

# Greenwood City Council Meeting

7 PM, Tuesday, October 5, 2010  
20225 Cottagewood Road ~ Deephaven, MN 55331 ~ 952-474-6633

## AGENDA

*Welcome to the Greenwood city council meeting. We are glad you are here! Members of the public are invited to address the council regarding any item on the agenda. If your topic is not on the agenda, you may speak during Matters from the Floor. And as a friendly reminder, please turn off your cell phones.*

- 7:00 PM 1. CALL TO ORDER ~ ROLL CALL ~ APPROVE AGENDA
- 7:00 PM 2. CONSENT AGENDA  
*Council members may request removal of consent agenda items for further discussion. Removed items will be placed under Other Business.*
- A. Recommendation: Approve 09-07-10 Council Minutes
  - B. Recommendation: Approve August Cash Summary Report
  - C. Recommendation: Approve September Payables
- 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. Buckthorn Task Force Report
- 7:20 PM 5. PUBLIC HEARINGS
- A. Delinquent Sewer, Stormwater, and Recycling Charges
- 7:25 PM 6. UNFINISHED BUSINESS
- A. Second Reading: Ordinance 186 Enacting a Code of Ordinances for the City of Greenwood
- 7:40 PM 7. NEW BUSINESS
- A. Consider: Sonus Hearing Care Conditional Use Permit Request for Signage
  - B. Consider: Next Steps Regarding St. Alban's Boathouse Restaurant Sewer Bill
  - C. Consider: Extension of Variance for the Robert Schmitt Property (License Center)
  - D. Consider: Resolution 18-10 Assessment Roll for Delinquent Sewer and Recycling Charges
  - E. Consider: Resolution 19-10 Support of New State Legislation to Distribute Aquatic Invasive Species Fine Revenue to Local Law Enforcement Agencies
  - F. Consider: Insurance Liability Waiver Form
  - G. Discuss: Updates to Section 500 & 515 Fees
  - H. Discuss: Retroreflectivity Sign Project
- 9:20 PM 8. OTHER BUSINESS
- A. Discuss: Minnesota Supreme Court Decision Regarding Variances and Nonconforming Structures
  - B. Discuss: Administrative Committee Responsibilities
- 9:40 PM 9. COUNCIL REPORTS
- A. Rose: Excelsior Fire District
  - B. Quam: Roads & Sewer, Minnetonka Community Education
  - C. Page: Lake Minnetonka Conservation District
  - D. Kind: Police, Minnetonka School District Mayor's Lunch
  - E. Fletcher: Planning Commission, Lake Minnetonka Communications Commission, Milfoil
- 9:50 PM 10. ADJOURNMENT

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

**GREENWOOD CITY COUNCIL MEETING**  
**Tuesday, September 7, 2010, 7:00 p.m.**  
**Council Chambers, 20225 Cottagewood Road, Deephaven MN 55331**

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

Mayor Kind called the meeting to order at 7:00 p.m.

Members present: Mayor Deb Kind, Councilmembers Tom Fletcher,  
Kelsey Page, Bob Quam and William "Biff" Rose

Others present: City Attorney Mark Kelly  
City Zoning Administrator / City Clerk Gus Karpas

*ACTION: Page moved to approve the agenda. Quam seconded the motion. Motion carried 5-0.*

**2. APPROVE CONSENT AGENDA**

Councilmember Fletcher asked that the August Payables be removed from the Consent Agenda for further conversation. Mayor Kind said the payables would be moved to item 8A.

*ACTION: Councilmember Quam moved to approve the following Consent items.*

- A. Recommendation: Approve 08-05-10 Council Minutes*
- B. Recommendation: Approve 08-05-10 Work Session Minutes*
- C. Recommendation: Approve July Cash Summary Report*

*Page seconded the motion. Motion approved 5-0.*

**3. MATTERS FROM THE FLOOR**

There were no issues raised.

**4. ANNOUNCEMENTS, PRESENTATIONS & STAFF REPORTS**

**A. Hennepin County Commissioner Jan Callison**

Mayor Kind introduced Hennepin County Commissioner Jan Callison. Commissioner Callison informed the Council that the County Commission approved their maximum levy amount earlier in the day. That amount can be lowered, but not raised when the final budget is adopted. She outlined the increases in certain areas, but noted a number of services will have to be reduced. She said the Truth in Taxation hearing will be held on November 30<sup>th</sup> and the final budget adopted on December 14<sup>th</sup>.

Commissioner Callison discussed a pilot program in which the county will collect unwanted

medicine from residential homeowners in attempt to keep medicine out of the water treatment system where it can have an environmental effect. She said there will be a collection point in St. Louis Park; from there the medication will be transported to Illinois and incinerated.

Callison said the county has obtained property in Excelsior for a new library. Councilmember Page asked about the property, noting he heard that a portion of it was unsuitable for construction. Callison said the county purchased more property than it needed and that the back portion of the parcel will be purchased by the City of Excelsior. She said a community meeting on the future library will be held September 30<sup>th</sup> at the Southshore Center.

The final item Commission Callison discussed was a study done by the county which compares statistical data such as demographics and income with the suburbs and the United States. She distributed a copy of the report for the Council's review.

Councilmember Fletcher asked if there were any lurking issues that could negatively impact the budget. Ms. Callison said there are always concerns, noting the budget is very complicated and there were some assumptions made on the amount of State Aid that would be dispersed. She said the Board worked under the assumption that the stated amount would not be available when drafting the budget. She said other issues such as estimated tax petitions, reduced incomes, the needs of HCMC and the reduction of federal stimulus funds impact the budget.

Councilmember Fletcher asked about the appointment of Board members to the MCWD and how much attention is focused on those appointments. Ms. Callison said the County Board does appoint the members, but the focus typically is on their annual budgets and not their policy views. Fletcher said his concerns about functionality of the Board stems from what he believed to be a very dysfunctional meeting he recently attended. He said there is a feeling that the MCWD is not accountable to anyone for their actions. Ms. Callison said there has been some thought on paying closer attention to water management issues in the county, but noted there are eleven different governing bodies appointed by the County Board overseeing water management. She agrees there is not a consistent water management organization at the county level.

Mayor Kind thanked Commissioner Callison for her time.

**B. Chief Scott Gerber: Excelsior Fired District Update**

Chief Scott Gerber of the Excelsior Fire District addressed the Council. He said he would like to update the Council on a number of issues including, staffing, facilities, apparatus, budget, training and operations.

Chief Gerber said the current staffing of the District is in good shape. He said there have been a couple of recent retirements and they continue their recruitment efforts to adequately staff and serve the member cities. Gerber said the facilities available to the District permit them to operate effectively, though he noted there will be some maintenance costs included in the 2011 budget to address minor issues.

Gerber said the District's apparatus is operating as it should. He said there were funds in the 2010 to refurbish the aerial apparatus. He said the aerial is the first piece of equipment that goes out of station one. He said the 2011 Budget has been approved by all five cities and that the District is currently operating under budget in 2010.

Chief Gerber discussed prevention and how the district continues its work on inspecting the seven hundred and fifty businesses, while using its resources wisely and effectively. He said the Fire Safety Open House will be held at Station 1 on October 7<sup>th</sup>. He said the District also holds weekly training sessions on Thursday nights and invited Councilmembers to come and observe if they'd like.

The final topic Chief Gerber spoke about was operations. He said the District has had four hundred and ninety-five calls to date, of those 55% were medical calls and 45% were actual fire calls. He said he is working with the Board to potentially replace the self-contained breathing apparatus prior to the scheduled 2014 replacement date.

Councilmember Quam asked about compensation for the firefighters. Chief Gerber said the District has two full time employees, one part time employee and forty-three on call firefighters. He said the firefighters are paid \$9.75 an hour for fire calls, noting that amount will be raised to \$10.00 in 2011.

Councilmember Quam asked about the process after a 911 call is received. Chief Gerber said it's a tiered system where law enforcement and fire response is consecutive. They provide initial care until the ambulance service arrives. He noted the District is served by two different ambulance services (HCMC and Ridgeview). He said once the ambulance arrives, the police/fire authorities provide a report to the medic and the patient is then transported. He said, typically the fire personnel will help with the transport. Quam asked how it's determined which ambulance service is called. Gerber said each service has a service area and that Greenwood is served by HCMC ambulances. Councilmember Fletcher noted there is an ambulance parked at Station 2 in Deephaven. Gerber said there was and it has provided better coverage for the District having it located there.

Councilmember Fletcher said a recent survey of the firefighters indicated some had a concern about diminishing skills due to a lack of calls. Chief Gerber agreed the District does not have a high fire volume, but they have taken steps to train the fire fighters in training environments which allow for live burn scenarios.

The Council thanked Chief Gerber for his time.

**C. City Attorney Mark Kelly: Junk, Debris and Nuisance Enforcement**

Mayor Kind informed the Council that the city had received nuisance complaints centered on diseased trees, dead trees, brush piles, noxious weeds and fencing. She said the City Attorney has drafted two memos for the Council seeking clarification for staff in its enforcement efforts.

City Attorney Kelly summarized the concerns raised by the residents. He said the City currently has a general nuisance provision in chapter 1020 of the code book, noting with the upcoming code book change, that provision would be moved to chapter 9. He said this is important because there will be changes in the new code book. He said it's important that the Council delineate the process for administration of ordinances. He said cities don't typically seek out nuisances and follow more of a "report and response" approach. He said once a complaint is received by the city, it needs to determine the probable cause of the complaint. He said this determination is made by the city's prosecuting attorney as to whether a case can be made in good faith.

He said the issue at this point is the fact the current code makes dead trees and brush piles a violation of the code. The new ordinance is based on a model ordinance which does not include dead trees or brush piles as a violation of the code. He said the Council needs to determine if they would like the existing prohibitions to continue into the next ordinance, noting they had to keep in mind that the city has an obligation to enforce the ordinance on the city as well. This is important because the city itself has property with dead trees, and it would be costly to remove them.

Mr. Kelly discussed the current regulation of noxious weeds and the proposed change in the new ordinance which would prohibit weeds based on their classification by the state as either a "restricted" or "prohibited" noxious weed. "Prohibited" noxious weeds must be controlled or removed, "restricted" noxious weeds cannot be sold, planted, or transported. Buckthorn is classified as a "restricted" noxious weed by the state. He said part of the complaint received by the city revolved around the inclusion and required removal of Buckthorn as a policy of the city, even though it is not a prohibited noxious weed defined by the state.

City Attorney Kelly explained the differences between a public and private nuisance. He said the city's interest in addressing nuisances is to protect the general public and not to address private issues between neighbors.

On the issue of fences, the concern was that a neighbor had put up some yellow "police" type tape. Kelly said he did not find anything in the ordinance stating that it constituted a

fence or sign and therefore was not regulated.

In conclusion, Kelly said the Council needs to decide whether it wants to regulate Buckthorn as a matter of policy, whether it wants to continue the regulation of dead trees and whether to continue to regulate brush piles.

Councilmember Quam asked if the city could change the definition of Buckthorn from the state definition of "restricted" to "prohibited." Mr. Kelly said it could by adding it as prohibited nuisance in the city. Councilmember Fletcher said there are a couple of downsides to regulating Buckthorn including the fact there is a lot of Buckthorn on city property and that requiring removal could be a burden on residents. Mr. Kelly said it's typical for a resident to claim unfair treatment during enforcement and to point out other properties that are in violation, which begins to become burdensome to city staff.

Councilmember Fletcher said it sounds like a practical matter as to whether to enforce the existing code or to direct staff to use the proposed code. Mr. Kelly said the prosecuting attorney would most likely advise enforcement of the existing code.

Trish Burdick, 4950 Sleepy Hollow Road, said that Buckthorn kills trees by depriving native species of sun and water.

Brian Burdick, 4950 Sleepy Hollow Road, feels violations under the existing code need to be addressed. He said Buckthorn is a terrible plant declared as a noxious by the state. He said they kill trees and are bad for wildlife. Mayor Kind asked if he supported the city making Buckthorn a prohibited noxious weed. Mr. Burdick said he did and discussed the rebound of the trees along the LRT after the Buckthorn was removed.

Mayor Kind said the Council needs to make a decision on whether to keep dead and brush piles in the new code book, which has removed references to dead trees and fallen limbs. She said the selected diseased trees in the new code book include the two that are in the current code book (Dutch Elm Disease, Oak Wilt) but also adds any other diseases determined harmful by the state.

Councilmember Page is not in favor of including Buckthorn as a "prohibited" noxious weed in the new code, unless the city is willing to eradicate it on its own property. He doesn't feel the city is in a position to impose a regulation on residents that it doesn't follow itself.

Councilmember Quam feels the Council needs more data, especially as to the number of dead trees on city property. Councilmember Fletcher agreed and said he would be hesitant to make changes before the Council has put some thought into it. He would like to know exactly how big the Buckthorn issue is before acting on a change.

Councilmember Rose asked if the discussion was based on one complaint, two

complaints or just a need to change the proposed code. Mayor Kind said there have been a couple of complaints and that staff needs direction on how to enforce the code in light of the proposed changes coming in the new code book.

Councilmember Quam asked what was included in the city's new code book regarding noxious weeds. Mayor Kind said the new code regulates weeds "prohibited" by Minnesota Statute, which does not include Buckthorn. Quam said he would like to know how other cities regulate Buckthorn.

Councilmember Page said the issue of dead trees needs to be looked at based on scenarios where they actually impact a neighbor's property. Councilmember Rose agreed, stating a dead tree in the middle of the woods really doesn't need to be removed. He said in cases where an adjacent property is impacted should be an issue between neighbors. Page added the ordinance needs to have an enforcement mechanism to remove those trees that pose a hazard.

City Attorney Kelly said the code has some flexibility where issues such as that can be handled as a private nuisance or a general nuisance.

Councilmember Fletcher noted that staff is seeking direction on how to enforce the code based on the current compliant and noted the current code does not prohibit Buckthorn.

*ACTION: Fletcher moved to direct staff to base the enforcement of current complaints on the current code and that the Mayor appoints a committee to research the issues related to Buckthorn and have a report for the Council at its November meeting on how to address it in the new code. Quam seconded the motion. Motion carried 3-2. Councilmembers Page and Rose opposed the motion.*

**D. Zoning Administrator/City Clerk Gus Karpas: Georgetown Manor Update**

Zoning Administrator Karpas briefed the Council on the inspection efforts at Georgetown Manor stating he had sent a letter requiring the issues raised by the Building Inspector and Fire Inspector be address no later than September 15<sup>th</sup> or a Civil Citation would be issued. He said the building owner was made aware of the issues with his property in January and has been slow in responding to city staff.

**5. PUBLIC HEARINGS**

**A. 2010 Greenwood Ordinance Code Book**

Mayor Kind announced the City Council has amended the city code and will now be holding a public hearing on the amendments.

*ACTION: Rose moved to open the public hearing on the 2010 Greenwood Ordinance Code Book. Quam seconded the motion. Motion carried 5-0.*

No members of the public commented on the proposed amendments.

*ACTION: Rose moved to close the public hearing on the 2010 Greenwood Ordinance Book. Quam seconded the motion. Motion carried 5-0.*

**6. UNFINISHED BUSINESS**

None

**7. NEW BUSINESS**

*ACTION: Page moved to move Item 7G, Lake Minnetonka Communications Budget to after 7A. Rose seconded the motion. Motion carried 5-0.*

**A. Discuss: Traffic Calming on Sleepy Hollow Road**

Mayor Kind said residents along Sleepy Hollow Road have raised concerns about the traffic speed along their road. She said there currently are two twenty mile per hour speed limit signs along the road and the city had South Lake Police Department temporarily place a speed trailer along the road, which worked for a while. She said she said the Public Works Department placed orange flags on the speed limit signs to draw attention to them and the neighbors installed homemade signs to draw attention the motorist's speed. She noted the signs were recently vandalized.

Kind said the neighborhood has asked the city to install more official looking signs. The issue was raised with the City Engineer and Police Chief. The City Engineer submitted a letter suggesting the installation of two "Hidden Entrances Ahead" signs with a fifteen mile an hour sign attached below them, at a cost of \$1,080. He noted advisory speed limits are not enforceable and that typically additional signage did little to help slow traffic. He suggested the Police Chief comment on the issue.

The Police Chief sent an email stating he had no issue with the "Hidden Entrances Ahead" signage but recommended that no signage should be posted lowering the speed limit past what is lawful for the road.

Councilmember Rose didn't feel new signage would reduce speed along the road and asked about the installation of cameras to monitor speeders. Councilmember Fletcher said license plate cameras are expensive.

Mayor Kind said that the speed trailer clocked most of the vehicles in the area at thirty

miles per hour or less, which is the lawful speed.

Councilmember Quam said he has no doubt that thirty miles per hour is too fast for safety along Sleepy Hollow Road. In fact, he felt there are very few areas in the city where thirty miles an hour was safe. He noted the City Engineer discussed manipulating the physical environment as a means to slow down traffic. Quam suggested the installation of speed bumps.

Councilmember Page said he walks the area everyday and feels the primary violators are young people from the area. He also said he has observed situations where parents aren't managing their children. He feels the existing signage is effective and is not in support of speed bumps. Councilmember Quam said the residents have said there are also a number of adults speeding in the area.

Brian Burdick, 4950 Sleepy Hollow Road, said speeding along Sleepy Hollow Road is a fact and it's not a matter of if, but a matter of when there could be a serious issue in terms of pedestrian getting hit. He feels the grassroots program was successful and he received a lot of comments supporting the effort. He said speed bumps is an interesting idea, but is concerned there would be issues with snow removal and drainage. He said the offenders are of all ages and that he supports the signage recommendations of the City Engineer.

Kevyn Riley, 4970 Sleepy Hollow Road, said the issue of speeding has been around for years. She said she has heard concerns from a number of people. She noted the paved area of the road is only fourteen feet wide and said not only residents are speeding through the area, but also other vehicles such as the UPS truck and school buses. She wants people to take the issue seriously. She said the road has three blind curves and serves as a feeder road for both cars and pedestrians. She would like to see neon green signs placed along the road.

Mayor Kind said, based on a new federal mandate, those types of signs will be the new standard and the city will begin changing out the old signs in the future.

City Attorney Kelly suggested based on the City Engineers letter, that the city could stripe the sides of the road to make it narrower. Councilmember Page noted the right-of-way is thirty foot wide and suggest the city widen the paved area. Mayor Kind said widening the road would increase speed. Page disagreed. He feels the issue is partly due the drivers and the residents along the road. He thinks the city could look into widening the road or adding sidewalks.

Brian Burdick noted the city may not have money in the budget to widen the road, but felt the idea of striping it had merit. Councilmember Fletcher said he wasn't sure if striping would make a difference.

Councilmember Quam congratulated the neighbors on their efforts to slow traffic speeds through the area and said he would support anything to slow people down.

Kevyn Riley said she drove down Ridgewood Road looking for effective signage and noticed the yellow center stripe and wondered if that would help. She believes people would slow down if fifteen mile per hour signs were present.

Kind moved the council approve the replacement of the two existing 20 mph signs at each end of Sleepy Hollow Road with new advisory signs per the city engineer's letter dated 08-25-10 contingent upon the Sleepy Hollow residents submitting a check to the city to cover the cost to purchase and install the signs. Fletcher seconded the motion.

Councilmember Quam said he was not in favor of requiring the neighbors to pay for the signs. Mayor Kind said she was opposed to cluttering the city with signs and was concerned if the city paid for the signs it would set precedence for other neighborhoods who may want signs. She wants to set the standard that the city will place advisory signs if neighbors are willing to pay for them. Quam said if the signage slows down traffic speeds he feels it's the Council's duty to replace signs in other neighborhoods with similar issues. He believes safety is the Council's number one job.

Councilmember Page asked if there was money in the budget to replace the signs. Mayor Kind said the city has a twenty thousand dollar contingency in the budget.

Councilmember Rose said he supports the motion to replace the signs and would like to say the city should pay for it but is concerned about setting precedence.

Councilmember Fletcher is concerned if the speed limit is set too low the signs won't be effective.

Brian Burdick informed the Council that he would be willing to donate the money to pay for the signs.

Councilmember Fletcher suggested a friendly amendment to the motion reflecting that the cost of the signs would be split equally between the neighbors and the city. Mayor Kind accepted the amendment.

*ACTION: Kind stated her amended motion that the council approve the replacement of the two existing 20 mph signs at each end of Sleepy Hollow Road with new advisory signs per the city engineer's letter dated 08-25-10 contingent upon the Sleepy Hollow residents submitting a check to the city to cover 50% of the cost to purchase and install the signs. Each post will have a sign that says "Hidden Entrances Ahead" with a smaller below that says "15 MPH." Motion carried 5-0.*

**G. (moved to after 7A) Consider: Lake Minnetonka Communications Commission (LMCC) Budget**

Sally Koenecke, Executive Director of the LMCC, was in attendance to present the 2011 LMCC budget.

Councilmember Fletcher said he was the one vote against the proposed budget at the board level. He said it was a negative budget which draws down the available reserves. He said his vote was mostly symbolic.

Ms. Koenecke said the budget didn't add many ongoing costs, rather a number of onetime costs including thirty thousand dollars to survey support for the fiber optics network, ten thousand dollars to update the LMCC website and a seven thousand dollar franchise audit.

Councilmember Page asked how things were going at the LMCC. Ms. Koenecke said things were going good, that the LMCC has expanded its programming and have been doing a better job at providing access to government meetings with the new video streaming on their website.

*ACTION: Kind moved to approve the 2011 Lake Minnetonka Communications Commission's budget as presented. Quam seconded the motion. Motion carried 4-1. Councilmember Fletcher voted nay.*

Mayor Kind recessed the meeting at 8:55 p.m. The meeting reconvened at 9:00 p.m.

*ACTION: Fletcher moved to move Item 7C, Possible Vacation of Unpaved Road Right of Way to in front of the consideration of Resolution 17-10. Kind seconded the motion. Motion carried 5-0.*

**D. (moved to before 7B) Discuss: Possible Vacation of Unpaved Road Right of Way Between Stafford and Conrad Properties Along Fairview Street**

Mayor Kind summarized the request to vacate the undeveloped right-of-way between the Stafford property at 21800 Fairview Street and the Conrad property at 21780 Fairview Street. She noted that both Mr. Stafford and the Conrad's were present. She said Frank Brixious, 21720 Fairview Street, was not present but had submitted a letter opposed to the proposed vacation.

Commissioner Quam asked why the vacation is necessary. Mr. Stafford said he had met with staff to discuss the develop options for the property and that the lot, having three front yard setback requirements made it difficult to design a home. He is seeking direction from the Council on how to proceed since the recent Minnesota Supreme Court decision makes

it more difficult to obtain a variance.

Mayor Kind said that she discussed the issue with staff and one of the options available, outside of a variance or vacation, is an amendment to the zoning ordinance. Councilmember Fletcher noted the required setback could be changed for properties abutting an undeveloped right-of-way. Kind discussed the concerns raised by Mr. Brixius which includes access to the south portion of his property. Councilmember Quam said he could understand Mr. Brixius' concern about access.

Sean Conrad, 21780 Fairview Street, said he spoke with Mr. Brixius and he told him his concern was about obtaining access for a future sewer line. Councilmember Quam commented that a reduced setback from the right-of-way would solve the problem.

Councilmember Rose said the Conrads have already been granted a variance and said when you buy a piece of property; you know what you have in terms of requirements. He said these are the rules and you need to live with them, otherwise you could be setting precedence for other properties.

Mr. Stafford said that the Brixius property already has two access points.

The Council discussed ways in which the ordinance could be amended. Zoning Coordinator Karpas said the language could be narrow in including only those lots with three road frontages.

Mayor Kind asked if the process to vacate a street would take longer than applying for a zoning code amendment. City Attorney Kelly said not necessarily and that it is done by resolution. Zoning Administrator Karpas noted that only those properties included in the plat that created the street benefit from a vacation.

Kristi Conrad, 21780 Fairview Street, said she had done some research and found the road was created when their lot was platted and not the Stafford lot. Mr. Stafford said he didn't need additional land, just a lessened setback.

Councilmember Page said he is opposed to vacating right-of-way, he said it's public property. He doesn't believe it's up to the City Council to direct the applicant how to proceed and should not be telegraphing either support for an ordinance amendment or vacation of the right-of-way. He said it is up to the applicant whether he wants to pursue an ordinance amendment; otherwise he has to build within the setbacks.

Mayor Kind and Councilmember Fletcher both said they did not support vacating the right-of-way.

Councilmember Fletcher asked if the Council was supportive of asking the Planning

Commission to look at the ordinance in instances where there are three required front yard setbacks. Mayor Kind supports doing so if there is an application for a zoning amendment.

Mr. Stafford said he will work with staff to look at the available options.

**B. Consider: Resolution 17-10, 2011 Preliminary Tax Levy Amount of \$645,458 (-3.05 reduction from 2010 tax levy)**

Mayor Kind summarized the Resolution, she said if it is passed the tax levy could go down, but not increase.

*ACTION: Page moved to approve Resolution 17-10, 2011 Preliminary Tax Levy in the Amount of \$645,458. Rose seconded the motion.*

Councilmember Fletcher noted there had been further reductions from the document previously in front of the Council.

Councilmember Quam discussed the I/I issue and how it pertains to the budget. He explained the city agreed to address the issue by repairing/replacing the manholes over a five year period. He feels there should be a separate line item in the sewer budget in the future. The Council agreed and the Mayor will work with the Treasurer on that issue.

*ACTION: Mayor Kind called the question. Motion carried 5-0.*

**D. Consider: Three Rivers Park District for Winter Trail Activities**

Mayor Kind explained to the Council that the Three Rivers Park District needs annual Council approval for the proposed winter use of the trail.

*ACTION: Quam moved that the Council direct staff to submit the annual trail application to the Three Rivers Park District. Page seconded the motion. Motion carried 5-0.*

**E. First Reading: Ordinance 186 Enacting a Code of Ordinances for the City of Greenwood**

Mayor Kind summarized the proposal noting that the code book has gotten smaller with a number of obsolete provisions being removed and new formatting. She said there were a couple of additional items she would like to address, the first being clarification on a process if a boat is not in its assigned spot by June 15<sup>th</sup>. She said this would provide guidance to staff on how to proceed if the situation were to occur.

Councilmember Page said he thought this was already addressed in the new code and

asked if he was being asked to reconsider at the first reading. Mayor Kind said issues like this jump out at you once a clean copy of the ordinance is available. Councilmember Quam clarified that the proposed change outlines an appeal process. Kind said it did, but did not allow for a second appeal. Councilmember Page feels if the boat is not in the water by June 15<sup>th</sup>, the space is not being used and you don't need it. He said the city already has a big tolerance since in most cases boats can be in the water the first week of May.

Councilmember Quam said he could envision situations, i.e. health issues, where the deadline could slip. He agrees the city has to be firm, but feels you may want to leave the door open a little. Councilmember Page said there's always going to be a situation.

Councilmember Fletcher can also see situations where a process may be necessary and without such language in the code, the Council can't hear appeals. Councilmember Rose tends to agree with Page that there is more than enough time to get a boat in the water before the June 15<sup>th</sup> deadline.

Mayor Kind said residents can always approach the Council if necessary. Councilmember Fletcher disagreed.

Councilmember Page said an appeal process would extend the time a space sits open, even if the appeal is denied. Councilmember Fletcher asked if time for repairs is a reasonable request. Page doesn't believe so.

Mayor Kind noted she didn't see support for the provision so it will not be added to the ordinance.

Mayor Kind asked the Council if the provisions related to graded related conditional use permits should be repeated in the Conditional Use Permit procedures for all conditional use permits. Councilmember Fletcher said it shouldn't since it only applies to grading. The Council agreed. The provision will not be repeated.

The final item Mayor Kind discussed was the definition of Tobacco or Tobacco Products. She said this definition has been recommended by the League of Minnesota Cities. The City Council supported adding the definition to the new ordinance.

Mayor Kind asked if there were any other suggested changes. Councilmember Fletcher said he had some minor changes. The Council agreed to look at Mr. Fletcher's changes at the second reading.

*ACTION: Page moved that the Council adopt the first reading of Ordinance 186 Enacting a Code of Ordinances for the City of Greenwood. Rose seconded the motion. Motion carried 5-0.*

**F. Discuss: Minnesota Supreme Court Decision Regarding Variances and Non-Conforming Structures**

*ACTION: Page moved that the discussion on the recent Minnesota Supreme Court decision regarding variances be continued to the October City Council meeting. Quam seconded the motion. Motion carried 5-0.*

**8. OTHER BUSINESS**

**A. Discuss August Payables**

Councilmember Fletcher questioned the coding on the first page of the payables, asking if it was to apply to general engineering or part of the road project.

The Council discussed what appeared to be an error in the coding and agreed that the Mayor would work with the Treasurer to clarify the line items.

*ACTION: Fletcher moved that the Council approve the August Payables. Page seconded the motion. Motion carried 5-0.*

**9. COUNCIL REPORTS**

**A. Fletcher: Planning Commission, Lake Minnetonka Communications Commission, Milfoil**

Councilmember Fletcher said he attended a meeting of Bay Captains to discuss the effectiveness of the past year's milfoil treatment. There was agreement that it has not been as effective in past years. There is some concern that the DNR has adjusted the treatment levels below what is necessary for effective treatment.

Mayor Kind discuss a proposed LMCC survey the city could send out in the September newsletter gauge support for the fiber optics network. Fletcher said he would like to get Greenwood feedback, but that the LMCC already plans a bigger survey and wouldn't want to rush anything out on a city level if the council was not comfortable with it.

Councilmember Page supports the portions of the survey pertaining to the LMCC, but not the other questions. Kind agreed stating she really wanted the resident's input on the fiber optics. The Council agreed and also agreed to include a postage paid envelope in order to get a better response.

**B. Kind: Police, Administration**

Mayor Kind said the 2011 South Lake Police budget was approved by all four cities. She

noted the Cities of Greenwood and Shorewood voted 3-2 in favor of the budget, while the others were unanimous. She said the next Coordinating Meeting will be held on October 19<sup>th</sup>. Kind said she has met with the Treasurer to expand the number of line items in the budget for clarification on some items and consolidated others. She is now reviewing all coding in the payables.

**C. Page: Lake Minnetonka Conservation District**

Councilmember Page had no report.

**D. Quam: Roads & Sewer, St. Alban's Bay Bridge, Minnetonka Community Education**

Councilmember Quam said the city received two quotes to remove the beaver dam along Minnetonka Boulevard, both under the five thousand dollars approved by the Council. The bid was awarded to Widmer Construction who submitted a bid of \$3,981. He said he spoke with Kristi Luger of the City of Excelsior regarding future repairs on the bridge and there are no immediate plans for future repair.

**E. Rose : Excelsior Fire District**

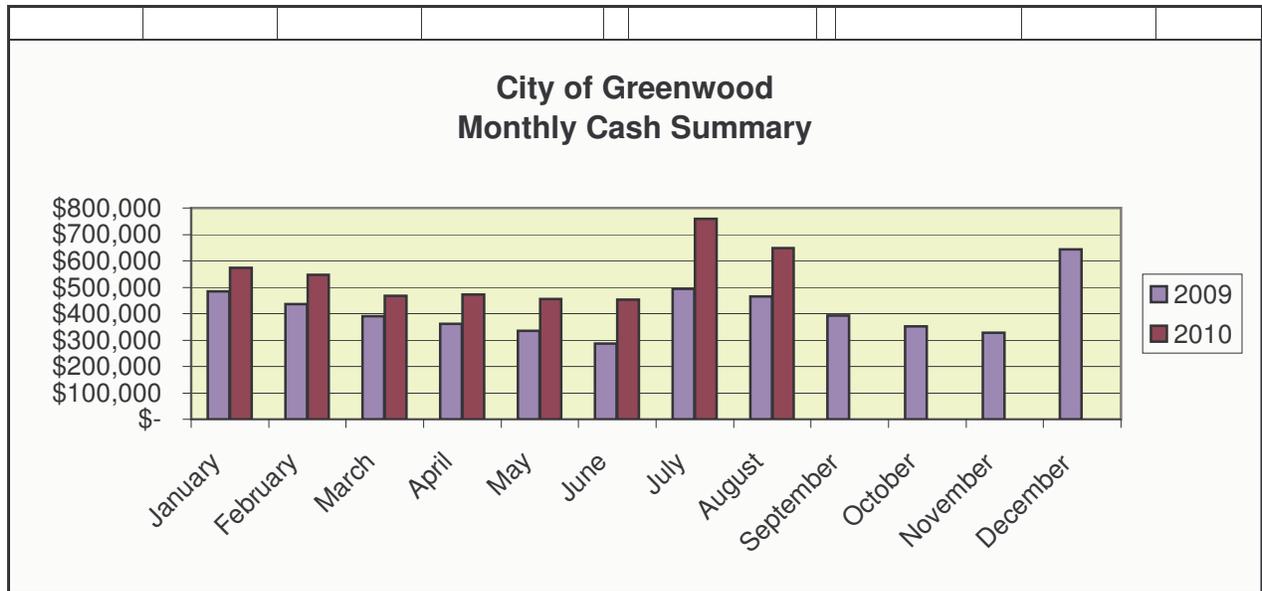
Councilmember Rose had no report.

**10. ADJOURNMENT**

*ACTION: There being no further business, it was moved by Page to adjourn the meeting at 10:00 p.m. Quam seconded the motion. Motion carried 5-0.*

Respectfully submitted,

Gus E. Karpas  
City Zoning Administrator / City Clerk



Month	2009	2010	Variance with	Variance with
			Prior Month	Prior Year
January	\$ 484,702	\$ 573,056	\$ (69,158)	\$ 88,354
February	\$ 437,334	\$ 545,897	\$ (27,159)	\$ 108,563
March	\$ 391,150	\$ 466,631	\$ (79,266)	\$ 75,481
April	\$ 360,843	\$ 472,069	\$ 5,438	\$ 111,226
May	\$ 334,929	\$ 454,955	\$ (17,114)	\$ 120,026
June	\$ 286,999	\$ 453,487	\$ (1,468)	\$ 166,488
July	\$ 495,051	\$ 759,701	\$ 306,214	\$ 264,650
August	\$ 465,300	\$ 648,560	\$ (111,141)	\$ 183,260
September	\$ 393,080	\$ -	\$ (648,560)	\$ (393,080)
October	\$ 351,022	\$ -	\$ -	\$ (351,022)
November	\$ 327,615	\$ -	\$ -	\$ (327,615)
December	\$ 642,214	\$ -	\$ -	\$ (642,214)
Bridgewater Bank Money Market: \$ 441,035				
Bridgewater Bank Checking: \$ 7,020				
Beacon Bank Money Market \$ 200,505				
\$ 648,560				



Report Criteria:

Invoice.Input Date = 09/08/10-09/27/10

Vendor Name	Vendor No	Invoice No	Seq	Type	Description	Inv Date	Due Date	Total Cost	9	Per	GL Acct
<b>9/27/2010</b>											
<b>AMERICAN SOLUTIONS / BUSINESS</b>											
AMERICAN SOLUTIONS / BUSINESS 10											
		INV00641305	1	Inv	WINDOW ENVELOPES	09/17/2010	10/04/2010	107.12	No	10/10	101-41400-201
		INV00642309	1	Inv	RECEIPT BOOKS	09/20/2010	10/04/2010	146.47	No	10/10	101-41400-201
Total AMERICAN SOLUTIONS / BUSINESS								253.59			
<b>BOLTON &amp; MENK, INC.</b>											
BOLTON & MENK, INC. 51											
		134741	1	Inv	2010 MISC ENGINEERING FEES	08/31/2010	10/04/2010	1,164.50	No	10/10	101-42600-303
		134742	1	Inv	2010 STREET IMPROVEMENT	08/31/2010	10/04/2010	9,366.50	No	10/10	101-43200-303
Total BOLTON & MENK, INC.								10,531.00			
<b>CITY OF DEEPAHVEN</b>											
CITY OF DEEPAHVEN 9											
		093010	1	Inv	RENT & EQUIPMENT	09/30/2010	10/04/2010	855.36	No	10/10	101-41400-311
		093010	2	Inv	Postage	09/30/2010	10/04/2010	44.23	No	10/10	101-41400-322
		093010	3	Inv	COPIES	09/30/2010	10/04/2010	18.60	No	10/10	101-41400-202
		093010	4	Inv	SEWER	09/30/2010	10/04/2010	2,229.82	No	10/10	602-43200-310
		093010	5	Inv	STREETS	09/30/2010	10/04/2010	1,023.93	No	10/10	101-43100-409
		093010	6	Inv	TREES & MOWING	09/30/2010	10/04/2010	630.11	No	10/10	101-43900-313
		093010	7	Inv	LIFT STATION #3	09/30/2010	10/04/2010	356.14	No	10/10	602-43200-310
		093010	8	Inv	LIFT STATION #4	09/30/2010	10/04/2010	253.17	No	10/10	602-43200-310
		093010	9	Inv	5 TONS TAR @ \$53.59/TON	09/30/2010	10/04/2010	267.95	No	10/10	101-43100-409
		093010	10	Inv	23 GAL TAC OIL @\$3.48/GAL	09/30/2010	10/04/2010	80.04	No	10/10	101-43100-409
Total 093010								5,759.35			
		100110	1	Inv	Clerk Services	10/01/2010	10/04/2010	2,370.40	No	10/10	101-41400-310
		100110	2	Inv	SLEEVE IMPELLERS	10/01/2010	10/04/2010	299.25	No	10/10	602-43200-319
		100110	3	Inv	SCHOOL DISTRICT LUNCH	10/01/2010	10/04/2010	53.00	No	10/10	101-41400-439
		100110	4	Inv	SOIL ANALYSIS	10/01/2010	10/04/2010	88.66	No	10/10	502-43200-319
Total 100110								2,811.31			
Total CITY OF DEEPAHVEN								8,570.66			
<b>DEBRA KIND</b>											
DEBRA KIND 761											
		092710	1	Inv	CODE BOOK PROJECT PRINTING	09/27/2010	10/04/2010	414.66	No	10/10	101-49000-439
		092710	2	Inv	BUSINESS CARDS	09/27/2010	10/04/2010	12.48	No	10/10	101-41400-204
Total 092710								427.14			
Total DEBRA KIND								427.14			
<b>EXCELSIOR FIRE DISTRICT</b>											
EXCELSIOR FIRE DISTRICT 52											
		OCT 15 2010	1	Inv	4th Qtr. Facilities	10/01/2010	10/04/2010	14,629.98	No	10/10	101-42200-311
		OCT 15 2010	2	Inv	4th Qtr. Operations	10/01/2010	10/04/2010	15,997.54	No	10/10	101-42200-309

Vendor Name	Vendor No	Seq	Type	Description	Inv Date	Due Date	Total Cost	9	Per	GL Acct
Total OCT 15 2010							30,627.52			
Total EXCELSIOR FIRE DISTRICT							30,627.52			
<b>HENNEPIN COUNTY ELECTIONS</b>										
HENNEPIN COUNTY ELECTIONS 766										
91010	1	Inv	ELECTION SUPPLIES	09/21/2010	10/04/2010	71.92	No	10/10	101-41200-439	
Total HENNEPIN COUNTY ELECTIONS							71.92			
<b>LEAGUE OF MN CITIES</b>										
LEAGUE OF MN CITIES 26										
090110	1	Inv	MMA MEMBERSHIP DUES	09/01/2010	10/04/2010	20.00	No	10/10	101-41100-433	
144351	1	Inv	Membership Dues 2010-2011	09/01/2010	10/04/2010	826.00	No	10/10	101-49000-435	
Total LEAGUE OF MN CITIES							846.00			
<b>Marco, Inc.</b>										
Marco, Inc. 742										
159989821	1	Inv	Copier lease	09/10/2010	10/04/2010	14.21	No	10/10	101-41400-411	
Total Marco, Inc.							14.21			
<b>METROPOLITAN COUNCIL ENV SERV</b>										
METROPOLITAN COUNCIL ENV SERV 105										
0000940237	1	Inv	Monthly wastewater Charge	09/02/2010	10/04/2010	3,007.42	No	10/10	602-43200-309	
Total METROPOLITAN COUNCIL ENV SERV							3,007.42			
<b>OMANN BROTHERS PAVING</b>										
OMANN BROTHERS PAVING 764										
092410	1	Inv	ROAD PAVING	09/24/2010	10/04/2010	9,772.65	No	10/10	101-43200-229	
Total OMANN BROTHERS PAVING							9,772.65			
<b>Popp Telecom</b>										
Popp Telecom 701										
1896897	1	Inv	Local, Long dist. & DSL	08/31/2010	10/04/2010	29.16	No	10/10	101-41400-321	
Total Popp Telecom							29.16			
<b>SOUTH LAKE MINNETONKA POLICE</b>										
SOUTH LAKE MINNETONKA POLICE 38										
4TH QTR 2010	1	Inv	4th Quarter Lease	10/01/2010	10/04/2010	11,975.00	No	10/10	101-42100-311	
AUGUST 2010	1	Inv	Hennepin Co. Processing Fees	09/01/2010	10/04/2010	79.87	No	10/10	101-42100-439	
OCT 2010	1	Inv	August Operating Expenses	10/01/2010	10/04/2010	12,613.00	No	10/10	101-42100-310	
Total SOUTH LAKE MINNETONKA POLICE							24,667.87			
<b>Sun Newspapers</b>										
Sun Newspapers 136										
1009627	1	Inv	A1 SONUS CUP (9/2/10)	09/02/2010	10/04/2010	50.05	No	10/10	101-42400-309	
1011357	1	Inv	A1 DELINQ SS & R CHARGES	09/23/2010	10/04/2010	75.08	No	10/10	101-41400-351	

Vendor Name	Vendor No	Seq	Type	Description	Inv Date	Due Date	Total Cost	9	Per	GL Acct
Total Sun Newspapers							125.13			
<b>Widmer Construction</b>										
Widmer Construction	731									
2840	1	Inv		REMOVE BEAVER LODGE-MTKA B	09/10/2010	10/04/2010	3,481.00	No	10/10	101-43900-439
Total Widmer Construction							3,481.00			
<b>XCEL</b>										
XCEL	145									
083010	1	Inv		Sleepy Hollow Road	08/30/2010	10/04/2010	8.57	No	10/10	101-43100-381
090310	1	Inv		Street Lights	09/03/2010	10/04/2010	362.96	No	10/10	101-43100-381
Total XCEL							371.53			
Total 9/27/2010							92,796.80			

09/27/2010 GL Period Summary

GL Period	Amount
10/10	92,796.80
	<u>92,796.80</u>
Grand Total:	<u>92,796.80</u>

Report GL Period Summary

GL Period	Amount
10/10	92,796.80
	<u>92,796.80</u>

Vendor Number Hash: 5490  
 Vendor Number Hash - Split: 6411  
 Total Number of Invoices: 23  
 Total Number of Transactions: 37

Terms Description	Invoice Amt	Net Inv Amt
Open Terms	92,796.80	92,796.80
	<u>92,796.80</u>	<u>92,796.80</u>

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Vendor Name		Vendor No		Description	Inv Date	Due Date	Total Cost	9	Per	GL Acct
Invoice No	Seq	Type								

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Report Criteria:

Invoice.Input Date = 09/08/10-09/27/10

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Check Issue Date(s): 10/04/2010 - 10/04/2010

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
10/10	10/04/2010	10074	10	AMERICAN SOLUTIONS / BUSINESS	101-20100	253.59
10/10	10/04/2010	10075	51	BOLTON & MENK, INC.	101-20100	10,531.00
10/10	10/04/2010	10076		Information Only Check	101-20100	.00 V
10/10	10/04/2010	10077	9	CITY OF DEEPHAVEN	101-20100	8,570.66
10/10	10/04/2010	10078	761	DEBRA KIND	101-20100	427.14
10/10	10/04/2010	10079	52	EXCELSIOR FIRE DISTRICT	101-20100	30,627.52
10/10	10/04/2010	10080	766	HENNEPIN COUNTY ELECTIONS	101-20100	71.92
10/10	10/04/2010	10081	26	LEAGUE OF MN CITIES	101-20100	846.00
10/10	10/04/2010	10082	742	Marco, Inc.	101-20100	14.21
10/10	10/04/2010	10083	105	METROPOLITAN COUNCIL ENV SERV	602-20100	3,007.42
10/10	10/04/2010	10084	764	OMANN BROTHERS PAVING	101-20100	9,772.65
10/10	10/04/2010	10085	701	Popp Telecom	101-20100	29.16
10/10	10/04/2010	10086	38	SOUTH LAKE MINNETONKA POLICE	101-20100	24,667.87
10/10	10/04/2010	10087	136	Sun Newspapers	101-20100	125.13
10/10	10/04/2010	10088	731	Widmer Construction	101-20100	3,481.00
10/10	10/04/2010	10089	145	XCEL	101-20100	371.53
Totals:						<u>92,796.80</u>

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

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

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

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

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Amount
10/01/10	PC	10/01/10	10090	Debra J. Kind	34	277.05
10/01/10	PC	10/01/10	10091	Fletcher, Thomas M	33	84.70
10/01/10	PC	10/01/10	10092	H. Kelsey Page	35	184.70
10/01/10	PC	10/01/10	10093	Quam, Robert	32	184.70
10/01/10	PC	10/01/10	10094	William Rose	36	184.70
Grand Totals:						<u>915.85</u>

# Buckthorn Task Force Report

Prepared for the 10-05-10 Greenwood City Council Meeting

TASK FORCE MEMBERS: Councilman Bob Quam and Planning Commissioner John Beal

GOAL: To determine whether or not to include buckthorn on the list of "prohibited" noxious weeds in the city.

BACKGROUND: The state designates buckthorn as a "restricted" noxious weed -- which means it cannot be sold or transported in the state. The state designates thistle, poison ivy, etc. as "prohibited" noxious weeds that must be controlled or eradicated.

## JOHN BEAL'S RESEARCH:

- **Orono** I spoke with ... the public works guy in Orono. He was familiar with the Restricted/Prohibited issue. Orono follows state guidelines and considers buckthorn a restricted weed. Orono has several weed wrenches, which they loan out to citizens that use them to remove buckthorn on their property.
- **Tonka Bay** I spoke with ... [the forestry guy in Tonka Bay]. He says that Tonka Bay has a pretty robust forestry program, not as good as Minnetonka but nevertheless pretty good. Tonka Bay also follows state guidelines. They do not have an ordinance that requires removal of buckthorn. Tonka Bay public works does remove buckthorn to the property line as their workload allows. They encourage people to remove buckthorn but they are careful to keep them off public property because of liability issues and because they may not do it right.
- **Eden Prairie** I spoke with ... [the Eden Prairie forestry guy]. I am pretty sure that this is one of the best forestry departments in the metro area. They are the people that put on the Buckthorn 101 class that Bob Newman and I attended. [The EP forester] was one of the instructors. The other instructor later took a job in the Minnetonka Forestry Department. Eden Prairie follows state guidelines and considers buckthorn a restricted weed. Eden Prairie does buckthorn control in the winter in selected locations in parks and other popular places. He says there is simply too much buckthorn in Eden Prairie to hope to go after all of it.

## BOB QUAM'S RESEARCH:

- **Excelsior, Minnetonka, Minnetrista, and Wayzata** generally categorize Buckthorn as a "restricted" noxious weed as defined in the State of Minnesota statutes.  
All of these cities advise property owners on how to control Buckthorn and prohibit the planting of it.  
None of them require property owners to eradicate existing Buckthorn from their property, with the exception of Minnetrista, which requires any new multi home developer to remove all Buckthorn from the property.

TASK FORCE RECOMMENDATION: Follow the state guidelines and consider buckthorn a restricted noxious weed. Keep up education efforts in the Greenwood newsletter. Keep loaning out our weed wrench and buy another one if the line gets very long.

## 2010 CODE BOOK REPORT

Prepared for the 10-05-10 council meeting by Deb Kind

The code book chapters provided in the council packet are clean copies of the chapters that have had changes since the 1st reading at the 09-07-10 council meeting. Please put these new chapters in place of the ones in the code book that you received in September. These new chapters include all of Councilman Tom Fletcher's revisions regarding typos, section references, etc. Three of Fletcher's revisions were more substantive. Below are questions posed to the city attorney regarding the substantive revisions. His answers are in italics. Based on the city attorney's responses, changes have been made to the clean copy, but it is appropriate to highlight these items for possible council discussion. Note: The code book is on the 10-05-10 agenda for the 2nd reading. The council CAN make revisions at the 2nd reading.

1. Chapter 9, page 8, section 910.60, subd. 1(E) -- Can we flesh out paragraph (E) to read "Accumulation of manure, refuse, abandoned, discarded or unused objects or equipment such as non-operating vehicles of all kinds, furniture, stoves, refrigerators, freezers, lumber, trash, debris, junk, containers, machinery, implements, equipment which is no longer safely useable for the purpose for which they were manufactured, garbage (except in authorized container), ashes, or any other foul or unhealthy material."

*Suggested text is OK and because it is more specific, it is more useful and better.*

2. Chapter 11, page 61, section 1155.00, subd. 2(4) -- Can we delete the first sentence of the 4th paragraph? We can see where there might be a situation where we need to hold a special meeting to hear a variance case in order to meet the 60-day rule.

*1155:00, Subd. 2 (4) can be read to require no action be taken on conditional use permits except at the "regular meetings" of the council and not at "special meetings." Because of the 60-day processing rule this can be problematic. If properly noticed, action at a "special meeting" is valid. For that reason I recommend that the two sentences of 1155:00, Subd. 2 (4) be condensed to read: Meetings and proceedings of the board of appeals and adjustments and shall be held as agenda items of the city council and upon such notice to the public and interested parties as the law requires and otherwise in conformance with Minnesota statute section 15.99, as amended.*

3. Chapter 11, page 63, section 1155.10, subd. 2 -- In light of the recent supreme court decision, should we delete the last sentence that reads "However, practical difficulties, and functional and aesthetic considerations may be taken into account" -- or at least delete the word "aesthetic" from this sentence?

*The statement is comment and not controlling. It can be deleted at the discretion of the council.*

## REFERENCES FOR COUNCIL DISCUSSION REGARDING DEAD TREES AND BRUSH PILES

### Current code book language:

Section 920:54. Junk and Debris. Restrictions on the keeping, or depositing on private property of unsafe, unusable, inoperable equipment, junk and debris. Subd. 1. No owner, agent or occupant of any privately owned lands or premises shall place upon or permit upon his premises any abandoned, discarded or unused objects or equipment such as non-operating vehicles of all kinds, furniture, stoves, refrigerators, freezers, lumber, trash, debris, junk, containers, machinery, implements, equipment which is no longer safely useable for the purpose for which they were manufactured, noxious weeds as defined in Minnesota Statutes 18.171, **fallen trees, fallen tree limbs, dead trees, dead tree limbs**, garbage (except in authorized container), ashes, yard cleanings or any other foul or unhealthy material.

Section 1020 - Junk Vehicles, Discarded Objects, and Debris. Section 1020:20. Prohibition. No owner, agent or occupant of any privately owned lands or premises shall place upon or permit upon his premises any abandoned, discarded or unused objects or equipment such as non-operating vehicles of all kinds, furniture, stoves, refrigerators, freezers, lumber, trash, debris, junk, containers, machinery, implements, equipment which is no longer safely usable for the purpose for which they were manufactured, noxious weeds as defined in Minnesota Statutes 18.171, **fallen trees, fallen tree limbs, dead trees, dead tree limbs**, garbage (except in authorized containers), ashes, yard cleanings or any other foul or unhealthy material.

*Note: MN statute 18.171 has been repealed.*

## **Research on dead trees and brush piles:**

Deephaven - Has no prohibition against dead trees. Brush piles are prohibited in section 535.04 (m): Accumulations of discarded or disused machinery, household appliances, automobile bodies, furniture, toys, plastic bags, cardboard boxes, wood piles, **brush piles**, branches or other material or debris, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or other rank growth of vegetation among the items accumulated, or in a manner creating fire, health or safety hazards from such accumulation, or in a manner adversely affecting the peaceful enjoyment of neighboring properties.

Excelsior - No prohibition against brush piles. Dead trees or dead limbs are prohibited if they constitute a health, safety, or fire hazard. Section 8-133: Weeds; other vegetation. No owner, operator, or occupant shall allow to remain on any portion of the premises owned, operated, occupied, or controlled by such person any accumulation of hay, grass, straw, weeds, vines, bushes, other plant growth, or **dead trees, or dead tree limbs** that, in the opinion of the city's building official, fire marshal, weed inspector, or public works official, constitute a health, safety, or fire hazard. Further, no person shall allow any bushes, trees, or other vegetation to remain on any portion of private property which that person controls when such vegetation is overhanging public premises, unless such vegetation is cut back so as to maintain the following clearances: A clearance of seven feet shall be maintained over pedestrian walkways and a clearance of 14 feet shall be maintained over vehicular passageways. The term "public premises," for the purpose of this section, shall mean those areas where the city has exercised its easement rights to provide either pedestrian walkways or vehicular passageways.

Minnetonka - Prohibits dead elm and oak trees. Otherwise no prohibition against other dead trees or brush piles.

Shorewood - No prohibition against brush piles. Prohibits dead elm and oak trees. Dead trees and limbs are prohibited if they affect public sidewalks or streets. Section 501.05: Subd. 1. **Fallen trees, fallen tree limbs, dead trees, dead tree limbs**, and all limbs of trees which are less than eight feet above the surface of any public sidewalk, or nine feet above the surface of any street.

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Prepared for the 10-05-10 council meeting by Deb Kind

The code book chapters provided in the council packet are clean copies of the chapters that have had changes since the 1st reading at the 09-07-10 council meeting. Please put these new chapters in place of the ones in the code book that you received in September. These new chapters include all of Councilman Tom Fletcher's revisions regarding typos, section references, etc. Three of Fletcher's revisions were more substantive. Below are questions posed to the city attorney regarding the substantive revisions. His answers are in italics. Based on the city attorney's responses, changes have been made to the clean copy, but it is appropriate to highlight these items for possible council discussion. Note: The code book is on the 10-05-10 agenda for the 2nd reading. The council CAN make revisions at the 2nd reading.

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Section 1020 - Junk Vehicles, Discarded Objects, and Debris. Section 1020:20. Prohibition. No owner, agent or occupant of any privately owned lands or premises shall place upon or permit upon his premises any abandoned, discarded or unused objects or equipment such as non-operating vehicles of all kinds, furniture, stoves, refrigerators, freezers, lumber, trash, debris, junk, containers, machinery, implements, equipment which is no longer safely usable for the purpose for which they were manufactured, noxious weeds as defined in Minnesota Statutes 18.171, **fallen trees, fallen tree limbs, dead trees, dead tree limbs**, garbage (except in authorized containers), ashes, yard cleanings or any other foul or unhealthy material.

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## **Research on dead trees and brush piles:**

Deephaven - Has no prohibition against dead trees. Brush piles are prohibited in section 535.04 (m): Accumulations of discarded or disused machinery, household appliances, automobile bodies, furniture, toys, plastic bags, cardboard boxes, wood piles, **brush piles**, branches or other material or debris, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or other rank growth of vegetation among the items accumulated, or in a manner creating fire, health or safety hazards from such accumulation, or in a manner adversely affecting the peaceful enjoyment of neighboring properties.

Excelsior - No prohibition against brush piles. Dead trees or dead limbs are prohibited if they constitute a health, safety, or fire hazard. Section 8-133: Weeds; other vegetation. No owner, operator, or occupant shall allow to remain on any portion of the premises owned, operated, occupied, or controlled by such person any accumulation of hay, grass, straw, weeds, vines, bushes, other plant growth, or **dead trees, or dead tree limbs** that, in the opinion of the city's building official, fire marshal, weed inspector, or public works official, constitute a health, safety, or fire hazard. Further, no person shall allow any bushes, trees, or other vegetation to remain on any portion of private property which that person controls when such vegetation is overhanging public premises, unless such vegetation is cut back so as to maintain the following clearances: A clearance of seven feet shall be maintained over pedestrian walkways and a clearance of 14 feet shall be maintained over vehicular passageways. The term "public premises," for the purpose of this section, shall mean those areas where the city has exercised its easement rights to provide either pedestrian walkways or vehicular passageways.

Minnetonka - Prohibits dead elm and oak trees. Otherwise no prohibition against other dead trees or brush piles.

Shorewood - No prohibition against brush piles. Prohibits dead elm and oak trees. Dead trees and limbs are prohibited if they affect public sidewalks or streets. Section 501.05: Subd. 1. **Fallen trees, fallen tree limbs, dead trees, dead tree limbs**, and all limbs of trees which are less than eight feet above the surface of any public sidewalk, or nine feet above the surface of any street.

**KELLY LAW OFFICES***Established 1948*351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)(952) 474-5977  
FAX 474-9575**M E M O R A N D U M**

**TO: Greenwood Planning Commission Members**

**FROM: Mark W. Kelly, Greenwood City Attorney**

**DATE: September 13, 2010**

**RE: Sonus Hearing Care Professionals - Conditional Use Permit**

---

**FACTS:**

Sonus Hearing Care Professionals have made application of a Conditional Use Permit to allow placement of two 2.66" x 13.5" signs. Combined the total square footage of the proposed signs is code compliant. The proposed physical character and placement of the signs is code compliant.

**DISCUSSION:**

Although the application is code compliant, a Conditional Use permit is still required. (Gr Code 1140:40:04, Subd. 2) The Planning Commission should consider and discuss the application in light of the standard of review. Under the code, the Planning Commission shall recommend a Conditional Use Permit only if it finds that such use at the proposed location:

1. Will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the City.
2. Will be consistent with the objectives of City's Comprehensive Plan, Zoning Code and the Shoreline District Management Plan.
3. Will be designed, constructed, operated and maintained so to be compatible in appearance with the existing or intended character of a general vicinity and will not change the essential character of that area.
4. Will not be hazardous or disturbing to existing or planned neighboring uses.

5. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, storm water runoff plans approved by City Engineer which will prevent storm water from directly entering public waters or being accelerated and/or concentrated on to neighboring properties or public streets.
6. Will be served adequately by essential refuse disposal, water and sewer systems and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
7. Will not create excessive requirements for public facilities and services and will not be detrimental to economic welfare of the community.
8. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare due to excessive production of traffic, noise, smoke, fumes, glare, odors or trash.
9. Will have vehicular approaches to the property which do not create traffic congestion or interfere with traffic or surrounding public thoroughfares .
10. Will not result in the destruction, loss or damage of solar access, natural scenic or historic features of major significance, including the loss of significant trees.
11. Will be esthetically compatible with the area.
12. Will not depreciate surrounding property values.
13. Will meet standards prescribed for certain uses as provided in this ordinance.

If upon review, the Sonus proposal does not appear to create issues relative to these review points, then it is appropriate that the Planning Commission recommend to the City Council approval of the application.

If issues are identified, the Planning Commission should inquire of the applicant what accommodations they may be willing to make. The PC minutes should reflect these discussions. The City has legal authority to impose reasonable conditions on Conditional Use permits. These include:

1. Controlling the number area, bulk, height, and location of such uses.
2. Regulating ingress and egress to the property and the proposed structures thereon; with particular reference to vehicles and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe.

3. Regulating off street parking and loading areas where required.
4. Utilities with reference to location, availability and compatibility.
5. Berm, fencing, screening, landscaping, drainage plans and tree preservation or other facilities to protect nearby property.
6. Compatibility apparent with neighboring structures and the neighborhood in general.
7. Limiting maximum permitted hard cover.

In determining conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic, accelerated or concentration of storm water run off, and other negative characteristics associated with such uses.

**RESOLUTION NO. 20-10**

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

**IN RE:**           **The application of Sonus Hearing Care Professionals, for a Conditional Use Permit for Exterior Signage for real property located at 21350 State Highway 7, Greenwood, Minnesota (PID No. 35-117-23 12 0016)**

**WHEREAS,** the applicant has made application for a Conditional Use Permit to construct a two 2'8" x 13'6" internally illuminated signs on both the west and south facades of the building; and

**WHEREAS,** the subject property presently hosts no illuminated signage. The applicant proposes to remove signage along the west facade; and

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

**WHEREAS,** public comment was taken at the public hearing before the Planning Commission on September 15, 2010; and

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

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

**FINDINGS OF FACT**

1. That the real property located at 21350 State Highway 7, Greenwood, Minnesota (PID No. 35-117-23 12 0016) is a single lot of record located within the C-1 Commercial District. This property is host to an office building which houses a two leasable units.
2. Section 1140:40 regulates signs within the city.
3. Section 1140.40(4)(2) states that no sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a Conditional Use Permit. It further states the content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

Since the applicant is replacing signage on the property, they must obtain a Conditional Use Permit.

4. Section 1140.40(9)(a) states that the size of a sign may not exceed fifteen percent of the wall area of the front façade of the structure in which it is located and in no case exceed seventy-five square feet for all types of signs.

The subject building has nine hundred and ninety-four square feet of front façade, fifteen percent of which would be one hundred and forty-nine square feet of allowable sign area if not for the seventy-five square foot limitation.

5. The applicant is proposing to place 2'8" x 13'6" sign on both the west and south facades of the building with a total of seventy-two square feet of signage.
6. The proposed signs would be internally lit cabinet signs. Section 1140:40(9)(f) states that the installation of electrical signs shall be subject to the State's electrical code.
7. The Planning Commission voted 5-0 to recommend the City Council approve the Conditional Use Permit request for the placement of two internally illuminated cabinet signs, not to exceed seventy-five square feet and to be placed on the south and west elevations of the building, as presented at 21000 State Highway 7, Greenwood, MN 55331. The motion was approved on the following conditions: (1) that the building owner join in the CUP application by signing the Conditional Use Permit application, (2) that the sign to be located on the west façade of the building not be illuminated later than 10 p.m. daily and (3) that all future issues relating to apportionment of exterior building sign rights amongst building tenants are the exclusive responsibility of the building owner. Subject to CUP amendment review and City Council approval, this CUP does not prohibit the building owner from later reapportioning available exterior sign space under city code amongst the building's tenants.

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

1. That a Conditional Use Permit for the placement of two internally illuminated cabinet signs, (2'8" x 13'6", each) not to exceed seventy-five square feet and to be placed on the south and west elevations of the building, as proposed in the application for the real property at 21000 State Highway 7, Greenwood, MN 55331, is approved on the following conditions:
  - A. That the building owner of 21000 Highway 7, Greenwood, MN 55331 owner join in the CUP application by signing the Conditional Use Permit application,
  - B. That the sign to be located on the west façade of the building not be illuminated later than 10 p.m. daily and
  - C. That all future issues relating to apportionment of exterior building sign rights amongst building tenants are the exclusive responsibility of the building owner. Subject to CUP amendment review and City Council approval, this CUP does not prohibit the building owner from later reapportioning available exterior sign space under city code amongst the building's tenants.

**Ayes:** \_\_\_\_\_ **Nays:** \_\_\_\_\_

PASSED THIS 5th DAY OF OCTOBER 2010 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

**CITY OF GREENWOOD**

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

**ATTEST:**

\_\_\_\_\_  
Gus E. Karpas, Zoning Administrator

**Greenwood City Council Agenda Item  
October 5, 2010**

**Agenda Item: Conditional Use Request for Signage at 21000 State Highway 7.**

**Summary:**

Sonus Hearing Care Professionals are requesting a Conditional Use Permit to remove the existing signage along the west façade of their building and replace it with new internally illuminated cabinet signs along the west and south facades of the building.

Section 1140:40 regulates signs within the city.

Section 1140:40(4)(2) states that no sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a Conditional Use Permit. It further states the content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

Since the applicant is replacing/enlarging the signage on the property, they must obtain a Conditional Use Permit.

Section 1140:40(9)(a) states that the size of a sign may not exceed fifteen percent of the wall area of the front façade of the structure in which it is located and in no case exceed seventy-five square feet for all types of signs.

The subject building has nine hundred and ninety-four square feet of front façade. Fifteen percent of which would be one hundred and forty-nine square feet of allowable sign area, if not for the seventy-five square foot limitation.

The applicant is proposing to place a two foot, eight inch by thirteen foot, six inch sign on both the west and south facades of the building. The total sign square footage would be seventy-two square feet.

The proposed signs would be internally lit cabinet signs. Section 1140:40(9)(f) states that the installation of electrical signs shall be subject to the State's electrical code.

(Planning Commission Chairman Pat Lucking contacted me after the meeting to ask that he Council consider a restriction on hours of illumination for any future signage on the east side of the structure.)

**Planning Commission Action:**

Motion by Commissioner Beal to recommend the City Council approve the Conditional Use Permit for the placement of two internally illuminated cabinet signs, not to exceed seventy-five square feet and to be placed on the south and west elevations of the buildings, as presented for 21000 State Highway Seven. The motion was conditioned that the building owner sign the Conditional Use Permit application, that the sign located on the west façade must not be illuminated later than 10 p.m. and that the issues of the applicant's permitted sign area be negotiated between the applicant and building owner. Commissioner Paeper seconded the motion. Motion carried 5-0.

~~651-688-0503~~  
2081

~~J. D. K. A. C. E.~~

GREENWOOD  
CONDITIONAL USE PERMIT

PROPERTY ADDRESS 21350 Hwy 7

OWNER Marshall Rosner PHONE: 612-850-4132  
ADDRESS 4613 Cascade Ln Edina, MN ZIP 55436

CONTRACTOR/APPLICANT Sign Art Co. Inc. PHONE: 651-688-0503  
ADDRESS 1270 Dodd Rd Mendota Heights, MN ZIP 55120

PRESENT USE Commercial VACANT LAND  VACANT BUILDING

ZONING CLASSIFICATION \_\_\_\_\_

DESCRIPTION OF REQUEST Install signage - see  
attachments

REASON FOR REQUEST Install signage

PLEASE PROVIDE A SKETCH/SURVEY, WHICHEVER IS APPLICABLE OF THE PROPOSED REQUEST. SHOW ALL DIMENSIONS, PROPOSED & EXISTING STRUCTURES, AND SETBACKS.

The undersigned acknowledges that she/he understands that before this request can be considered and/or approved, all required information and fees, including any deposits, must be paid to the City, and if additional fees are required to cover costs incurred by the City, the City has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees.  
An incomplete application will delay the processing and may necessitate a re-scheduling of the review time frame. The application approval time line commences and an application is considered complete when all required information and fees are submitted to the City.

"Notice is hereby given by the City of Greenwood to the above named applicant, that because of the frequency of Planning Commission, Board of Adjustment and City Council meetings, the need for public input, design and environmental review, the time necessary to process response to your application is anticipated to take between 75 and 120 days. The City of Greenwood, pursuant to Minnesota Statute 15.99, Subd. 3(P), therefore, hereby extends the time limit under Minnesota Statute 15.99 Subd. 2, by an additional 60 days."

SIGNED: [Signature] Fee Owner Contract for Deed Owner  
[Signature] Applicant Other than Owner Purchaser by Purchase Agreement

DATE: 7/29/2010 DATE: 07/29/10

DATA PRIVACY ADVISORY

In accordance with Minnesota Statutes, Section 13.04, Subd. 2, "Rights of Subjects of Data" we would like to inform you that your request for a permit, approval (variance, special use, subdivision, zoning) or license from the City of Deephaven or any of its departments may require you to furnish certain private or confidential information.

YOU ARE NOTIFIED THAT:

1. The information you furnish will be used to determine your qualifications for the permit, approval or license requested.
2. You may refuse to supply data, but refusal may require that the City deny the permit, approval or license.
3. The information may be shared with other local, state or federal agencies to the extent necessary to process the permit, approval or license.
4. If your requested permit, approval or license requires Council action, the information may become public.
5. You have certain rights under Minnesota Statute, Section 13.04 to review private data on yourself.
6. Your full name is required to process this application or permit.

Kacie (Sign Art Co. Inc.) Berends  
FIRST MIDDLE LAST

1270 Dodd Rd  
ADDRESS

Mendota Heights MN 55120  
CITY STATE ZIP

651-688-0563  
PHONE

I understand my rights as stated above.

[Signature]  
SIGNATURE

07/29/10  
DATE

10/2/09

SONUS

Z1350 HWY. 7

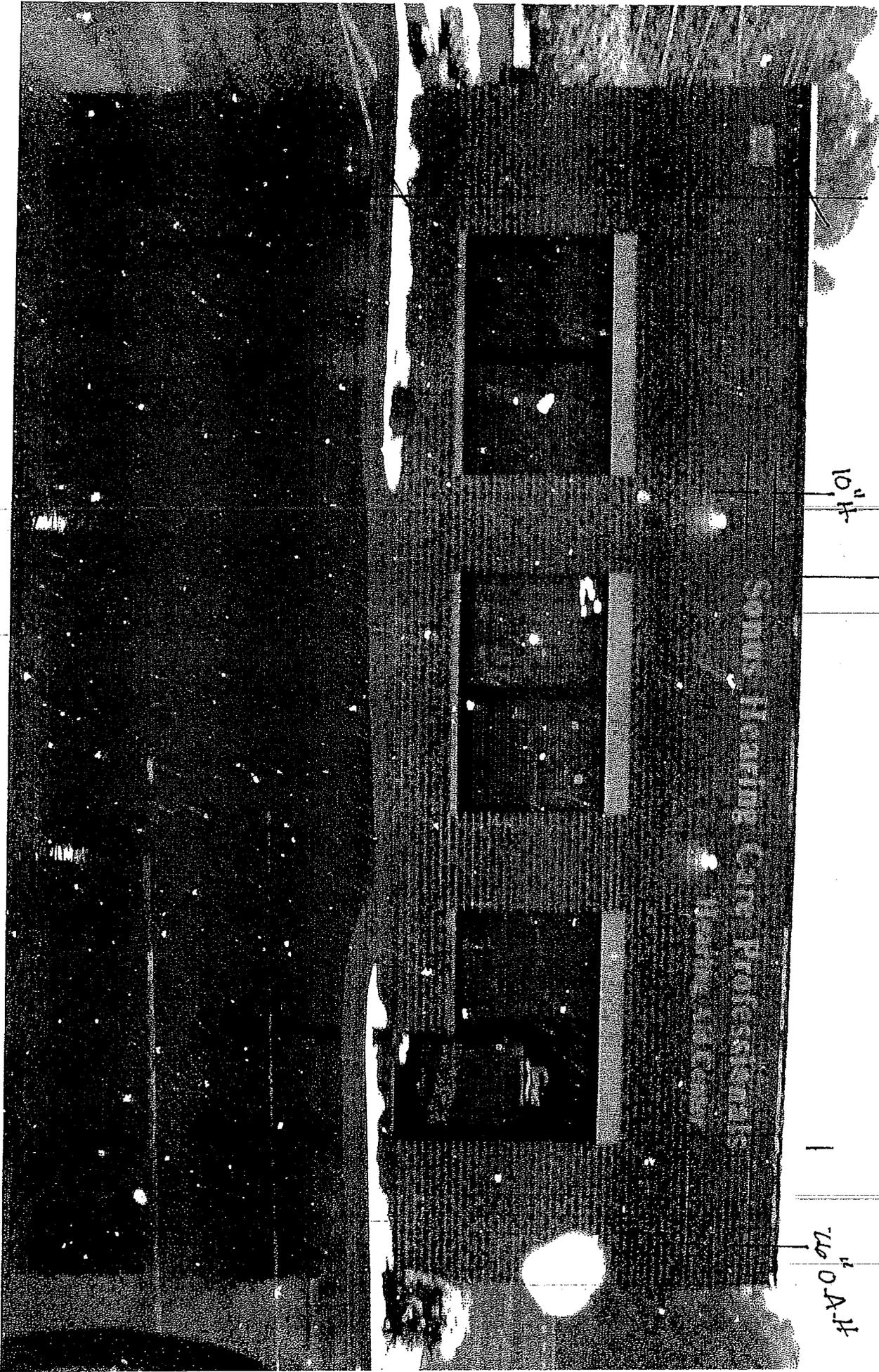
EXCELSIOR, MN

10" H

19'-3" —

signage  
current

10" H



## Gus Karpas

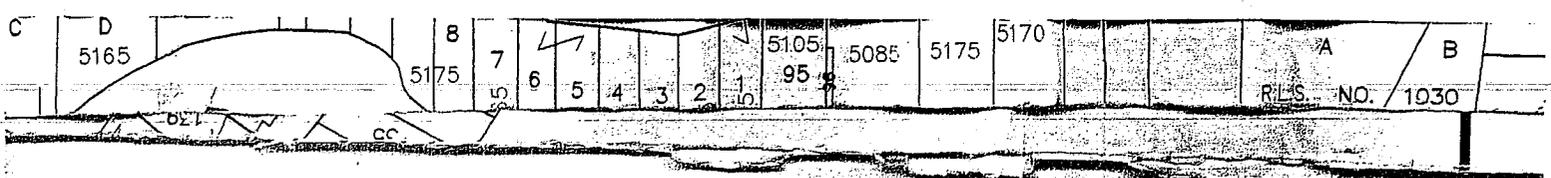
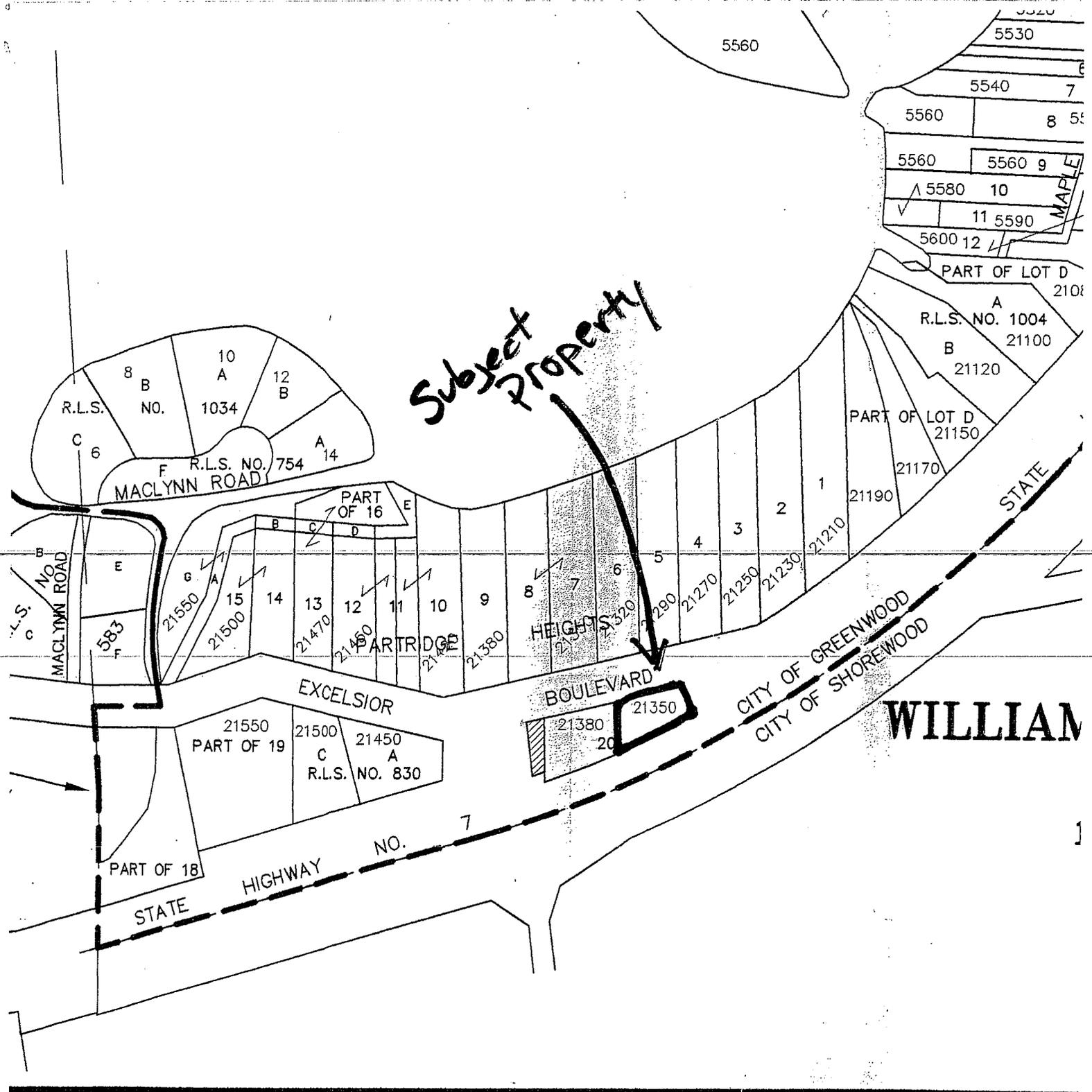
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**From:** Kacie Berends [clerical@signartusa.com]  
**Sent:** Thursday, July 29, 2010 3:55 PM  
**To:** gusk@cityofdeephaven.org  
**Subject:** Sign Permit Description

Gus,

At the Sonus Hearing Care Professionals building address: 21350 Hwy 7 we will be installing a internal illuminated cabinet sign. Applied will be colored vinyl on white translucent acrylic. We will be installing two signs on the south and west elevations of the building totaling 36.1 sq. ft. for each sign. If you have any other questions or need any more information feel free to contact me.

Thank You,  
Kacie Berends  
SignArt Co. Inc  
651-688-0563  
651-688-2081 fax  
[www.signartusa.com](http://www.signartusa.com)



# 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 Planning Commission Members

**FROM:** Mark W. Kelly, Greenwood City Attorney

**DATE:** September 14, 2010

**RE:** Sonus Hearing Care Professionals - Conditional Use Permit

---

### FACTS:

Sonus Hearing Care Professionals have made application of a Conditional Use Permit to allow placement of two 2.66" x 13.5" signs. Combined the total square footage of the proposed signs is code compliant. The proposed physical character and placement of the signs is code compliant.

### DISCUSSION:

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2. Will be consistent with the objectives of City's Comprehensive Plan, Zoning Code and the Shoreline District Management Plan.
3. Will be designed, constructed, operated and maintained so to be compatible in appearance with the existing or intended character of a general vicinity and will not change the essential character of that area.
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5. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, storm water runoff plans approved by City Engineer which will prevent storm water from directly entering public waters or being accelerated and/or concentrated on to neighboring properties or public streets.
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7. Will not create excessive requirements for public facilities and services and will not be detrimental to economic welfare of the community.
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9. Will have vehicular approaches to the property which do not create traffic congestion or interfere with traffic or surrounding public thoroughfares .
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11. Will be esthetically compatible with the area.
12. Will not depreciate surrounding property values.
13. Will meet standards prescribed for certain uses as provided in this ordinance.

If upon review, the Sonus proposal does not appear to create issues relative to these review points, then it is appropriate that the Planning Commission recommend to the City Council approval of the application.

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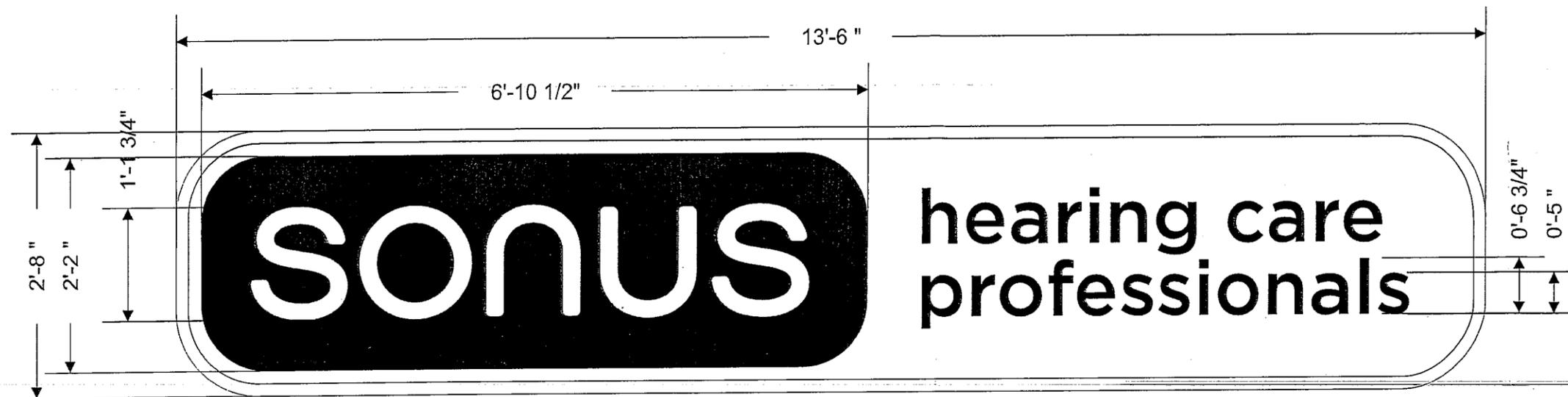
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2. Regulating ingress and egress to the property and the proposed structures thereon; with particular reference to vehicles and pedestrian safety and

convenience, traffic flow and control and access in case of fire or other catastrophe.

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INTERNALLY ILLUMINATED  
CABINET SIGN  
APPLIED COLORED VINYL ON WHITE TRANSLUCENT ACRYLIC  
13'-6" X 2'-8" = 36.1 SQ. FT.



SONUS  
HEARING  
PRO'S

ADDRESS

EXCELSIOR, MN

SALES REP

BOB SHERLOCK

DRAWN BY

JEFF  
WEISPFENNING

DATE

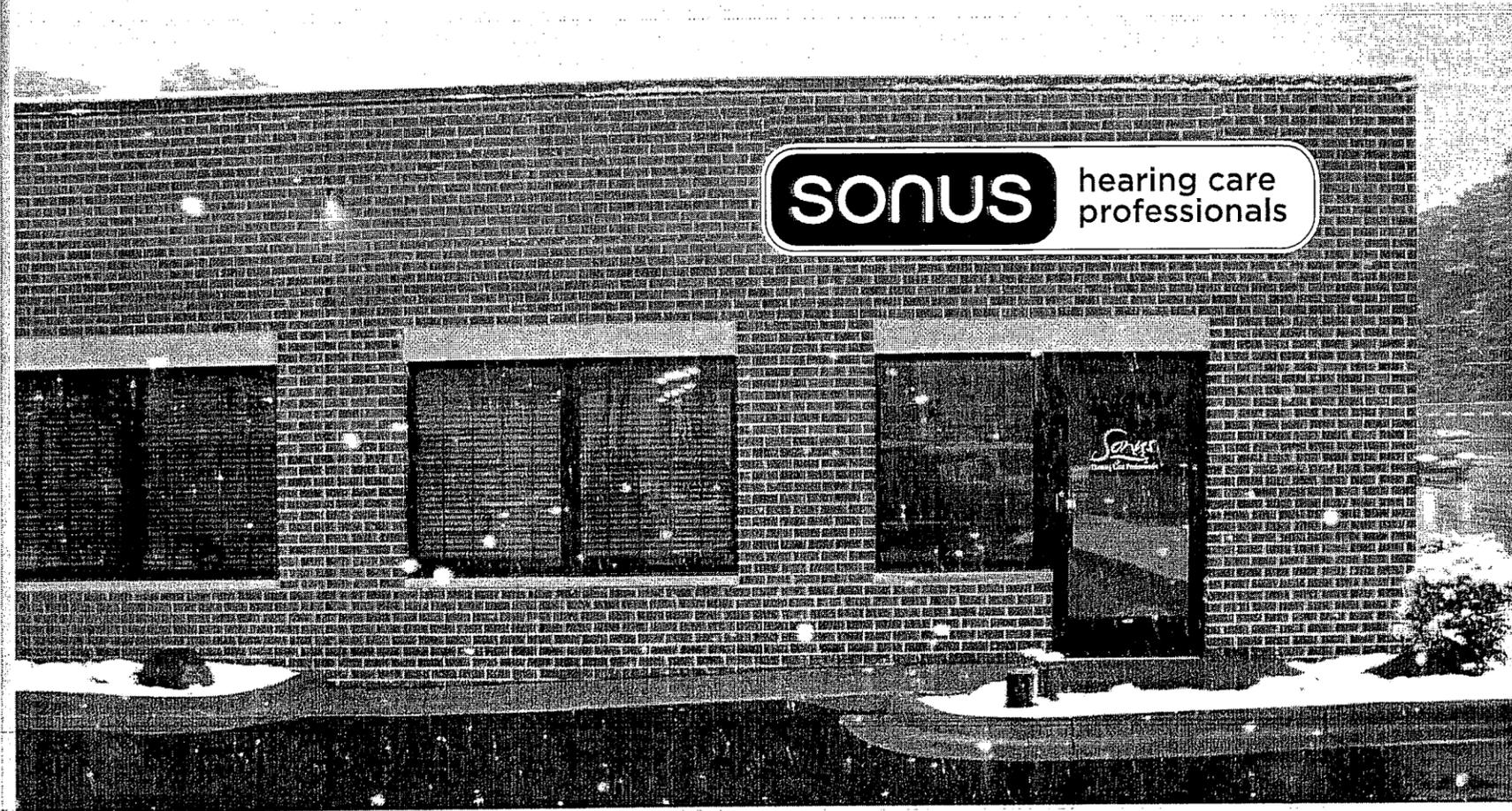
10-13-09

REVISED

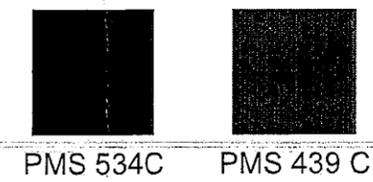
SCALE

1" = 1'

CUSTOMER'S ADDRESS  
ADDRESS



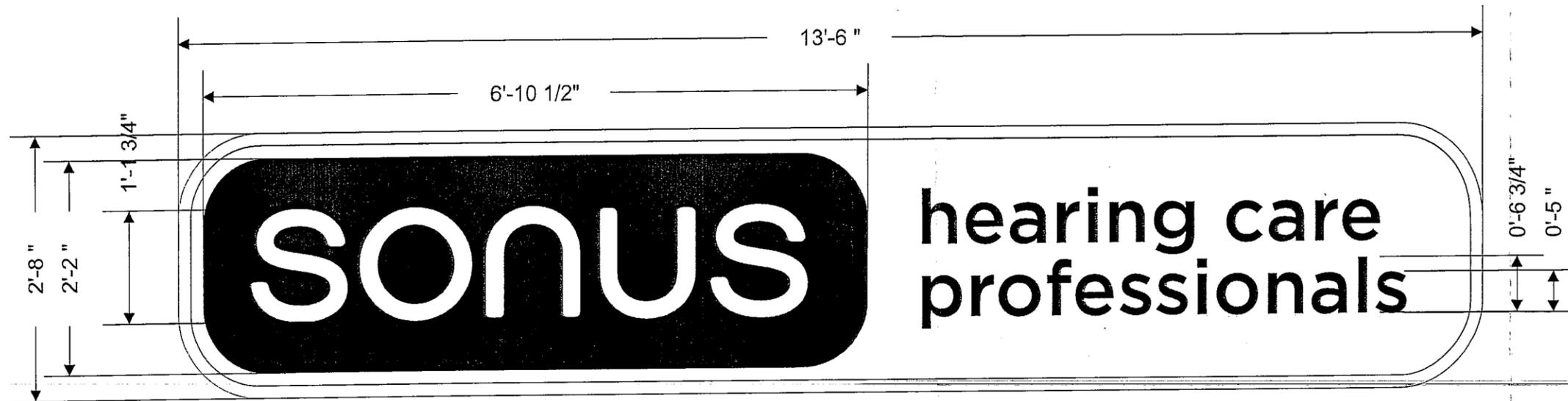
WEST ELEVATION



Sign Art Co.  
Eau Claire, WI  
St. Paul, MN  
PH 651-688-0563  
FX 651-688-2081

THIS DRAWING WAS CREATED TO ASSIST  
YOU IN VISUALIZING OUR PROPOSAL.  
THIS DRAWING IS PROPERTY OF SIGN ART  
COMPANY AND MAY NOT BE REPRODUCED  
BY OTHERS.

INTERNALLY ILLUMINATED  
 CABINET SIGN  
 APPLIED COLORED VINYL ON WHITE TRANSLUCENT ACRYLIC  
 13'-6" X 2'-8" = 36.1 SQ. FT.



SOUTH ELEVATION

CLIENT NAME

SONUS  
 HEARING  
 PRO'S

ADDRESS

EXCELSIOR, MN

SALES REP

BOB SHERLOCK

DRAWN BY

JEFF  
 WEISPFENNING

DATE

10-13-09

REVISED

SCALE

1" = 1'

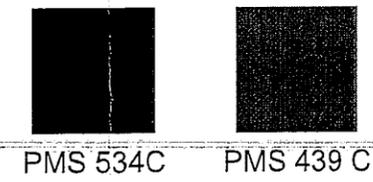
DESIGNED/LANDSCAPED  
 APPROVAL



Sign Art Co.  
 Eau Claire, WI  
 St. Paul, MN

PH 651-688-0563  
 FX 651-688-2081

THIS DRAWING WAS CREATED TO ASSIST  
 YOU IN VISUALIZING OUR PROPOSAL.  
 THIS DRAWING IS PROPERTY OF SIGN ART  
 COMPANY AND MAY NOT BE REPRODUCED  
 BY OTHERS.



PROJECT NAME: SONUS EXCELSIOR



20225 Cottagewood Road  
Deephaven, Minnesota 55331  
(952) 474-6633  
Fax (952) 401-7587

May 17, 2010

Tom Fritz  
dba/ T. Fritz Enterprises, Inc.  
21960 Minnetonka Blvd.  
Greenwood MN 55331

✓ Kent Carlson  
dba/ Greenwood Marina, LLC  
P. O. Box 756  
Excelsior MN 55331

Dear Tom and Kent:

The Greenwood City Council in it's meeting of April 6 , 2010, authorized a refund of past sanitary sewer charges and a reduction in the future quarterly bill for the property located at 21960 Minnetonka Boulevard – St Albans Boathouse in Greenwood. The refund is based on the fact that the property has not been licensed by Hennepin County as a restaurant since January 1, 2009, and that the restaurant rate therefore no longer applies. The general commercial rate would instead apply to the property effective as of January 1, 2009. The City will reinstate the restaurant rate if the property is licensed to operate as a restaurant again in the future.

The property is estimated to have 5,975 square feet of gross building floor space, which is equivalent to 3 sanitary sewer units based on 2,000 square feet or fraction thereof per sanitary sewer unit. The quarterly sanitary sewer rate during the period in question was \$65 per unit (since raised to \$75 per unit). This results in a reduction of the quarterly charges from \$910 based on 14 units with the restaurant license to \$195 based on the general commercial rate.

The penalties of \$182 from June 30, 2009 and December 31, 2009 are also proposed to be abated since the account was actually overpaid during that period using the proposed rates above.

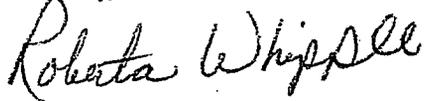
The City would propose a total refund of \$3,939.00 as shown on the attached spreadsheet. We would normally refund \$715.00 to T. Fritz Enterprises and \$3,224.00 to Greenwood Marina, LLC based on the period that each party paid for. We can split the refund in another manner if you both agree to another division.

Could you each please sign a copy of this letter indicating your agreement with the total refund and your portion thereof as outlined above and return it to the City of Greenwood? If you both prefer a different split of the refund, please contact the City and we will send out a new letter with the new proposed division of the refund for you both to sign.

Per the Council resolution of April 6, 2010, the City cannot issue the refund until it has been agreed to by all parties.

Please feel free to contact either myself or Gus Karpas with any questions.

Sincerely,

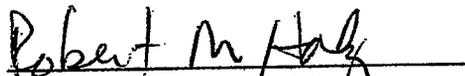


Roberta Whipple  
Greenwood City Administrator

Encl.

Cc: Mayor Deb Kind  
Councilmember Tom Fletcher  
Councilmember Bob Quam  
Councilmember H. Kelsey Page  
Councilmember William Rose

I acknowledge receipt of the above letter dated May 17, 2010, and agree that a total payment of \$3,939.00 is the correct total sanitary sewer charge refund for the property located at 21960 Minnetonka Boulevard in Greenwood, MN and typically referred to as the St. Albans Boathouse for the period from January 1, 2009 through March 31, 2010. I further agree to the payment by the City of Greenwood of \$715.00 and \$3,224.00 of the refund amount to Tom Fritz and Kent Carlson respectively.

  
\_\_\_\_\_  
Sign and Print Name and Title

(Greenwood Marina, LLC)

Robert M. Holz  
Property manager

6/8/10  
\_\_\_\_\_  
Date

Date	Billed Sewer	Adjusted Sewer	Billed Penalties	Adjusted Penalties	Refund Amount
3/31/2009	910	195	182	182	715
Total Refund to Fritz					715
6/30/2009	910	195	182	0	897 ✓
9/30/2009	910	195	0	0	715 ✓
12/31/2009	910	195	182	0	897 ✓
3/31/2010	910	195	0	0	715 ✓
Total Refund to Carlson					3224

**City of Greenwood Sewer Bills for Restaurant**

<u>Date</u>	<u>Description</u>	<u>Amount Due or Paid by EBH</u>
6/30/2009	2nd QTR 2009 Sewer	946.00
9/3/2009	Late fee 8-1-09	182.00
9/15/2009	Payment by EBH	(1,128.00)
9/30/2009	3rd QTR 2009 Sewer	946.00
11/3/2009	Late fee	182.00
12/31/2009	4th QTR 2009 Sewer	946.00
1/13/2010	Payment by EBH	(2,074.00)
3/31/2010	1st QTR 2010 Sewer	946.00
4/8/2010	Payment by EBH	(946.00)
6/30/2010	2nd QTR 2009 Sewer	261.00
7/13/2010	Payment by EBH	(261.00)
	T	0.00

Restaurant Bldg.  
21900 Mike Blvd.

SERVICE FROM: 10/01/2009

TO: 12/31/2009

Past Due Amount:

946.00

July, Aug, Sept.

Current Charges:

Late Pmt. Penalty

182.00

- For 3rd QTR 2009

Sewer

910.00

Oct, Nov, Dec.

Stormwater Mgmt. Fee

36.00

Sewer Assessment Chg

**Total Amount Due:**

2,074.00

**REMIT PAYMENT TO:**

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

email: [administrator@greenwoodmn.com](mailto:administrator@greenwoodmn.com)

**A 20% late fee will be added 30 days after billing.**

**MESSAGE:**

Greenwood City Administrator

# URGENT! PAST DUE NOTICE

Greenwood City Utilities  
20225 Cottagewood Road Deephaven, MN 55331

Mailing Date: September 3, 2009

Kent Carlson  
P.O. Box 756  
Excelsior MN 55331

Account Number : 49001.01

Property address: 21960 Minnetonka Blvd. Greenwood, MN

Amount due through June 30, 2009:	\$946.00
Late fee 8-1-09	<u>\$182.00</u>
<b>Amount due now:</b>	<b>\$1,128.00</b>

Amount due after October 6, 2009	\$1,148.00
----------------------------------	------------

The end of the fiscal year for the City of Greenwood is September 30, 2009. State Statute 444.75 provides that delinquent amounts owed for municipal utilities may be certified to the County Auditor as a lien against the property when payment has not been received and reasonable efforts have been made to collect these amounts.

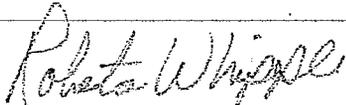
The assessment would be included with your property taxes payable 2010 and would include interest as determined by the County Auditor's Office as defined under Minnesota State Statutes 444.075.

The Greenwood City Council will meet on Tuesday, October 6, 2009, at the City Hall Council Chambers, 20225 Cottagewood Road, Deephaven, MN, to hear and adopt a resolution that would place all delinquent sewer/recycling/stormwater bills on the 2009 tax rolls. Once the resolution is adopted, a penalty of \$20 is added to each delinquent bill and will bear interest at the rate of 8% per annum from December 1, 2009, which is the date that the resolution will be submitted to Hennepin County.

Any payments received after 4:30 PM on Tuesday, October 6, 2009, through Wednesday, November 18, 2009, MUST include the \$20 penalty. Payments CANNOT be accepted after November 18, 2009.

Please call City Hall if you have questions.

Sincerely,



Roberta Whipple  
Greenwood City Administrator

SERVICE FROM: 01/01/2010

TO: 03/31/2010

Restaurant  
Bldg.

Past Due Amount:

Current Charges:

Late Pmt. Penalty

Sewer 910.00

Stormwater Mgmt. Fee 36.00

Sewer Assessment Chg

**Total Amount Due: 946.00**

**REMIT PAYMENT TO:**

City of Greenwood  
20225 Cottagewood Road  
Deephaven MN 55331  
952-474-6633  
email: administrator@greenwoodmn.com

**A 20% late fee will be added 30 days after billing.**

**MESSAGE: Spring clean-up day is Saturday May 1, 2010. See newsletter for details.**

**EXCELSIOR BAY HARBOR**

5438

City of Greenwood  
Date 3/31/2010 Type Bill Reference 20100331Restaurant

Original Amt.  
946.00

Balance Due 946.00  
Discount  
Check Amount

Payment  
946.00  
946.00

PAYMENT  
RECORD

Wells Fargo Checking 49002.01

946.00

SERVICE FROM: 04/01/2010

TO: 06/30/2010

Restaurant Bldg

ENTERED JUL 13 2010

Past Due Amount:

Current Charges:

Late Pmt. Penalty

Sewer 225.00

Stormwater Mgmt. Fee 36.00

Sewer Assessment Chg

**Total Amount Due: 261.00**

**REMIT PAYMENT TO:**

City of Greenwood  
20225 Cottagewood Road  
Deephaven MN 55331  
952-474-6633  
email: administrator@greenwoodmn.com

**A 20% late fee will be added 30 days after billing.**

EXCELSIOR BAY HARBOR

5502

City of Greenwood  
Date 7/13/2010 Type Bill Reference 20100630-1

Original Amt. 261.00

7/13/2010  
Balance Due 261.00  
Discount  
Check Amount

Payment 261.00  
261.00

PAYMENT RECORD

Wells Fargo Checking 49001.01

261.00

**Greenwood City Council Agenda Item  
October 5, 2010**

**Agenda Item:            Discuss the request to extend the variance approval granted for the development of 21550 State Highway 7.**

**Summary:**

On December 2, 2008, the City Council ratified Resolution 23-08, conditionally approving variance and conditional use requests to develop a commercial parcel of land owned by Robert Schmitt, Jr. at 21550 State Highway 7. The applicant requested a one year extension of that approval on December 2, 2010, which was granted by the Council.

Mr. Schmitt has submitted a letter seeking another one year extension, to expire on December 2, 2011 on the approval granted by the City Council.

The City Council has the authority to extend the deadline due to extenuating circumstances. The attached letter from Mr. Schmitt indicates that he is actively seeking prospects, but has no commitments at this time.

**Recommendation:**

**Review and discuss request. Council action could include; 1) Denial of the requested extension, requiring a new application for variance to be submitted for Council review, 2) Approval of the requested twelve month extension, or 3) Approval of an extension with a modified deadline less than or greater than the twelve months request.**



20225 Cottagewood Road  
Deephaven, Minnesota 55331  
(952) 474-6633  
Fax (952) 401-7587

September 16, 2010

Robert Schmitt  
21500 State Highway Seven  
Greenwood, MN 55331

Dear Robert,

The City Council approved a twelve month extension of Resolution 23-08, conditionally approving a variance and conditional use permit to develop your property. The extension is set to expire on November 5, 2010.

Section 1155:10(8) of the Zoning Ordinance states that if a variance is granted for a property and the construction of the structure for which it was granted is not commenced within one year after the date of the Council resolution approving the variance, the variance will expire and will be of no further force and effect.

You must obtain a building permit prior to November 5<sup>th</sup>, or apply for an extension from the City Council or your approval will expire. A recent decision by the Minnesota Supreme Court governing the issuance of variances may make it difficult to obtain future variances on the property if it expires.

If you have any questions regarding this issue, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Gus Karpas".

Gus Karpas  
Zoning Coordinator

Cc: File  
City Attorney Mark Kelly  
City Councilmembers

Robert C. Schmitt Jr.  
21550 State Highway 7  
Greenwood, Mn. 55331  
952-270-5075  
PID: 35-117-23-12-0015

September 23, 2010

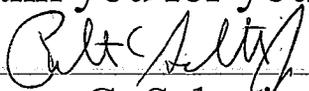
City of Greenwood  
20225 Cottagewood Road  
Greenwood, Mn. 55331

Re: Variance & Conditional Use Permit-Resolution  
No. 23-08

Dear Counsel Members:

I ( Robert C. Schmitt Jr.) the owner/applicant of  
real property located at 21550 Highway 7,  
Greenwood, Mn. 55331. Due to the economic  
conditions at this time I'm asking the City Council  
for a 1 year extension on my variance & conditional  
use permit, until December 2011. I do have some  
prospects but no commitment at this time.

Thank you for your consideration.



Robert C. Schmitt Jr.

**Subject:** <no subject>

**Date:** Monday, September 27, 2010 12:06 PM

**From:** Deborah Hicks <deborahhicks@cityofdeephaven.org>

**To:** Gus Karpas guskarpas@mchsi.com, Debra Kind d.kind@mchsi.com

Hello,

Here is the final tax roll for Greenwood for your council packet.

10 past due accounts, \$2,520.35 which is about normal compared to the last 5 years for Greenwood. As you know, they still have until November 19th to pay this amount including the penalty fee and we can remove them from the list sent to Hennepin County November 30th.

Let me know if you need anything else regarding the tax certs.

Deborah

NAME - GREENWOOD PROPERTY OWNER - per Hennepin County	House Number	Street Name	Unit #	Zip Code	PID #	AMOUNT DUE	PENALTY	GRAND TOTAL DUE - INCLUDES penalty (DUE AFTER OCTOBER 5th)
Bank of America, NA	20840	Channel Dr		55331	26-117-23-44-0070	\$584.33	\$20.00	\$604.33
Brost, Michael L. & S. R. Brost	5110	Curve St		55331	26-117-23-31-0018	\$166.17	\$20.00	\$186.17
Green - Koehnen, Karen Kay	5200	Meadville St		55331	26-117-23-32-0006	\$264.24	\$20.00	\$284.24
Johnson, Douglas L.	21795	Minnetonka Blvd		55331	26-117-23-34-0026	\$121.20	\$20.00	\$141.20
Lynch, Rebecca & McCaffrey, Gene	21170	Excelsior Blvd.		55331	35-117-23-11-0022	\$121.20	\$20.00	\$141.20
Peterson, Steven J. & Patricia J.	21957	Minnetonka Blvd	15	55331	26-117-23-34-0049	\$222.00	\$20.00	\$242.00
Quinn, T A & R J Quinn, Jr.	21200	Minnetonka Blvd		55331	26-117-23-13-0017	\$121.20	\$20.00	\$141.20
Pivec, Ernest & Mary Anne	5060	Meadville St		55331	26-117-23-32-0011	\$312.29	\$20.00	\$332.29
Sayer, Timothy	20845	Channel Dr		55331	26-117-23-44-0023	\$264.24	\$20.00	\$284.24
Schneider, Robert A. & Gina M.	5590	Maple Heights Rd.		55331	35-117-23-11-0036	\$143.48	\$20.00	\$163.48
						\$2,320.35	\$200.00	\$2,520.35

**CITY OF GREENWOOD  
RESOLUTION NO. 18 - 10**

**WHEREAS**, the City Council of the City of Greenwood has caused a notice to be published fixing the time and place of the Council meeting to pass upon the proposed assessment roll for delinquent sewer and recycling charges, more specifically described in the Note of Hearing publish September 15<sup>th</sup> and September 22<sup>nd</sup>, in the MN Sun Publication; and

**WHEREAS**, notice of said meeting has been given to all property owners whose property is to be assessed therefore, by publication thereof in the manner required by law; and

**WHEREAS**, all persons have had an opportunity to be heard in connection with said manner.

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

1. That the assessment roll, as prepared by the City Clerk, is hereby approved, and the assessments therein contained are hereby determined to be the special assessments for the services herein included.
2. That said assessments are found to be properly assessed upon the properties so served.
3. That each of such unpaid assessments shall bear interest at the rate of 8% per annum accruing on the full amount from December 1, 2010, together with a service charge on each assessment.
4. That each of such unpaid assessment shall bear the penalty of \$20.00, per Ordinance Section 310.20.
5. Prior to certification of the assessment to the County Auditor, the owner of any lot, piece or parcel of land assessed hereby may at any time pay the whole of such assessment inclusive of the penalties, to the City Treasurer, prior to November 20, 2010.
6. That the City Clerk is hereby directed to certify such assessment to the County Auditor for collection and remittance to the City Treasurer in the same manner as assessments for local improvements.

**ADOPTED** BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

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

CITY OF GREENWOOD

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

Attest:

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



# LAKE MINNETONKA CONSERVATION DISTRICT

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

Gregory S. Nybeck, EXECUTIVE DIRECTOR

## BOARD MEMBERS

- Lisa Whalen, Chair  
Minnetrista
- Kelsey Page, Vice Chair  
Greenwood
- Andrew McDermott III, Secretary  
Orono
- Tom Scanlon, Treasurer  
Spring Park
- Dan Baasen  
Wayzata
- Doug Babcock  
Tonka Bay
- David Gross  
Deephaven
- Peter Hartwich  
Excelsior
- Chris Jewett  
Minnetonka
- Steve Johnson  
Mound
- Dennis Klohs  
Minnetonka Beach
- Bill Olson  
Victoria
- Herb Suerth  
Woodland
- Dick Woodruff  
Shorewood

September 17, 2010

TO: LMCD Member Cites  
 Minnehaha Creek Watershed District  
 Three Rivers Park District  
 Minnesota Department of Natural Resources  
 Lake Minnetonka Association

FROM: Chair Lisa Whalen, LMCD Board of Directors  
 Co-Chair Herb Suerth, AIS Task Force  
 Co-Chair Dick Woodruff, AIS Task Force

SUBJECT: Enforcement of Aquatic Invasive Species (AIS) Laws –  
 Lake Minnetonka

Following the recent discovery of zebra mussels in Lake Minnetonka, the Lake Minnetonka Conservation District's (LMCD) AIS Task Force made a recommendation to the LMCD Board to emphasize local enforcement of existing related State laws. The results are the attached LMCD Resolution 121 and sample AIS Resolution.

The underlying assumption is that local enforcement of existing State laws that act to keep invasive species from being moved from Lake Minnetonka to other water bodies would be enhanced if the local law enforcement agencies could obtain the fine revenue resulting from such enforcement.

Your organization is urged to adopt the sample resolution, or similar resolution, and to ask your respective State Legislators to sponsor legislation that would make the needed change in fine revenue distribution. Please feel free to contact LMCD Executive Director Greg Nybeck if you have questions relating to this matter



**LAKE MINNETONKA CONSERVATION DISTRICT  
RESOLUTION 121**

**A RESOLUTION IN SUPPORT OF NEW STATE LEGISLATION PROVIDING  
FOR CHANGES IN DISTRIBUTION OF FINE REVENUE FOR AQUATIC  
INVASIVE SPECIES (AIS) CITATIONS**

WHEREAS, Eurasian watermilfoil (EWM) was first discovered in Lake Minnetonka in 1987; and

WHEREAS, the Lake Minnetonka Conservation District (LMCD) has facilitated an AIS Task Force to develop local initiatives to manage EWM and to reduce the chances of introducing new AIS in Lake Minnetonka, with an emphasis on zebra mussels; and

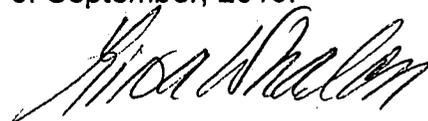
WHEREAS, the Minnesota Department of Natural Resources (MN DNR) established Lake Minnetonka as infested with zebra mussels on August 16, 2010; and

WHEREAS, the MN DNR has actively enforced State laws pertaining to AIS through its Conservation Officers and its watercraft inspection program; and

WHEREAS, the AIS Task Force recommends that increased enforcement of State laws pertaining to AIS is necessary, in particular by local law enforcement agencies, to minimize the spread of AIS from Lake Minnetonka.

NOW, THEREFORE BE IT RESOLVED that the LMCD supports new legislation by the State of Minnesota that provides for 100 percent of the fine revenue generated by AIS citations to be captured by the local law enforcement agency issuing the citation.

**ADOPTED** by the LMCD Board this 8th day of September, 2010.



Lisa Whalen, Chair

ATTEST



Gregory S. Nybeck, Executive Director

**CITY OF GREENWOOD  
RESOLUTION NO. 19-10**

**A RESOLUTION IN SUPPORT OF NEW STATE LEGISLATION PROVIDING FOR  
CHANGES IN DISTRIBUTION OF FINE REVENUE FOR AQUATIC INVASIVE  
SPECIES (AIS) CITATIONS**

**WHEREAS**, Eurasian watermilfoil (EWM) was first discovered in Lake Minnetonka in 1987; and

**WHEREAS**, an AIS Task Force has been established by the Lake Minnetonka Conservation District (LMCD) to develop local initiatives to manage EWM and to reduce the chances of introducing new AIS in Lake Minnetonka, with an emphasis on zebra mussels; and

**WHEREAS**, the Minnesota Department of Natural Resources (MN DNR) established Lake Minnetonka as infested with zebra mussels on August 16, 2010; and

**WHEREAS**, the MN DNR has actively enforced State laws pertaining to AIS through its Conservation Officers and its watercraft inspection program; and

**WHEREAS**, the AIS Task Force recommends that increased enforcement of State laws pertaining to AIS is necessary, in particular by local law enforcement agencies to minimize the spread of AIS from Lake Minnetonka.

**NOW, THEREFORE BE IT RESOLVED** that the Greenwood City Council supports new legislation by the State of Minnesota that provides for 100 percent of the fine revenue generated by AIS citations to be captured by the local law enforcement agency issuing the citation.

**ADOPTED** BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA, THIS 5<sup>th</sup> DAY OF OCTOBER, 2010.

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

CITY OF GREENWOOD

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

Attest:

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

SECTION I: LIABILITY COVERAGE WAIVER FORM

Cities obtaining liability coverage from the League of Minnesota Cities Insurance Trust must decide whether or not to waive the statutory tort liability limits to the extent of the coverage purchased. The decision to waive or not to waive the statutory limits has the following effects:

*If the city does not waive the statutory tort limits*, an individual claimant would be able to recover no more than \$500,000. on any claim to which the statutory tort limits apply. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether or not the city purchases the optional excess liability coverage.

*If the city waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could potentially recover up to \$1,500,000. on a single occurrence. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to \$1,500,000., regardless of the number of claimants.

*If the city waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

This decision must be made by the city council. **Cities purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage.** For further information, contact LMCIT. You may also wish to discuss these issues with your city attorney.

\_\_\_\_\_ accepts liability coverage limits of \$\_\_\_\_\_ from the League of Minnesota Cities Insurance Trust (LMCIT).

Check one:

- The city **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.
- The city **WAIVES** the monetary limits on tort liability established by Minnesota Statutes 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council meeting \_\_\_\_\_

Signature \_\_\_\_\_ Position \_\_\_\_\_

*Return this completed form to LMCIT, 145 University Ave. W., St. Paul, MN. 55103-2044*

## **SECTION 500 & 515 FEE DISCUSSION**

Prepared for the 10-05-10 council meeting by Deb Kind

Sections 500 & 515 of the code book list fees charged by the city. Last year the council completed a major update of these two sections to consolidate all the fees in one area of the code book. The plan going forward is to review these sections each fall to make sure our fees are current. At the October council meeting the council should come prepared to discuss the fees they would like to see changed. Based on the council discussion, an ordinance will be drafted for a 1st reading at the November council meeting. The second reading will take place at the December council meeting. The ordinance will be published in mid-December, so the new fees will be in effect for the new year.



# 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

September 23, 2010

City of Greenwood  
 Attn: Deb Kind, Mayor  
 20225 Cottagewood Road  
 Deephaven, MN

RE: Retroreflectivity Sign Project  
 City of Greenwood, MN

Dear Mayor Kind:

To assist the City of Greenwood to become compliant with the federally-mandated minimum sign retroreflectivity standards, Bolton & Menk proposes to provide a combination of assessment and management services. This approach uses measured retroreflectivity and sign life predictions to achieve the most cost effective and efficient method of maintaining compliance and limiting liability. We believe that the benefits of this approach are as follows:

- It establishes accurate and objective measurements using a retroreflectometer to establish a baseline inventory
- It develops an inventory of relevant data (i.e. condition, location, post information, photo, etc.)
- It ensures that the full sign life is utilized, thus eliminating costly premature sign replacement
- It provides a tool to predict a sign replacement schedule for budgeting purposes
- It eliminates the need and expense of assessing the condition of all signs on an annual basis

Bolton & Menk proposes to develop an inventory of Greenwood's existing signs and evaluate the retroreflectivity of each sign using a retroreflectometer. The inventory and condition information will be input into management software called Cartegraph. The advantage of managing the sign information using management software is its ability to predict the anticipated life of each sign based on its current condition. With this information, the City will be able determine what signs may need to be replaced on an annual basis and can budget accordingly. Bolton & Menk can then recheck the retroreflectivity of the signs in question and only signs that fail to meet the minimum standard will be recommended for replacement, thus ensuring that the City is replacing only non-compliant signs.

We estimate that the City of Greenwood has approximately 400 signs located along streets and fire lanes. For budgeting purposes, we estimate a fee of \$5,000 to \$6,000 to complete the services described above. After the initial assessment and set up, we estimate an annual fee of approximately \$1,000 to maintain the data base and assess the condition of signs that may be in need of replacement.



Retroreflectivity Sign Project

September 24, 2010

Page 2

As always, we are committed to understanding your needs and ability to fund this project, as such please let me know if you have questions or would like to meet to discuss our proposed scope of work.

Sincerely,

**BOLTON & MENK, INC.**

A handwritten signature in black ink that reads "David P. Martini". The signature is written in a cursive style and is placed over a light blue rectangular background.

David P. Martini, P.E.

Principal Engineer



## State Supreme Court Narrowly Interprets Variance Authority

**The court ruling holds cities to a much stricter standard, which considerably limits variance opportunities.**

*(Published Jul 21, 2010)*

The Minnesota Supreme Court recently issued a decision that changed the longstanding interpretation of the statutory standard for granting zoning variances.

In the case of *Krummenacher v. City of Minnetonka*, the Supreme Court narrowly interpreted the definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is reasonable use in the absence of the variance. This is a much stricter standard, which considerably limits variance opportunities.

### The decision

The City of Minnetonka issued a variance to a residential property owner permitting the expansion of a legal, non-conforming garage. The city, relying on a 1989 Court of Appeals decision, concluded that the grant of the variance was reasonable. The city’s decision was challenged by an adjacent property owner. Both the District Court and the Minnesota Court of Appeals agreed that the city’s decision was appropriate. On June 24 the Minnesota Supreme Court reversed the Court of Appeals and found the city’s decision impermissible.

The Supreme Court examined the statutory definition of “undue hardship” in *Minnesota Statutes, section 462.357* ([Link to: https://www.revisor.mn.gov/statutes/?id=462.357](https://www.revisor.mn.gov/statutes/?id=462.357)), and concluded that city authority to issue a variance is limited to those very rare cases where the property cannot be put to “a reasonable use” without the variance. This establishes a high threshold for both the city and the property owner when considering variance requests.

The Supreme Court reviewed the parallel county authority that allows for a variance in situations of “practical difficulties” or “hardship.” The Supreme Court found that the city authority was more limited because it did not contain the “practical difficulties” provision. The court explicitly recognized that it was changing a longstanding standard that cities have relied on in considering variance requests. In particular, the court specifically rejected a 1989 Court of Appeals interpretation of the phrase “undue hardship,” which allowed for the grant of a variance in circumstances where the “property owner would like to use the property in a reasonable manner that is prohibited by the ordinance.”

The Supreme Court stated that “unless and until the Legislature takes action to provide a more flexible variance standard for municipalities, we are constrained by the language of the statute to hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without the variance.”

### Impact of the decision

Because of the far-reaching nature of the decision, there are probably at least four responses that cities

should think about—at least until a legislative correction can be achieved:

- The city should re-evaluate the criteria that it has historically used in deciding whether or not to grant a variance. The Supreme Court’s decision limits a city’s discretion. The ruling limits the authority to circumstances where the property owner can demonstrate that there is not a reasonable use of the property absent the variance grant.
- In circumstances where the city council believes the grant of a variance is appropriate, the city should take great care to make detailed finding describing why the grant of the variance is necessary to provide the property owner with a reasonable use of his or her property. What constitutes a reasonable use of property is not defined and may differ depending on the unique circumstances of the property and attributes of various communities.
- If a city routinely grants variances, this may be an indicator that it may want to re-examine its zoning code to ensure that standards, setbacks, uses, and other requirements are consistent with the city council’s current vision for the community. In short, the court’s decision should act as an encouragement to cities to review their land use practices.
- Cities may want to build greater flexibility into their existing conditional use permit, planned unit development, and setback regulations to explicitly afford greater latitude to allow “variance-like” approvals under the zoning code. For instance, a city might establish alternative setback requirements to allow for construction that is consistent with neighborhood attributes.

### **Legislative action**

The restrictive court decision has caused a number of League members to call for a legislative response. The decision, its impact, and a possible legislative response will be discussed in the League’s Improving Service Delivery Policy Committee this summer. It is anticipated that the League will support a legislative change to provide cities with greater flexibility—perhaps something similar to the county authority.

**Read the current issue of the Cities Bulletin** (*Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>*)

### **Your LMC Resource**

**Contact Tom Grundhoefer** General Counsel  
(651) 281-1266 or (800) 925-1122  
**tgrundho@lmc.org** (*Link to: <mailto:tgrundho@lmc.org>*)

**KELLY LAW OFFICES***Established 1948*351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)(952) 474-5977  
FAX 474-9575**M E M O R A N D U M**

**TO: MAYOR, CITY COUNCIL and PLANNING COMMISSIONERS**

**FROM: Mark W. Kelly**

**DATE: July 21, 2010**

**RE: KRUMMENACHER v. CITY of MINNETONKA**

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On June 24, 2010, the Minnesota Supreme Court affirmed the elements of the “undue hardship” variance test set out in the statute. The Court ruled that an applicant must meet *all* elements of the statutory test before a city can grant a variance. No longer may an applicant (or city) justify the grant of a variance on the strength of an assertion that the property owner has demonstrated “that they would like to use their property in a reasonable manner that is prohibited by the ordinance.” (See, Krummenacher v. City of Minnetonka and Leibeler, (Supreme Court Case File No. A08-1988)).

In Greenwood we have asked variance applicants to address how their property cannot be put to a reasonable use under existing code. This has often led to discussion of what is a reasonable use for a residential lot. Then, if satisfied, on that basis variances have issued. The city has not however attempted to formally define ‘reasonable use’.

In the recent Krummenacher case the Court specifically addressed the “reasonable manner” exception, heretofore so often relied upon by cities in granting variance requests. It said:

“We recognize...that Minnesota municipalities have been granting variances under the “reasonable manner” standard for many years. We also recognize that our decision will result in a restriction on a municipality’s authority to grant variances as compared with the “reasonable manner” standard. But... we cannot ignore the plain language of the statute. We are unable to interpret the statutory language to mean anything than what the text clearly says – that to obtain a municipal variance, an applicant must establish that ‘the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.’ ...[W]e are constrained by the language of the statute to

hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without a variance.” (Krummenacher pp. 20-21)

In light of the foregoing, cities will now be hard pressed to issue variances. The decision increases the burden on applicants and imposes on cities a need for affirmative findings on this issue. While one solution is to liberalize bulk regulations, such as set backs, another more practical response maybe to define in code what the city deems a ‘reasonable use’ as a matter of law.

Most often it is residential remodelers that seek bulk regulation variances. Given the antiquated lots sizes in Excelsior, Tonka Bay and Greenwood, this happens a often. To aid these remodelers, empower the city and continue to preserve the sanctity of the zoning code regulations, the city might add to their code a provision as follows:

“Section 1140.xx. Variances, Reasonable Use defined.

Provided a given residential lot is of xxxx sq. ft., then a reasonable use for the residential lot is a xxx? Sq. ft above grade house and a two car garage of xxx sq. ft. The city may grant bulk regulation variances to accommodate that minimum reasonable use and may cite this policy in formal findings justifying the variance grant.

In cases where the property is smaller than xxxx sq ft, the reasonable use of the lot is not presumed to include the right to build a residence,

Owners of undersized lots, purchased after the adoption of this zoning code, are presumed to have made the purchase fully informed of the law and the minimum lot sizes demanded by this code. They are presumed to have made the purchase fully intending to enjoy possession without any expectation of a right to a building permit for a house, accessory structure, or right to use the land in a manner contrary to existing city code. As such they hold no legal presumption of a right to employ same as a residential building site or that a reasonable use of their residentially zoned lot is in fact as a buildable home site. The city will entertain other suggested reasonable uses which, in its sole discretion, meet the interests of the general public welfare and are otherwise permitted uses within the applicable zone. For all other bulk regulation variance requests the burden of proof will be on the applicant to demonstrate, as a condition precedent, that without a variance no reasonable use for the property is available."

**KELLY LAW OFFICES***Established 1948*351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)(952) 474-5977  
FAX 474-9575**M E M O R A N D U M**

**TO: MAYOR, CITY COUNCIL and PLANNING COMMISSIONERS**

**FROM: Mark W. Kelly**

**DATE: July 22, 2010**

**RE: KRUMMENACHER v. CITY of MINNETONKA Part 2**

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There is a second aspect to the June 24, 2010, decision of the Minnesota Supreme Court in Krummenacher v. City of Minnetonka and Leibeler, (Supreme Court Case File No. A08-1988), which affirmed the elements of the “undue hardship” variance test set out in the statute. The court also addressed the question of whether cities can use a variance process to grant permits to expand an existing non-conforming use.

Specifically the Krummenacher court reviewed MN ST§462. 357, Subd 1e, which reads:

“Subd. 1e. **Nonconformities.**

(a) *Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion...*”

(Please note that the above italicized introductory phrase is new to the statute, post dates the facts in the case and for that reason was not addressed by the court.)

“(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. *A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.* This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.”

The court analysis focused on Subd. 1e (b) above, and in particular the italicized phrase.

The court concluded that the above sub-paragraph allows cities to grant permission to *expand* a legal non-conforming use. Like Greenwood, Minnetonka employs a variance process to address such requests. It was the inadequacy of the findings adopted by the city that ran afoul of the statute. The balance of the holding focused on the need of the city to find specific facts supporting a conclusion that the owner cannot put their property to a reasonable use without a variance. In making that finding the court acknowledged that their decision imposes a very high standard to be met. It said,

“We recognize...that Minnesota municipalities have been granting variances under the “reasonable manner” standard for many years. We also recognize that our decision will result in a restriction on a municipality’s authority to grant variances as compared with the “reasonable manner” standard. But... we cannot ignore the plain language of the statute. We are unable to interpret the statutory language to mean anything than what the text clearly says – that to obtain a municipal variance, an applicant must establish that ‘the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.’ ...[W]e are constrained by the language of the statute to hold that a municipality does not have the authority to grant a variance unless the applicant can show that her property cannot be put to a reasonable use without a variance.” (Krummenacher pp. 20-21)

Greenwood has used the variance process to monitor proposed rebuilds of non-conforming structures. Doing so gives the public an opportunity to be heard. Although we have on occasion been asked to agree to the expansion of a legal non-conforming use, we have been cautious and seldom allowed more than restructuring to code or modification of a structural design that is impractical or inherently flawed. Thus we have allowed a house to be rebuilt with second floor code compliant ceilings and a leaking flat roof replaced with a pitched roof.

Unlike the discussion in my earlier companion memo on Krummenacher, wherein I suggest the city define in code the term “reasonable use” as an aid to residential remodelers needing variances, here such an accommodation is more difficult.

It is not possible to know the range of expansions of legal non-conforming uses with which we might be presented or with which we can know we would be comfortable. So defining a range or set of reasonable uses is more difficult. I would however suggest non-conforming structures be expected/allowed to re-build in conformance with current building code. More than that, I leave to your consideration.

FOR COUNCIL DISCUSSION AND POSSIBLE PLANNING COMMISSION REVIEW

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING THE GREENWOOD ORDINANCE CODE SECTION 1155.10, SUBD. 2 TO DEFINE "REASONABLE USE" FOR RESIDENTIAL LOTS, AND SECTION 1145.20 TO CLARIFY THE TYPE OF ALTERATIONS ALLOWED FOR NONCONFORMING RESIDENTIAL BUILDINGS

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

SECTION 1.

Greenwood ordinance code section 1155.10, subd. 2, is amended to reads as follows:

"Subd. 2. Undue Hardship and Reasonable Use. "Undue hardship" as used in this ordinance in conjunction with the granting of a variance request must comply with all of the following:

- A. That the property in question cannot be put to a "reasonable use" if used under conditions allowed by the official control in question.
a) For residential lots 6000 sq. ft. or larger, a "reasonable use" is a 1-story home with a 800 sq. ft. foundation footprint and a minimum width of 25 ft, plus a 23 x 23 sq. ft. garage and a hard-surfaced (e.g. cement or blacktop) driveway.
b) In cases where the property is smaller than 6000 sq. ft., the "reasonable use" of the lot is not presumed to include the right to build a residence, but the city, in its sole discretion, will entertain other reasonable uses which meet the interests of the general public welfare and the permitted uses within the zone.
c) Owners of lots under 6000 sq. ft., purchased after December 2010, are presumed to have made the purchase fully informed of the law and the minimum lot sizes demanded by this code. They are presumed to have made the purchase fully intending to enjoy possession without any expectation of a right to a building permit or right to use the land in a manner contrary to existing city code. As such they hold no legal presumption of a right to employ same as a residential building site or that a reasonable use of their residentially zoned lot as a buildable homesite.
B. That the plight of the landowner is due to circumstances unique to the property and not created by the landowner.
C. The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone shall not constitute an "undue hardship" if some reasonable use for the property exists under the terms of the ordinance. However, practical difficulties, and functional and aesthetic considerations, may be taken into account."

SECTION 2.

Greenwood ordinance code section 1145.20 is amended to reads as follows:

"Section 1145.20. Alterations to Nonconforming Residential Buildings.

Alterations may be made to a residential building containing nonconforming dwelling units when the alterations will improve the livability of such units, provided the alterations do not increase the number of dwelling units in the building. Alterations shall not expand the nonconforming part of a building, except that alterations shall be built in conformance with the current building code (e.g. ceiling height) and a flat roof may be altered to a 4:12 pitched roof."

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 \_\_\_\_\_, 2010.

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

CITY OF GREENWOOD

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

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

GREENWOOD PLANNING COMMISSION  
WEDNESDAY, SEPTEMBER 15, 2010  
7:00 P.M.

## 1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:02 p.m.

Members Present: Chairman Lucking and Commission members John Beal, David Paeper, Todd Palmberg, Mark Spiers and Alternate members Bill Cook and Brian Malo

Absent: City Attorney Mark Kelly

Others Present: Council Liaison Tom Fletcher and Zoning Coordinator Gus Karpas.

## 2. APPROVE AGENDA

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

## 3. MINUTES OF August 18, 2010.

Commissioner Paeper moved to approve the minutes of August 18, 2010. Commissioner Beal seconded the motion. Motion carried 4-0.

## 4. LIAISON REPORT

Council Liaison Fletcher informed the Commission that the Adult Establishment Ordinance passed its second reading. He said the codification process is continuing and the Council is considering whether to have dead trees and limbs continue onto the new ordinance as a violation and whether to include Buckthorn as a prohibited weed. He said the city continues its enforcement efforts with Georgetown Manor, with continued inspections by the Fire and Building inspectors. He said the Council has agreed to put new signs along Sleepy Hollow Road in an effort to slow down traffic. He said the preliminary budget has been approved with a three percent reduction from last year and the only notable increase is an additional twenty-five thousand dollars in the road fund. He said the Council was approached by a new property owner seeking to vacate a undeveloped right-of-way along Fairview Street, the Council informally expressed its opposition, so the Commission may see the owner in the future seeking a variance or to amend the ordinance for corner lot setbacks.

## 5. PUBLIC HEARINGS

**Conditional Use Permit - Sonus Hearing Care Professionals, 21000 State Highway 7, (C-1, 10,000)**, Conditional Use Permit request for the removal of the existing signage on the west side of the building and the placement of new internally illuminated cabinet signs on the south and west elevations. The applicant proposes a total sign area of seventy-two square feet.

Section 1140:40(4)(2) requires a Conditional Use Permit for all new signs erected in the city. Section 1140:40(9)(a) permits a maximum sign area equal to fifteen percent of the building façade up to a maximum of seventy-five square feet.

**GREENWOOD PLANNING COMMISSION  
WEDNESDAY, SEPTEMBER 15, 2010  
7:00 P.M.**

Zoning Coordinator Karpas said there are a couple of issues with the application, the first being that the actual owner of the structure has not signed the application and secondly, the structure is permitted a total of seventy-five square feet of signage and the applicant is seeking seventy-two square feet, even though there is another tenant in the structure who may want future signage.

Chairman Lucking opened the public hearing.

Marshall Rosner, owner of Sonus Hearing Care Professionals spoke to the request. He said as part of the overall remodeling of the property, he would like to place some additional signage on the building since he is concerned about visibility.

Chairman Lucking asked if the sign cabinets were rounded and if only the face of the signs would be illuminated. Commissioner Palmberg commented that neighbors west of the subject property would be able to see the sign if the edges were illuminated.

Commissioner Beal said there would be no value to the applicant to illuminate the residential district since the focus is along Highway 7. Commissioner Palmberg agreed, but noted the residential homes are located on a hill overlooking the property.

Commissioner Beal discussed the sign area issue and the fact if the request was approved there would be minimal available signage for the other tenant in the building. He questioned whether that was even a concern for the Commission. He feels that is an issue that is between the building owner and his tenants.

Zoning Coordinator referenced an email sent to the applicant by the building owner in March which stated the applicant was permitted thirty-five and a quarter square feet of signage.

Commissioner Cook expressed concern that the application was not signed by the building owner. Commissioner Palmberg feels the application could be invalid. Commissioner Beal disagreed and finds it hard to believe that a business owner can't apply for signage. Commission Spiers noted that the Conditional Use Permit is issued to the owner and not the tenant. Beal said the owner's signature can be obtained between the Planning Commission and Council meeting.

Chairman Lucking noted again that the owner indicated in his email that the applicant was permitted thirty-five square feet of signage. Commissioner Beal believes that's between the owner and his tenants. Lucking said the applicant may only be able to place one of his desired signs. Beal said the landlord may negotiate with the other tenant and feels the real question is if the Commission is comfortable seventy-five square feet of illuminated signage on the site based on the City Attorney's memo outlining the criteria for Conditional Use Permits. He doesn't want to get involved with the allocation of signage between tenants.

Commissioner Cook has no issue with the signage but reiterated the application needs to be signed by the building owner.

Commissioner Palmberg discussed the hours of operation and the wattage of the signs feeling they could impact the homes to the west of the property.

Commissioner Beal discussed the Conditional Use criteria and doesn't believe the request would be detrimental to or endanger the general welfare of the area. He discussed the compatibility of the proposal with the existing character of the general vicinity, noting he doesn't believe the proposed signage would impact the general character. He said it's a matter of fairness in his mind, since the other businesses in the area have illuminated signage, especially the Lakeshore Market right next door. He feels it is fair to ask that the signs have a flat surface and not cast light in a manner that impacts the adjacent properties. Commissioner Spiers noted the intensity of the lighting must comply with the city's lighting ordinance.

Commissioner Palmberg asked about a limitation on hours of illumination. Mr. Rosner said he would have them on all the time if it were allowed. Council Liaison Fletcher suggested 9 p.m. Mr. Rosner said that would be alright. Commissioner Beal said he wouldn't have a problem if the sign on the south side, along Highway 7, were left on all night.

Chairman Lucking closed the public hearing.

The Commission discussed potential conditions to place on a motion for approval including having the building owner sign the application, a limitation on the hours of illumination, a limitation on the total sign area and that the applicant and the building owner come to an agreement about the amount of signage the applicant is entitled to. The Commission was polled and it was agreed by a majority that the sign located along the west façade of the building must not be illuminated any later than 10 p.m.

Motion by Commissioner Beal to recommend the City Council approve the Conditional Use Permit for the placement of two internally illuminated cabinet signs, totaling seventy-two square feet and to be placed on the south and west elevations of the buildings, as presented for 21000 State Highway Seven. The motion was conditioned that the building owner sign the Conditional Use Permit application, that the sign located on the west façade must not be illuminated later than 10 p.m. and that the issues of the applicant's permitted sign area be negotiated between the applicant and building owner. Commissioner Paeper seconded the motion. Motion carried 5-0.

## **6. OTHER BUSINESS**

## **7. ADJOURN**

Motion by Commissioner Beal to adjourn the meeting. Commissioner Spiers seconded the motion. The meeting was adjourned at 7:42 p.m.

Respectively Submitted  
Gus Karpas - Zoning Coordinator

Mooring seniority	Name	Address	Date of documents provided and other dock acceptance info	Date purchased home - per Henn Cty.
1	Mucenieks, Valdis & Anita	21555 Minnetonka Blvd, 55331	3-11- 1986 documents, although he said had dock <b>back to 1974</b> , but no copies kept from that time.	1948
2	Lucking, Pat & Bragg, Ellen	5180 Greenwood Circle, 55331	1986 - April - said he was offered dock right when he purchased home, docks available because of very low water levels during that time. No documents provided, but coincidentally a letter from Howard Page mentions this drought situation continuing into 1988.	1986 - April
3	Roberts, Paul & Penney	21600 Pineview Court, 55331	3/23/1988 - paid fee this date, must have accepted a week or two earlier.	1987 - April
4	Page, Howard & Barbara	5055 Kings Court, 55331	5/12/1988 - date of his letter, & stated payment enclosed, accepting the dock space	1987 - January
5	Kickhafer, David (no spouse listed)	5170 Greenwood Circle, 55331	3/30/1989 - date of app for boat permit	1991



# 2010 COMMUNITY SURVEY

Your input is needed to help guide the city council concerning internet / TV / phone service in the city. Please complete this quick survey and return in the enclosed envelope to: Greenwood City Office, 20225 Cottagewood Road, Deephaven, MN 55331. Deadline: October 15, 2010. Your input is appreciated!

INTERNET / TV / PHONE

The Lake Minnetonka Communications Commission is an agency formed by 17 area cities (including Greenwood), whose purpose is to oversee the franchise agreement with Mediacom, and to promote awareness and use of community television. Currently the LMCC is looking into the feasibility of tonkaconnect™ -- a separate community-owned, fiber-optics service that would provide the fastest (up to 100 Mbps download and upload) internet service along with TV and phone service in the area. The fastest current internet services are DSL and cable (up to 20 Mbps download and 2 Mbps upload). The cost to build and operate tonkaconnect™ would be paid by the subscribers of the service and no one would be required to connect. However, cities may be asked to pay for the plan needed to determine viability and provide credit guarantees or enhancements for the ultimate project. Please respond to the survey statements below ...

1. I am satisfied with the service and pricing provided by my current internet / TV / phone provider(s).

Strongly Agree	<input type="checkbox"/>	Agree	<input type="checkbox"/>	Neutral	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Strongly Disagree	<input type="checkbox"/>
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2. I believe the city should work to encourage the availability of leading-edge communication technologies, but leave the ownership and operations to the private sector.

<input type="checkbox"/>				
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3. I support the proposed community-owned and financed tonkaconnect™ service to compete with the existing private service providers (Mediacom and Qwest).

<input type="checkbox"/>				
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4. I support the city contributing \$15,000 to \$20,000 (approximately \$60 per household) for the plan needed to determine the viability of tonkaconnect™ in the Lake Minnetonka area.

<input type="checkbox"/>				
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Written comments welcome ...

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Your Name (optional)

**One survey is provided per property. Photocopies will not be accepted.**



20225 Cottagewood Road  
Deephaven, Minnesota 55331  
(952) 474-6633  
Fax (952) 401-7587

September 13, 2010

Mr. John Doty  
21540 Pineview Court  
Greenwood, MN 55331

Dear John,

I visited your property with the city tree inspector to address potential issues brought to the city's attention regarding dead/diseased trees and brush piles that may be in violation of the city code.

This letter is to notify you that a violations of Sections 1020:20, 1140:00(3)(1) and 1140:00(3)(2) were found and have been marked on your property located at 21540 Pineview Court and that you must remove the subject trees as described in Section 1140:00(7). Failure to do so will result in the City removing the violation as permitted by the ordinance, with the cost for doing so being assessed to your property. The dead trees marked by tree inspector must be removed within ten days and diseased trees must be removed in twenty days or an Administrative Citation will be issued. I have attached a spreadsheet indicating all the trees that must be removed.

In addition, a number of noxious weeds prohibited by the state and brush piles were noted, these must also be removed.

Thank you for your time and attention to this matter and if you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Gus Karpas".

Gus Karpas  
Zoning Coordinator

Cc: File  
Mayor Kind and City Councilmembers  
City Attorney Mark Kelly





# Excelsior Fire District – Fire Code & Safety Inspections

24100 Smithtown Road Shorewood Minnesota 55331

INSPECTOR KELLIE MURPHY-RINGATE 952.960.1692 kmurphyringate@excelsiorfire.org

OCCUPANCY: <b>GEORGETOWN MANOR</b>	INSPECTION DATE: <b>9/14/2010</b>	KNOX: <b>NO</b>	TYPE: <b>R-2</b>
ADDRESS: <b>5205 GREENWOOD CIRCLE</b>	1 <sup>ST</sup> FOLLOW-UP:	SPR SYS: <b>NO</b>	ALARM: <b>NO</b>
BUSINESS PHONE: <b>952-922-9595</b>	EMERGENCY CONTACT:	EMERGENCY PHONE #:	
Inspection of the occupancy listed above has been completed in accordance with the Minnesota State Fire Code (MSFC) adopted by the cities of Deephaven, Excelsior, Greenwood, Shorewood and Tonka Bay. The following violations and/or deficiencies requiring corrective action are noted below.		EMAIL:	
		The Fire District reserves the right to enforce the MSFC if any other violations are discovered during the compliance process or as they may arise.	

**Code Violation Summary:** **APARTMENT 4 - Complete**  
 Install Smoke Detector in Bedroom: Kitchen

**APARTMENT 5 - Complete**  
 No Bed in Closet

**APARTMENT 6 - Complete**  
 - Detector placed in Hallway

**APARTMENT 7 - Complete**  
 - Detector placed in Basement

**APARTMENT 12 - Complete**  
 - Junction Box covers put in place

**APARTMENT 13 - Complete**  
 - Detector placed in Kitchen

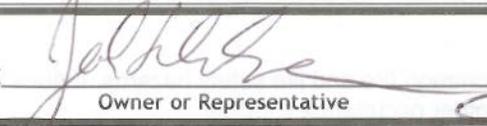
**APARTMENT 16 - Complete**  
 - Ceiling tiles replaced: ash container placed outside of door by tenant

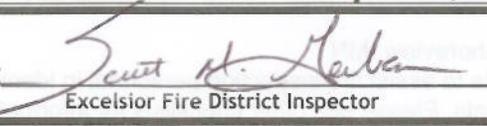
**APARTMENT 17 - Complete**  
 - Detector placed in Hallway

**CO / SMOKE ALARM LOGS - Log provided**

- provided guidance on long-term planning and documented for all alarms in the building.

Inspection Program Policy Given

x   
 Owner or Representative

x   
 Excelsior Fire District Inspector

Signature indicates receipt of copy and cooperation with compliance orders.

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**Subject: GOOD NEWS!**

**Date:** Tuesday, September 21, 2010 9:10 AM

**From:** Gus Karpas <guskarpas@mchsi.com>

**To:** Debra Kind d.kind@mchsi.com

**Cc:** Tom Fletcher tfletcher@aexcom.com

I spoke with the Building Inspector who said all the inspections on Georgetown Manor are complete and there are no other issues.

GUS

**Subject: FW: MCWD TAC Meeting Minutes 09-01-10**

**Date:** Tuesday, September 28, 2010 9:46 AM

**From:** Dave Martini <davidma@bolton-menk.com>

**To:** Gus Karpas guskarpas@mchsi.com, Shelley Souers shelley@cityofwoodlandmn.org, Paul Skrede pslaptop@mchsi.com, Debra Kind d.kind@mchsi.com, Jim Doak jdoak.woodland@hotmail.com

All,

In order to keep you all informed of the Minnehaha Creek Watershed's rule revision process, our Water Resources specialist, Doug Carter, will be attending the MCWD's Technical Advisory Committee meetings on behalf of the communities we represent. I have asked Doug to prepare minutes from those meetings so that you can have a sense of the discussions that are taking place. The minutes are attached for your information. As I understand it, the proposed rule revisions have more of an effect on development activities and will have little effect on residential projects. Please let me know if you have questions or if you have specific concerns that you want to make sure are voiced at these meetings. If you think it will be helpful I can set up a meeting with Doug to discuss these issues in more detail.

Thanks.

**David P. Martini, P.E.**

**Bolton & Menk, Inc.**

P: (952) 448-8838, Ext. 2458

F: (952) 448-8805

email: davidma@bolton-menk.com <mailto:davidma@bolton-menk.com>

[www.bolton-menk.com](http://www.bolton-menk.com/) <http://www.bolton-menk.com/>



# BOLTON & MENK, INC.

## Consulting Engineers & Surveyors

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

www.bolton-menk.com

### MEMORANDUM

**Date:** September 8, 2010  
**To:** Dan Faulkner, P.E., David Martini, P.E., Jake Saulsbury, P.E., Kreg Schmidt, P.E.  
**From:** Douglas Carter, P.E., LEED AP  
**Subject:** Minnehaha Creek Watershed District TAC Meeting

The meeting was held on September 1, 2010

I attended TAC meeting representing the communities of: Mound, Greenwood, Deephaven, Woodland, and St. Bonnie.

Meeting was conducted by James Wisker, MCWD Planner.

The purpose of the meeting was to summarize the MCWD rule revision process to date; reintroduce the Draft Stormwater Management Rule; identify areas of the Draft Stormwater Management Rule requiring further refinement and/or definition; and to identify work and/or information needed for future meetings to further develop the Draft Stormwater Management Rule.

James Wisker brought up the idea that he would like to conduct future meeting twice a month to have the Stormwater Management Rule ready for public comment by December 2010 or January 2011.

James Wisker restated that there would be additional cost share dollars available for single family residential construction projects for BMP implementation related to phosphorous reduction.

The recommendation was made from the TAC to the MCWD staff and Board to not regulate single family residential construction. The Board agreed and only requires BMPs, not quantitative reduction requirements.

The volume control (abstraction) standard will be based on proposed site layout and geotechnical boring information and conclusions. Soil types and proposed basin locations will determine what the infiltration requirement will be. The requirement varies between 1-in and 0.5-in.

The abstraction standard is open at this time as to which sites and locations will be held to a 1-in abstraction and which ones will be held to a 0.5-in abstraction. Further input is required by the TAC to determine how best to delineate requirement in a fair and equitable manner.

All members of the TAC and the MCWD are in agreement that development concepts and proposed site plans and layouts need to be submitted to the regulatory agency (Watershed District or municipality) early in the development process. The sooner the regulatory agency is consulted the more information and assistance they can provide.

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*DESIGNING FOR A BETTER TOMORROW*

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The variance requirements associated with the Stormwater Management Rule require additional detail and clarification. The MCWD will work on this and present more detailed requirements at the next TAC meeting.

There was considerable discussion regarding filtration requirements and when filtration is an acceptable substitute for infiltration. Soil types and site conditions play a role but those factors should not drive the selection process. The MCWD will bring this issue up at the next TAC meeting to discuss additional details.

The MIDS (Minimal Impact Design Standards) credit system, developed by MPCA, is scheduled to be out for public comment in December 2010. There was discussion centered on the MCWD waiting to review the MIDS Credit system and adopt the portions they are in agreement with and will work best within the watershed. The MCWD will look into the MIDS schedule to verify the release date and details.

The MCWD stated that the current list of required exhibits in the Draft Stormwater Management Rule is inadequate and requested the TAC members to submit their recommendations. They suggested reviewing the lists found in their respective ordinance and get back to the MCWD as to what appears to work best. The effort is designed to produce a comprehensive list of exhibits the MCWD will use to review development within the watershed.

 **Metropolitan Council**

September 17, 2010

Dear Mayor:

The inflow and infiltration (I/I) of clear water into local and regional wastewater pipes is a waste of financial resources and an environmental threat. But with the help and participation of communities across the region, the continuing effort to eliminate clear water from the wastewater treatment system is a big success. In fact, the 47 communities identified as having excess I/I are making such good progress that we've been able to avoid surcharges on municipal wastewater fees in all but one instance.

Additional good news stems from Metro Council action that gives communities more time to complete mitigation work. The Council, in fact, will continue the program on a more permanent basis to ensure mitigation work continues to prevent clear water from entering the wastewater system and using up needed capacity.

The decision to continue the program on an ongoing basis reflects the region's progress to date, as well as a commitment to eliminating excess I/I well into the future. We expect regional savings will amount to hundreds of millions of dollars, helping to maintain regional sewer rates that are among the lowest in the country.

The Council approved changes to the I/I reduction program on Sept. 8, based on the recommendations of a task force that I appointed last year. The task force included local government staff, Metro Cities and Council Member Wendy Wulff, who served as chair. It was charged with determining how best to implement a "demand charge," beginning in 2013, on those communities that didn't meet I/I reduction goals. As originally conceived, the demand charge would have been used to help pay the costs of addressing I/I at the regional level and building additional capacity at considerable expense.

But the task force recommended, and the Council agreed, that communities need more time to continue their mitigation work. We also concluded that slower growth and less flow means we'll have sufficient capacity for more years than previously anticipated, which gives us more time.

I am very pleased with the outcome. Changes to the program create further incentive for voluntary compliance, and impose demand charges only as a last resort and on a case-by-case basis. Specifically, changes to the I/I program will:

- Continue the I/I reduction program indefinitely, recognizing that mitigation at the source is the most cost effective and efficient approach to reducing I/I.
- Allow some communities to defer some 2011 I/I reduction work until 2012.
- Eliminate a systematic 2013 demand charge and impose a demand charge only as a last resort on communities that do not implement an effective I/I reduction

program, or if regulations and/or regulatory permits require Council action to ensure compliance. The charge, if implemented, would be used to cover the cost of building offline storage to handle excessive peak flows.

- Improve the methodology for determining excess I/I.

To date, communities identified as having excess I/I have spent nearly \$50 million to reduce I/I. The Council estimates we would have to spend closer to \$1 billion to expand wastewater collection and treatment capacity to handle excess I/I. The success of this program and the considerable savings to taxpayers is the result of the hard work and commitment of metro communities.

I also want to thank Council Member Wulff for her work and dedication to this initiative, as well as all those who participated on the task force. We should all feel very good about the savings to the region achieved through the efforts of your communities. If you have any questions about the program or recent changes, I encourage you to contact Bryce Pickart, MCES Assistant General Manager, at 651.602.1091, or Jason Willett, MCES Finance Director, at 651.602.1196.

Sincerely,



Peter Bell, Chair

c: City Manager/Administrator

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**Subject:** FW: Repavement on Maple Heights  
**Date:** Thursday, September 23, 2010 10:48 AM  
**From:** Gus Karpas <administrator@greenwoodmn.com>  
**To:** Debra Kind d.kind@mchsi.com  
**Cc:** Dave Martini davidma@bolton-menk.com

FYI

**From:** Nick Walker [mailto:nick.twalker@gmail.com]  
**Sent:** Sunday, August 22, 2010 5:59 PM  
**To:** administrator@greenwoodmn.com  
**Subject:** Repavement on Maple Heights

Just wanted to comment on the great job Bolton & Menk did on the pavement removal and resurfacing on Maple Heights Road. I think they did a very quality job and what was most impressive was the speediness in which they did it. This project added a lot of value to the neighborhood and just wanted to comment on their work.

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Nick Walker  
nick.twalker@gmail.com  
952.393.4161