

GREENWOOD CITY COUNCIL MEETING
Tuesday, December 7, 2010, 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 Fletcher, Page, Quam and Rose

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

Members Absent: None

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

2. CONSENT AGENDA

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

- A. November 4, 2010, City Council Meeting Minutes**
- B. October 2010 Cash Summary Report**
- C. November 2010 Payables**

Motion passed 5/0.

3. MATTERS FROM THE FLOOR

Bob Newman, 5230 Meadville Street, stated he has already spoken with Engineer Martini about the drainage issue next to his house. During any heavy rainfall water accumulates in large amounts. He asked City Staff and Council to remain in touch with him about the issue, noting he has some ideas about how to mitigate the issue. He then stated he has polled his neighbors in both directions from his home about speeding on Meadville Street. In particular from the stretch where Meadville Street makes a 90° turn on the west end up through Minnetonka Boulevard. He expressed speeding has become an intolerable safety risk issue. He noted he has significant, enthusiastic support from virtually all of his neighbors. He stated a lot of property owners have to cross Meadville Street to get their mail, noting there have been close calls on numerous occasions.

Mr. Newman asked Council to considering installing another 20 miles-per-hour (mph) sign as well as two permanent speed bumps. He noted that corresponding speed bump signs would also have to be installed. He suggested the bumps be painted and the word bump be painted on the street. He explained that at the Lafayette Club there is an approximate four-foot-wide speed bump. Mayor Kind stated she thought they were called speed tables and the longer tables stood up better to snowplows. Newman cautioned against have the speed bumps too long and with too low of an incline as they would potentially be used for launching ramps for young drivers. He stated he thought shorter bumps with higher inclines would be more of a deterrent.

Mayor Kind suggested placing this topic on a future Council meeting agenda after consulting with Engineer Martini about this.

Mr. Newman thanked Council for its time and stated he wanted to bring this matter to Council's attention in time so plans can be made to address this issue before summer 2011.

4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS

A. Resolution No. 20-10 Authorizing Inflow/Infiltration Grant Application and Phosphorus Report

Mayor Kind stated she has asked Engineer Martini to comment on the Minnehaha Creek Watershed District's (MCWD) Technical Advisory Committee (TAC) meeting held on September 30, 2010, in addition to the Inflow/Infiltration Grant and the Phosphorous Report.

Councilmember Quam asked Engineer Martini to first explain what inflow/infiltration (I/I) is and why it's a problem.

Engineer Martini explained there are places where ground water (also referred to as clean water) seeps into the sanitary sewer system and that's called infiltration. The system should keep ground water out. When ground water enters the system it ends up being treated as waste water. The system has to be sized larger to handle the ground water. It's cheaper to operate the system when ground water is kept out of it. The sewage and ground water eventually flow into the Metropolitan (Met) Council's sanitary sewer system. Inflow is when water flows directly into the system; for example, from sump pumps hooked directly to drains. The goal of the I/I program is to make the system as water tight as possible.

Martini then explained that in 2006/2007 the Met Council sent the City a letter informing the City that it appeared to have a surplus of I/I entering into its sewer system based on the amount that flowed into the Met Council's sewer system. The Met Council placed a dollar value on the surplus flow and it let the City know that the City could either pay the surcharge for processing the surplus or it could put that amount toward maintenance and improvement of its sewer system.

Martini also explained the first thing the City did was have its sewer system televised to look for problems and spots where ground water was entering the system. For purposes of this the City was broken down into eight sewer districts. In 2007, improvements were made to that portion of the sewer system located in sewer districts 1 and 2. In 2008, improvements were made to that portion of the system located in districts 3 and 4. No improvements were made in 2009 in part because there was discussion about there potentially being I/I Grant monies available from the Met Council to cities who have excessive I/I entering into the sewer system.

Martini went on to explain the City analyzed the sewer system located in the remaining four sewer districts to identify what improvements are needed to be made to eliminate most of the I/I. The findings indicated the sewer pipes are in reasonable shape; there are some minor repairs that need to be made. The manholes and manhole covers need more improvements. The adjusting rings around the manholes near the surface of the road are starting to deteriorate; the rings are intended to make the casting flush with the roadway surface. To help mitigate I/I chimney seals have been installed over the castings to seal up the rings. Some of the manholes on Excelsior Boulevard are in such bad shape that they will have to be lined inside to seal them up.

Martini stated the Met Council is offering grants to cities up to \$50,000 or 50 percent of the total cost of eligible improvements, whichever is less. The estimated cost to make the improvements to the sewer system located in districts 5 – 8 is approximately \$96,000. He noted the City needed to make these improvements independent of receiving any grant funds. He stated many small I/I problems for cities accumulate to become larger problems for the Met Council.

Mayor Kind noted the I/I Grant application has to be submitted to the Met Council by December 15, 2010.

Quam moved, Page seconded, Adopting RESOLUTION NO. 24-10, “A Resolution Authorizing Application to the Metropolitan Council for a Grant from the Municipal Infiltration/Inflow Grant Program for the City of Greenwood’s 2011 Sewer Lining Project”.

Councilmember Fletcher asked if there is any sense that the improvements made to the sewer system located in sewer districts 1 – 4 have had any impact. Engineer Martini responded some problems have for sure been eliminated, but the size of the impact is unknown.

Councilmember Quam noted that the Met Council is aware that the City is trying to fix its I/I problems and therefore it will not fine the City.

Engineer Martini stated that after improvements have been made in the last four districts the City will televisé its sewer system on a regular basis and any improvements should be more manageable and less costly.

Motion passed 5/0.

Engineer Martini noted the grant application has to be submitted by December 15th and the City should receive notification about its application on January 5th. The City has until January 20th to withdraw its application if it has been awarded a grant.

Mayor Kind stated the meeting packet contained a copy of the results from the analysis for Total Phosphorus (TP) concentration in samples from the spring 2010 street sweepings.

Councilmember Quam asked Engineer Martini to explain the phosphorous problem.

Engineer Martini explained that a couple of years ago the City completed developing its Storm Water Pollution Prevention Program (SWPPP) as required by the Minnehaha Creek Watershed District (MCWD). The MCWD has set phosphorous reduction goals for each community within the MCWD. Achieving the goals will reduce the amount of phosphorous that flows into water bodies within the MCWD. The City’s goal is to reduce its phosphorous by five pounds per year and that goal must be reached by 2020.

Martini then explained the reduction can be achieved in a couple of ways. One way is to make physical improvements that will capture sediment containing phosphorous before it flows into the waters. For example, it could be captured in rain gardens or storm water management ponds. The City currently sweeps its roadways once each spring. There is a great deal of phosphorous in the sweepings. The City had samples of the 2010 sweepings analyzed by a lab [the University of Minnesota Research Analytical Lab] to determine an average concentration of Total Phosphorus in the samples. Based on the results the City could achieve its reduction goals by doing a second sweeping of the City’s roadways each year or at least some of the roadways. He noted that achieving the reduction goals through additional sweepings will

result in additional ongoing costs for the City. He stated that the plan is to have samples analyzed from the next spring sweeping or two to establish a base level and then to develop a plan for phosphorous removal that the MCWD will accept.

Mayor Kind asked if the City would have to do a fall sweeping as well and have the fall samples analyzed. Engineer Martini responded the City should wait for the MCWD to provide its thoughts on what should be done. Martini then stated there is more than enough phosphorous in the sweepings to meet the City's goal. Kind noted that based on the analysis the City removed over 26 pounds of phosphorous as part of the 2009 sweeping.

Councilmember Fletcher stated some cities use vacuum sweepers and pick up smaller particles. That alternative could also be considered for the spring with the hope that more phosphorous would be removed.

Councilmember Quam asked if the MCWD has accepted the results of the analysis as accurate. Engineer Martini responded the City has provided the MCWD the results on November 5, 2010, for information purposes only. The City has not asked for any feedback from the MCWD and the MCWD has not taken any position.

Mayor Kind stated the next step is to prepare a plan detailing what the City proposes to do. She asked Council if it wanted to direct Engineer Martini to prepare such a plan. Councilmember Fletcher suggested the City wait and analyze samples from the spring 2011 sweeping first. Engineer Martini stated once the analysis of the 2011 sweeping is complete the City can approach the MCWD to discuss the results and how to use that information to reach its reduction goals. There was Council consensus to wait for the results of the 2011 spring sweeping before preparing a plan.

Mayor Kind stated the meeting packet contained a copy of a letter from Bolton & Menk, Inc., dated October 7, 2010, about the MCWD TAC meeting held on September 30, 2010, regarding changes to the MCWD's Stormwater Management Rule.

Councilmember Fletcher asked Engineer Martini if there is some frustration about the proposed changes to the Rule. Engineer Martini stated he is just trying to be proactive by providing information to the communities Bolton & Menk represents. Martini then stated there is a balancing act between maintaining property owners' rights and being good stewards. He noted the last TAC meeting was at times contentious when discussing what the appropriate balance is. He explained the communities appeared to be caught off guard by the changes to the Rule being considered. The MCWD questioned why the communities were not better informed of the proposed changes to the Rule.

Councilmember Fletcher stated it's his understanding the TAC represents the communities and others. He then stated Doug Carter, with Bolton & Menk and a member of the TAC, has indicated in correspondence that the TAC wants to review all appendices and definitions but the MCWD has not provided that completed information. He also indicated the TAC does not believe it's productive to continue to meet while such large items are out there. The TAC and the MCWD can continue to debate all of the other items, but until the MCWD provides its definition of "development" it doesn't matter.

Engineer Martini stated if the MCWD is going to apply its proposed Rule changes to developments, then people need to know what the MCWD means by development.

Councilmember Fletcher stated it appears to him that the MCWD wants to schedule a public hearing on the proposed Rule changes and the TAC does not believe it has been provided with enough information to have the hearing.

Mayor Kind thanked Engineer Martini for staying abreast of this topic.

Engineer Martini stated there has to be a delicate balance between the TAC representing the communities and maintaining a positive working relationship with the MCWD.

Engineer Martini commented that Councilmember Quam and he will do their regular street assessment tour in the spring.

B. Planning Commission 2011 Term Expirations (Pat Lucking, Mark Spiers, and Brian Malo)

Mayor Kind noted three Planning Commissioners' terms expire in 2011. They are Pat Lucking Seat B-1, Mark Spiers Seat B-2, and Brian Malo Alternate Seat-2. All current commissioners can reapply for their positions; there are no term limits. She stated it's her understanding that Commissioner Lucking is interested in reapplying but Commissioner Spiers is not. Karpas was unsure whether Commissioner Malo was going to reapply. Kind explained applications can be submitted at City Hall, and appointments will be made in March 2011. The applications can be picked up at City Hall or they can be downloaded from the City's website at www.greenwoodmn.com.

Kind asked if there should be a requirement that in order to be a planning commissioner an individual must attend a training session related to planning. If so, the openings should be advertised with that requirement. Councilmember Quam expressed support for having that requirement. Councilmember Fletcher expressed his hesitancy to make a decision about imposing that requirement this evening. Quam stated Zoning Administrator/Clerk Karpas could spend an hour talking to a new commissioner about planning. Kind stated there is money in the City's budget to send someone to training. Fletcher suggested soliciting feedback from current Commissioners on this. Kind noted the Planning Commission is quasi judicial; therefore, it would be beneficial for commissioners to have some training. Councilmember Page stated it's one thing to make it available; it's another to make it mandatory, noting some people don't need it or want it.

Mayor Kind stated this item will be continued to the next Council meeting.

Councilmember Fletcher stated he will ask the Planning Commission for its feedback during its next meeting and will report back to Council on what he learns. He also stated that typically the alternate position would move up to the voting position.

5. PUBLIC HEARING

A. None

6. UNFINISHED BUSINESS

A. Second Reading: Ordinance 187 Updating Section 500, Fees

Mayor Kind stated Council had been provided with an updated ordinance which contains the revisions made during the first reading of the amendment to the Ordinance Code Section 500, Fees, during the November 4, 2010, Council meeting. The revisions include changing the sanitary sewer rate to \$70 from \$75 for both residential and commercial units and changing the fee for Miscellaneous Petitions to the City for Legal Consent or Releases to \$200 plus actual costs incurred by the City.

Fletcher moved, Rose seconded, Approving ORDINANCE NO. 187, "An Ordinance Amending Greenwood Ordinance Code Section 500 Regarding Fees." Motion passed 4/1. Page opposed.

B. Second Reading: Ordinance 188 Updating Section 320, International Property Maintenance Code

Mayor Kind stated Council conducted the first reading of Ordinance 188 Updating Section 320, International Property Maintenance (IPM) Code, during its November 4, 2010, meeting. No changes were made during the first reading. The amendment removes any reference to a specific version of the IPM Code and replaces them with a general reference to the most current edition of the IPM Code.

Fletcher moved, Quam seconded, Approving ORDINANCE NO. 188, "An Ordinance Amending Greenwood Ordinance Code Section 320, International Property Maintenance Code." Motion passed 5/0.

7. NEW BUSINESS

A. Final 2011 Tax Levy

Mayor Kind stated the copy of the final 2011 General Fund Budget included in the meeting packet reflects a 2010 tax levy payable in 2011 of \$645,471. That amount is slightly less than the levy certified with Hennepin County in September 2010 because of a slight adjustment in the contingency line item. The levy reflects a 3.13 percent decrease when compared to the levy collectible in 2010.

Kind reviewed the line item changes reflected in the final budget over the preliminary budget. They are as follows.

- Misc. Income/Transfer from Sewer Fund was reduced to \$10,650 from \$11,500 to account for the reduction in sewer fees to \$70 from \$75 in 2010.
- Contingency was reduced to \$29,056 (4.3 percent) from \$30,408 (4.5 percent).
- In the Sewer Fund the line item Sewer Line Charges was reduced to \$106,500 to account for the reduction in the sewer fee.
- Capital Outlay was added in the amount of \$50,000 for the cost of the I/I project.
- Park Improvements was added in the amount of \$5,000 for the Park Beautification Project.
- In the Marina Fund the line item Boat User Fees was increased to \$23,500 to account the \$100 increase in the boat user fee for 2011.

Mayor Kind stated the meeting packet also includes a tax rate comparison chart for the City and the other eight neighboring cities as well as for other cities in Hennepin County. She noted the City's 2011 proposed tax rate is 19.122 percent which is in the lower half when compared to neighboring cities. The City of Excelsior has the highest rate at 36.197 percent and the City of Woodland has the lowest at 8.754 percent. The chart also shows what the city portion of the property tax would be on a property valued at

\$750,000. She also noted the City's tax rate is one of the lowest in Hennepin County; its rate is 42 out of 46. The Cities of Deephaven (43), Tonka Bay (44), Orono (45) and Woodland (46) have lower rates.

Kind proposed putting the tax calculation formula on the City's website so property owners can calculate what the city portion of their property tax would be if they lived in the neighboring cities. Councilmember Fletcher questioned the value in doing that. Fletcher explained that part of the reason the City's property tax rate is lower is because property values in the City are higher. He expressed concern that putting that information on the website could offend other cities.

There was Council consensus to put the tax comparison information on the City's website.

Councilmember Quam recommended the Manhole Project be renamed to the Inflow/Infiltration Project to more appropriately reflect what will be done as part of the project.

Mayor Kind stated a copy of the approved 2011 City Budget will be placed on the City's website.

In response to a question from Councilmember Page, Mayor Kind stated the 2009 year-end cash balance in the Marina Fund was \$32,738, the 2010 year-end balance is projected to be \$37,422 and the 2011 year-end balance is projected to be \$42,472. Kind noted the projections include the \$15,000 annual transfers out of the Marina Fund to the General Fund. Councilmember Fletcher noted the transfer out used to be \$20,000. Page stated there was a time when there was no transfer out of the Marina Fund to the General Fund.

Councilmember Quam questioned if there will be enough money in the Marina Fund to replace the City dock when needed. Councilmember Page stated he thought the cost of replacing the dock with the current floating dock would be around \$96,000. Mayor Kind stated that \$96,000 is the insurance value for the current dock. She stated the estimated replacement cost for a floating dock is about \$200,000. Kind stated it would cost about \$50,000 to replace the current dock with a Tonka Dock, which is a common style dock used on Lake Minnetonka. Kind then stated the City's dock installers don't recommend the current floating style of dock for its location because all of the wave action, which results in the need for repairs. She noted the current dock is expected to last until 2015 at a minimum.

Fletcher moved, Quam seconded, Adopting RESOLUTION NO. 22-10, "A Resolution Approving the 2010 Tax Levy, Collectible in 2011 in the amount of \$645,417."

Mayor Kind noted that no one is present to comment on the tax levy or 2011 budget, and if they had been they would have been allowed the opportunity to speak at this time.

Motion passed 5/0.

B. Final 2011 Budget

This was discussed as part of Item 10.A above.

Quam moved, Rose seconded, Adopting RESOLUTION NO. 23-10, "A Resolution Approving the 2011 City Budget." Motion passed 5/0.

C. First Reading: Ordinance 189 Amending Code to Regulate the Completion of the Exterior Of Structures Under Construction

Mayor Kind stated this is the first reading of Ordinance 189 amending the Ordinance Code Chapters 3 and 5 adding provisions regulating the completion of the exterior of structures under construction. She noted there is a new state law that allows cities to set deadlines for the completion of exteriors. She stated during its November 7, 2010, meeting Council directed Staff to work with the City Attorney to draft an ordinance amendment for Council's consideration. A copy of the draft ordinance is included in the meeting packet.

Kind stated there are a few highlighted items that Council needs to discuss. There is a requirement to complete all exterior work within 180 days following the issuance of the building permit. Is the 180 day deadline sufficient? Should Council be able to grant more than one extension for an additional 30 to 120 days subject to certain conditions being met? Are the proposed fees appropriate? The fee for the first 30-day extension is \$200, the fee for each additional 30 days of extension is \$400, and the civil citation is \$300.

Language was also added for fees for each additional day of penal code violations, nuisance code violations and zone code violations.

Councilmember Quam stated he thought the code should stipulate a deadline for completing the exterior of a structure. He then stated he had spoken with a contractor who thought the 180-day deadline was doable as long as there is some flexibility for when unforeseen circumstances arise.

Mayor Kind asked if Council wanted to limit Council to granting just one extension for a period of 30 – 120 days.

Councilmember Quam asked if the Planning Commission researched what other cities are doing. Mayor Kind clarified this is not a change to the zoning code, so the Planning Commission has not reviewed the proposed ordinance. Kind then stated this state law was changed in August 2010 so many cities have not addressed this yet. Kind noted that the City of Excelsior's staff proposed an ordinance that stipulates its building official can grant one extension of not more than 30 days, and the initial deadline is 180 days.

Councilmember Fletcher stated the City's draft ordinance allows the zoning administrator to grant one 30-day extension to complete exterior work. He suggested that be increased to 60 days. Zoning Administrator/Clerk Karpas stated doing that and also allowing Council to grant an additional 30-day extension would allow a contractor 270 days to complete the exterior and he thought that would be sufficient time.

Councilmember Fletcher asked if Council should be able to grant more than one 30-day extension.

There was Council consensus to change the length of time the zoning administrator can grant an extension to 60 days.

Mayor Kind asked what Council thought about the fees, noting the fee for the first 60-day extension granted by the zoning administrator would be \$200.

Councilmember Page stated he thought charging \$400 for each additional 30 days of extension Council grants is excessive (the total cost for a 120 day extension would be \$1,600). He suggested a \$400 fee for an additional extension by Council.

There was consensus to change the fees to \$200 for the first 60-day extension granted by the zoning administrator and \$400 for the additional extension granted by Council.

Mayor Kind stated the civil citation amount of \$300 is consistent with other civil citations and the amounts for the additional days of code violations are also consistent. She asked if Council had issue with any of the amounts. No concerns were expressed.

Councilmember Fletcher stated that via email he had asked Attorney Kelly if the City can withhold the Certificate of Occupancy until the fee(s) for delayed exterior completion is paid. Kelly stated he thought that should be explored and something added to the amendment for the second reading of this ordinance. Fletcher stated if Council passes the first reading of the ordinance this meeting he suggested that Council ask Attorney Kelly to draft appropriate language to address that for the second reading.

Fletcher moved, Quam seconded, adopting the first reading of Ordinance 189 amending the Greenwood Ordinance Code Chapters 3 & 5 adding provisions regulating the completion of the exterior of structures under construction subject to changing the length of a one-time extension granted by the zoning administrator to 60 days from 30 days, changing the wording for the fee for the first 30-day extension to read \$200 for the first 60-day extension (administrative), and changing the wording for the fee for each additional 30-day extension to read \$400 for the additional extension (council). Motion passed 5/0.

D. 2011 Licenses: Liquor, Trash Haulers, Tobacco, and Marina

Mayor Kind noted staff is recommending approval of applications for a liquor license (Old Log Theater), trash hauler licenses (Village Waste, Allied Waste, Waste Management, Waste Technology, Blackowiack Disposal, Aspen Waste), a tobacco license (Christmas Lake Gas), and marina licenses (Bean's Greenwood Marina, Excelsior Bay Harbor, Kreslin's Marina). She noted per the City Code, Council has to approve the licenses by December 31, 2010.

Zoning Administrator/Clerk Karpas stated he has received the majority of the renewal applications.

Fletcher moved, Rose seconded, approving the license applications listed above contingent upon the City receiving applications and fees and verifications being completed by December 31, 2010. Motion passed 5/0.

E. Extension of Residential Recycling Grant Agreement with Hennepin County

Zoning Administrator/Clerk Karpas stated that Hennepin County distributes funding it receives from the State to cities to support their curbside recycling programs. He has also spoken with Ben Knudson, with the Hennepin County Department of Environmental Services, who informed him the City would get \$5,000 – \$7,000 from the County. The City needs to submit an amended contract to be eligible for the funds. The City must also provide some annual reports which are provided by the City's recycling services provider(s).

Page moved, Quam seconded, approving Amendment 1 to the Residential Recycling Grant Agreement between Hennepin County and the City of Greenwood and authorizing the City Clerk to execute the agreement. Motion passed 5/0.

F. Bridge Fund Transfer

Councilmember Fletcher stated the City has already transferred \$20,000 from the General Fund to the Bridge Fund this year. Because the balance in the General Fund is likely to increase more than

anticipated, he suggests transferring another \$20,000 to the Bridge Fund making the total transfer amount \$40,000 in 2010. He wanted to make sure the City has the necessary funds to make repairs when needed. If necessary, Council could decide to transfer funds from the Bridge Fund back into the General Fund.

Councilmember Page stated he thought the bridge has deteriorated substantially.

Councilmember Quam stated the bridge is scheduled to be inspected again in 2011 and it will get a new rating. He noted the rating of the bridge has not changed for quite some time. He stated the bridge is currently rated 54 and if the rating drops below 50 the City and the City of Excelsior will have to fund repairs. He commented he would not be surprised if the rating drops below 50.

Fletcher moved, Quam seconded, authorizing a second \$20,000 transfer from the Bridge Fund to the General Fund in 2010. Motion passed 5/0.

G. Minnehaha Creek Watershed District Aquatic Invasive Species Program Plan Amendment

Mayor Kind stated the meeting packet contains a copy of a proposed amendment to the Minnehaha Creek Watershed District's (MCWD) 2007 Comprehensive Watershed Resources Management Plan. The amendment establishes a District wide aquatic invasive species (AIS) control and management program. The program may include a regulatory permitting process as well as an inspection and decontamination program. The MCWD has asked for comments on the amendment and it has requested feedback be submitted by January 7, 2011. Therefore, she thought it appropriate to discuss the amendment this evening.

Councilmember Page stated he did not think this is the appropriate role for the MCWD. If there is going to be additional permitting requirements, he thought the Lake Minnetonka Conservation District (LMCD) would be the appropriate agency to be responsible for that. He then stated the MCWD could have played a role in trying to keep zebra mussels from infesting Lake Minnetonka (the Lake), and it could have put money toward the LMCD's effort to conduct inspections for AIS at boat launches. Now that the mussels are in the Lake the MCWD seems to think it should take over jurisdiction for regulating boats and he expressed that he thinks that is a bad idea. He also expressed concern about taking the permitting process out of the hands of the local people who would vote on such things.

Mayor Kind stated she thought the Minnesota Department of Natural Resources (DNR) should have jurisdiction over the AIS issue.

Councilmember Page stated he thought the MCWD is trying to expand its bureaucratic role by bringing a new group of regulators under its control. He then stated there has been discussion by some people about streamlining the role of the LMCD. He also stated he did not think the MCWD should be involved in determining what watercraft go into the Lake. He expressed the MCWD had the chance to stem the flow of AIS into the Lake. He indicated he believes the MCWD wants some power over the Lake.

Mayor Kind stated it seems to her the MCWD wants to get the State more energized about dealing with the zebra mussels and other AIS issues.

Councilmember Fletcher asked if any agency has developed a good program for mitigating the flow of AIS into the Lake.

Councilmember Page stated the LMCD has an inspections program. But, he did not think it would have been possible to keep all AIS out of the Lake. He does not think the DNR has done a good job of trying to keep zebra mussels out of the Lake and other water bodies. He explained that every year the LMCD contracts with the DNR for a certain number of inspection hours. Upfront, the DNR informs the LMCD that it can't provide the total number of hours the DNR contracted to provide. Last year the LMCD had to hire additional contract inspectors. The DNR's requirements for inspectors it hires is so high that it can't hire enough inspectors. Also, the college age people it does hire have to go back to school before the season ends. He stated he thought the LMCD made the greatest effort to help mitigate AIS infestation. Zebra mussels are in the Lake and there is no way to get rid of them. He then stated it's tough luck for the Lake, but now agencies want to make sure people don't spread the mussels to other water bodies. He also stated he did not think the various agencies are working together although that is the image they want to create.

Mayor Kind asked Councilmember Page if he thought it's a waste of money to keep zebra mussels from spreading to other bodies of water in the MCWD. Councilmember Page responded he believes it's the DNR's, and it's not the MCWD's, job to decide what boats should go in and out of the Lake.

Councilmember Rose stated the amendment states "The initial development and implementation of the District's invasive species control and management program will cost \$180,000 per year. Program startup costs will be collected from an *ad valorem* tax levy of property in the watershed." Mayor Kind stated the MCWD jurisdiction is much greater than just the Lake and therefore the tax base will be much greater. Rose asked why there can't be some type of fee imposed on boaters using boat launches on the Lake.

Councilmember Quam stated this would create more bureaucracy and redundancy among agencies. The amendment states "... a rule to require anyone wishing to place a watercraft, dock, boat ramp or other equipment in a watershed waterbody to obtain a District Permit." He then stated the separation of powers and responsibilities should be addressed at the State legislative level.

Councilmember Fletcher stated there have been plenty of opportunities over the years at the legislative level to address this. Because of budget constraints he doubts there will much of a push to deal with it this coming year. He then stated there are several lakes in the MCWD. He went on to state one strategy is to do nothing and another is for some agency, in this case the MCWD, to step up and take the initiative to deal with the issue.

Councilmember Fletcher asked how much money the LMCD spends on inspections each year. Councilmember Page stated he thought maybe \$60,000 – \$90,000. Page then stated the LMCD is supposed to get some grant funding from the DNR but each year the amount it receives is less. Fletcher then asked if the current LMCD inspection program accomplishes anything. Page responded he thought it does; having a uniformed person at launches asking questions has value. It's better than doing nothing. He did not think it's necessary to permit a boat and dock before it can be put in a waterbody. For the MCWD to do what it proposes will require it to expand it's work force.

Mayor Kind stated the cover memo from the MCWD states it's proposing a minor amendment. She expressed she thinks it's a very large amendment. She then stated she thought the \$180,000 per-year cost of the program proposed by the MCWD is way too low. She explained the program will require watercraft and equipment be affixed with a blue or red sticker every time it leaves a waterbody. She questioned how that can be done on every waterbody in the MCWD for a cost of \$180,000. That would have to be done around the clock. She passed on a suggestion about having lake-specific stickers to help control AIS and she thought that was a much better idea.

Councilmember Quam questioned what the sticker idea will accomplish.

Councilmember Page asked what fisherman will say. Mayor Kind stated she doesn't think they will respond positively.

Mayor Kind stated she thought no response from the City would imply its tacit approval.

Councilmember Rose stated he thought the City's response should be the City doesn't support the amendment and expansion of MCWD authority.

Mayor Kind suggested she craft a written response for Council to review during its January 4, 2011, meeting.

H. Insurance Premium

Mayor Kind stated the City received two invoices for insurance premiums from the League of Minnesota Cities (LMC) Insurance Trust. One is for \$5,709 and the other is for \$900. Staff contacted the LMC and found out the \$900 invoice is for excess umbrella coverage. She suggested Council discuss if this excess coverage is needed. She stated that after making calls to the LMC and the City's insurance agents it became apparent that insurance coverage needed to be researched further. Councilmember Fletcher offered to look into the coverage and he has identified some areas where the City could possibly save money on its insurance premiums. That information is included in the meeting packet.

Kind then stated one of the insurance agents responded to a series of questions from Councilmember Fletcher. He also sent an email listing some of the reasons the City would want to have the excess umbrella coverage. She reviewed things that would not be covered without the excess umbrella coverage which include, but are not limited to, claims under federal civil rights laws (including the disability laws and the 1983 act by public employees), claims for tort liabilities cities assume by contract, claims for actions in another state, claims based on liquor sales, and claims on "taking" theory.

Kind reviewed answers to questions asked of the insurance agent by Councilmember Fletcher. The City currently has a deductible of \$250. Fletcher had asked what the annual savings would be if the City increased its deductible. The annual savings are as follows: for a \$500 deductible the savings is almost \$200; for a \$1,000 deductible the savings is almost \$400; and, for a \$2,500 deductible the savings is \$727. She noted her preference is to change the deductible to \$2,500. She related that Fletcher did not think the City needed property insurance for the Park Tennis Court at 5015 Meadville Street. The premium cost with a current replacement value of \$50,982 is \$512. The agent recommended keeping some coverage because tennis court surfaces are a target for vandalism.

Councilmember Fletcher stated the City Engineer told him the cost to replace the tennis court would be about \$25,000; therefore, \$5,000 – \$10,000 in coverage would be sufficient to cover vandalism to the court's surface. Councilmember Page stated he did not think the court and fencing around the court could be replaced for \$25,000. Page thought replacing the fencing would be very expensive. There was ensuing discussion about the likely extent of damage to the fencing.

Kind stated Fletcher did not think the City needed property insurance for the one dock on Curve Street. The premium cost with a current replacement value of \$50,982 is \$512. She agreed that could be removed from the policy. The dock is not worth that amount and the City could pay cash to replace it. She stated the agent recommended keeping the coverage for office equipment with a replacement value of \$12,246 for a premium cost of \$32. The copier leasing company requires the City have insurance.

Kind asked what Council thinks about having the excess umbrella coverage [\$1 million annual aggregate] for a cost of \$900 per year. That's in addition to the \$1.5 million standard umbrella policy the City has. Councilmember Page stated he recommends the City keep it. She asked Attorney Kelly if he has an opinion on this. Kelly responded the only thing he has commented on in the past is whether or not the City wanted to waive the statutory waivers; the rest is a business decision. Kelly reviewed the items identified by the insurance agent that would not be covered without the umbrella coverage and explained why they are not likely to be a concern for the City. Councilmember Page stated he was most concerned about the federal civil rights laws and the "taking" theory. Page again stated he thought buying the excess umbrella coverage for \$900 would be a good thing to do.

In response to a question from Mayor Kind, Councilmember Fletcher explained the South Lake Minnetonka Police Department (the SLMPD is the joint powers organization providing policing services to the City) has its own liability coverage. Attorney Kelly stated if there were to be a police riot all SLMPD member cities would likely be sued. Fletcher stated the attorneys will look at our insurance coverage. Page stated they will sue for as much as they can get, and he again recommended the City buy the excess umbrella coverage.

Councilmember Page recommended insuring the tennis court for at least \$25,000. Mayor Kind stated she could support that.

Mayor Kind again stated she preferred the \$2,500 deductible. Councilmember Quam stated the City will not be saving money if it has the wrong insurance coverage. Councilmember Fletcher stated he thought you bought insurance for the big things, and that he did not think the City needed the excess umbrella coverage. He then stated if a policy holder submits small claims the insurance company tends to increase their rates. Councilmember Rose stated he preferred the high deductible.

Mayor Kind and Councilmembers Fletcher and Rose stated they did not think the City needed the excess umbrella coverage for \$900. Councilmembers Page and Quam thought the City should have it.

There was Council consensus to eliminate the insurance coverage for the Curve Street dock.

Fletcher moved, Rose seconded, directing the City Clerk to communicate to the City's insurance agent the following changes to the City's insurance coverage which will be made at the time of policy renewal: increase the deductible to \$2,500; reduce the replacement value of the tennis court to \$25,000; eliminate the separate property coverage for the Curve Street dock; and, drop the excess umbrella coverage with a premium of \$900 per year.

Motion passed 3/2 with Page and Quam dissenting.

8. OTHER BUSINESS

A. None

9. COUNCIL REPORTS

A. **Fletcher: Planning Commission, Lake Minnetonka Communication Commission, Eurasian Water Milfoil**

Councilmember Fletcher stated there has not been Planning Commission meeting to report on.

Fletcher then stated he thought there is a Lake Minnetonka Conservation District (LMCD) Aquatic Invasive Species Task Force meeting scheduled for December 10th. The Department of Natural Resources (DNR) has received the report on the results of the 2010 Three-Bay Eurasian Watermilfoil treatment program from the Army Corps of Engineers. That information will be presented during the Task Force meeting. The results will likely influence the DNR's consideration of a similar treatment program for St. Albans Bay and Gideon Bay in 2011. He noted the native plants have done well in Grays Bay after the 2010 treatment.

With regard to the Lake Minnetonka Communications Commission (LMCC), Fletcher stated Mediacom's franchise is coming up for renewal in three years. He noted it does not involve Mediacom's internet service; the LMCC has nothing to do with internet service. There is a meeting on December 9th to discuss the request for proposals for a marketing study to look into the feasibility of fiber to the home. The LMCC has budgeted \$30,000 for the 2011 study.

B. Kind: Police, Administration, Speed Trailer

Mayor Kind stated the South Lake Minnetonka Police Department Coordinating Committee has not met since the last Council meeting. She then stated there is nothing additional to report on for administration. She went on to state the City of Deephaven has expressed interest in possibly sharing in the purchase of an additional speed trailer. It was discussed during Deephaven's Public Safety Committee meeting on December 1st. Some members of that Committee question the need for a second trailer in the South Lake area because the City of Shorewood's speed trailer is not used 100 percent of the time. They also expressed concern about not wanting to interfere with the SLMPD's operations. She will get back to Council and Deephaven on that.

C. Page: Lake Minnetonka Conservation District

Councilmember Page stated the City of Excelsior has requested an amendment to its multiple dock license and special density license. It wants to expand its dock area on St. Albans Bay at the end of Hidden Lane. It currently has two dock slips and four slides. It wants to remove the slides and have a total of four boat slips. Excelsior is not asking to expand the area it already has. This topic is on the agenda for the December 8th Lake Minnetonka Conservation District (LMCD) Board meeting. He asked Councilmembers if they had any opinion on this. He stated Excelsior is also asking for other changes, with this being the smallest change.

Mayor Kind stated when the City asked if it could expand its dock area it was told no because it was touching its envelope. Councilmember Page clarified Excelsior is not asking for its docks to go out more than 100 feet. Excelsior's application relates to density and that can be achieved as long as certain amenities are provided. He explained Excelsior is closer than one boat for every 50 feet with all the boat slips it has on Lake Minnetonka. Excelsior is proposing one boat for every 24 feet.

Mayor Kind stated she was not looking for more boat density on St. Albans Bay.

Councilmember Fletcher stated City residents get a lot of benefits from using things in Excelsior, such as the Excelsior Commons. He then stated he does not think converting the slides to two additional boat slips will have much impact on St. Albans Bay or the City.

Councilmember Quam stated he doesn't want to go on record opposing this.

Councilmember Page stated he is not opposed to Excelsior's request. It won't have a big impact.

Councilmember Page stated the LMCD Board has revisited its decision to increase the speed to 50 miles-per-hour (mph) at night for snowmobiles on Lake Minnetonka (with some exceptions). The speed limit is still 30 mph for other vehicles traveling on the ice. He noted he voted against the increase based on Council's feedback. Nine Boardmembers voted in favor of the increase and four against it. The issue is resolved.

Councilmember Fletcher noted there were some other changes made to maximum speed limits as well.

Councilmember Page stated the LMCD will be electing new officers.

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

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

D. Quam: Roads & Sewer, Minnetonka Community Education

Councilmember Quam stated Council discussed earlier the Inflow/Infiltration project and grant application to help fund the project. He then stated a road assessment will be conducted in the spring of 2011.

E. Rose: Excelsior Fire District

Councilmember Rose stated the Excelsior Fire District (EFD) Board met on November 17, 2010. The Board discussed the replacement schedule for self contained breathing apparatus (SCBA) and the financing for the replacement equipment. The Board agreed to change to a 10-year replacement schedule from a 15-year replacement schedule because the equipment is critical for firefighters. The total replacement cost is about \$220,000. He noted the current SCBA is old and a piece of the equipment is in need of repair for a cost of \$7,000.

Rose then stated effective November 1, 2010, the required contribution for 2011 to the Excelsior Firefighters Relief Association fund for pensions was calculated to be \$72,000. The contribution was calculated to be \$80,000 during 2011 budget discussions and by the time the budget was adopted the contribution was recalculated to be \$114,000.

10. ADJOURNMENT

Page moved, Rose seconded, Adjourning the City Council Regular Meeting of December 7, 2010, at 9:07 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder