albans Bay (DNR ID: 27-0133-04)**



**General Characteristics**

MCWD Site ID: LAL01  
 Sampling GPS Coordinates: N 44.9086, W -93.5489  
 Town/City: Greenwood/Excelsior  
 County: Hennepin  
 Ecoregion: North Central Hardwood Forest  
 Public Access: Yes (Lake Minnetonka)

**Physical Characteristics**

Surface Area: 164 acres  
 Littoral Area: N/A  
 Max. Depth: 44 ft  
 Mean Depth: N/A  
 Depth Classification: Deep  
 % Littoral Area: N/A  
 Watershed Area: N/A  
 Watershed to Lake Area Ratio: N/A

**Impairments**

Aquatic Consumption:  
 Mercury in fish tissue

**Aquatic Invasive Species**

Eurasian watermilfoil, Zebra Mussels  
 Flowering Rush

**Fishery Information**

<http://www.dnr.state.mn.us/lakefind/showreport.html?downum=27013300>

**Ten Year Historic Lake Data Based on May – September Averages**

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
St. Albans Bay	A	A	A	B+	B	A	A	A	A-	A

**2012 MPCA Ecoregion Water Quality Guidelines and State Standards**

North Central Hardwood Forest Ecoregion	Water Quality Lake Guidelines (25 <sup>th</sup> -75 <sup>th</sup> percentile)	Water Quality State Standards Deep Lakes	St. Albans Bay (June-Sept)
			Means
Secchi Depth (m)	1.5 - 3.2	> 1.4	3.44
Chlorophyll- <i>a</i> (µg/L)	5 - 22	< 14	3.88
Total Phosphorus (µg/L)	23 - 50	< 40	19.13
Total TSI Score			44

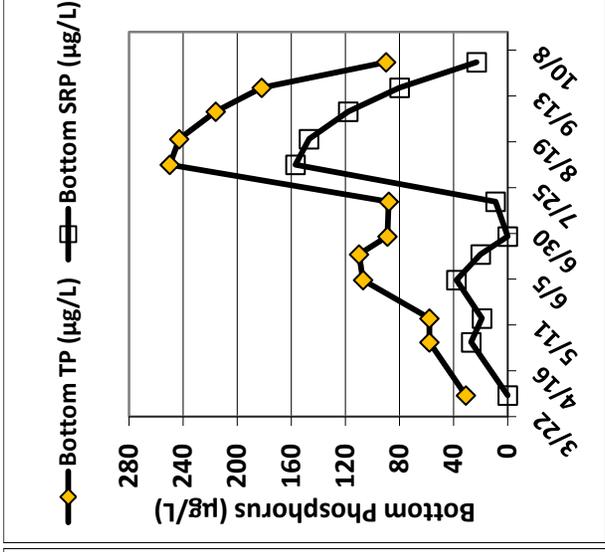
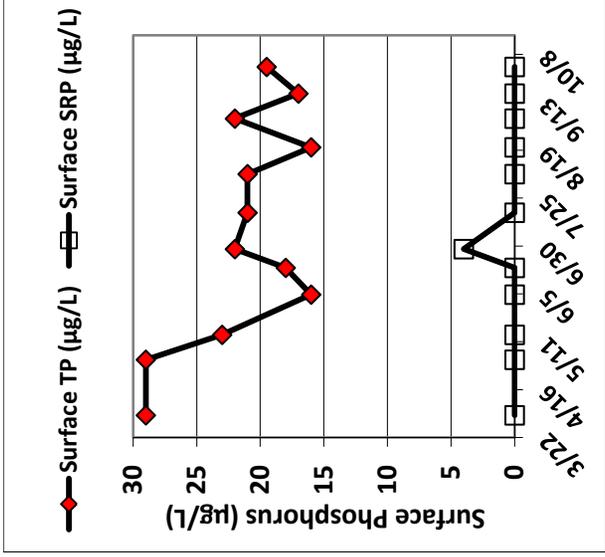
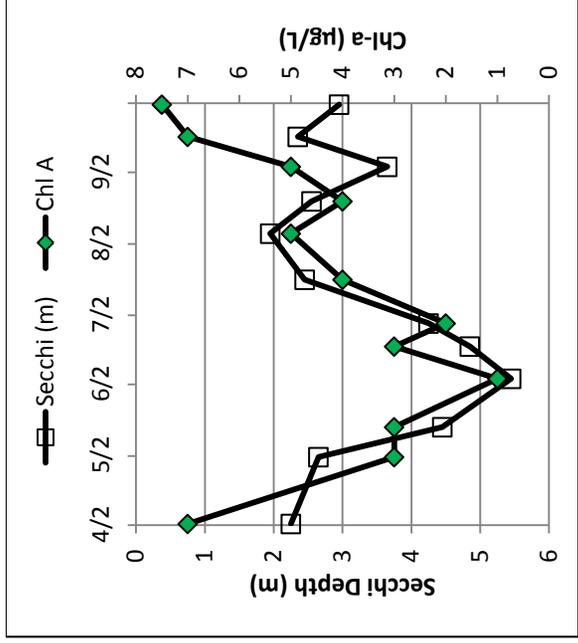
**2012 MPCA Water Quality State Standards**

Secchi Depth: Meets the Standard  
 Chlorophyll-a: Meets the Standard  
 Total Phosphorus: Meets the Standard

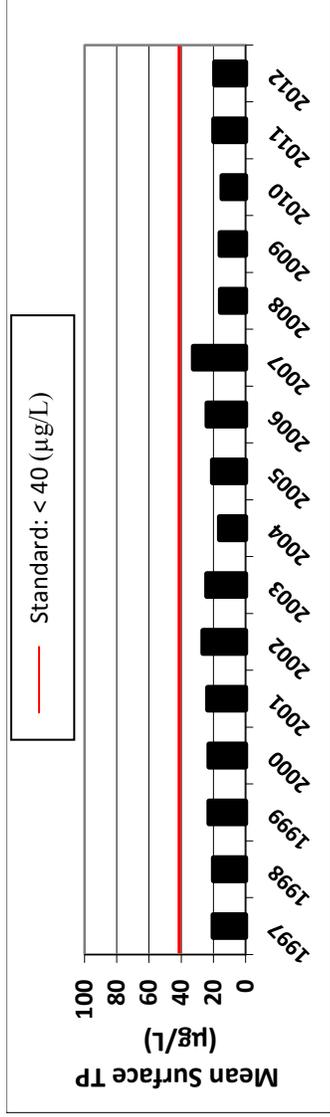
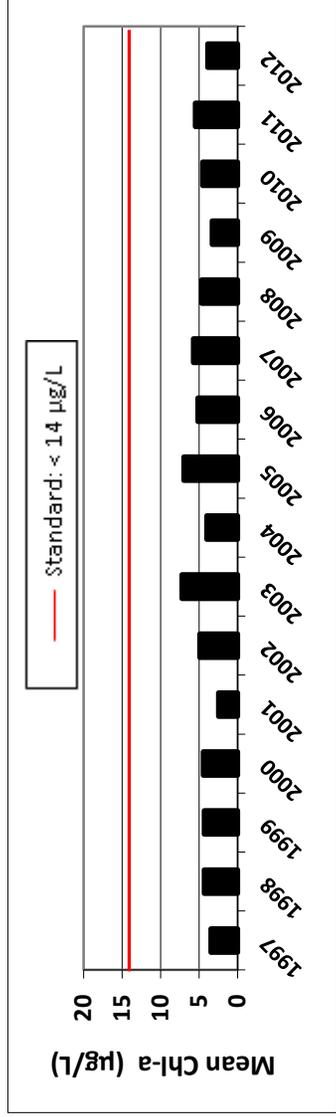
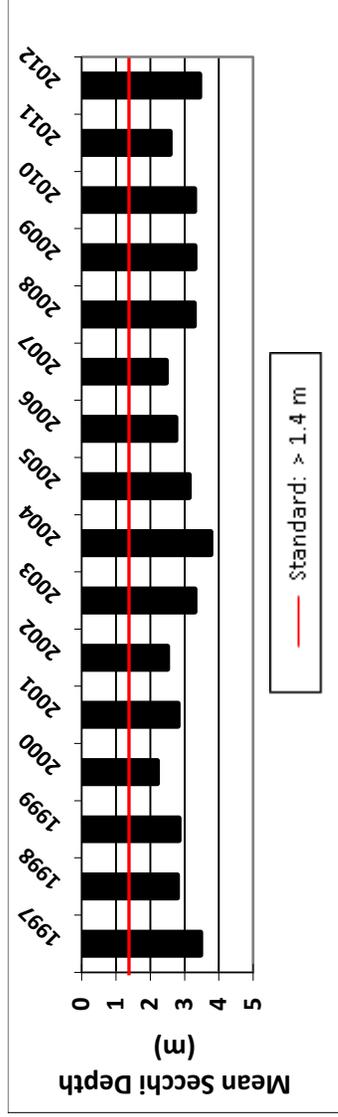
**2012 Water Quality Summary**

Parameter	Mean	Min	Max	Lake Grade
Months	May - September			
Secchi Depth (m)	3.46	1.95	5.45	A
Chlorophyll-a (µg/L)	3.70	1	7.5	A
Total Phosphorus (µg/L)	20.50	16	29	A
	Overall Grade			A

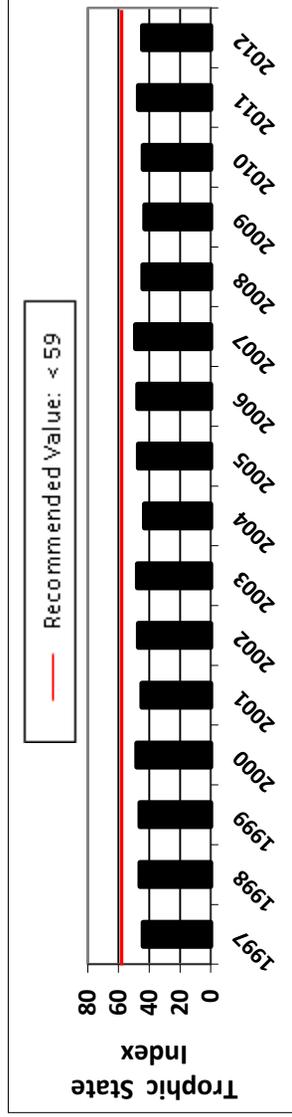
**2012 Water Quality Data**



Annual Means Based on June-September Averages



Trophic State Index Based on the Average of the Three Parameters Above





May 10, 2013

Dear Greenwood Rental Property Owner:

The city council has adopted Ordinance 219, Amending Code Section 320 (the city's Rental Ordinance) regarding lease terms for rental properties. The amendment adds a new subdivision outlining the lease requirements for rental properties in the city. The amendment reads as follows;

*"Section 320.30(7) Lease Term. In no event shall a residential property leasehold or sub-leasehold be for an initial term of less than 30 days, nor may such properties be leased to more than 2 tenant occupant groups in any one 4-month period."*

Please make sure that any future rental agreements for your property comply with the new ordinance. Also, please adjust any marketing for your rental properties accordingly. If you have any questions, please call me at (952) 358-9938 or email me at [guskarpas@mchsi.com](mailto:guskarpas@mchsi.com). I have attached a complete copy of the city's updated Rental Ordinance for your files.

Sincerely,

A handwritten signature in black ink that reads "Gus Karpas".

Gus Karpas  
City Clerk/Zoning Administrator

Cc: Mayor, City Council, File

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, May 15, 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 Commission members John Beal, Kristi Conrad, David Paeper and Douglas Reeder

Absent: None

Others Present: Council Liaison Bill Cook, 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 - April 17, 2013**

Commissioner Conrad moved to approve the minutes of April 17, 2013 as presented. Commissioner Beal seconded the motion. Motion carried 4-0-1. Commissioner Paeper abstained.

**SPECIAL MINUTES – April 25, 2013**

Commissioner Reeder moved to approve the special minutes of April 25, 2013 as presented. Commissioner Paeper seconded the motion. Motion carried 3-0-2. Commissioners Beal and Conrad abstained.

**4. PUBLIC HEARING**

**Jim Pastor, 5100 Greenwood Circle**, variance requests to construct a new single family home on a non-conforming foundation which encroaches into the minimum required exterior east side, west side and rear yard setbacks and exceeds the maximum permitted impervious surface.

Section 1120:15 of the Zoning Ordinance requires a minimum exterior east side yard setback of thirty feet. The applicant proposes an exterior east side yard setback of eight feet for the proposed deck attached to the reconstructed single family home. The proposal requires a variance of twenty-two feet of the exterior east side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum west side yard setback of fifteen feet. The applicant proposes a west side yard setback of eight feet, two inches for the proposed deck attached to the reconstructed single family home. The proposal requires a variance of six feet, ten inches of the west side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum rear yard setback of thirty-five feet. The applicant proposes a rear yard setback of nine feet for the proposed attached garage. The proposal requires a variance of twenty-six feet of the rear yard setback.

Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The applicant is proposing an impervious surface area of 46.5% and is seeking a variance to exceed the maximum permitted impervious surface area by 16.5%.

Zoning Administrator Karpas summarized the request. He said the applicants are requesting variances to demolish an existing non-conforming single family home down to the foundation and

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, May 15, 2013**  
**7:00 P.M.**

construct a new single family home on the existing foundation with additions onto the north and front of the home and the inclusion of a wrap-around deck beginning at the midpoint of the east face of the home and wrapping around the entire front of the home, terminating six feet onto the west face of the home. The proposed alterations would encroach into minimum required east exterior side and west side yard setbacks, encroach into the minimum required rear yard setback, exceed the maximum permitted impervious surface, and exceed the maximum permitted grade alteration with the installation of a new driveway to access the proposed attached garage. The applicant proposes to remove an existing non-conforming accessory structure located within the required west side and rear yard setback on the north side of the property.

Chairman Lucking noted the change from the previous plan with the removal of the existing detached garage and the attachment of a one stall garage to the north side of the house and asked the applicant if he was comfortable with the amount of space that provided. Jim Pastor said he would have to be and said they also had the detached garage at the bottom of the hill to provide additional parking and storage. He feels removing the garage makes the property look better.

Rob Ruel, the applicants Draftsman introduced himself and said he could answer any questions if necessary.

Commissioner Paeper said his concern about the project is the hardcover, noting it appears the applicant is trying to get too much on the lot. Commissioner Beal agreed, wondering if the applicant gave any serious consideration of the suggestion for the vacation of city right-of-way to increase the lot size. Chairman Lucking felt the deck was too large. Beal agreed, saying he had no issue with the size of the house itself. Mr. Pastor said the process of vacating the city property would take too long and the idea behind the deck was to give the house some width so it wouldn't look like a double wide trailer.

Chairman Lucking discussed increasing the width of the attached garage and permitting an increase in the north side encroachment in exchange for removal of the detached garage on the south side of the property. He said it's a matter of practicality when the property comes up for sale, most people would like more attached garage. He said he is willing to give more house than deck. Mr. Pastor said the encroachment on the west side is minimal and is for looks, the east side encroachment is for access to the deck from the front door. Lucking said he didn't want to increase the non-conformity on the west side. Mr. Pastor noted it is currently a vacant lot and most likely would remain that way. Lucking said he would prefer to remove that portion of the deck and add that portion of hardcover to the garage. Commissioner Paeper said he doesn't follow Lucking's logic since it's not the Commission's responsibility to follow market conditions.

Mr. Pastor said he would like to keep the east side deck. Chairman Lucking said the ordinance permits a front stoop. Commissioner Beal said the east side deck would be more important in keeping the aesthetics since it would be the most visible when people drive around the curve.

Commissioner Paeper asked about the impervious surface calculation in regards to the driveway. Mr. Pastor said they are not known yet and cannot be calculated until they know what garage is approved.

Chairman Lucking asked if there was anyone from the public who would like to comment on the request.

Chris Thiss, 5090 Greenwood Circle, likes what Mr. Pastor is proposing, even the increase in the garage on the north side of the home. He said he will work with Mr. Pastor on grading for access to his garage since they share a driveway. He is supportive of the request.

Jeff Ruegemer, 5105 Greenwood Circle, discussed the functionality of the deck on the aesthetics of the home. He understands the concerns about hardcover, but said there are a lot of non-

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, May 15, 2013**  
**7:00 P.M.**

conformities in the neighborhood. He said, even though he looks directly at it, he's not concerned about the lower garage. Commissioner Beal asked, if given choice, would you like to see the lower garage removed and a larger attached garage on the north side of the home. Mr. Ruegemer said he really didn't have an opinion on this request, though an attached garage typically makes more sense. He said the garage is not the main issue with this property.

Hearing no further comments, Chairman Lucking closed the public hearing.

Commissioner Beal said he keeps hearing the same concern, let's keep the structure from looking like a double wide trailer. He said there's more interest in that than in forcing conformity with the impervious surface standards. Commissioner Paeper agreed, but said that needs to be reconciled with the ordinance. Beal said the east and south portions of the deck can prevent the double wide look and permit the removal of the west side deck.

Commissioner Reeder likes the idea of a two stall garage and is not sure of the functionality of the south garage. He's not sure it adds much to the property. He feels the deck on the west side of the property does add to the property and is necessary.

Commissioner Paeper asked about obtained the city property. Mr. Pastor said he's not interested and has no intention of pursuing that option.

Commission Conrad said she's struggling. She noted that under state statute the Commission must allow the garages as they stand and cannot force the applicant to "swap" them for an attached garage. She's not sure the west side deck adds anything aesthetically to the house. Mr. Pastor said the house would be out of character with the others along that side of the street. Conrad said she would like to see the impervious surface calculation as it would actually be. She has no issue with the deck as proposed on the east and south sides of the home.

Mr. Pastor said he doesn't understand the resistance he feels from the Commission. He said the only thing he's trying to do is take a property that is run down and make it look better.

Chairman Lucking is supportive of the request as present with the exception of the west side deck. He noted the driveway would have to be a minimum of two cars wide to permit the storage of two vehicles off the street as required by the city code.

Commissioner Beal would like to see a corrected table of the impervious surface area provided to the Council.

Motion by Commissioner Beal to recommend that the Council approve variance requests to construct a new single family home on a non-conforming foundation which encroaches twenty-two (22) feet into the minimum required thirty (30) foot exterior east side yard setback, the garage that encroaches one (1) foot into the required fifteen (15) foot west side yard setback and twenty-six (26) feet into the required rear yard setback. The motion would permit a variance to exceed the maximum permitted impervious surface to the extent necessary to place a driveway in compliance with the ordinance and does not include approval of the request encroachment for the west side deck. The motion is conditioned that the applicant submit a completely updated impervious surface table for the City Council's review. Reeder seconded the motion.

Commissioner Paeper stated for the record he was uncomfortable with stretching the impervious surface as much as proposed with this request, he is also uncomfortable with giving the option to the applicant that he further extend the attached garage to the north, creating a greater encroachment than what is being proposed. He does not believe the applicant can clearly meet the practical difficulty standards, but he will support the request because the property is so unusual.

Chairman Lucking called the question. Motion carried 5-0.

## 5. NEW BUSINESS

**Discuss – Creation of R-1C District** – Amendment of Greenwood Zoning Ordinance Code, Chapter 11, Creating an R-1C District which would encompass the current Old Log property, allowing the current permitted principal, accessory and conditional uses and reestablish the current uses of the property (Theatre, Restaurant, Event Center) as conditional uses.

Zoning Administrator presented the ordinance noting the recent adoption of Ordinance 216 removed Theaters as a conditional use within the R-1A District. By doing so, Theater uses, the most notable being the Old Log Theater, has now become a legal nonconforming use which is regulated by Section 1145 of the city code. The immediate concern was the ordinance currently does not address Restaurants or Event Centers in the R-1A district and there currently are no definitions for “Theater” or “Restaurant.”

Greg Frankenfield introduced himself to the Planning Commission and informed them he was going to close on the Old Log property in the next couple of days. His intent is to operate the business essentially as it has operated for the last 50 plus years.

Commissioner Conrad asked if the existing homes on the property would also be rezoned. Mr. Frankenfield said the home was located on its own lot. Karpas how many PIDs encompassed the entire Old Log property. Mr. Frankenfield said two. Karpas said the legal description for any newly created zoning district would be defined as those two PIDs are defined.

Zoning Administrator Karpas asked if rezoning the property would be considered “spot zoning.” City Attorney Kelly said the property encompasses over 11 acres and rezoning the property would not constitute rezoning. He said the property has always carried the R-1A standard, this use would expand the uses to include not only theatres as a conditional use, but also event centers and restaurants. He said it could also be used as a zone for future cluster development without the fear of opening up the entire R-1A District to such a use.

Council Liaison Cook said the challenge is to support the theatre and make it economically viable while being aware of potential unintended consequences. City Attorney Kelly said it is up to the city on how much elasticity it wants to put in the ordinance. He said that would be determined by the specific attributes of the property such as the wetland area, existing impervious surface area, etc.

Commissioner Reeder asked if that information would be required in the ordinance. Mr. Kelly said it would. Reeder asked why the city is doing this now, especially since this property has operated in the same manner for years. He asked if the property owner has to accept a rezoning. Mr. Kelly said the property owner is permitted to comment on the proposed rezoning, but the city is not denying his use by the rezoning. He said the city is trying to work with the applicant.

Commissioner Conrad asked if the theatre can currently operate given it is not allowed as any type of use in any of the zoning districts. Mr. Kelly said it could, it just can't expand.

Commissioner Reeder said the theatre already operates under a conditional use permit giving the city control. He doesn't understand the need for the change. Chairman Lucking said it's a way to permit and control additional uses without allowing them in the entire city.

Zoning Coordinator Karpas said the Planning Commission has a joint meeting with the City Council following this meeting and further discussion can be held at the meeting. He informed Mr. Frankenfield that he was welcome to come to that meeting since it is a public meeting. Mr. Frankenfield declined but said he is willing to work with the Planning Commission and City Council through this process.

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, May 15, 2013**  
**7:00 P.M.**

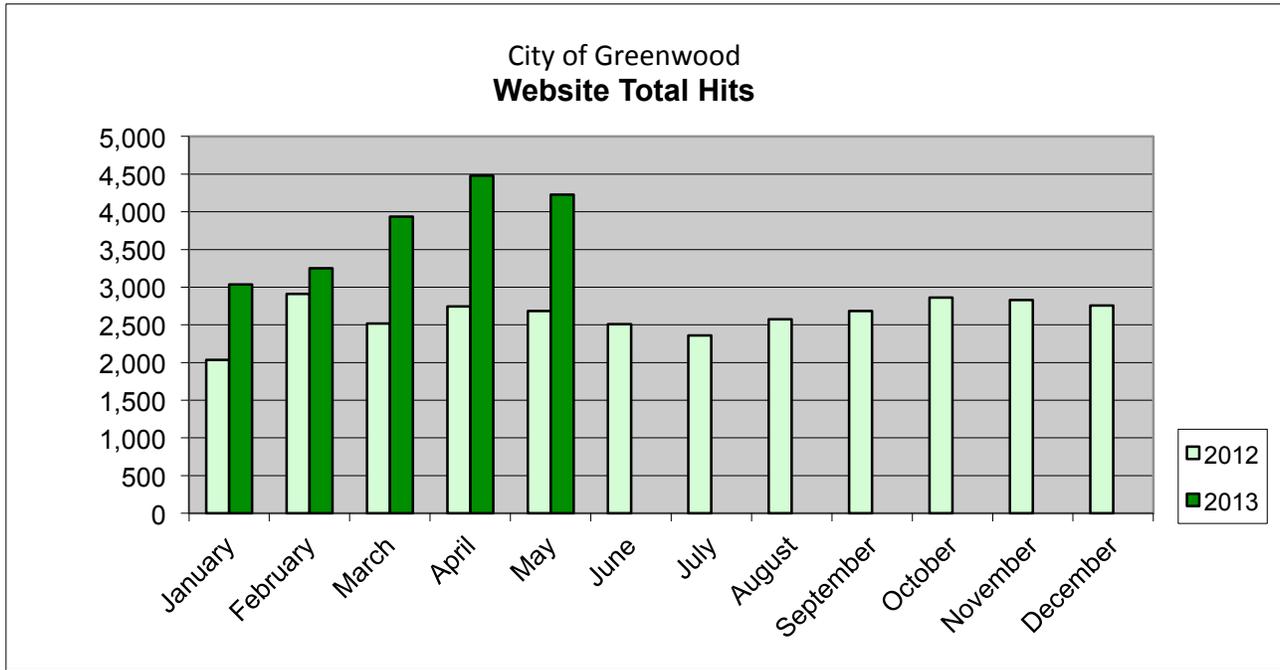
**6. LIAISON REPORT**

Council Liaison Cook summarized the final decisions made by the Board of Review, said the Council adopted the Home Occupation ordinance, has begun the process of creating a "theatre district" with the draft R-1C ordinance and is continuing its discussion on the creation of a Lake Improvement District which would have taxing authority to fund milfoil removal in St. Alban's Bay.

**7. ADJOURN**

Motion by Commissioner Beal to adjourn the meeting. Commissioner Conrad seconded the motion. The meeting was adjourned at 8:23 p.m.

Respectively Submitted  
Gus Karpas - Zoning Administrator



<u>Month</u>	<u>2012</u>	<u>2013</u>	<u>Variance with Prior Month</u>	<u>Variance with Prior Year</u>	<u>Bulk Email List</u>
January	2,034	3,038	280	1,004	134
February	2,911	3,252	214	341	136
March	2,516	3,936	684	1,420	137
April	2,746	4,478	542	1,732	138
May	2,682	4,229	-249	1,547	138
June	2,509		-4,229	-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	
<b>AVERAGE</b>	<b>2,622</b>	<b>3,787</b>			

**POPULATION:** 688  
**EMAIL ADDRESSES % OF POPULATION:** 20.06%

## 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.

<b>Begin Date</b>	4/15/2013
<b>End Date</b>	5/15/2013
<b>Report Name</b>	Page Views (Default)
<input type="button" value="Get Report"/>	

### Page Views by Section

Section	Page Views	Percent of Total
<a href="#">Default Home Page</a>	1739	41.12%
<a href="#">Agendas, Packets &amp; Minutes</a>	431	10.19%
<a href="#">City Departments</a>	125	2.96%
<a href="#">Planning Commission</a>	113	2.67%
<a href="#">Spring Clean-Up Day</a>	112	2.65%
<a href="#">Budget &amp; Finances</a>	105	2.48%
<a href="#">Code Book</a>	104	2.46%
<a href="#">Assessments &amp; Taxes</a>	103	2.44%
<a href="#">Mayor &amp; City Council</a>	92	2.18%
<a href="#">Watercraft Spaces</a>	86	2.03%
<a href="#">Forms &amp; Permits</a>	84	1.99%
<a href="#">Garbage &amp; Recycling</a>	81	1.92%
<a href="#">Comprehensive Plan &amp; Maps</a>	76	1.8%
<a href="#">Swiffers NOT Flushable</a>	74	1.75%
<a href="#">Welcome to Greenwood</a>	72	1.7%
<a href="#">Lake Minnetonka</a>	67	1.58%
<a href="#">RFPs &amp; Bids</a>	64	1.51%
<a href="#">Xcel Project Update!</a>	62	1.47%
<a href="#">Photo Gallery</a>	56	1.32%
<a href="#">Search Results</a>	53	1.25%
<a href="#">What's New?</a>	50	1.18%
<a href="#">Links</a>	43	1.02%
<a href="#">Email List</a>	41	0.97%
<a href="#">Meetings on TV</a>	40	0.95%
<a href="#">Meetings</a>	37	0.87%
<a href="#">Elections</a>	36	0.85%
<a href="#">Old Log Community Events</a>	35	0.83%
<a href="#">Well Water</a>	35	0.83%
<a href="#">Milfoil Project</a>	20	0.60%

### 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.

<a href="#">Milfoil Project</a>	25	0.60%
<a href="#">Events</a>	27	0.64%
<a href="#">Public Safety</a>	26	0.61%
<a href="#">Health &amp; Safety</a>	26	0.61%
<a href="#">Southshore Center</a>	25	0.59%
<a href="#">Animal Services</a>	23	0.54%
<a href="#">Community Surveys</a>	22	0.52%
<a href="#">Planning &amp; Zoning Workshop</a>	14	0.33%
<a href="#">Crime Alert!</a>	11	0.26%
<a href="#">Unsubscribe</a>	10	0.24%
<b>TOTAL</b>	<b>4229</b>	<b>100%</b>

## Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	481	33.17%
Agendas, Packets & Minutes	122	8.41%
City Departments	68	4.69%
Spring Clean-Up Day	66	4.55%
Mayor & City Council	47	3.24%
Code Book	42	2.9%
Garbage & Recycling	40	2.76%
Planning Commission	37	2.55%
Watercraft Spaces	37	2.55%
Welcome to Greenwood	37	2.55%
Forms & Permits	36	2.48%
What's New?	34	2.34%
Xcel Project Update!	33	2.28%
Photo Gallery	29	2%
Assessments & Taxes	27	1.86%
Comprehensive Plan & Maps	25	1.72%
Lake Minnetonka	23	1.59%
Meetings	21	1.45%
Links	21	1.45%
RFPs & Bids	19	1.31%
Search Results	19	1.31%
Swiffers NOT Flushable	17	1.17%
Old Log Community Events	17	1.17%
Budget & Finances	16	1.1%
Email List	16	1.1%
Milfoil Project	14	0.97%
Southshore Center	13	0.9%
Public Safety	12	0.83%
Animal Services	12	0.83%
Elections	12	0.83%
Well Water	11	0.76%
Community Surveys	10	0.69%
Meetings on TV	10	0.69%
Health & Safety	8	0.55%
Events	7	0.48%
Unsubscribe	5	0.34%
Crime Alert!	3	0.21%
Planning & Zoning Workshop	3	0.21%
<b>TOTAL</b>	<b>1450</b>	<b>100%</b>

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

**Done**



# BOLTON & MENK, INC.<sup>®</sup>

## Consulting Engineers & Surveyors

2638 Shadow Lane, Suite 200 • Chaska, MN 55318-1172

Phone (952) 448-8838 • Fax (952) 448-8805

www.bolton-menk.com

May 20, 2013

Minnehaha Creek Watershed District  
Attn: Becky Houdek  
18202 Minnetonka Blvd.  
Deephaven, MN, 55391

**RE: Spring 2013 Phosphorus Reduction Totals for the Municipalities of Deephaven, Greenwood, and Woodland**

Ms. Houdek:

We have completed our review of the results of the spring 2013 street sweepings analysis for Total Phosphorus (TP) removal. The street sweepings were collected from the individual communities and weighed. Then using an average TP concentration for springs of 2011 - 2013 (as determined by the University of Minnesota Research Analytical Laboratory) the total pounds of TP removed were calculated. The results are tabulated below.

MUNICIPALITY	AVERAGE TP CONCENTRATION (mg/kg)	SWEEPINGS COLLECTED (Tons)	POUNDS TP REMOVED
Deephaven	262.66	252.00	132.38
Greenwood	259.18	51.00	26.44
Woodland	312.37	39.00	24.36

If you have any questions regarding the sampling method or the analysis procedure please give me a call to discuss.

Respectfully Submitted,  
**BOLTON & MENK, INC.**

Robert E. Bean, Jr., P.E.

CC: David Martini, P.E., Bolton & Menk, Inc.



May 29, 2013

Mike Brost  
5110 Curve Street  
Greenwood, MN 55331

Dear Mike,

In 2012, two letters were sent to you regarding violations of the city ordinances as they pertain to the storage of vehicles. Today I conducted a follow-up visit to your property and observed the following new code violations:

1. Section 900.65(3)(a) Unlawful Parking and Storage. A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements: (a) No more than 4 vehicles may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. The maximum number does not include vehicles of occasional guests who do not reside on the property.

***You currently have 5 vehicles parked in the driveway (2 cars, 2 SUVs, 1 trailer).  
One of these vehicles must be parked in the enclosed garage or removed from the property.***

2. Section 900.70(B) Inoperable Motor Vehicles. It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation.

***The green Buick Skylark car is on a jack (missing a tire) and does not have current license tabs. The car must be made operational and tabs must be brought up to date, or the vehicle must be stored within the garage, or the vehicle must be removed from the property.***

***The older Chevrolet Suburban does not have current license tabs. The tabs must be brought up to date, or the vehicle must be stored within the garage, or the vehicle must be removed from the property.***

You have until June 10, 2013 to bring your property into compliance with the city ordinances. Failure to do so will result in the issuance of a Civil Citation.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Gus Karpas". The signature is written in a cursive, somewhat stylized font.

Gus Karpas  
City Clerk/Zoning Administrator

Cc: File  
Mayor and City Councilmembers  
City Attorney Mark Kelly



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

May 29, 2013

Kevin Conner  
C/o Lake Minnetonka Assoc., LLC  
2440 Scott Street  
San Francisco, CA 94115

Dear Mr. Conner,

A recent search of the internet has found that advertising of your rental property at 21650 Fairview Street is in violation of Section 910.70 of the Greenwood City Code, which reads as follows:

**"Section 910.70 Prohibited Use of Residential Property.** No person, whether a property owner or leasehold tenant, shall offer, promote, use, or employ any residentially zone property under their ownership, possession, or control for any use or purpose other than single-family residential use or other use specifically enumerated as a permitted principal, accessory, or conditional use under the applicable zoning code. No property owner, or leasehold tenant of same, shall offer, promote, use, or employ any residentially zoned property as a "Hotel, Motel," "Event Center," "Lake Recreation Center," or "Marina" as those terms are defined in Chapter 12 of this code."

Terms in above Section as defined in Chapter 12:

**"Hotel, Motel** means any building or portion of a building where residential use, or occupancy, or sleeping accommodations is offered to persons for short-term or transient use in exchange for compensation on a per-use, per-day, per-week, or less than a per-month basis."

**"Event Center** means a property, or the buildings thereon, commercially offered, promoted, used, or employed as a venue or site open to the public or available for the conduct of public or private gatherings of people or for the conduct of events thereat of any sort or kind."

**"Lake Recreation Center** means a property, or the buildings thereon, commercially offered, promoted, used, or employed as a venue or site open to the public or available for the conduct of public or private gatherings of people or the conduct of events thereat of any sort or kind of lake use or lake access related activity, including, but not limited to, the hosting of gatherings or events, the provision of food, refreshments, services of any kind, equipment rentals, swimming, fishing, camping, waterskiing, personal water craft use, boat launch or docking services (of whatever length of term), or charter boat passenger collection point."

"**Marina** means a property, or the buildings thereon, commercially offered, promoted, used, or employed as a venue or site open to the public offering power boat, sailboat, or personal watercraft launching, mooring (however temporary), or available for the conduct of any sort or kind of lake use or lake access related activity, including, but not limited to, the provision of food, refreshments, ice, fuel, services of any kind, water-related equipment or boat rentals, swimming, fishing, waterskiing, personal watercraft use, or charter boat passenger collection point."

Please take all steps necessary to bring your property advertising into compliance with the city ordinances no later than June 10<sup>th</sup>. Failure to do so will result in the issuance of an Administrative Citation.

Thank you for your time and attention to this matter and if you have any questions, please contact me.

Sincerely,

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

Gus Karpas  
City Clerk/Zoning Administrator

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