

Greenwood City Council Meeting

7 PM, Tuesday, March 1, 2011
20225 Cottagewood Road ~ Deephaven, MN 55331 ~ 952-474-6633

AGENDA

Welcome! You are invited to address the council regarding any agenda item. If your topic is not on the agenda, you may speak during Matters from the Floor. Reminder: please turn off cell phones and pagers.

7:00 PM 1. CALL TO ORDER ~ ROLL CALL ~ APPROVE AGENDA

7:00 PM 2. CONSENT AGENDA

Council members may remove consent agenda items for further discussion. Removed items will be placed under Other Business.

- A. Recommendation: Approve 02-01-11 Council Minutes
- B. Recommendation: Approve January Cash Summary Report
- C. Recommendation: Approve February Verifieds and Check Register
- D. Recommendation: Approve March Payroll Register

7:05 PM 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 three minutes.

7:10 PM 4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS

- A. Recognition for Outgoing Planning Commissioners: Mark Spiers (Resolution 07-11) and Todd Palmberg (Resolution 08-11)
- B. Planning Commission Appointments
- C. Brady Hoffman, LarsonAllen: 2010 Audit Report
- D. City Engineer Dave Martini: MS4 Proposal, Street Sweeping, MCWD Rules, and I&I Grant Update

7:50 PM 5. PUBLIC HEARINGS

- A. Stormwater Pollution Prevention Program

8:00 PM 6. UNFINISHED BUSINESS

- A. Discuss: Next Steps Regarding Sagal / Kim Property Transfer
- B. Consider: Resolution 06-11 Restricting the Transfer of Property in the City
- C. 2nd Reading: Ordinance 190 Amending Code Chapter 11 to Limit the Number of Required Front Yard Setbacks on Lots with Multiple Frontages
- D. Consider: Resolution 09-11 Summary of Ordinance 190 for Publication
- E. 2nd Reading: Ordinance 191 Amending Code Section 900.15 Prohibiting Depositing of Snow or Ice on City Streets
- F. 2nd Reading: Ordinance 192 Establishing Code Section 715.12 Prohibiting Street Parking After a Snowfall

8:45 PM 7. NEW BUSINESS

- A. 1st Reading: Ordinance 193 Amendments to Code Section 1140.45 Parking Requirements
- B. Discuss: Greenwood Park Beautification
- C. Consider: Response to Representative Runbek's Letter Regarding Local Government Aid
- D. Discuss: League of Minnesota Cities Community Conversations Program

9:15 PM 8. OTHER BUSINESS

- A. None

9:15 PM 9. COUNCIL REPORTS

- A. Fletcher: Planning Commission, Milfoil, Lake Minnetonka Communications Commission
- B. Kind: Police, Administration
- C. Page: Lake Minnetonka Conservation District
- D. Quam: Roads & Sewer, St. Alban's Bay Bridge, Minnetonka Community Education
- E. Rose: Excelsior Fire District

9:30 PM 10. ADJOURNMENT

Agenda times are approximate. Every effort will be made to keep the agenda on schedule.



Agenda Number	2A-D
Agenda Date	03/01/11

Agenda Item	Consent Agenda
Summary	<p>The following is a brief summary of this agenda item:</p> <p>The consent agenda includes the most recent council minutes, cash summary report, verified report, and check registers. Council members may remove consent agenda items for further discussion. Removed items will be placed under Other Business on the agenda.</p>
Council Action	<p>Recommended Motion:</p> <p>I move that the council approve the consent agenda items as presented in the 03/01/11 council packet.</p>

GREENWOOD CITY COUNCIL MEETING
Tuesday, February 1, 2011, 7:00 P.M.
Council Chambers, 20225 Cottagewood Road, Deephaven, MN 55331

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

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

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

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

Members Absent: None

Mayor Kind requested Item 4.B Public Safety Facilities Distribution of Unspent Construction Funds be added to the agenda.

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

2. CONSENT AGENDA

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

A. January 4, 2011, City Council Meeting Minutes

B. December 2010 Cash Summary Report

C. January 2011 Payables

Motion passed 5/0.

3. MATTERS FROM THE FLOOR

There were no matters from the floor presented this evening.

4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS

A. Meet Planning Commission Applicant Douglas Reeder

Mayor Kind stated Douglas Reeder submitted the only new application the City received for the Planning Commission. She also noted the City received Planning Commissioner Todd Palmberg's resignation earlier in the day. The resignation is effective today. Therefore, there will be another seat open on the Planning Commission.

Mayor Kind introduced Mr. Reeder and asked him to tell Council about himself.

Mr. Reeder stated he has lived in Greenwood for about three years. He's a retired city manager and he has 36 years of local government experience. He then stated he would be happy to serve on the Planning Commission.

Mayor Kind stated she thought Mr. Reeder appears to be very qualified and that she personally could not think of any reason why he would not be appointed to a Planning Commission seat. She thanked him for coming and stated that the council will make Planning Commission appointments at the March Council meeting.

B. Public Safety Facilities – Distribution of Unspent Construction Funds

Mayor Kind explained Deephaven City Administrator Young is Greenwood's administrative representative to the South Lake Minnetonka Police Department (SLMPD) Coordinating Committee meetings and to Excelsior Fire District (EFD) Board meetings. She then explained the Shorewood Economic Development Authority (EDA) has unspent bond proceeds remaining in the construction fund for the public safety facilities. She stated the City needs to decide how it prefers the surplus funds be allocated. She asked Young to comment on this.

Administrator Young explained when bonds were issued for the construction of the public safety facilities in 2002 the Shorewood EDA set up a construction fund to account for the expenditure of the bond proceeds. The construction projects for the two facilities were closed out a few years ago. Shorewood Finance Director DeJong recently identified unspent proceeds in the approximate amount of \$70,000 in the fund and he would like to allocate the funds so he can close out the construction fund. When a construction fund is closed out it's typical to take any surplus funds and put them in a bonded debt fund that's supporting that particular project. The facilities are under a lease/purchase arrangement and the Cities of Deephaven, Excelsior, Greenwood, Shorewood and Tonka Bay make bonded debt payments on an annual basis.

Young then explained the surplus funds were used to offset the first 2011 bonded debt payment for the SLMPD and EFD which were due February 1st. The SLMPD's bonded debt payment was offset by approximately \$30,000 and the EFD's bonded debt payment was offset by approximately \$40,000. Because the SLMPD and EFD bond funds are fully funded for 2011 there will be a surplus at the end of 2011 by the previous amounts. The SLMPD Coordinating Committee discussed using the surplus to augment its building fund for the care and maintenance of its facility. The Coordinating Committee Members, which are the mayors of its four member cities, were to go back to their respective Council and discuss the options for allocating the surplus. During the January 26, 2011, EFD Board meeting the surplus was noted but there was no discussion about it.

Mayor Kind reviewed the options the SLMPD Coordinating Committee discussed for allocating the SLMPD surplus. The surplus can be returned to the cities in a lump sum amount. That would reduce the City's payments to the SLMPD in 2012. The surplus could be used to proportionally reduce the annual debt service payments owed by the member cities over the remaining life of the bonds. The surplus could be transferred to its building fund. She stated she and Administrator Young discussed a fourth option which is to leave the surplus in the bonded debt fund and refinance the bonds when that becomes possible to shorten the life of the bonds. She asked Council what it would like to do.

Kind stated she could support augmenting the SLMPD building fund provided the EFD puts its surplus in its building fund.

Councilmember Quam asked what the rate is on the bonds. Administrator Young stated the bonds were refinanced in 2007 and the interest rate is 4 – 4.25 percent. Young noted the bonds can't be refinanced until 2017.

Councilmember Quam stated he supports Mayor Kind's recommendation.

Councilmember Page stated he wants the entire \$70,000 surplus to be returned to the cities proportionally.

Councilmember Quam asked what SLMPD Chief Litsey and EFD Chief Gerber want to do. Mayor Kind responded Litsey wants to use the SLMPD's surplus to augment the SLMPD's building fund, and she is not aware of what Gerber wants to do. Councilmember Rose stated the SLMPD and the EFD have each put \$25,000 into their building funds. Kind commented that the bonded debt will be paid off in 2023 and she did not think there would have to be repairs made before then. Quam questioned the assumption that repairs wouldn't have to be made until the bonded debt is paid off. Kind stated the \$50,000 should cover any repairs that have to be made. Councilmember Fletcher noted the \$50,000 has to fund repairs for two facilities.

Mayor Kind stated she could support refunding the surplus to the cities.

Councilmember Fletcher stated he estimates the City would get approximately \$7,000 back out of the \$70,000. He then stated he has a slight preference toward using the surplus to augment the building funds but he could also support the surplus being refunded to the cities.

Administrator Young stated there are building maintenance issues that come up, but there is enough money put aside to take care of ongoing maintenance costs. The building funds can be used to pay for the cost of dealing with things such as ice jams. He noted if funds in the building funds are used the amount used will be replenished during the following budget year. He stated he is not aware of any outstanding repairs being needed.

Councilmember Fletcher stated things such as replacing carpeting and repainting should be paid for as a maintenance expense out of the operating budgets. Mayor Kind stated she thought costs to addressing ice jam issues should be funded out of the operating budgets as well.

Mayor Kind noted it's her understanding that the majority of the vote of the Coordinating Committee will rule and that she was seeking Council direction as to how she should vote.

There was Council consensus to ask the surplus to be refunded to the member cities in a lump sum payment as soon as possible.

5. PUBLIC HEARING

A. None

6. UNFINISHED BUSINESS

A. First Reading: Ordinance 190 Amending Code Chapter 11 to Limit the Number of Required Front Yard Setbacks

Mayor Kind stated the first reading of Ordinance 190 amending the Ordinance Code Chapter 11 to limit the number of required front yard setbacks was continued from the January 4, 2011, Council meeting to allow Council the opportunity to review the parcels that would be impacted by this amendment. The amendment would limit the number of required front yard setbacks to two for lots that front three roads. She explained that under the current Ordinance lots that front three roads would have front yard setbacks

on three sides of the property. She noted the Planning Commission unanimously recommended Council approve Ordinance 190.

Page moved, Quam seconded, waiving the second reading of Ordinance No. 190 and Approving Ordinance No. 190, “An Ordinance Amending the Greenwood Ordinance Code Chapter 11 to Limit the Number of Required Front Yard Setbacks”.

Attorney Kelly stated the City’s Ordinance requires there be two readings of an ordinance.

Without objection from the seconder, the maker amended the motion to adopting the first reading of Ordinance 190 amending the Greenwood Ordinance Code Chapter 11 limiting the number of required front yard setbacks. Motion passed 5/0.

Mayor Kind asked Attorney Kelly if the City’s Code would have to be amended to allow Council the option of waiving the second reading of an ordinance. Kelly responded that would have to be done.

There was Council consensus to keep the requirement for a second reading of an ordinance.

B. Sign Projects for 2011

Mayor Kind stated this item was continued from the January 4, 2011, City Council meeting. During that meeting Council asked Staff to get an estimate for making and installing two Signfoam signs, one at the Villas and one at the Deephaven border on Minnetonka Boulevard, and to confirm there should be no design and file layout involved. The total cost for two signs is \$2,787. The City paid \$1,540 for one sign in 2010. The savings for doing two at the same time is approximately \$300. She noted there is enough money in the budget to buy and install both signs.

Fletcher moved, Kind seconded, authorizing the purchase of two Signfoam signs, one to be located at the Villas and that other at Minnetonka Boulevard, for an amount not to exceed \$2,787. Motion passed 4/1 with Page dissenting.

Mayor Kind asked Councilmember Page if he wanted to comment on why he dissented. Page responded he doesn’t think there is a need for new signs. Kind responded if Page looked at the signs more closely he would likely agree they needed to be replaced.

Mayor Kind stated Councilmember Page can have one of the old signs. Page stated he will pick it up when it’s available.

7. NEW BUSINESS

A. Resolution 06-11 Restricting the Transfer of Property within the City

Zoning Administrator/Clerk Karpas explained Hennepin County contacted the City to inform the City that there had been a property transfer submitted to the County for property located between 21380 Excelsior Boulevard (Sunny Kim property) and 21420 Excelsior Boulevard (Jeff Sagal property). The property that was transferred is a six-foot wide strip taken from the 21380 Excelsior Boulevard property near the home structures. The transfer would make the Kim property nonconforming with the required west side yard setback creating a six-foot encroachment.

Karpas then explained the County informed him the County is required to accept the transfer under a State Statute § 272.162 passed in 1982. The County has accepted the transfer and the City did receive the signoff sheet from the County. Based on the Statute, the City can restrict transfers of property only if a resolution is filed with the County restricting the transfer of subdivided parcels to those only approved by the City. The City has not adopted such a resolution. Therefore, if the City does not sign off on the transfer the legal descriptions will not be changed for either property. It would result in Sagal owning the six-foot wide strip of land and Kim paying taxes of that strip of land.

Mr. Kim stated he bought his property in 2002. At that time he was provided with a survey of the property which showed the edge of the property was a straight line. The house on the property was not very habitable so he decided to remodel it. He commented that at one time he tried to get a variance from the City but he was turned down, and noted he did conform to City regulations when he made improvements to the house. After he purchased his property he learned that Mr. Sagal's fence between the properties was located on his property.

Mayor Kind asked how the transfer went to the County without his agreement.

Mr. Kim explained Mr. Sagal told him that he thought he had a right to the strip of land under adverse possession and Mr. Sagal contacted an attorney who agreed with him. Mr. Sagal's attorney drafted a letter to him indicating there was a good chance the courts would grant the property to Mr. Sagal. He relented and signed a document. He noted the issue of adverse possession was totally foreign to him. He also noted that the previous property owner had paid the taxes on that strip of land for 30 years and he has continued to pay the taxes on the strip of land Mr. Sagal claims is his. He wondered if Mr. Sagal had asked the previous property owner for permission to construct the fence on the strip of land.

Councilmember Quam asked who put the fence up. Mr. Kim responded he thought Mr. Sagal's father erected the fence but it would be more appropriate for Mr. Sagal to answer the question.

Councilmember Page asked Mr. Kim if he gave Mr. Sagal a quick claim deed to the strip of land. Mr. Kim responded he signed something because he was told the strip belonged to Mr. Sagal, noting he was not aware of the subdivision ordinance at that time. Page explained the quick claim deed is what the County received to record. Page then explained the dispute about who owns the strip of land has been resolved. Page stated the issue at hand is whether or not the City is going to or can sign the signoff sheet.

Mr. Kim stated he does not think he is being treated fairly. He has to pay the taxes on the strip of land that Mr. Sagal now owns. He expressed he feels like a victim. He stated he shouldn't have to pay property taxes on a piece of land he doesn't own.

Mr. Sagal stated Council has been provided with a brief summary of discussions that Zoning Administrator/Clerk Karpas has had about this issue. He then stated it's his understanding the County has accepted the land transfer that occurred between Mr. Kim and he and that the land transfer has been recorded.

Councilmember Rose noted the City has not signed off on that transfer.

Mayor Kind stated Council is trying to decide if it matters if the City does or does not signoff on the transfer.

Mr. Sagal stated it seems to him that there has been tacit approval of the transfer because there was no City process in place. State Statute requires the County to accept the transfer unless the City has an

approval process in place, which the City doesn't. He stated because the City does not have an approval process in place he wondered if the whole process has actually been completed.

Zoning Administrator/Clerk Karpas explained the County has to accept the land transfer and the City has to sign off on the transfer in order to get the legal descriptions of the properties changed.

Mayor Kind stated it's her understanding that Council has to decide whether or not to approve the division of the property. She asked what happens if City does or does not sign off. Zoning Administrator/Clerk Karpas responded if the City signs off on the transfer Mr. Kim's property is no longer in compliance with City Code. If the City does not sign off Mr. Sagal owns the six-foot wide strip of land while Mr. Kim pays the taxes on it.

Councilmember Page stated Mr. Kim and Mr. Sagal did not adhere to the City's subdivision ordinance when they agreed to quick claim deed the strip of land to Mr. Sagal. Mr. Kim stated he was not aware of the subdivision ordinance when that was done. Page stated both parties should have known about the subdivision ordinance and they should have applied for a subdivision.

Councilmember Page asked if Council is supposed to just sign off on the transfer or should Council require the two parties to go through the subdivision process. Zoning Administrator/Clerk Karpas responded if the transfer is signed the City essentially grants the subdivision.

Mayor Kind stated it's likely the subdivision would not be approved if it came through the subdivision process. The City's subdivision ordinance stipulates a subdivision cannot result in the creation of a nonconformity.

Mr. Sagal stated when Mr. Kim had his property surveyed the surveyors indicated the property line was located where it's been accepted all these years. Mr. Kim stated that was not true. Mr. Sagal responded those surveyors originally placed the property line along the fence line. The surveyors came back 2 – 3 weeks later and surveyed again and this time the survey line moved about six feet closer to his house; they said they had made a mistake. Mr. Sagal stated he then hired a surveyor and his surveyor agreed the property line is where Mr. Kim's surveyors placed it the second time they came out.

Mr. Sagal explained there was a geodetic survey stake near Excelsior Boulevard and another near the lake. There was nothing in between. The survey done long ago was done with older instruments, noting the house was originally built in 1896, and it's likely the survey stakes were not placed accurately. A stake was found underneath the fence and Mr. Kim's surveyor originally tagged it as a survey stake, but when he came back he explained that was not an official survey stake (it did not have a disk on it). He noted the fence has been in place since at least 1950. Also, his uncle built stone walls on the strip of land he asked Mr. Kim to deed it to him.

Councilmember Rose stated when Mr. Sagal came before Council several years ago to try and get his property taxes lowered he showed Council a survey of his property. He did not remember seeing a curved property line on the survey. Mr. Sagal explained the survey information he has now is new; the curved property line was not on the survey Rose referred to.

Mayor Kind noted Council cannot take a position on adverse possession. Councilmember Page noted the two parties have already resolved that through a quick claim deed.

Mayor Kind stated Council needs to decide if it wants the City to sign the transfer signoff sheet.

Councilmember Page explained the Statute § 272.162 states the county auditor shall not transfer or divide the land if: the land conveyed is less than a whole parcel of land as charged in the tax lists (this is true); the part conveyed appears within the area of application of municipal subdivision regulations adopted and filed under section 462.36, subd. 1 (the City's subdivision ordinance is adopted and filed); and the part conveyed is part of or constitutes a subdivision as defined in section 462.352, subd. 12. The County can't do it if these things are present.

Page stated he thought the problem is this is not a subdivision. He explained State Statute states subdivision means the separation of an area, parcel, or tract of land under single ownership into two or more parcels ... except for those separations: (1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses; (2) creating cemetery lots; or (3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary. Numbers 1 and 2 do not apply. Number 3 does apply, therefore this is not a subdivision and therefore, the County can accept the transfer.

Page highlighted the conditions of transfer stipulated in subd. 2 in the Statute. Notwithstanding the provisions of subd. 1, the county auditor may transfer or divide the land and its net tax capacity and may certify the instrument if the instrument contains a certification by the clerk of the municipality: (a) that the municipality's subdivision regulations do not apply; (b) that the subdivision has been approved by the governing body of the municipality; or (c) that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality in the particular case because compliance would create an unnecessary hardship ... He stated he thought the City's subdivision ordinance does apply.

Mayor Kind asked if the City waived its authority by not filing a resolution with the County.

Councilmember Page explained the Statute also states if any of the conditions for certification by the municipality exist and the municipality does not certify that they exist within 24 hours after the instrument of conveyance has been presented to the clerk of the municipality, the provisions of subd. 1 do not apply. He stated he interprets that to mean if the City does not sign off on the transfer within 24 hours that Hennepin County will go through with the transfer. Zoning Administrator/Clerk Karpas noted if the City does not sign off on the transfer, the County will not change the legal descriptions of the properties, but the transfer will take place.

Councilmember Quam stated he has had some experience with this kind of situation. Out in the country this type of thing comes about with the fences between properties (this was before global positioning system technology). If a fence was the assumed line and no one had disputed it for a period of 15 years the location of the fence became the property line. He explained he had a fence near a barn on a property and a survey showed his barn was three feet over the property line. The fence was the assumed line and the other property owner had to legally sign a quick claim deed for that part of their property to him. He then explained if there had been a fence and the fence posts remain in place to mark the property line the posts mark the assumed legal line.

Councilmember Quam reiterated that if Council signs off on the transfer Mr. Sagal has to pay the property tax on the strip of land. If it doesn't Mr. Kim has to pay taxes on land he doesn't own. He stated he thought Council should approve it otherwise it's unfair to Mr. Kim. He noted the strip of land now legally belongs to Mr. Sagal; Council can't change that.

Attorney Kelly stated the challenge for Council is whether it has the authority to waive the subdivision ordinance process and approve it. He expressed his skepticism about Council being able to simply waive

the ordinance. Councilmember Quam questioned if Council has the authority to disapprove the transfer. Kelly stated there is a legal process that Council doesn't have the authority to forego. Kelly then stated whether the outcome may be dictated by the facts as you know them right now may in fact be true. Kelly also stated he doesn't think Council has the ability to simply disregard an ordinance in the City.

Mr. Sagal stated he understood Councilmember Page to say that according to State Statute this is not a subdivision by definition. Therefore, he asked why the subdivision ordinance is even being talked about.

Councilmember Page again cited parts of State Statute § 272.162 (which were previously talked about and documented) and what bearing they may have on what Council decides to do. He stated from his vantage point the City doesn't have to do anything. The quick claim deed is legal. Unfortunately for Mr. Kim he can't expand the nonconformity he has. Councilmember Quam stated Mr. Kim did not create the nonconformity. Page responded Mr. Kim subdivided his own property.

Mr. Sagal commented the variance request Mr. Kim referred to earlier wasn't approved because of the bluff setback.

Mayor Kind asked if it would be to Mr. Kim's advantage for the City to sign off on the transfer because Mr. Kim would not have to pay taxes on that strip of land any more.

Mayor Kind stated based on the discussion if Council takes no action Mr. Kim and Mr. Sagal need to go back to Hennepin County and work things out with them.

Zoning Administrator/Clerk Karpas stated he would like to ask Hennepin County if the City has more than 24 hours to take action. He would like to get some direction from the County. Twenty four hours is not a reasonable amount of time.

Attorney Kelly stated Carver County requires that a deed transfer be stamped with approval from the municipality. He then stated based on what Zoning Administrator/Clerk Karpas has related the County will leave things "half baked" unless it hears from the City. The County had to accept the transfer for recording based on the County's interpretation of the Statute, but it doesn't have to change the legal descriptions. If this is a discretionary matter for the County it can put it off for a while. If it's administrative the County has to deal with it.

Councilmember Page suggested Council not take any action on this and that it be continued to the next meeting. He encouraged Mr. Kim and Mr. Sagal to talk to Hennepin County about this.

Page moved, Kind seconded, continuing the item of restricting the transfer of property within the City to the March 1, 2011, City Council meeting agenda. Motion passed 4/0/1 with Fletcher abstaining.

Councilmember Page suggested Council delay consideration of Resolution No. 06-11 restricting the transfer of property within the City until further discussion has been held about this issue just discussed. If Council adopted the resolution it would then have to either approve or not approve the transfer. Zoning Administrator/Clerk Karpas stated he did not think there would be a problem because the resolution would have been adopted after the fact and it would not apply to this transfer.

There was Council consensus that the above motion includes continuing consideration of Resolution No. 06-11 to the March 1, 2011, meeting agenda.

Mayor Kind explained Council needs to get more information from Zoning Administrator/Clerk Karpas and the City will get back to Mr., Kim and Mr. Sagal as to what the next steps are.

B. First Reading: Ordinance 191 Amending Code Chapter 900.15 Prohibiting Depositing Snow or Ice on City Streets

Mayor Kind stated this is the first reading of Ordinance 191 amending the Ordinance Code Chapter 900.15 prohibiting depositing snow or ice on City streets or other public safety property. During its January 4, 2011, meeting Council asked Staff to draft such an ordinance. A copy of the draft ordinance is included in the meeting packet. She explained there is no need for the Planning Commission to consider this Ordinance. She noted State Statute § 160.2715 states it's unlawful to "obstruct any highway or deposit snow or ice thereon." Council wanted to make it clear in the City Ordinance that this also applies to City streets.

Fletcher moved, Rose seconded, adopting the first reading of Ordinance 191 amending the Greenwood Ordinance Code Chapter 900.15 adding a provision prohibiting the depositing of snow or ice, plowed or removed from private property, onto a city street or other public property regardless of the place of origin. Motion passed 5/0.

C. First Reading: Ordinance 192 Establishing Ordinance Code Section 715.12 Prohibiting Street Parking After a Snowfall

Mayor Kind stated this is the first reading of Ordinance 192 establishing Ordinance Code Chapter 715.12 to prohibit parking after a snowfall. During its January 4, 2011, meeting Council asked Staff to draft such an ordinance. A copy of the draft ordinance is included in the meeting packet.

Councilmember Quam stated he had spoken with the Deephaven Public Works Director and snowplow driver to find out if they think there is a problem and their response to him was they don't think there is a problem. There is one car that impedes plowing snow and they just don't plow that part. Mayor Kind stated that Zoning Administrator/Clerk Karpas and she received the opposite feedback. Quam stated he does not think this is a big problem, noting however that residents do want the streets plowed.

Mayor Kind noted the City's the enforcement of ordinances are complaint driven. This ordinance would give the City a tool should there be a problem.

Rose moved, Kind seconded, adopting the first reading of Ordinance 192 establishing Greenwood Ordinance Code Chapter 715.12 prohibiting parking on a city street after two inches or more of snow has fallen until the traveled portion of the roadway or street is plowed its full width.

Councilmember Page stated he did not think this is necessary for a two-inch snowfall. It may be appropriate for a four or six inch snowfall. Mayor Kind stated the City's streets are plowed after a two-inch snowfall. Councilmember Quam stated he agrees that two inches isn't much but if that's when the plows go out the ordinance should be consistent with that.

Motion passed 4/1 with Page dissenting.

D. Weed Treatment at City Docks

Zoning Administrator/Clerk Karpas stated in the past the City has contracted with Lake Management, Inc. for a treatment program for Eurasian Watermilfoil and native weeds and algae. Because the City is

contributing \$5,000 toward a bay-wide treatment program in the spring of 2011 it may not be necessary to contract with Lake Management for two treatments this year. He asked Lake Management to provide quotes for a single treatment as well as two treatments. Should the results of the bay-wide treatment not be as good as one would hope the City could have Lake Management do a single application later this year.

Councilmember Fletcher stated he did not think it was necessary to take action on this now.

Page moved, Quam seconded, tabling the contracting with Lake Management, Inc. for annual Eurasian Watermilfoil control services for now. Motion passed 4/1 with Rose dissenting.

E. Ordinance 193 Amending Code Chapter 1140.45 Parking Requirements

Mayor Kind introduced Ordinance 193 amending the Ordinance Code Chapter 1140.45 removing unnecessary parking regulations and amending the regulations for common parking area. A copy of the draft ordinance is included in the meeting packet along with a document from Zoning Administrator/Clerk Karpas explaining what the parking regulations issues are. She explained this item came up when she and Karpas were discussing plans for a new building project at the St. Albans Bay Boathouse site. She noted those plans will be before the Planning Commission at a later time. She reminded Council that during the process of doing a major review/update the City's Ordinance Code Councilmember Fletcher had expressed a concern that the common parking regulations made no sense. When the Council approved the new Ordinance Code, it was decided that the Council could revisit the common parking regulations at a later time.

Mayor Kind asked Council if it would like to send the draft Ordinance to the Planning Commission for review and recommendation.

Page moved, Quam seconded, sending Ordinance 193 amending Ordinance Code Chapter 1140.45 removing unnecessary parking regulations and amending the regulations for common parking area to the Planning Commission for review and recommendation. Motion passed 5/0.

F. Prompt Payment of Local Government Bills, Minnesota Statute 471.425

Mayor Kind stated the meeting packet contains a copy of Minnesota Statute § 471.425 regarding the prompt payment of local government bills. She noted Councilmember Fletcher found out about this Statute which stipulates that the City must its bills within 35 days of receipt. She explained based on current practice there will be times when that 35 day time period will be exceeded. She suggested Council revisit the idea of having the Mayor or two Councilmembers review/approve claims and release the payment of the claims mid month and then have Council approve the verified claims during its next meeting.

Attorney Kelly stated in the past there had been a distinction between payables received for ongoing contractual services and payables for one time services or goods. If the vendor's invoice provides the City with a sworn statement that this bill is offered under penalty of perjury that would protect the City.

Mayor Kind noted during its January 4, 2011 meeting the Council gave the Mayor the authority to allow the release of payment checks for routine claims mid month without Council approval. If she had a question on a claim or if there was enough time to hold the claim until the next Council meeting and still meet the 35-day processing time period those claims could be held for Council approval.

Councilmember Fletcher stated the Statute allows a municipality to take longer than 35 days to pay the claim if there is a good faith dispute about the obligation.

Councilmember Page asked if the City timestamps its claims upon receipt.

Councilmember Fletcher noted that at a pre-audit meeting Mayor Kind and he had with the auditors recently they observed the auditors randomly checking claims to see if they were paid within the 35-day window with the start date being the date of the invoice. Councilmember Page stated using the invoice date is wrong.

Councilmember Quam stated he thought the City should timestamp claims when they are received. Councilmember Page stated he did not agree with this.

Councilmember Fletcher stated Council is scheduled to meet on May 3, 2011, and again on June 7, 2011. The meeting packet for the May meeting will go out the last week of April and it will contain a list of payables for Council to authorize payment of during the May meeting. The time period between when the payables were received and included in the May meeting packet and the June 7th meeting is about 45 days.

Councilmember Page stated during Council's last meeting Council authorized the Mayor to release payment of routine claims and to have Council release payment of anything unusual. Councilmember Fletcher asked if Page was recommending the City ignore the Statute. Attorney Kelly stated the City should make a good faith effort to comply with the Statute.

Mayor Kind noted that most claims are routine claims.

Councilmember Page commented Council has been made aware of the Statute and the City will make every effort to comply with it.

G. Management Analysis for Audit Report

Mayor Kind stated the financial audit of the City's 2010 financial statements has begun. She explained that Councilmember Fletcher and she have met with the auditors and presented to them a preliminary draft of a management analysis, a copy of which is included in the meeting packet. Fletcher authored the document. The Governmental Accounting Standards Board has determined that a management analysis document should be included in the final audit report, noting it's not required. She and Fletcher discussed the analysis with the auditors earlier in the day. The draft document will have to be updated once all of the year-end financials are available. She and Fletcher wanted Council to have the opportunity to comment on the document in advance.

Councilmember Page stated the document refers to the Sewer Enterprise Fund, the Marina Enterprise Fund, and the Stormwater Enterprise Fund. He questioned why enterprise is included in the names. Councilmember Fletcher stated the Sewer and Marina Funds are enterprise funds; they have standalone revenues and capital assets. The Stormwater Fund is not an enterprise fund because it's not contemplated there be any investment in capital assets at this time, noting that could change. Mayor Kind noted that auditors recommended that the fund be renamed to the Stormwater Special Revenue Fund. Councilmember Page stated "enterprise" suggests a profit making business and he doesn't agree with that. Fletcher explained he took the fund names from past audit reports.

Mayor Kind stated the auditors may recommend changes to the draft language.

Mayor Kind stated the audit report will be on the March 1, 2011, Council meeting agenda.

H. Alternative Legal Publication Legislation

Mayor Kind stated the League of Minnesota Cities (LMC) was alerted that that a new bill will be introduced to the legislature to allow local governments to use their websites for legal notices. The LMC asked municipalities to provide it with their annual costs for publishing notices in their designated newspapers (the City spends about \$2,000 a year). She then stated it may be beneficial for the City to contact its State representatives with feedback about this.

Councilmember Quam clarified the bill would allow municipalities to use their websites for legal notices, but it wouldn't restrict them to just that.

Councilmember Fletcher noted that public notices still would be sent by mail to those who request it. He also suggested that, if the legislation is approved, the City could use the City's bulk email list to send links to the public notices posted on City website. Councilmember Fletcher pointed out that publishing in the newspaper is not a superior method of notification, because there was a five-year time period where the City did not publish ordinances and no one noticed.

Fletcher moved, Quam seconded, authorizing the Mayor to send a letter to State Senator Gen Olson and State Representative Connie Doepke in support of allowing local governments to use their websites for legal notices. Motion passed 5/0.

8. OTHER BUSINESS

A. None

9. COUNCIL REPORTS

A. Fletcher: Planning Commission, Eurasian Watermilfoil Lake Minnetonka Communication Commission,

Councilmember Fletcher stated the Planning Commission did not meet last month. He then stated St. Alban's Bay Captain Rob Roy has drafted a letter to be sent out to the City's residents asking for donations toward the cost of treating Eurasian Watermilfoil in St. Albans Bay. There is nothing new to report with regard the Lake Minnetonka Communications.

B. Kind: Police, Administration, School District Meeting

Mayor Kind stated the South Lake Minnetonka Police Department (SLMPD) Coordinating Committee met on January 20, 2011, at 5:00 P.M. During the meeting the Committee approved the tentative agreement for health insurance benefits in 2011. She explained she served as an advisor to SLMPD Chief Litsey and Excelsior City Manager Luger during the negotiations for the contract reopener. She then explained that health benefit data from departments of similar size to the SLMPD was compiled, noting she selected the cities. She noted the SLMPD's health benefits are in the middle when compared to the selected departments. She also noted the benefits agreed to are about \$5,000 lower than what was budgeted.

Councilmember Fletcher stated the City of Edina went to arbitration on police and fire and Edina did not fare well. He then stated he thought the SLMPD and its labor union reached an agreement that is a win-win for both parties.

With regard to administration, Mayor Kind stated Carol Sayer and Kiersa Carlson have volunteered to take over the garden near the Greenwood sign on Manor Road.

Mayor Kind stated she attended a quarterly meeting of the mayors of the cities in the Minnetonka School District hosted by the District's Superintendent in January. Representatives from each city gives a report on what is new in their cities and this quarter also reported on how they collaborate with other cities. She highlighted a few things she learned. The City of Minnetonka does not sealcoat its roadways. Instead it does a thin overlay of asphalt because it believes that lasts longer than sealcoating and the residents like it because it looks like a new surface. She noted she mentioned this to the City Engineer and that he will check into the concept and the Council can discuss more when road work is decided in the spring. She stated the City of Tonka Bay raised its dock fee to \$1,600 per slip. She stated the City of Chanhassen buys one-half of its gas at a discounted rate from the State and stores it in a tank it owns. She wondered if the South Lake cities could consider having a gas tank in a central location and do the same type of thing.

Councilmember Quam asked if there isn't an agreement with some gas station for discounted gas. Mayor Kind responded no, while noting the SLMPD gets free car washes at the station where they buy gas. Kind stated she will bring up the topic of discounted gas to the SLMPD.

C. Page: Lake Minnetonka Conservation District

Councilmember Page reported on Lake Minnetonka Conservation District (LMCD) activities. He noted he will serve as LMCD Board Treasurer this year. He will also serve on the Ordinance Review Committee and the Aquatic Invasive Species (AIS) Task Force. He stated there are new people serving as chair and vice-chair. He explained there have been numerous, long Board meetings about the proposed development near Halstead Bay. The Board voted to have the attorney for the LMCD draw up findings of fact approving the application. This will be voted on during LMCD Board meeting in March 2011. He noted the Board approved 117 dock slips; the developer wanted 129 slips. The developer wanted to designate 40 of the slips for non-riparian owners to use. The LMCD Board was concerned there would end up being some type of boat club at the site.

Page stated the LMCD Ordinance Review Committee proposed repealing the LMCD's power to regulate events on Lake Minnetonka. The proposal did not go very far. He noted the members of the Ordinance Review Committee do not have to be members of the LMCD Board.

Page then stated LMCD Boardmembers were reluctant to volunteer to be on the LMCD AIS Task Force. Besides himself, LMCD Boardmember Herb Suerth from Woodland was the only other Boardmember to volunteer.

Mayor Kind recessed the meeting at 8:29 P.M.

Mayor Kind reconvened the meeting at 8:47 P.M.

D. Quam: Roads & Sewer, Minnetonka Community Education

Councilmember Quam stated roads are mainly about keeping them plowed and keeping the height of snow piles at intersections low enough to maintain visibility. He then stated the condition of the roadways will be surveyed in two months to determine what repairs need to be made.

Quam then stated the City applied for a grant from Metropolitan Council Environment Services through its Municipal Infiltration/Inflow Grant Program. The grant would help pay for repairs to the City's sewer system and manhole covers. The City was divided into four areas and the repairs have been made to two of the areas. He expressed he was pleased to announce the City was awarded a grant in the amount of \$48,384. The amount is one-half of the total eligible project amount of \$96,768; one-half is the maximum awarded. He thanked the Councilmembers for pursuing this.

Quam moved, Fletcher seconded, approving the grant in the amount of \$48,384 from Metropolitan Council Environment Services for the City's Infiltration/Inflow project with the City committing matching funds. Motion passed 5/0.

Quam went on to state there had not been a Minnetonka Community Education (MCE) meeting. The most recently scheduled meeting was postponed one week.

E. Rose: Excelsior Fire District

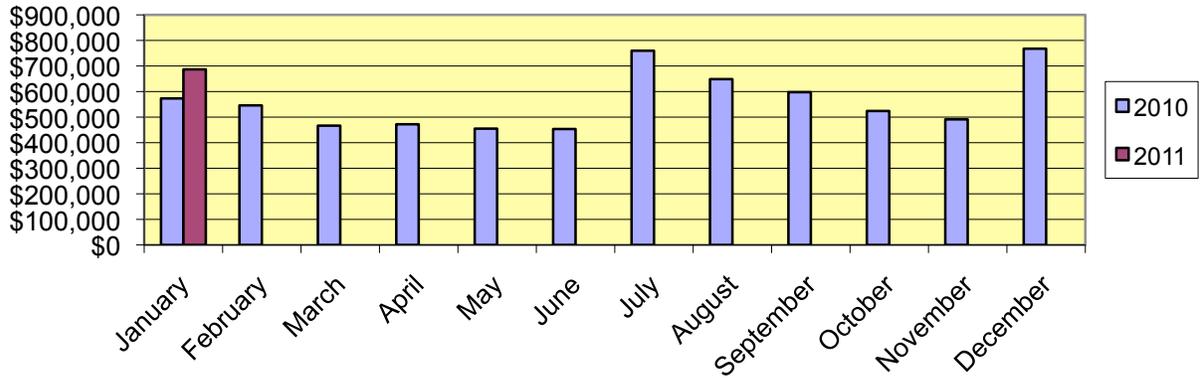
Councilmember Rose stated the Excelsior Fire District (EFD) Board met on January 26, 2011, at 6:00 P.M. He noted there are two new Boardmembers. He explained the Board was made aware of the unspent funds in the construction fund for the public safety facilities, but there was no discussion about it or action taken. He stated he will let the EFD Board know that the City prefers the money be refunded to the member cities in a lump sum.

10. ADJOURNMENT

Page moved, Quam seconded, Adjourning the City Council Regular Meeting of February 1, 2011, at 8:52 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder

City of Greenwood Monthly Cash Summary



Month	2010	2011	Variance with Prior Month	Variance with Prior Year
January	\$573,056	\$686,781	-\$80,855	\$113,725
February	\$545,897	\$0	-\$686,781	-\$545,897
March	\$466,631	\$0	\$0	-\$466,631
April	\$472,069	\$0	\$0	-\$472,069
May	\$454,955	\$0	\$0	-\$454,955
June	\$453,487	\$0	\$0	-\$453,487
July	\$759,701	\$0	\$0	-\$759,701
August	\$648,560	\$0	\$0	-\$648,560
September	\$597,536	\$0	\$0	-\$597,536
October	\$523,980	\$0	\$0	-\$523,980
November	\$491,216	\$0	\$0	-\$491,216
December	\$767,636	\$0	\$0	-\$767,636

Bridgewater Bank Money Market	\$504,108
Bridgewater Bank Checking	(\$18,607)
Beacon Bank Checking	\$100
Beacon Bank Money Market	\$201,180
	<u>\$686,781</u>

ALLOCATION BY FUND

General Fund	\$186,969
General Fund Designated for Parks	\$27,055
Bridge Capital Project Fund	\$40,000
Marina Enterprise Fund	\$17,653
Sewer Enterprise Fund	\$406,769
Stormwater Special Revenue Fund	\$8,335
	<u>\$686,781</u>

Check Issue Date(s): 02/01/2011 - 02/22/2011

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
02/11	02/02/2011	10224	10	AMERICAN SOLUTIONS BUSINESS	101-20100	14.48
02/11	02/02/2011	10225	199	ELECTRIC PUMP WALDOR GROUP	602-20100	301.58
02/11	02/02/2011	10226	581	EMERY'S TREE SERVICE, INC.	101-20100	1,823.68
02/11	02/02/2011	10227	3	KELLY LAW OFFICES	101-20100	1,253.50
02/11	02/02/2011	10228	216	QUALITY FLOW SYSTEMS INC	602-20100	507.66
02/11	02/02/2011	10229	145	XCEL	602-20100	197.48
02/11	02/16/2011	10230	51	BOLTON & MENK, INC.	502-20100	1,043.00
02/11	02/16/2011	10231	68	GOPHER STATE ONE CALL	602-20100	100.00
02/11	02/16/2011	10232	78	Hennepin County Taxpayer Svcs.	101-20100	47.57
02/11	02/16/2011	10233	105	METROPOLITAN COUNCIL ENV SERV	602-20100	2,336.37
02/11	02/16/2011	10234	701	Popp Telecom	101-20100	57.32
02/11	02/16/2011	10235	136	Sun Newspapers	101-20100	42.90
02/11	02/16/2011	10236	145	XCEL	101-20100	400.05
Totals:						<u>8,125.59</u>

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Vendor Name	Vendor No	Seq	Type	Description	Inv Date	Due Date	Total Cost	9	Per	GL Acct
2/2/2011										
AMERICAN SOLUTIONS BUSINESS										
AMERICAN SOLUTIONS BUSINESS	10									
00729312	1	Inv		W-2 & 1099 FORMS	01/19/2011	02/02/2011	14.48	No	2/11	101-41400-204
Total AMERICAN SOLUTIONS BUSINESS							14.48			
ELECTRIC PUMP WALDOR GROUP										
ELECTRIC PUMP WALDOR GROUP	199									
0043163	1	Inv		LIFT STATION REPAIR	12/29/2010	02/02/2011	301.58	No	2/11	602-43200-404
Total ELECTRIC PUMP WALDOR GROUP							301.58			
EMERY'S TREE SERVICE, INC.										
EMERY'S TREE SERVICE, INC.	581									
16125	1	Inv		TREE MAINTENANCE	01/05/2011	02/02/2011	1,823.68	No	2/11	101-43900-313
Total EMERY'S TREE SERVICE, INC.							1,823.68			
KELLY LAW OFFICES										
KELLY LAW OFFICES	3									
5836	1	Inv		GENERAL LEGAL	01/25/2011	02/02/2011	678.50	Yes	2/11	101-41600-304
5837	1	Inv		LAW ENFORCE PROSECUTION	01/25/2011	02/02/2011	575.00	Yes	2/11	101-41600-308
Total KELLY LAW OFFICES							1,253.50			
QUALITY FLOW SYSTEMS INC										
QUALITY FLOW SYSTEMS INC	216									
23195	1	Inv		Lift Station #2 pump repair	12/29/2010	02/02/2011	507.66	No	2/11	602-43200-404
Total QUALITY FLOW SYSTEMS INC							507.66			
XCEL										
XCEL	145									
012811	1	Inv		Sleepy Hollow Road	01/28/2011	02/02/2011	9.55	No	2/11	101-43100-381
012811	2	Inv		4925 MEADVILLE ST	01/28/2011	02/02/2011	9.51	No	2/11	101-43100-381
012811	3	Inv		SIREN	01/28/2011	02/02/2011	3.64	No	2/11	101-43100-381
012811	4	Inv		LIFT STATION #1	01/28/2011	02/02/2011	33.27	No	2/11	602-43200-381
012811	5	Inv		LIFT STATION #2	01/28/2011	02/02/2011	30.01	No	2/11	602-43200-381
012811	6	Inv		LIFT STATION #3	01/28/2011	02/02/2011	22.08	No	2/11	602-43200-381
012811	7	Inv		LIFT STATION #4	01/28/2011	02/02/2011	28.55	No	2/11	602-43200-381
012811	8	Inv		LIFT STATION #6	01/28/2011	02/02/2011	60.87	No	2/11	602-43200-381
Total 012811							197.48			
Total XCEL							197.48			
Total 2/2/2011							4,098.38			

02/02/2011 GL Period Summary

GL Period	Amount
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<u>GL Period</u>	<u>Amount</u>
2/11	<u>4,098.38</u>
	<u><u>4,098.38</u></u>

Vendor Name	Vendor No	Invoice No	Seq	Type	Description	Inv Date	Due Date	Total Cost	9	Per	GL Acct
2/16/2011											
BOLTON & MENK, INC.											
BOLTON & MENK, INC.	51										
		137668	1	Inv	2010 MISC ENGINEERING FEES	01/27/2011	02/16/2011	801.00	No	2/11	502-43200-303
		137669	1	Inv	2010 SEWER IMPROVEMENTS	01/27/2011	02/16/2011	242.00	No	2/11	602-43200-303
Total BOLTON & MENK, INC.								1,043.00			
GOPHER STATE ONE CALL											
GOPHER STATE ONE CALL	68										
		5202	1	Inv	Gopher State calls	02/11/2011	02/16/2011	100.00	No	2/11	602-43200-439
Total GOPHER STATE ONE CALL								100.00			
Hennepin County Taxpayer Svcs.											
Hennepin County Taxpayer Svcs.	78										
		012511	1	Inv	DEC 2010 TAX OVERSETTLEMT	01/25/2011	02/16/2011	47.57	No	2/11	101-31010
Total Hennepin County Taxpayer Svcs.								47.57			
METROPOLITAN COUNCIL ENV SERV											
METROPOLITAN COUNCIL ENV SERV	105										
		951579	1	Inv	Monthly wastewater Charge	02/02/2011	02/16/2011	2,336.37	No	2/11	602-43200-309
Total METROPOLITAN COUNCIL ENV SERV								2,336.37			
Popp Telecom											
Popp Telecom	701										
		013111	1	Inv	Local, Long dist. & DSL	01/31/2011	02/16/2011	57.32	No	2/11	101-41400-321
Total Popp Telecom								57.32			
Sun Newspapers											
Sun Newspapers	136										
		1034586	1	Inv	Ord #193	02/03/2011	02/16/2011	42.90	No	2/11	101-42400-309
Total Sun Newspapers								42.90			
XCEL											
XCEL	145										
		020311	1	Inv	Street Lights	02/03/2011	02/16/2011	400.05	No	2/11	101-43100-381
Total XCEL								400.05			
Total 2/16/2011								4,027.21			

02/16/2011 GL Period Summary

GL Period	Amount
2/11	4,027.21
	4,027.21

<u>GL Period</u>	<u>Amount</u>
Grand Total:	<u><u>8,125.59</u></u>

Report GL Period Summary

<u>GL Period</u>	<u>Amount</u>
2/11	<u>8,125.59</u>
	<u><u>8,125.59</u></u>

Vendor Number Hash: 2492
Vendor Number Hash - Split: 3507
Total Number of Invoices: 15
Total Number of Transactions: 22

<u>Terms Description</u>	<u>Invoice Amt</u>	<u>Net Inv Amt</u>
Open Terms	<u>8,125.59</u>	<u>8,125.59</u>
	<u>8,125.59</u>	<u>8,125.59</u>

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Description	GL Account	Amount
03/01/11	PC	03/01/11	10237	Debra J. Kind	34		001-10101	277.05
03/01/11	PC	03/01/11	10238	Fletcher, Thomas M	33		001-10101	84.70
03/01/11	PC	03/01/11	10239	H. Kelsey Page	35		001-10101	184.70
03/01/11	PC	03/01/11	10240	Quam, Robert	32		001-10101	184.70
03/01/11	PC	03/01/11	10241	William Rose	36		001-10101	184.70
Grand Totals:								<u>915.85</u>



Agenda Number	4A
Agenda Date	03/01/11

Agenda Item	Recognition of Outgoing Planning Commission Members Mark Spiers and Todd Palmberg
Summary	<p>The following is a brief summary of this agenda item:</p> <p>The city has received the resignations from planning commission members Mark Spiers and Todd Palmberg. Mr. Spiers and Mr. Palmberg have served on the planning commission since February 2006 and March 2007 respectively.</p> <p>To recognize their contributions to the city, two resolutions have been drafted for the council's consideration. See the attached files.</p>
Council Action	<p>Suggested Motions:</p> <ol style="list-style-type: none"> 1. I move that the council approve resolution 07-11 recognizing the planning commission contributions of Mark Spiers. 2. I move that the council approve resolution 08-11 recognizing the planning commission contributions of Todd Palmberg.



Resolution 07-11

RESOLUTION RECOGNIZING THE
PLANNING COMMISSION CONTRIBUTIONS OF

MARK SPIERS

WHEREAS, Mark Spiers has been a vital part
of the Greenwood Planning Commission since February 2006; and

WHEREAS, Mark Spiers' retirement from the
Planning Commission will be effective March 2010; and

WHEREAS, the City of Greenwood desires to recognize
the Planning Commission contributions of Mark Spiers.

NOW THEREFORE, BE IT RESOLVED THAT
THE CITY COUNCIL OF THE CITY OF GREENWOOD
designates March 1, 2011 as
Mark Spiers Day in the City of Greenwood.

Adopted by the City Council of the City of Greenwood this 1st day of March, 2011.

Ayes: _____ Nays: _____

BY:

ATTEST:

Debra J. Kind, Mayor

Gus E. Karpas, City Clerk



Resolution 08-11

RESOLUTION RECOGNIZING THE
PLANNING COMMISSION CONTRIBUTIONS OF

TODD PALMBERG

WHEREAS, Todd Palmberg has been a vital part
of the Greenwood Planning Commission since March 2007; and

WHEREAS, Todd Palmberg's retirement from the
Planning Commission will be effective March 2010; and

WHEREAS, the City of Greenwood desires to recognize
the Planning Commission contributions of Todd Palmberg.

NOW THEREFORE, BE IT RESOLVED THAT
THE CITY COUNCIL OF THE CITY OF GREENWOOD
designates March 2, 2011 as
Todd Palmberg Day in the City of Greenwood.

Adopted by the City Council of the City of Greenwood this 1st day of March, 2011.

Ayes: _____ Nays: _____

BY:

ATTEST:

Debra J. Kind, Mayor

Gus E. Karpas, City Clerk



Agenda Number	4B
Agenda Date	03/01/11

Agenda Item	Planning Commission Appointments
Summary	<p>The following is a brief summary of this agenda item:</p> <p>Due to the resignations of planning commissioner members Mark Spiers and Todd Palmberg, there are two openings on the planning commission. The city has received one new application (attached) from Douglas Reeder. The council met Mr. Reeder at the February 1, 2011 council meeting.</p> <p>Also, the seats of Pat Lucking and Brian Malo expire in March 2011. Both Pat and Brian have stated that they are willing to serve another term.</p> <p>Here are the current appointments:</p> <p>A-1 Todd Palmberg (term expires 3/12) A-2 John Beal (term expires 3/12) A-3 Dave Paeper (term expires 3/12) B-1 Pat Lucking (term expires 3/11) B-2 Mark Spiers (term expires 3/11) Alt-1 Bill Cook (term expires 3/12) Alt-2 Brian Malo (term expires 3/11)</p> <p>Past protocol as been to reappoint commissioners that are willing to serve again and for alternate members to move up to voting positions that open up on the commission. Based on this, the new appointments would be:</p> <p>Seat B-1 (term expires 3/13) -- Pat Lucking Seat B-2 (term expires 3/13) -- Bill Cook Seat A-1 (term expires 3/12) -- Brian Malo Alternate Seat 1 (term expires 3/12) -- Douglas Reeder</p> <p>Alternate Seat 2 (term expires 3/13) would remain open.</p>
Council Action	<p>Suggested Motion:</p> <p>I move that the council approve the following planning commission appointments effective at the March 16, 2011 planning commission meeting:</p> <p>Seat B-1 (term expires 3/13) -- Pat Lucking Seat B-2 (term expires 3/13) -- Bill Cook Seat A-1 (term expires 3/12) -- Brian Malo Alternate Seat 1 (term expires 3/12) -- Douglas Reeder</p>

Planning Commission Application



Please complete the below form and return to 20225 Cottagewood Road, Deephaven, MN 55331. You also may submit the application by email to administrator@greenwoodmn.com, or by fax to 952.474.1274. The submission of this application does not obligate you to volunteer for any city service. New applicants will be invited to a city council meeting for an informal interview. We enjoy meeting you.

Name	Douglas S Reeder	
Address	5115 Weeks Rd Greenwood	
Phone	952 934 8921	
Email	Douglas.Reeder@YAHOO.COM	
Job Title	Retired	
How many years have you lived in the Lake Minnetonka area?	34	
How many years have you lived in Greenwood?	5	
Are you able to attend meetings on the 3rd Wednesday of each month?	YES	
Would you be willing to attend a city-paid training class?	YES	
Why do you want to serve on the planning commission?	To help THE CITY OF GREENWOOD in ANY WAY I CAN.	
Do you have any special qualifications or capabilities that would serve Greenwood well on the planning commission?	See resume previously submitted 36 YEARS LOCAL GOVERNMENT EXPERIENCE	
What would be your main goal as a member of the planning commission?	To help insure THAT THE QUALITY OF LIFE IN GREENWOOD CONTINUE AS IT NOW IS THROUGH PROPER USE OF PLANNING.	
Office Use Only	Date Received:	

DOUGLAS S. REEDER

5115 Weeks Road
Greenwood, MN 55331
952-934-8921 (Home) 763-350-9709 (Cell)
Email: Douglas.Reeder@yahoo.com

Education:

- **Bachelor of Arts in Government – Denison University, Granville, Ohio**
- **M.P.A in Public Administration – Maxwell School, Syracuse University, Syracuse, New York**
- **Strategic Public-Sector Negotiations Program – Harvard University, John F. Kennedy School of Government**

Professional Experience:

2003 – 2008	City Manager, City of Brooklyn Park, MN
1991 – 2003	City Administrator, South St. Paul, MN
1987 – 1991	Manager, Abington Township, PA
1980 – 1987	City Administrator, Maple Grove, MN
1976 – 1980	City Administrator, Shakopee, MN
1974 – 1976	Administrative Assistant, Bloomington, MN
1972 – 1974	Administrative Assistant, Minnetonka, MN
1970 – 1972	Program Assistant, Norfolk, Virginia Housing Authority

Achievements, Distinctions, Honors, Memberships:

- **Vietnam War Veteran – Bronze Star**
- **Completed 15 marathons (since 1991) including Twin Cities, Boston, New York and Chicago**
- **Dakota County Managers Association – Past President**
- **Dakota County League of Government – Past President**
- **Metropolitan Area City Management Association – Past President**
- **Minnesota City/County Management Association – Past President**



Agenda Number	4C
Agenda Date	03/01/11

Agenda Item	Brady Hoffman, LarsonAllen: 2010 Audit Report
Summary	<p>The following is a brief summary of this agenda item:</p> <p>Brady Hoffman and his team from LarsonAllen have completed the 2010 audit. A hard copy of the final audit is enclosed in the council packet. An electronic version of the audit will be available for viewing on the city website in the online version of the council packet.</p> <p>Mr. Hoffman will present the 2010 audit at the March 1, 2011 council meeting.</p>
Council Action	<p>Recommended Motions:</p> <ol style="list-style-type: none"> 1. I move that the council approve the 2010 audit report dated _____ as presented by LarsonAllen.



Agenda Number	4D
Agenda Date	03/01/11

Agenda Item	City Engineer Dave Martini: MS4 Report, Street Sweeping, MCWD Rule Changes, and I&I Grant Update
Summary	<p>The following is a brief summary of this agenda item:</p> <p>City Engineer Dave Martini will be at the council meeting to discuss the following items:</p> <ol style="list-style-type: none"> 1. MS4 Proposal -- A copy of the proposal from Bolton & Menk is attached. This project requires council approval and needs to be completed by June 2011. 2. Street Sweeping -- The city received a MCWD memo (attached) from Cost Share Program Specialist Aldis Kurmis regarding grant money that is available to cities for street sweeping analysis. The council needs to discuss whether the city would like to participate in the program. 3. MCWD Rule Changes -- 02/15/11 the city received notification from MCWD Planner James Wisker that a 45-day comment period has begun regarding Stormwater Management Rule and Administrative Rule changes. Mr. Wisker's email is attached. The full clean copies and redlined copies of the rules were emailed to the council and are available for the public to view at city hall. Key components of the rule revisions are highlighted in Mr. Wisker's email. The council needs to discuss whether the city would like to comment by the 03/21/11 deadline. 4. I&I Grant Update -- Mr. Martini will give the council an update on the Inflow & Infiltration Grant program for our upcoming sewer projects.
Council Action	<p>Suggested Motions:</p> <ol style="list-style-type: none"> 1. I move the council approve Bolton & Menk's proposal dated February 22, 2011 to provide professional engineering services for a citywide inventory of MS4 outfalls, conveyances, and existing BMPs for a total cost of \$4,500 to be paid from the stormwater special revenue fund. 2. I move the council direct staff to notify Cost Share Program Specialist Aldis Kurmis that the city is interested in participating in the MCWD street sweeping study. 3. I move the council direct the city engineer to work with the mayor and staff to draft a response letter to the MCWD Stormwater Rule and Administrative Rule changes and submit before the 03/21/11 deadline.



BOLTON & MENK, INC.

Consulting Engineers & Surveyors

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

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

www.bolton-menk.com

February 22, 2011

Ms. Deb Kind, Mayor
City of Greenwood
20225 Cottagewood Road
Deephaven, MN 55331

RE: Proposal for Professional Engineering Services
Citywide Inventory of MS4 Outfalls, Conveyances, and Existing BMPs
City of Greenwood, Minnesota

Dear Ms. Kind:

Bolton & Menk, Inc. is pleased to offer the City of Greenwood this proposal to complete a citywide inventory of storm sewer outfalls, conveyances and existing Best Management Practices (BMPs) to meet the regulatory requirements of the City's MS4 Permit. As a part of this proposal we have described our understanding of the need for this project, detailed our proposed scope of work, and have offered an estimate of fees for our services.

Project Understanding

The City of Greenwood is located along the shoreline of Lake Minnetonka and is within the Minnehaha Creek Watershed District (MCWD). The City's stormwater is managed through piped storm sewer conveyance systems and overland flow (ditches, ravines, marshes, etc.) systems that collect and convey the City's stormwater runoff into Lake Minnetonka.

The City is classified as a municipal separate storm sewer system, or MS4, by the Minnesota Pollution Control Agency (MPCA). The City meets the MS4 requirements because its stormwater discharges to Lake Minnetonka which ultimately discharges to Minnehaha Creek which is classified as an impaired water by the MPCA. The MS4 classification requires the City to develop and implement a Stormwater Pollution Prevention Program (SWPPP) to reduce the discharge of pollutants from their storm sewer system to the maximum extent practicable. The SWPPP must address six Minimum Control Measures (MCMs). The current MS4 Permit, which the City obtained from the MPCA, is valid from June 2006 to June 2011. In June 2011 the MPCA will implement a new MS4 permit which will be valid for the next 5-years and most likely build on the data that was required to be collected in the previous permit cycle.



One of the six MCMs identified in the MS4 Permit requires the City to inspect 20% of the stormwater outfalls, basins, and ponds annually and determine their condition and whether or not they are functioning as designed. The City is required to inspect all of their stormwater treatment devices on an annual basis to determine if they are functioning as designed. The City is also required to map, by the end of the existing permit cycle, its storm sewer conveyance system and identify conveyance elements (pipes, ditches, ravines, etc.). It is our understanding that the City has not been able to begin the required inspection or mapping work due to a lack of available staff time.

Bolton & Menk offers this proposal to perform a citywide BMP, outfall, and conveyance inventory to bring the City into compliance with their current MS4 Permit. This effort will also bring the City into compliance with Chapter 172, Section 28 of the 2009 Session Laws and develop a citywide inspection tool that can be used by City staff to evaluate and plan maintenance needs and to document the condition of existing stormwater quality BMPs. This tool can then guide the City toward their goals of efficient use of staff time for stormwater-related maintenance, remaining in compliance with the MS4 Permit, and not negatively impacting stormwater quality in Lake Minnetonka, in a cost-effective manner.

Scope of Work

Bolton & Menk proposes to conduct the required pond, basin, conveyance, and outfall inspections for the City. The goal of this effort is for the City to be in compliance with their current MS4 Permit by June 2011, when they have to submit their MS4 Annual Report to the MPCA.

Bolton & Menk manages approximately twelve MS4 communities across the metro-area. A result of managing all of these MS4s is that we have developed an efficient, cost-effective process for gathering and processing the required data, pictures, and notes. We have standard forms and procedures for collecting and managing the required data and have experienced staff available to perform the work.

Once the field data such as BMP size, material, GIS coordinate, condition, and functionality, is gathered we will inventory and process the data and provide the City GIS-based maps of existing infrastructure. The standard forms used in the field will be reviewed for accuracy and scanned and inserted into the GIS system. They will then be linked to their associated GIS attribute (pond, basin, conveyance, outfall, or other BMP). The goal of this effort is to allow the City staff to use the GIS maps of the City and selected attributes, for example an outfall, and be able to review the latest inspection logs, condition at time of inspection, and the most recent pictures. This will help the staff better respond to citizen complaints by allowing them to review the source of the complaint and have an idea of the conditions and recent inspection reports and pictures prior to responding to the complaint.

Our scope of work includes two meetings with the City staff to discuss the field work and the results of the inspections.



Fee Estimate

The following is our itemized estimate of proposed fees to complete the scope of work as described above:

Outfall Data Collection (1-man crew):	=	\$ 800
Pond, Conveyance, and BMP Data Collection	=	\$ 800
Pond, Outfall, and Conveyance Data Processing	=	\$ 1,440
GIS Integration	=	\$ 720
Project Management	=	<u>\$ 740</u>
TOTAL		\$ 4,500

Upon approval, Bolton & Menk will complete the work on an hourly basis with an estimated fee of \$4,500.

I will be at the City Council meeting on March 1st to discuss this proposal and answer questions you may have. However, please feel free to contact me before then if you have questions.

Sincerely,
BOLTON & MENK, INC.

A handwritten signature in black ink, appearing to read "David P. Martini".

David P. Martini, P.E.
Principal Engineer

Cc: Doug Carter, P.E., Bolton & Menk, Inc.



Memorandum

DATE: February 7, 2011

TO: City Staff

FROM: Aldis Kurmis, Cost Share Program Specialist

RE: Street Sweeping Analysis Grant Program

The Minnehaha Creek Watershed District (MCWD) is looking for city partners interested in taking part in a new street sweeping study and is wondering if your city would consider participating. In keeping with MCWD goals to protect the quality and management of our area’s waters, this study will help identify and measure materials that enter storm sewers so the MCWD and cities can work collaboratively to prevent pollutants from entering the water supply.

The study would involve collecting samples from swept material piles and sending them to a University of Minnesota laboratory for analysis of total phosphorus, copper, arsenic, and polycyclic aromatic hydrocarbons (PAHs). **The MCWD recently introduced the Street Sweeping Analysis Grant Program to cover 100 percent of sample testing costs.**

Due to the high cost of removing sediment and pollutants from stormwater facilities, the MCWD plans to invest in preventative practices to reduce the amount of pollutant-bearing sediment that enters storm sewer systems. Providing funding to municipalities for increased street sweeping and/or the purchase of high-efficiency sweepers are potential options the District is considering. However, your participation in this study is the first step in helping justify these or other potential solutions.

The MCWD would like to involve as many municipalities as the grant program’s budget will allow. The MCWD is also interested in devising methods of carrying out this study with as little impact/change to municipalities’ normal routine as feasible and would appreciate your suggestions on how this can be done. Please contact Aldis Kurmis at akurmis@minnehahacreek.org or (952) 641-4523 if you are interested in participating in this study, would like more information, or have comments/suggestions.

Participants need to be in place before spring melt, so your quick response is appreciated. Thank you for considering participation in this grant program.

The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part. We achieve our mission through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and the cost effective use of public funds.

Subject: FW: DRAFT Stormwater Rule 45 Day Comment Period

Date: Tuesday, February 15, 2011 9:32 AM

From: Gus Karpas <administrator@greenwoodmn.com>

To: Debra Kind dkind100@gmail.com, Jim Doak jdoak.woodland@hotmail.com

FYI

-----Original Message-----

From: James Wisker [mailto:JWisker@minnehahacreek.org]

Sent: Monday, February 14, 2011 1:52 PM

To: James Wisker

Subject: DRAFT Stormwater Rule 45 Day Comment Period

Dear Interested Parties,

I am writing to update you on the review process to date and to notify you that the proposed revisions to the Stormwater Management Rule and Administrative Rules are now being distributed for a 45-day public comment period.

Starting in 2007, the Minnehaha Creek Watershed District (MCWD) began working collaboratively with local communities and citizens to develop draft revisions to its water resource regulations. Our overall goal was to ensure that best practices are implemented, where reasonable, to protect our region's valuable water resources. So in 2009, work began in earnest on the draft Stormwater Management Rule - the update of which is required by the District's Comprehensive Water Resources Management Plan, which was previously approved by the Board of Water and Soil Resources.

The key components/revisions of the proposed Stormwater Management Rule (attached) include:

- * Continued focus on managing stormwater runoff and associated pollutants from new development and redevelopment activity
- * Incorporates policies, standards and goals of the District's Comprehensive Plan, including:
 - o "no net increase" in phosphorus loading from existing conditions
 - o 1" volume control standard - managing the first inch of rainfall on site through infiltration or other methods
- * Rule structure and regulatory thresholds based on recommendations from committees composed of local government staff, county and state agencies, developers, and residents
- * Single-family residential properties are exempt from rule

* Flexibility from 1" volume control requirement is provided for sites with poor soils or other limitations

Engaging agencies and the public

As you may be aware, the District has been working with a Technical Advisory Committee, Rulemaking Task Force and Citizen Advisory Committee to develop and refine the proposed Stormwater Management Rule. These committees represent local government staff, county and state agencies, developers and residents, and are charged with recommending rule content to the MCWD Board of Managers.

Following meetings in January and March 2009, the Technical Advisory Committee, composed of local government staff, met weekly between April 2, and May 14, 2009 to discuss stormwater management and formulate recommendations on how to manage stormwater runoff from roads, commercial, industrial, institutional, residential subdivision and single-family home land uses.

Additional meetings were held in 2009, 2010 and 2011 to finalize recommendations for the draft Stormwater Management Rule. The rule focuses on controlling both the volume of runoff and pollution associated with various development activities. Exemptions from regulation for certain development and redevelopment projects, as well as for single-family homes, were developed based on recommendations from the various advisory committees. The District has also developed revisions to its Administrative Rules that clarify existing language and provide more detail on current District policies and practices. The Administrative Rules deal with items such as how to apply for a permit, enforcement procedures and fees.

The proposed revisions to the Stormwater Management Rule and Administrative Rules are currently open for a 45-day comment period, which represents another step in the District's process of revising water resource regulations in coordination with local communities.

The next steps

Following the conclusion of the 45-day public comment period on March 31, 2011, the MCWD Board of Managers is scheduled to review and discuss comments it receives on the rules at an April 7, 2011, workshop. This workshop will be open to the public and will be used to discuss the need for changes to the Stormwater Management Rule and Administrative Rules in response to comments received.

An additional opportunity to provide comments will be offered at a public hearing which is tentatively scheduled for May 5, 2011. Following review and discussion of additional comments at the public hearing, the Board will schedule a meeting to adopt the final revisions to the Stormwater Management Rule and administrative rules.

Attached to this email, please find:

- * proposed revisions to the Stormwater Management Rule (clean and redlined)
- * proposed revisions to the administrative rules (clean and redlined)
- * proposed revisions to the Key Definitions list (redlined)
- * Statement Of Need And Reasonableness (SONAR) for both rules

Electronic copies of this information also can be found on the Minnehaha Creek Watershed District website at www.minnehahacreek.org<<http://www.minnehahacreek.org>>. Some of you will also receive this information in hard copy via U.S. Mail.

For questions in advance of the April 7, 2011 workshop, please contact: James Wisker at Jwisker@minnehahacreek.org<<mailto:Jwisker@minnehahacreek.org>> or 952-641-4509.

Thank you for taking time to work with the MCWD to protect and manage the region's valuable natural resources!

James Wisker
MCWD Planner

18202 Minnetonka Blvd.
Deephaven, MN, 55391

*Phone: 952-641-4509
Fax: 952-471-0682
www.minnehahacreek.org

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Agenda Number	5A
Agenda Date	03/01/11

Agenda Item	Public Hearing: Stormwater Pollution Prevention Program
Summary	<p>The following is a brief summary of this agenda item:</p> <p>This public hearing for Stormwater Pollution Prevention Program fulfills one of the requirements of the MS4 requirements (see agenda item 4D). The attached notice for the public hearing was published in the Sun-Sailor.</p>
Council Action	<p>Suggested Motions:</p> <p>A council motion is needed to open and close the public hearing. Otherwise, no council action needed.</p>



Agenda Number	6A
Agenda Date	03/01/11

Agenda Item	Discuss: Next Steps Regarding Sagal / Kim Property Transfer
Summary	<p>The following is a brief summary of this agenda item:</p> <p>In January, Hennepin County informed the city that there had been a Greenwood property transfer submitted to county between 21380 Excelsior Boulevard (Kim) and 21420 Excelsior Boulevard (Sagal). The property transferred is a six-foot strip near the home structures that was taken from the Kim property and transferred to the Sagal property. This transfer makes Kim property non-conforming with the required west side yard setback creating a six-foot encroachment.</p> <p>Staff was informed that there was no record of city approval but the county is required to accept the transfer under a state statute passed in 1982. Based on the state statute, the city can restrict transfers of property by filing a resolution with the county restricting the transfer of subdivided parcels to those only approved by the city, but such a resolution has not been adopted by the City of Greenwood.</p> <p>Hennepin County stated the city must sign off on the transfer or the legal descriptions would not be changed for either property.</p> <p>Staff told Mr. Sagal regardless of whether a court would have granted him the property or not, there was no legal judgment in his favor and property had been exchanged without city approval. Staff said if it were that simple to transfer property, there would be nothing to prevent someone from transferring larger portions of property, essentially creating a subdivision without city approval.</p> <p>Staff is seeking direction from the council on whether or not to sign the county document that would allow the legal descriptions to be changed.</p> <p>The council discussed this matter at the 02/01/11 council meeting and heard comments from Mr. Sagal and Mr. Kim. The council also directed staff to do further research and report back to the council. City Attorney Mark Kelly's memo is attached.</p> <p>The council needs to determine next steps regarding this matter.</p>
Council Action	<p>Suggested Options:</p> <ol style="list-style-type: none"> 1. If the parties <u>agree</u> to the transfer of property -- I move that the council direct staff to not sign the county legal transfer document at this time and recommend that Mr. Kim and Mr. Sagal proceed with the city subdivision process and pay the appropriate fee. 2. If the parties <u>do not agree</u> to the transfer of property -- I move that the council direct staff to not sign the county legal transfer document at this time and recommend that Mr. Kim and Mr. Sagal take the matter to District Court. 3. Do nothing.

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

Date: February 17, 2011

To: Mayor Kind and Council Members

From: Mark W. Kelly Attorney at Law

Re: Kim/ Sagal boundary line – lot division issue

Facts

Two Greenwood residents, Sunny Kim and Jeff Sagal, own adjacent lots on Excelsior Boulevard. Recently, the County Recorder brought to the attention of the City a deed submitted for recording by Mr. Sagal and Mr. Kim. The city has been advised that the parties reached an agreement to adjust their common boundary line after Mr. Sagal asserted ownership of same under a claim of adverse possession. The case never went to court. Since the city has no standing resolution on file with the County (demanding municipal review in advance of filings), the County is required to accept the deed for recording. However, the county has advised that without city approval they cannot modify the legal descriptions of the two lots for tax assessment purposes. Consequently, the transaction is only partially complete. A portion of Mr. Kim's lot has been deeded to Mr. Sagal for accretion thereto, but the tax assessor will continue to value the Kim lot as before, without a reduction in total land. The Sagal lot will concomitantly not see an increase in its area for tax assessment purposes. Mr. Kim and Mr. Sagal will pay taxes on the land as before. Based on comments made at the February 1, 2011 council meeting, it appears that Mr. Sagal desires that the city approve the transaction and advise the County Assessor and County Recorder accordingly. And it appears that Mr. Kim is having second thoughts regarding the agreement and is hoping the city can intervene on his behalf.

The city has been advised by the parties that Mr. Kim signed the quit claim deed in question adjusting their common boundary line after Mr. Sagal asserted ownership of same under a claim of adverse possession.

Cities have statutory zoning authority to establish minimum lot sizes and impose building location (setback) regulations. (MN ST. §462.357) Under that authority Greenwood has established minimum lot sizes and other bulk regulations. (Gr. Code 1100 et. seq.) Lots sizes can be adjusted through the subdivision process. (Gr. Code 600:00 et. seq.)

Discussion.

1. Does the City have a legal duty to recognize and approve personal agreements between neighbors to change the common boundary line of lots of record?

The personal agreement of neighbors cannot bind or obligate the city. The final city response can only be determined through the municipal subdivision process. Typically, a lot line adjustment is handled through the simple subdivision process. Provided the two lots will be zoning code compliant in matters of area and structure setbacks, (other conditions also apply, see Gr. Code §600:07), when the boundary line adjustment is approved and completed, the city has a ministerial duty to approve the simple subdivision. (A ministerial duty is one in which the city has no discretion to exercise.) However, in the event such a boundary line adjustment will result in either lot becoming non-compliant under the zoning code regulations, the city no longer has a ministerial duty to approve the subdivision; instead the decision becomes a discretionary one for the city.

Cities mostly act as legislative bodies and executive administrators, but when land use issues are presented, which demonstrate an undue hardship imposed by zoning regulations, the city has a duty to assume a judicial decision making role and conduct a hearing. Ultimately, the city must issue a decision thereon based on the facts and applicable law. Whenever possible the courts avoid interfering with city administration of zoning codes and variance grants provided the city acts with a reasonable basis in fact and law and in a manner that is not arbitrary or capricious.

In the present circumstances the proposed land transfer will result in the Kim lot becoming non-compliant with the zoning code by reason of a reduced side yard set back below that mandated by Gr. Code §1120:15. For that reason the property owners must make application for approval of the boundary line adjustment under the full plat subdivision process provided under Gr. Code §600:10 et. seq. That process also requires all lots to be code compliant (Gr. Code §600:20, Subd. 4 (B)), but in the event of a code compliance issue, Gr. Code §600:35 permits a variance to the minimum code requirements to be considered. Section 600:35 reads:

Subd. 1. Variances and Exceptions. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this ordinance, the city council shall, upon an affirmative vote of at least 3/5 of the total membership of such council, have the power to vary the

requirements of this ordinance in harmony with the general purpose and intent hereof, so that the public health, safety and general welfare may be secured and substantial justice done.

The variance process imposes on the property owner- applicants the burden of proving an 'undue hardship' created by the strict application of the code. It is unknown whether the property owners- applicants can present evidence meeting that test. The process of review is a deliberative one. Consequently, it is not possible to know if the review will result in findings of fact and law supporting a variance grant and hence approval of the subdivision- boundary line/ lot adjustment.

2. Can the City Council waive the Subdivision process and approve directly the conveyance under Kim/Sagal deed?

No. The code provides no such waiver authority. Because the City Council Members are duty bound to uphold the laws of the city, it has no legal authority to summarily waive the requirements of the city code or move to truncate the subdivision process.

3. Can the city refuse to *process* a subdivision based on an adverse possession claim presented as justification of the request?

No. The city has a ministerial duty to process such an application.

4. Can the city council assure the property owners that a subdivision application, if made, will result in a variance grant, approval of the subdivision, and communication of municipal approval of the Kim/Sagal deed to the County Tax Assessor in due course?

No. For the reasons above stated, such comments would be premature. The subdivision review process must be allowed to proceed according to code first.

5. Does the city have a legal duty to approve a subdivision in light of the adverse possession claim described?

Until due process finds that an adverse possession claim exists, there is no established legal duty imposed on the city.

Typically, claims of adverse possession are legally contested. Here, Mr. Kim chose to agree with Mr. Sagal and no court proceeding was ever initiated by either party. Their personal agreement thereon does not relieve them or the city from the requirements or restrictions of the municipal code. Had this been a contested court proceeding and the party claiming title to property by adverse possession prevailed, a court order affirming the transfer of title would have issued. In that event, the city would likely elect to take administrative notice of the order and, in reliance thereon, approve the variance needed to approve a subdivision. Here no court order has issued. If a subdivision application, supported by a claim of adverse possession is presented by the property owners, but without a supporting court order, then the city must determine whether a valid legal claim of title transfer by adverse possession has been proven as a matter of law. Where there has

been no court order, the City is under no obligation to accept the representation that an adverse possession title transfer event has occurred by mutual consent. Rather the burden rests upon the property owner – applicants to demonstrate evidence that an adverse possession title transferring event occurred as a matter of law.

Minnesota Statute § 559.01, et seq and § 541.02, et seq. govern adverse possession claims. Under § 541.02, no action for the recovery of real estate or possession thereof shall be maintained unless it appears that the Plaintiff, the Plaintiff’s ancestor, predecessor, or grantor was seized to possess the premises in question within 15 years before beginning the action. The elements needed to be presented to establish title by adverse possession are proof by clear and convincing evidence of an actual, open, hostile, continuous, and exclusive possession of real estate for the requisite period of time. Ehle v. Prosser, 293 Minn.183, 197 NW2d 458 (1972).

The Minnesota Supreme Court has ruled that such cases are “governed by the well recognized rule that adverse possession may be established *only* by clear and positive proof based on a strict construction of the evidence without resort to any inference or presumption in favor of the deaseator, but with the indulgence of every presumption against him” Village of Newport v. Taylor, 225 Minn. 299, 30 NW2nd 588 (1948); accord, Leejoice v. Harris, 404 NW2d 4 (Minn. App. 1987).

The courts have explained that the burden of proof is great because adverse possession constitutes the forfeiture of fee title of the real estate and the law abhors forfeiture. This is due in no small part to the fact that in our society it is reasonable to allow an absentee landowner to hold on to their investment without use for long periods of time without worry of forfeiture. Because the doctrine of adverse possession is in opposition to this principal, the burden of proof imposed by the courts is correspondingly great and claims of adverse possession are only applied where it furthers good social policy.

6. Does the city, acting in place of the District Court, need to apply the same legal test to the offered proof of title transfer by adverse possession, as would a court?

Not necessarily. However, in exercising due caution, then perhaps, yes. The city has no code established burden of proof standard to be met by those who claim a title transfer by adverse possession. For that reason alone, the Ehle standard of proof is informative. The law does not allow the city to be informal in the grant of variances. The courts require that a city have an adequate legal and factual basis to justify any variance grant. Moreover, because the citizens are entitled to a careful and legally sound administration of city code and because the public interest lies in enforcement of the zoning code, and avoiding lot splits by personal agreement of neighboring property owners - including claims of title by adverse possession never previously reviewed by the District Court - the city may desire to adopt the Ehle v. Prosser burden of proof. In the end the burden of proof to be imposed on such applications is a matter of discretion with the City Council. The city is within its legal authority to hold property owners claiming title by adverse possession to the ‘clear and convincing proof’ standard set out by the Ehle court.

7. May the city determine a claim of adverse possession to be unproven, deny a variance related to zoning code compliance in a subdivision application predicated on those claims, and then refuse the subdivision necessary for the County Assessor to process the lot split?

Yes, provided adequate findings of fact and conclusions of law are adopted in support of the decision to deny the variance.

8. If the property owner-applicants agree on the need for a lot split by operation of adverse possession, does this determine the legal question, and mandate the city grant of the variance in support of a subdivision?

No. The property owner-applicants bear the burden of demonstrating that the elements of an adverse possession under MN ST. § 541.02 have occurred. The agreement of the property owner-applicants does not change the process or the obligation of the city to articulate facts and law supporting the grant of a variance to the side yard setback requirements of Gr. Code § 1120:15.

9. Is it necessary for both property owners to join in an application to subdivide one lot in favor of the other?

Yes. Both property owners are essential parties to any subdivision request which would transfer one person's real estate to another. If a property owner does not sign the application for subdivision, the city must assume there is no consent thereto and must refuse to process the subdivision application. This is because in the absence of a court order, the city has no legal authority to transfer one person's real estate to another against their will. Were it to do so, the city would become liable for damages for an unlawful taking of property.

10. Knowing that the city is obligated to acknowledge and enforce the orders of the District Court, *may* the city council recommend that the property owner-applicants first present the matter to the court seeking court approval?

Yes. Should a court order be presented to the city, the record would most likely then contain adequate facts and legal justification to grant a variance to minimum setbacks necessary to approve subdivision of the lots in question.

11. May the city waive or reduce costs, filing prerequisites, or survey work associated with a full plat subdivision?

No. In the absence of code permitted fee and application requirements adjustments the city council has no authority to grant such a request.

12. What obligation does the city have to the property owner-applicants to

ease the financial and other burdens imposed by the municipal code in conjunction with seeking municipal approval of this adverse possession boundary line/lot split claim, to which the two parties otherwise find acceptable?

Absent a code amendment, the city has no legal ability or obligation to ease the financial and due process burdens imposed by the municipal code. Even when the parties act in good faith, or believe that for practical reasons their matter should be seen as a fait accompli, it remains beyond the ability of the city to unilaterally reduce fees, foreshorten the process, or relieve the parties of the burdens imposed by legal due process.



Agenda Number	6B
Agenda Date	03/01/11

Agenda Item	Consider: Resolution 06-11 Restricting the Transfer of Property in the City
Summary	<p>The following is a brief summary of this agenda item:</p> <p>This item is related to the Sagal / Kim property transfer issue (agenda item 6A).</p> <p>When Hennepin County informed the city that there had been a Greenwood property transfer submitted to county between 21380 Excelsior Boulevard (Kim) and 21420 Excelsior Boulevard (Sagal), staff was informed that there was no record of city approval, so the county is required to accept the transfer under a state statute passed in 1982. Based on the state statute, the city can restrict transfers of property by filing a resolution with the county restricting the transfer of subdivided parcels to those only approved by the city. Currently no such resolution has been adopted by the City of Greenwood.</p> <p>In order to prevent a Sagal / Kim situation from happening in the future, staff drafted Resolution 06-11 (attached), restricting the county's ability to accept land transfers to only those approved by the city.</p> <p>The council discussed the resolution at the 02/01/11 council meeting and directed staff to do further research and report back to the council. City Attorney Mark Kelly's memo is attached.</p> <p>The council needs to determine whether or not to adopt the resolution.</p>
Council Action	<p>Suggested Motions:</p> <ol style="list-style-type: none"> 1. I move that the council approve Resolution 06-11 restricting the transfer of land in the city and direct the city clerk to send a copy of the resolution to Hennepin County. 2. Do nothing.

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: February 19, 2011

RE: MnSt §272.162 Resolution

Recently, the County Auditor's Office advised that while the County Recorder and Registrar of Titles must accept for recording a deed intended to divide a lot, the County Auditor will do nothing until the city approves the lot split. If the city does not approve the transaction, the lot split will remain incomplete; the County Auditor will not change the tax legal description.

The County Auditor's Office has suggested that the city consider issuing instruction to the County Offices as allowed under MN St §272.162 by adopting a resolution and providing them a copy. If the city does so, the County Recorder and Registrar of Titles will also not accept deeds intended to split a lot unless the city clerk first approves the transaction in writing. Thus if the city adopts the resolution the County Recorder, Registrar of Titles, and County Auditor will all *reject* any deed presented for filing which constitutes a subdivision of land, unless approved by the City.

With the resolution in place the County Recorder and Registrar of Titles will demand a certified statement from the City Clerk or an official stamp added to the deed by the City authorizing its acceptance for recording.

At the February meeting, it was unknown whether a 24-hour response time imposed by MN St §272.162, Subd. 2(c), would burden the city or allow the deed to be filed if the city missed the 24 hour deadline. Further inquiry has shown such is not the case. Mr. Karpas made inquiries with the County Auditor and reports that while the statute expects the city to respond to a citizen request for deed approval with in 24 hours, failure of the city to respond does not permit the county to accept the deed for recording. The county will still do nothing until the city formally approves the recording of the deed.

Should the City adopt the proposed resolution, City Clerk Karpas plans to prepare a standard prepared notice to be on hand for delivery to any person presenting a lot splitting deed for city approval. The notice would state that the City will *not* approve any lot splitting deed unless and until a formal subdivision application has been received, reviewed, and approved by the City.

Serving this notice will allow the City time necessary to analyze any lot splitting deed presented. Again, the statutory 24 hour response time is intended to cause cities to respond in a timely manner to a citizen request for deed review, but a failure by the city to timely respond will not in and of itself cause a lot splitting deed to become recordable of record by default.

Based upon this review, I am of the opinion that the City is benefitted by adopting proposed Resolution 06-11. If it does so the proposed standard form should be prepared and staff instructed on what to do in the event a citizen presents a lot splitting deed for City approval.

**CITY OF GREENWOOD
RESOLUTION NO. 06-11**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA
RESTRICTING THE TRANSFER OF PROPERTY WITHIN THE CITY**

WHEREAS, Minn. Stat. § 272.162 provides that a municipality may choose to have the provision of Minn. Stat. § 272.162, which pertain to restrictions on transfers of parcels of land, applied to property within the municipality.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, as follows:

1. Pursuant to Minn. Stat. § 272.162, the City of Greenwood hereby chooses to have the restrictions contained in that statute apply to the property within the City's boundaries.
2. The Hennepin County Auditor, Recorder and Registrar of Titles are hereby directed to reject any document for filing which does not comply with the restrictions on transfer set forth in Minn. Stat. § 272.162. These officials should not file any document which constitute a subdivision of land and which has not been approved by the City Council.
3. The City Clerk is hereby directed to file a certified copy of this resolution with the Hennepin County Auditor and Hennepin County Recorder.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS 1ST DAY OF FEBRUARY 2011.

Ayes _____, Nays _____.

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk



Agenda Number	6C
Agenda Date	03/01/11

Agenda Item	2nd Reading: Ordinance 190 Amending Code Chapter 11 to Limit the Number of Required Front Yard Setbacks on Lots with Multiple Frontages
Summary	<p>The following is a brief summary of this agenda item:</p> <p>The current city ordinance requires a front yard setback for all yards abutting platted right of ways including unpaved right of ways. There are several parcels in the city that have 3 yards abutting platted right of ways. In these situations the building pad is reduced due to the requirement to have 3 front yard setbacks. The council felt this was too limiting and asked staff and the planning commission to review and make a recommendation. The ordinance in the council packet was approved by the planning commission on a 5-0 vote.</p> <p>The council approved the 1st reading of this ordinance with a 5-0 vote at the 02/01/11 council meeting. No changes have been made to the ordinance since the 1st reading.</p>
Council Action	<p>Suggested Motion:</p> <p>I move that the council approve the 2nd reading of ordinance 190 amending code chapter 11 to limit the number of required front yard setbacks on lots with multiple frontages.</p>

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING THE GREENWOOD ORDINANCE CODE CHAPTER 11 TO LIMIT THE NUMBER OF
REQUIRED FRONT YARD SETBACKS**

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

SECTION 1.

Greenwood ordinance code section 1120.15 is amended to read as follows:

“Section 1120.15. R-1A Setbacks.

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

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

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

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

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

SECTION 2.

Greenwood ordinance code section 1122.15 is amended to read as follows:

“Section 1122.15. R-1B Setbacks.

The following front, side and rear yard setbacks shall be considered as minimum standards for buildings:

Land Use	Front Yard *** (ft.)	Lot, Interior - Side Yard (ft.)	Rear Yard (ft.)	Lakeshore (ft.)
Single-Family Principal Structure	35	15	60	50
Municipal Park Equipment	50	50	50	NA
Accessory Structures	35 *	10	10	**

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

** No accessory structures shall be built on any lot between the lakeshore and the side of the principal building nearest the lake on the lot.

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

SECTION 3.

Greenwood ordinance code section 1125.15 is amended to read as follows:

“Section 1125.15. R-2 Setbacks.

The following front, side and rear yard setbacks shall be considered as minimum standards for buildings:

Land Use	Front Yard *** (ft.)	Lot, Interior Side Yard (ft.)	Rear Yard (ft.)	Lakeshore (ft.)
Single-Family Principal Structure	30	10	35	50
Municipal Park Equipment	50	50	50	50
Civic & Government Buildings	50	50	50	100
Public & Private Utilities	50	100	100	100
Accessory Structures	*	5	10	**

- * No accessory structure shall be located on any required front yard (section 1140.10, subdivision 2).
- ** No accessory structures shall be built on any lot between the lakeshore and the side of the principal structure facing the lakeshore on the lot.
- *** Lots that meet the definition of "Lot, Corner" shall not be required to provide more than 2 front yard setbacks per lot. The location of the 2 front yard setbacks on lots abutting 3 or more platted right-of-ways shall be at the discretion of the zoning administrator and the remaining yard shall meet the "Lot, Interior - Side Yard" setback requirement in the chart above."

SECTION 4.

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

ENACTED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS ____ DAY OF _____, 2011.

Ayes _____, Nays _____.

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk



Agenda Number	6D
Agenda Date	03/01/11

Agenda Item	Consider: Resolution 09-11 Summary of Ordinance 190 for Publication
Summary	<p>The following is a brief summary of this agenda item:</p> <p>Over the last couple of years the council has been approving summaries of long ordinances to save money on publication costs and to better communicate with the public. Attached is resolution 09-11 that includes a summary of ordinance 190 which amends code chapter 11 to limit the number of required front yard setbacks on lots with multiple frontages.</p>
Council Action	<p>Suggested Motion:</p> <p>I move that the council approve resolution 09-11 a summary for publication of ordinance 190 amending code chapter 11 to limit the number of required front yard setbacks on lots with multiple frontages.</p>

**A RESOLUTION APPROVING PUBLICATION
OF ORDINANCE NUMBER 190 BY TITLE AND SUMMARY**

WHEREAS, ON _____ 2011 THE CITY COUNCIL OF THE CITY OF GREENWOOD ADOPTED ORDINANCE 190 "AN ORDINANCE OF THE CITY OF GREENWOOD AMENDING GREENWOOD ORDINANCE CODE, CHAPTER 11 TO LIMIT THE NUMBER OF REQUIRED FRONT YARD SETBACKS";

WHEREAS, the city has prepared a summary of ordinance 190 as follows:

1. The purpose of this ordinance is to limit the number of required front yard setbacks in all residential zoning districts to a maximum of 2.
2. This ordinance states that the location of the 2 front yard setbacks on lots abutting 3 or more platted right-of-ways shall be at the discretion of the zoning administrator and the remaining yard shall meet the interior side yard setback requirements.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD:

1. The city council finds that the above title and summary of ordinance 190 clearly informs the public of intent and effect of the ordinance.
2. The city clerk is directed to publish ordinance 190 by title and summary, pursuant to Minnesota statutes, section 412.191, subdivision 4.
3. A full copy of the ordinance is available at the Greenwood office.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS ____ DAY OF _____, 2011.

Ayes _____, Nays _____.

CITY OF GREENWOOD

By: _____

Debra J. Kind, Mayor

Attest: _____

Gus E. Karpas, City Clerk



Agenda Number	6E
Agenda Date	03/01/11

Agenda Item	2nd Reading: Ordinance 191 Amending Code Section 900.15 Prohibiting Depositing of Snow or Ice on City Streets
Summary	<p>The following is a brief summary of this agenda item:</p> <p>This winter the city has received a number of calls regarding snow being shoveled into the street. There is a state statute that prohibits depositing snow or ice on any highway. At the January 2011 council meeting, council directed staff to draft an ordinance to amend the city code to clarify that all public streets are included. The ordinance is attached. The 1st reading of this ordinance was approved with a 5-0 vote at the 02/01/11 council meeting with no changes.</p>
Council Action	<p>Recommended Motion:</p> <p>I move that the council approve the 2nd reading of ordinance 191 amending code section 900.15 to prohibit depositing snow or ice on city streets.</p>

ORDINANCE NO. 191

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ORDINANCE CODE SECTION 900.15 PROHIBITING DEPOSITING SNOW ON
CITY STREETS OR OTHER PUBLIC PROPERTY**

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

SECTION 1.

Greenwood ordinance code section 900.15 is amended to insert the following:

"(b)The depositing of snow or ice, plowed or removed from private property, onto a city street or other public property regardless of the place of origin."

SECTION 2.

Greenwood ordinance code section 900.15 subdivisions (b) through (v) will be re-lettered to reflect the addition of the new amendment.

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 _____, 2011.

Ayes _____, Nays _____.

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk



Agenda Number	6F
Agenda Date	03/01/11

Agenda Item	2nd Reading: Ordinance 192 Establishing Code Section 715.12 Prohibiting Street Parking After a Snowfall
Summary	<p>The following is a brief summary of this agenda item:</p> <p>The city currently does not have an ordinance restricting winter parking on the street, though it is not uncommon for cities to have such ordinances.</p> <p>The parking of vehicles on Greenwood streets causes the need for snowplows to revisit a number of sites in the city. Public Works Supervisor Jerry Hudlow says it takes a minimum of two hours at a minimum cost of \$85.65 an hour to clean the areas impacted by parked vehicles. He also said there are a minimum of twelve snowstorms a year, bringing the total amount of additional charges to the city to about \$2,055 a year. He has identified eight vehicles that consistently park on the street. This breaks down to a \$257 cost to the city for each vehicle parked on the street.</p> <p>At the 01/04/11 council meeting the council discussed this issue and reviewed the ordinances from Excelsior, Deephaven, Minnetonka, and Chanhassen. Based on the discussion, council directed staff to draft ordinance 192 (attached) for council consideration.</p> <p>The 1st reading of ordinance 192 was approved with a 4-1 vote at the 02/01/11 council meeting. No changes have been made to the ordinance since then.</p>
Council Action	<p>Suggested Motion:</p> <p>I move that the council approve the 2nd reading of ordinance 192 establishing code section 715.12 that prohibits street parking after a snowfall.</p>

ORDINANCE NO. 192

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
ESTABLISHING GREENWOOD ORDINANCE CODE SECTION 715.12
PROHIBITING PARKING AFTER A SNOWFALL**

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

SECTION 1.

Greenwood ordinance code section 715 is amended to add the following:

“Section 715.12. Parking Prohibited After a Snowfall.

No person may park or leave unattended any vehicle on any city street after two inches or more snow has fallen until the traveled portion of the roadway or street is plowed its full width.”

SECTION 2.

The city clerk shall order and post signs at the city limits and at such other points as public works may recommend. The signs shall say “GREENWOOD WINTER PARKING. NO PARKING ANYTIME AFTER 2 INCH SNOWFALL UNTIL STREETS ARE PLOWED THE FULL WIDTH.”

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 _____, 2011.

Ayes _____, Nays _____.

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk



Agenda Number	7A
Agenda Date	03/01/11

Agenda Item	1st Reading: Ordinance 193 Amendments to Code Section 1140.45 Parking Requirements
Summary	<p>The following is a brief summary of this agenda item:</p> <p>Ordinance 193 would remove parking requirements for uses not currently permitted by the city ordinances and uses that most likely will never exist in the city. These uses include a senior high school, junior high and elementary schools, and municipal buildings.</p> <p>The proposed ordinance also would correct an error regarding common parking areas on properties with multiple buildings and uses. The current regulation requires three square feet for every one square foot of building gross floor area. This means a 20,000 square foot mixed-use building would require well over an acre of parking. That would be 300 parking spaces, not including drive aisles.</p> <p>The error in the code was first brought up by Councilman Fletcher during the final stages of the recodification process in 2010. At that time, the council decided to approve the code book as is with the intent to revisit the issue. When the owner of St. Alban's Boathouse recently met with staff regarding redevelopment, he also noticed the error and brought it to staff's attention. Note: The new amendment would apply to all commercial property in the city.</p> <p>The proposed amendment states that common parking must meet the requirements of the code for each proposed individual use and allows fewer spaces with a conditional use permit provided that the owner/applicant can demonstrate to the satisfaction of the city council that reasonable anticipated day-to-day parking demand, including peak demand, is less than the code otherwise requires because of either (a) exigent circumstances unique to the planned uses, or (b) demand for parking varies between the various planned uses can be met with fewer than the total parking required by the code through limiting and controlling the mix of permitted uses, the amount of their individual business activity, and the hours of permitted use.</p> <p>The planning commission held a public hearing and reviewed the ordinance at their 02/16/11 meeting. A few minor changes were suggested (see attached).</p> <p>Planning Commission Action: <i>Motion by Commissioner Beal to recommend the city council adopt proposed ordinance 193, as amended. Commissioner Paeper seconded the motion. Motion carried 5-0.</i></p>
Council Action	<p>Suggested Motion:</p> <ol style="list-style-type: none"> 1. I move that the council approve the 1st reading of ordinance 193 amending code section 1140.45 regarding parking requirements. 2. Do nothing.

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ORDINANCE CODE SECTION 1140.45 PARKING AND LOADING REQUIREMENTS**

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

SECTION 1.

Greenwood ordinance code section 1140.45 is amended to delete the following sections:

“1140.45(11)(d) *Senior high school* – 1 parking space for each classroom plus 1 parking space for each 10 students, based upon design capacity.”

“1140.45(11)(e) *Public elementary, junior high school or similar private school* – 2 parking spaces for each classroom.”

“1140.45(11)(f) *Municipal administration buildings, community center, public library, museum, art galleries, post office, and other public service buildings* – 1 parking space for each 500 square feet of floor area in the principle structure.”

SECTION 2.

Greenwood ordinance code section 1140.45(11)(j) is amended to read as follows:

“(j) *Common parking area* – Where the code otherwise permits, and it is proposed that multiple permitted uses be located upon a single lot or tax parcel, the owner/applicant shall prepare and submit to the city, together with a preliminary administrative review fee (set forth in chapter 5), a **scaled** parking plan ~~illustration to scale, 1 inch to 30 ft.~~ for the whole lot or tax parcel setting forth the number of parking spaces required under this code for each proposed individual use/rental/condo unit thereat. Rental/condo units shall be illustrated and each unit’s square footage stated. In the event that total available on site parking spaces in the proposed parking plan **based on each individual use** are fewer than this code otherwise requires, the owner/applicant may make application for a parking conditional use permit (CUP) to allow fewer on-site parking spaces for the proposed use mix than the code requires. Such application shall include the payment of a conditional use permit fee (set forth in chapter 5). A parking CUP may be issued subject to the terms and conditions of section 1150 and the following additional conditions: The owner/applicant must demonstrate to the satisfaction of the city council that reasonable anticipated day to day parking demand, including peak demand, is less than the code otherwise requires because of either (a) exigent circumstances unique to the planned uses, or (b) demand for parking varies between the various planned uses can be met with fewer than the total parking required by the code through limiting and controlling the mix of permitted uses, the amount of their individual business activity, and the hours of permitted use. Upon a finding by the city council that a parking CUP if granted hereunder will not adversely impact the public health safety and welfare, and the planned uses are otherwise code compliant, a parking CUP may be issued on such terms and conditions as the city deems appropriate provided that in any event a parking CUP shall be subject to a reservation of rights in favor of the city, including but not limited to, the right of the city to review on 60 days written demand all related use activity, mix of uses, changes in use, or hours/days of parking demand and the right of the city to amend or impose new and/or additional parking space requirements or other conditions for the existing or planned uses or otherwise cause the owner to bring to an end certain uses or mix of uses on one year advance written notice. The terms of a parking CUP meeting with the approval of the city attorney shall be memorialized by developer/owner agreement with the city and also incorporated into conditions and covenants filed on record against the subject property. All expenses and filing fees that the city may incur in conjunction with the processing of a parking CUP application and the preparation of related developer agreements and conditions and covenants shall be paid by the owner/applicant in full prior to issuance thereof. The city may charge for the expenses of its city staff, city attorney, and city engineer.”

SECTION 3.

Greenwood ordinance code section 1140.45(11) paragraphs (g) through (t) will be re-lettered to reflect the deletion of paragraphs (d) through (f).

SECTION 4.

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

ENACTED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS ____ DAY OF _____, 2011.

Ayes _____, Nays _____.

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk



Agenda Number	7B
Agenda Date	03/01/11

Agenda Item	Discuss: Greenwood Park Beautification
Summary	<p>The following is a brief summary of this agenda item:</p> <p>Last October Greenwood resident Kristi Conrad contacted the city regarding ideas for how to improve the Greenwood Park located on Covington. Her email is attached.</p> <p>Ms. Conrad suggested the following:</p> <ol style="list-style-type: none"> 1. Have a garbage can available at the park 2. Trim trees to make the park more inviting 3. Resurface the basketball court <p>Another idea:</p> <ul style="list-style-type: none"> • Install a rack with a couple push brooms and a couple regular brooms available to make it easy to clear leaves off of the courts and webs off of the picnic tables. <p>We have a designated park fund with about \$25,000 that can be used for improvements only. The city auditor clarified that this means physical improvements that can be depreciated. Items 2-3 above are not physical items, therefore we cannot use park funds for these things.</p> <p>Park funds could be used to purchase a park-style garbage can, brooms and a rack.</p> <p>The city budget includes \$200 for tennis court maintenance. Since the tennis court was pressure washed last year, this money could be used to pressure wash or sealcoat the basketball court.</p> <p>The city budget includes \$13,000 for tree trimming and mowing. Some of this money could be used to trim the trees at the park.</p> <p>The city budget includes \$29,000 for contingency expenses. Some of this money could be used to pay Vintage Waste to maintain a garbage can at the park.</p> <p>At the 11/04/11 meeting the council decided to put the park beautification discussion on hold until the 03/01/11 council meeting.</p>
Council Action	<p>Suggested Motions:</p> <ol style="list-style-type: none"> 1. I move that the council direct staff to get estimates for the following: <ul style="list-style-type: none"> -- Cost to purchase a park-style garbage can -- Cost to purchase brooms and a rack -- Cost to pressure wash vs. sealcoat the basketball court -- Cost to trim the trees at the park -- Cost to have Vintage Waste maintain the park-style garbage can at the park -- Cost to have Vintage Waste drop off and maintain a plastic garbage can at the park 2. Do nothing.

From: Kristi Conrad <kaconrad@gmail.com <<mailto:kaconrad@gmail.com>> >
Date: Mon, 4 Oct 2010 08:02:48 -0500
To: Debra Kind <d.kind@mchsi.com <<mailto:d.kind@mchsi.com>> >
Cc: Sean Conrad <seanconrad01@hotmail.com <<mailto:seanconrad01@hotmail.com>> >

Question for you. Is there a particularly good way of making my voice heard in regard to Greenwood Park? There isn't a garbage can there and I was hoping it could be added, for the summer at least. I find myself picking up debris and carrying it home. It may also invite more family outings at the picnic tables. I overheard someone (with kids) in the neighborhood call the park "gross." I suspect due to the combination of spider webs, shade and trash. Something as simple as trimming back the trees may even make it more inviting. The park is such a great tool for meeting neighbors and developing personal relationships. There are plenty of kids and parents that would love to make more use of it if it were improved. I think it's an important part of our community.

Is there a budget for improvements? I saw that Manor Park raised their own money for improvement so maybe that would be the case here. The tennis courts were resurfaced this summer but the basketball 1/2 court could have used it too. I would love to volunteer my time or start a fundraiser for this one. There are some young kids in the neighborhood and I want to have a meeting place for them.

Thanks,
Kristi Conrad

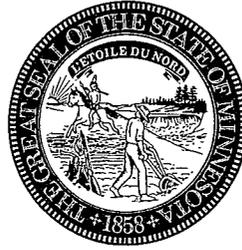


Agenda Number	7C
Agenda Date	03/01/11

Agenda Item	Consider: Response to Representative Runbek's Letter Regarding Local Government Aid
Summary	<p>The following is a brief summary of this agenda item:</p> <p>The mayor received the attached 02-02-11 letter from Representative Linda Runbeck seeking input from cities regarding Local Government Aid (LGA).</p> <p>The mayor drafted a response letter (also attached) for the council's consideration.</p>
Council Action	<p>Suggested Motions:</p> <ol style="list-style-type: none"> 1. I move that the council approve the mayor's draft of the letter as presented in the 03/01/11 council packet. 2. I move that the council approve the mayor's draft of the letter as presented in the 03/01/11 council packet with the following revisions ... 3. Do nothing.

Linda Runbeck
State Representative

District 53A
Anoka and Ramsey Counties



Minnesota House of Representatives

February 2, 2011

Mayor Deb Kind
City of Greenwood
20225 Cottagewood Rd
Deephaven, MN 55331-6700

Dear Mayor Kind,

As you may know, the Minnesota Legislature will be examining potential reform for the Local Government Aid system and fiscal formula. As the Chair of the Property and Local Tax Division, I am interested in your input on this issue. Your thoughts and ideas are extremely helpful and greatly appreciated.

During this session we will encounter many tough decisions, but in the face of adversity there is the potential for exciting conversations for the overall benefit of the people of Minnesota. The fact that we will be addressing another budget deficit is a difficult reality, but it also allows for positive opportunities to fine tune our government in order to best serve the taxpayers. One example is that we hope to streamline important processes that currently hinder efficiency. We also want to create a job friendly climate in Minnesota to allow for job creation.

Over the past decade the Local Government Aid program has undergone many changes in formula, definition, rules, and exceptions. We are exploring the results of those changes and we look to improve upon them. One of the focuses of the Property and Local Tax Division is finding an LGA formula that benefits cities while living within our means. We are intent on building a better relationship between the state and its cities.

There are many sides to the issue at hand and I want to make sure your voice is heard. I am confident that we can work together to achieve our goals. Your input is useful to the discussion for moving Minnesota forward. I eagerly await your response.

Sincerely,

A handwritten signature in cursive script that reads "L. Runbeck".

Linda Runbeck
State Representative
651-296-2907

rep.linda.runbeck@house.mn





DRAFT

March 1, 2011

Representative Linda Runbeck
District 53A - Anoka and Ramsey Counties
State Office Building
100 Reverend Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155-1298

RE: Local Government Aid

Dear Representative Runbeck, Chair of the Property and Local Tax Division:

On behalf of the Greenwood City Council, I am writing in response to your request for input regarding Local Government Aid (LGA).

In the past Greenwood has not benefited much by LGA and we are okay with that. We believe this has encouraged us to live within our means and not grow local government unnecessarily. It is our opinion that the LGA formulas have been cobbled together over the years, are very arbitrary, and no longer make any sense. The budget issues facing the state provide an excellent opportunity for a long overdue overhaul of LGA. We believe the state should gradually reduce LGA levels and eventually abolish the system. This will help cities that have become reliant on LGA to become self-sufficient and encourage them to focus on providing core government services.

We strongly believe that funding local needs at a local level encourages local accountability.

Sincerely,

Debra J. Kind
Mayor, City of Greenwood

CC: Greenwood City Council
Greenwood City Attorney Mark Kelly
Senator Gen Olson
Representative Connie Doepke



Agenda Number	7D
Agenda Date	03/01/11

Agenda Item	Discuss: League of Minnesota Cities Community Conversations Program
Summary	<p>The following is a brief summary of this agenda item:</p> <p>The League of Minnesota Cities is seeking communities to host “Community Conversations” this spring and summer. The idea is to bring communities and community leaders together to discuss the broad topic “Cities, Services, and Funding: Broader Thinking, Better Solutions.”</p> <p>The city received the attached email from Shorewood City Administrator Brian Heck, stating that Shorewood is interested in submitting an application to be a host community. Shorewood wants to know if Greenwood is interested in participating in the program.</p>
Council Action	<p>Suggested Motions:</p> <ol style="list-style-type: none"> 1. I move that the council direct staff to contact Shorewood City Administrator Brian Heck to let him know that the City of Greenwood is interested in participating in the Community Conversations program. 2. I move that the council direct staff to contact Shorewood City Administrator Brian Heck to let him know that the City of Greenwood is <u>not</u> interested in participating in the Community Conversations program at this time. 3. Do nothing.

Subject: Community Conversations

Date: Wednesday, February 16, 2011 10:23 AM

From: Brian Heck City of Shorewood <bheck@ci.shorewood.mn.us>

To: Kristi Luger City of Excelsior kluger@ci.excelsior.mn.us, Joe Kohlmann

jkohlmann@cityoftonkabay.net, Dana Young City of Deephaven danayoung@mchsi.com, Debra Kind
dkind100@gmail.com, Linda Murrell eacc@isd.net, Bryan Litsey blitsey@southlakepd.com, Scott Gerber
sgerber@excelsiorfire.org, SSSP southshorecenter@gmail.com

Cc: Chris Lizee chrislizee@gmail.com, Debbie Siakel_Contact dsiakel@gmail.com, Laura Hotvet_Contact
laurahotvet@gmail.com, Dick Woodruff dick.woodruff@yahoo.com, Scott Zerby scott@gamersdigital.com

All,

The League of Minnesota Cities is seeking communities to host "Community Conversations" this spring and summer. The idea is to bring communities and community leaders together to discuss the broad topic "Cities, Services, and Funding: Broader Thinking, Better Solutions." The LMC's goal is to have a serious, broad-based dialogue on the services Minnesotans expect to receive, how those services can best be delivered, and how those services should be paid for. The program is supported by a grant from the Bush Foundation and its InCommons initiative.

The Council has asked me to submit an application to be a host community. The reason I am e-mailing all of you is to request your support and participation. One of the main criteria for the selection of communities is a demonstrated ability to partner with other local leaders, enthusiasm for the project, commitment to continuing the conversation, and demographic representation.

Our cities participate in joint efforts and began a dialogue already regarding additional opportunities. I see this as an additional opportunity to bring in a broader group to discuss and assist the state as a whole, in the area of local government services and costs.

If selected as a host community (communities) our responsibility is to select the date(s), recruit participants, and agree to continue the conversation. The League provides the facilitation, covers all other associated costs.

Please let me know as soon as possible if you are interested in partnering on this so I can include this information in the application. If you want more information on the program, check out www.lmc.org <<http://www.lmc.org>> and look under community conversations.

Thank you for your time and consideration.

Brian W. Heck - ICMA - CM
City Administrator
City of Shorewood
5575 Country Club Road



Agenda Number	FYI
Agenda Date	03/01/11

Agenda Item	FYI Items in Council Packet
Summary	<p>The following is a brief summary of this agenda item:</p> <p>Several items are included in the council packet For Information Only. These items are attached.</p>
Council Action	No council action is needed for FYI items



February 7, 2011

Senator Gen Olson
State Office Building, Room 113
100 Reverend Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155-1298

Representative Connie Doepke
State Office Building
100 Reverend Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155-1298

RE: Support of HF 162

Dear Senator Olson and Representative Doepke:

On behalf of the Greenwood City Council and the residents of Greenwood, I am writing in support of HF 162 – the bill that would permit cities to use websites for publication of legal public notices. It is our opinion that current public notice publication requirements are costly (approximately \$2000 per year for Greenwood) and no longer are necessary given the existence and accessibility of city websites. We understand and agree with the bill's provision requiring cities to mail public notices to individuals upon request. We also understand if the bill is approved, cities still would have the option of publishing legal notices in newspapers.

In general, we support legislation that gives cities the greatest flexibility possible in implementing mandates to ensure that costs are minimal – including the use of new technologies. So we urge you to vote in support of HF 162.

Sincerely,

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

Debra J. Kind
Mayor, City of Greenwood

CC: Greenwood City Council
Greenwood City Attorney Mark Kelly
Jennifer O'Rourke, LMC

Subject: Gasoline Bids

Date: Thursday, February 17, 2011 11:09 AM

From: Debra Kind <dkind100@gmail.com>

To: Bob Quam quamco@aol.com

Cc: Bryan Litsey blitsey@southlakepd.com

Bob —

I talked with Chief Litsey about your question regarding getting bids for gasoline. He said he knew of no other police department or public works department that got bids for gasoline. After further conversation, we concluded the numbers do not add up for the SLMPD to put forth a request for proposal effort regarding gas ...

- The SLMPD uses approximately 12,800 gallons per year.
- According to the attached document, retail gas station profitability is between 3 and 5 cents per gallon.
- IF we pursued a bid process, AND a retailer was willing to give us a 2.5 cent discount, we would save only \$320 per year.
- We also would give up our current arrangement of receiving free car washes at the local station where the SLMPD frequently gasses up. Based on a conservative estimate, the car wash savings equals approximately \$3000 per year.

Based on the above numbers, it appears that it does not make sense to try a bid process for gas.

Note: Our officers use a Wright Express gas card which allows them to gas up at several area gas stations and have federal excise tax automatically deleted.

Call or e me or Chief Litsey if you have any questions or comments.

Deb Kind | Mayor, City of Greenwood | 952.401.9181 | dkind100@gmail.com |
www.greenwoodmn.com

Ask NACS

NACS Online > Industry Resources > Gas Price Kits > 2011 NACS Gas Price Kit > What Influences Gasoline Prices?

NACS Gas Price Kit

What Influences Gasoline Prices?

Posted: February 2, 2011



Retail gasoline prices are among the most recognizable price point in American commerce, yet they are among the least understood. What goes into the price of a gallon of gasoline? Here is a primer on what causes prices to go up or down and vary from store to store.

Ownership and Supply Arrangements

Two key factors that influence retail motor fuels prices are who owns the store and how they get their supplies.

Unlike a few decades ago, when the major oil companies owned and operated a significant percentage of the fueling locations, today only about 1 percent of all stores are owned by one of the major oil companies. About another 4 percent are owned by a refining company like Valero, Sunoco or Hess. Instead, the vast majority – about 95 percent of stores – are owned by independent convenience store companies, whether one-store operators or large regional chains.

Each business has a number of factors that could impact its sales price. They include:

- Branded or unbranded fuels: Typically, stores that sell a branded fuel pay a premium for that fuel, which covers marketing support and signage, as well as the proprietary additive package.
- Dealer tank wagon or rack: Retailers who purchase fuel via dealer tank wagon may pay a higher price than those who get their fuel at "the rack" or terminal. However, rack prices may experience more volatility.
- Length of contract: Even if they sell unbranded fuels, retailers may have a long-term contracts with a specific refiner. The length of the contract – which can be 20 years, sometimes longer – can affect the price that retailers pay for fuels.
- Volume: As in virtually every other business, retailers may get a better deals based on the amount of fuel that they purchase, whether based on volume per store or total number of stores.

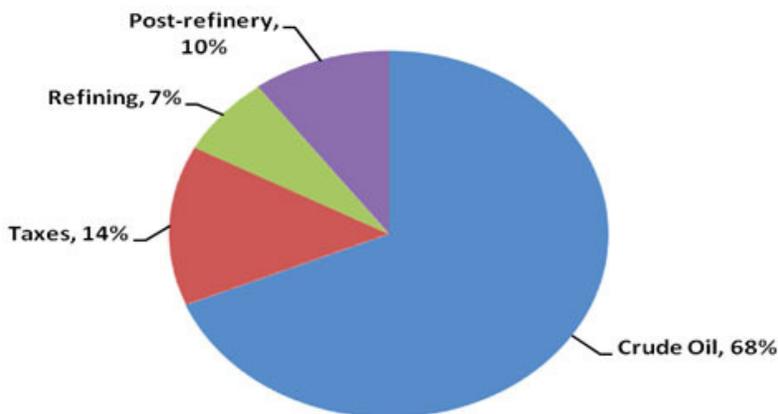
Even within a specific company, stores may not each have the same arrangements, since companies often sell multiple brands of fuels, especially if they have acquired sites with existing supply contracts.

Crude Oil Prices Most Affect Retail Prices

There are four factors that make up the price of retail fuels: Crude oil costs, taxes, refining costs and distribution and marketing (which accounts for all costs after the fuel leaves the refinery).

Crude oil prices have, by far, the biggest effect over the retail price of fuels. For one, crude oil costs are responsible for about two-thirds of the cost of a gallon of gasoline. In 2010, crude oil costs were 68 percent of the retail price of gasoline. Second, while there may be slight variations in the costs of refining or distributing and retailing fuels, crude oil prices can experience huge swings. (Taxes are largely static, unless they are based on prices and not set per gallon. Refining and marketing margins have a much less significant impact on prices, and are often a function of wholesale prices.)

Costs in a gallon of gasoline



(Source: U.S. Energy Information Administration, cumulative 2010 monthly averages)

Given there are 42 gallons in a barrel, a rough calculation is that retail prices ultimately move approximately 2.5 cents for every \$1 change in the price of crude oil. In short, as crude prices change, so does the price of retail gasoline.

Cost of Goods Sold Leads Retail

Retail prices are set according to a complex analysis of competitive pressures and the ever-changing wholesale cost of gasoline. Due to differences in supply arrangements, contract terms and delivery schedules, retailers often pay different prices at different times for the gasoline they sell at retail. Retailers must set a price that best balances their need to cover their costs with the need to remain competitive and attract consumers, who are very price sensitive and will shop somewhere else for a difference of a few cents per gallon.

Consequently, retailers often cannot always adjust retail prices to fully compensate for changes in their wholesale costs because they must remain competitive with nearby stores who may not have incurred similar changes in costs.

When prices go up, retailers may reduce their markup to remain competitive with nearby stores. Likewise, when prices go down, retailers may be able to extend their markup and recover lost profits. In the end, the annual average retail mark-up (the difference between retail price and wholesale cost) has averaged 15 cents per gallon over the past five years.

Wholesale and retail gasoline prices track oil prices



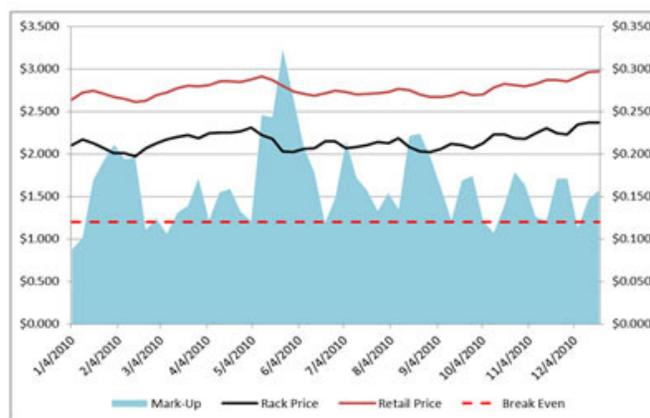
(Sources: OPIS "Retail Fuel Watch"; U.S. Energy Information Administration)

Retail Profitability Measured Over Time

The pattern of retail profitability is the opposite of what most consumers think. Due to the volatility in the wholesale price of gasoline and the competitive structure of the market, fuels retailers typically see profitability decrease as prices rise, and increase when prices fall. On average, it costs a retailer about 12 cents to sell a gallon of gasoline. Using the five-year average markup of 15 cents, the typical retailer averages about 3 cents per gallon in profit. In 2010, the average national retail markup was 16.3 cents, delivering an average profitability of 4 to 5 cents per gallon.

Over the course of a year, retail profits (or even losses) on fuels can vary wildly. In some cases, a few great weeks can make up for an otherwise dreadful year – or vice versa.

Retail fuel margins experience wild variations over time



(Sources: U.S. Energy Information Administration, NACS)

With its extreme volatility, fuels retailing is not for the faint of heart – or those with limited access to capital. Perhaps that is why that since 1994, while overall fuels demand in the United States has increased, the overall number of fueling locations has decreased from over 200,000 to less than 160,000 sites.