

GREENWOOD CITY COUNCIL MEETING
Wednesday, February 1, 2012, 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 7:01 P.M.

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

Others Present: City Zoning Administrator/City Clerk Karpas

Members Absent: None

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

2. CONSENT AGENDA

Mayor Kind reviewed the items on the Consent Agenda.

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

- A. January 4, 2012, City Council Meeting Minutes**
- B. December 2011 Cash Summary Report** (This was moved to Item 8.A under Other Business.)
- C. January 2012 Verifieds, Check Register, Electronic Fund Transfers**
- D. February 2012 Payroll Register**

Motion passed 5/0.

3. MATTERS FROM THE FLOOR

There were no matters from the floor presented this evening.

4. ANNOUNCEMENTS, PRESENTATIONS & REPORTS

- A. South Lake Minnetonka Police Department Lieutenant David Pierson and Sergeant Mark Geyer Quarterly Police Update**

Mayor Kind stated South Lake Minnetonka Police Department (SLMPD) Lieutenant David Pierson and Sergeant Mark Geyer were present this evening to provide Council with a quarterly update on SLMPD activities in the City and the South Lake area. She explained that toward the later part of 2011 Council requested a quarterly update. Council can also use this time as an opportunity to talk to SLMPD representatives about police issues and concerns. She noted that SLMPD Detective Sergeant Steve Neururer is also present to give an update on the crime alert.

Lieutenant Pierson thanked Council for this opportunity. He stated the SLMPD's officers are doing a lot of great things in the South Lake community. He noted that Sergeant Geyer will talk about the SLMPD's first ever Law Enforcement Academy (the Academy) and Detective Sergeant Neururer will talk about investigations.

Sergeant Geyer explained the Academy was ten weeks long and it was held during the fall of 2011. There were ten sessions each of them being approximately 2.5 hours in length. A variety of topics were covered. The Academy was a way for the SLMPD to have positive interaction with the community and vice versa. At the end of the Academy each attendee received a certificate of attendance along with a tee shirt with the Academy and date on it. He noted that Councilmember Fletcher and his wife attended the Academy. He presented Fletcher with his certificate and shirt for him and his wife this evening because Fletcher was not able to attend the last session. He provided Council with pamphlets about the 2012 Academy which will also be held in the fall. The current plan is to start the Academy the first week after Labor Day but that has not been firmed up. The sessions will typically be held on Thursday evenings because there is less conflict with government meetings. He noted the class size is twelve participants. He also noted that attendees are limited to anyone who lives in the SLMPD jurisdiction area and is at least 18 years old.

Councilmember Fletcher highly recommended attending the Academy.

Detective Sergeant Neururer explained that in Greenwood there had been one attempted burglary that occurred on January 18th and two actual burglaries that occurred on January 27th. The SLMPD is working with other agencies investigating similar crimes and it is following up on all possible leads no matter how small the lead may appear. Because it is an active investigation the SLMPD cannot share a lot of information. The burglars are disabling phone lines and using a variety of vehicles. No one was home at the time of the break-ins. SLMPD representatives will meet with representatives from other agencies working on this investigation on February 2nd to share information about it. He urged people to call 911 with information about suspicious people or vehicles they see in the South Lake area. He noted the SLMPD has increased patrol coverage in the area and the SLMPD has received positive feedback about that.

Councilmember Quam stated he has noticed a patrol car parked at the corner of Excelsior Boulevard and Minnetonka Boulevard and he thought that could be a deterrent for criminals entering the City.

In response to a question from Mayor Kind, Detective Sergeant Neururer stated there is some evidence that similar incidents in other cities are somewhat related.

Mayor Kind stated that there are rumors going around that she would like Detective Sergeant Neururer to either confirm or dispel. One is that the perpetrator knocks on the door first to try and determine if anyone is home. Neururer stated he has heard that but he is not sure if that is the case all of the time. It's hard to know what the burglars do because the residents aren't at home. Kind asked Neururer if there is anything he can share about the types of vehicles the burglars drive. Neururer explained that he cannot answer that at this time because it could jeopardize the investigation. Kind then asked Neururer if he could comment on the age and size of the perpetrators. Neururer explained he cannot share anything about any leads they may have.

In response to a question from Councilmember Quam, Detective Sergeant Neururer stated the SLMPD is receiving help from the Deephaven, Eden Prairie, Edina and Bloomington Police Departments because there have been burglaries in those Cities. In response to another question from Quam, Neururer responded if residents are going to be away on vacation for an extended period of time they should let the SLMPD know because they can be placed on a vacation check list so SLMPD personnel can check on

their property. Neururer recommended residents have lights go on and off with timers when they are gone. He noted there is information about crime prevention techniques on the SLMPD's website www.southlakepd.com or call the SLMPD at (952) 474-3261. Residents can also call the after hours non-emergency number through the Hennepin County Sheriff's Office which is (763) 525-6210 and ask for a SLMPD officer to call them back when time permits.

In response to a question from Councilmember Page, Detective Sergeant Neururer explained phone lines are being cut because home alarm systems dispatch alerts through the phone line and he noted there are systems that have a backup to the phone line. Also, some systems notify the alarm company if there is no signal because a line is cut. Councilmember Fletcher noted that is not the case for most residential alarm systems.

In response to a question from someone in the audience, Detective Sergeant Nurturer stated if residents are home they should keep their doors to their homes locked. They should also keep their garage doors locked, their car doors locked, keep valuables out of their cars and so forth. He then recommended keeping doors locked when out in the yard. It's also a good idea to keep ground floor windows closed. He recommended people get to know their neighbors and to find out when they will be gone.

Councilmember Fletcher stated the topic of speeding on the City's residential streets does get brought up a lot by people in the City. He asked Sergeant Geyer if he had any suggestions. Geyer stated the SLMPD patrol force does spend a fair amount of time on speed enforcement. Geyer recommended residents who believe there is a lot of speeding in their neighborhood call the SLMPD and tell the SLMPD about it. He noted that earlier in the day he spoke with a Greenwood resident who expressed concern about speeding on Minnetonka Boulevard. In response the SLMPD will step up speed enforcement activities on that roadway. In the summer months the speed buggy can be deployed.

Councilmember Quam asked Sergeant Geyer what his perspective is about speed bumps. Geyer stated he had no problem with them but it is his understanding public works departments are not fond of them because they create issues when plowing roadways. Geyer commented he is aware of a private road in the City of Shorewood having them on it. Quam noted there are roadways in Greenwood where traveling 30 miles per hour (mph) is too fast and too dangerous. Geyer explained residential streets have 30 mph speed limits unless they a speed study is done that supports a lower speed limit.

Mayor Kind thanked Lieutenant Pierson, Detective Sergeant Neururer and Sergeant Geyer for coming to the meeting.

B. St. Albans Bay Captain Rob Roy, Baywide Milfoil Treatment Program

Rob Roy, 21270 Excelsior Boulevard, (the St. Alban's Bay Captain) stated the total cost for chemically treating for Eurasian Watermilfoil (milfoil) in 2011 came to \$63,773. He explained the volume of milfoil decreased from 71 percent of St. Alban's Bay (the Bay) to zero percent in the areas of the Bay that were sampled. The volume of native plants in the Bay increased by 33 percent in the areas sampled. Of the 111 households solicited, 84 percent contributed to the cost of the milfoil treatment. The cost to treat the Bay in 2012 should be no more than one half of the 2011 cost. He noted that he has already contacted the 2011 street captains who helped with the solicitation. He explained five bays were chemically treated in 2011. There is interest in treating three additional bays in 2012.

Mr. Roy asked Council if it would be willing to have the City contribute \$2,000 toward the cost of the 2012 chemical treatment of the Bay. He noted the City contributed \$5,000 for the 2011 treatment. He stated he also will be asking lakeshore owners to contribute less because the cost of the treatment will be

less. He also noted the Environmental Protection Agency is imposing a \$1,200 per fee per bay treated for permitting of chemicals and that may go into effect for 2012.

Mayor Kind asked Mr. Roy when the funds are needed by. Mr. Roy responded not until the actual treatment occurs in June.

Councilmember Page asked if the proposed charge Mr. Roy spoke about is because of asking the Army Corps of Engineers to be involved. Mr. Roy responded it is not and that the Army Corps wants to be involved and do the surveys so it can capture more data. Page asked if the Army Corps indicated any desire to be involved in 2012. Mr. Roy responded he has not spoken with the Army Corps about that. Page noted that he has learned via the Lake Minnetonka Conservation District (LMCD) that the Army Corps will not be involved next year.

Mr. Roy commented that Lake Minnetonka ends up with a variety of aquatic invasive species (AIS) because it is a large, high use lake. He noted the LMCD does not have comprehensive AIS management and mitigation plan for the Lake. He stated he does not understand why that has not been done. He noted Asian Carp are migrating up the river and there is a direct feed from the river into the Lake. He questioned if the LMCD is being proactive. He asked Councilmember Page, as the City's representative on the LMCD Board, to bring the request for a plan forward. Page stated the LMCD has discussed the need for a plan and it has discussed it with the Minnesota Department of Natural Resources (DNR). The DNR questions the need for a plan for the entire Lake and the cost to execute such a plan. Page noted there are widely varying cost estimates for executing such a plan. Mr. Roy asked how the cost of a plan can be estimated when there isn't a plan in writing. Page stated it costs money to prepare the plan and the estimates have ranged from \$30,000 – \$70,000. Mr. Roy stated he would spend \$30,000 in a heartbeat on the plan in order to get everyone going in the same direction.

Fletcher moved, Quam seconded, approving the payment of \$2,000 from the Marina Fund towards the 2012 milfoil treatment of St. Alban's Bay and directing the City Treasurer to send the funds to the Lake Minnetonka Association, managers of the treatment program, by June 1, 2012. Motion passed 4/1 with Rose dissenting.

Councilmember Rose stated he dissented because he questions why all of the money goes toward the treatment of St. Alban's Bay and not the other side [Excelsior Bay]. Mayor Kind stated there needs to be a bay captain for Excelsior Bay to get the project going there.

Councilmember Fletcher noted the 2012 budget includes \$5,000 for the treatment.

Mr. Roy asked if it would be possible to get a list of the people who rent the City-owned docks so they can be solicited. Mayor Kind stated she will make sure he gets the list.

Council thanked Mr. Roy for his efforts.

C. City Clerk Gus Karpas, Hennepin County Recycling Program and Grant Application

Zoning Administrator/Clerk Karpas stated on January 12, 2012, he attended a meeting conducted by Hennepin County Environmental Services regarding the County's residential recycling program. The meeting packet contains a copy of a document outlining the program. If Council desires to apply for a grant, it must be completed online using the County's Re-TRAC report and planning documents. He noted that annually the City has to submit a Re-TRAC report. He explained the County wants to achieve

its 725 pounds per-household recycling goal by 2015. During the meeting County representatives spoke about the need to increase public awareness about recycling. The County is going to have information on a website for municipalities to use to help increase awareness. The County representatives encouraged cities to include information about recycling in their newsletters and to provide residents with brochures explaining what can be recycled. Public awareness was stressed a lot. He explained the City's request for proposal for recycling services has been modified to include additional recyclables the County has added to its collections. The County is considering collecting recyclable materials from smaller haulers to help them keep their costs competitive with larger haulers. He noted there is a slight change in the County's recycling grant program so cities now have to adopt a resolution to participate in the Hennepin County Recycling Program grant program.

Councilmember Page asked what the current per-household pound goal is. Zoning Administrator/Clerk Karpas responded the County representatives did not say. Mayor Kind asked if the 45 percent rate specified in the documents means 45 percent of total solid waste (i.e., trash plus recyclable material). Karpas responded that it does. Karpas explained that in some instances it is difficult to determine how much total solid waste is collected for an individual city because a hauler will combine multiple cities waste together. Councilmember Fletcher stated the City uses private haulers to pick up trash so there is no way to know what the total waste collected is. Fletcher noted there are a lot of empty-nesters living in the City as well as a lot of residents who go south for the winter months. He asked how that is factored into calculations. Karpas stated he will ask the County how it addresses that.

Mayor Kind stated that for Council's March 2012 meeting there will be a resolution regarding participation in the county recycling program.

Councilmember Fletcher noted the City has to submit its application for funding by February 15, 2012. Zoning Administrator/Clerk Karpas stated that will be done in time.

Page moved, Rose seconded, directing the City Clerk to apply for the Hennepin County Recycling Program Grant program and to draft a resolution for a recycling contract with Hennepin County for Council's consideration during its March 2012 meeting.

Councilmember Fletcher noted the City is required to do a little more to publicize recycling so there is some additional burden to the City. He stated Hennepin County does not want cities to make more than 10 percent on their recycling programs. He explained that for 2011 the City made more than the 10 percent margin based on the recycling fees collected and the grant money received from the County. During the next item on the agenda he is going to suggest reducing the recycling fee so the City doesn't make too much money from its recycling program and grant funds received.

Motion passed 5/0.

5. PUBLIC HEARING

A. None.

6. UNFINISHED BUSINESS

A. Second Reading: Ordinance 207, Amending Code Section 510, Fees (updating various application fees

Mayor Kind explained that during Council's January 4, 2012, meeting Council approved the first reading of Ordinance 207, amending Ordinance Code Section 510 updating fees for variances, conditional use permits, and zoning code amendment applications subject to changing "*conditional use permit*" to "*conditional use permit application fee*," and changing the fee for code amendment, conditional use permit and variance applications to "\$400 plus consultant fees incurred by the City as they exceed the base fee amount." There was consensus to review each instance that includes "*plus consultant fees incurred by the City*" language and modify it to reflect the new proposed language for the second reading of the Ordinance. As a result, three additional application fees have been added to the ordinance. They are fees for miscellaneous petitions to the City for legal consent or releases, zoning miscellaneous administrative review fee, and zoning preliminary plat application fee. A copy of the revised Ordinance is included in the meeting packet.

Kind then explained that since the January 4th Council meeting Councilmember Fletcher noted that other cities require escrows to ensure reimbursement for city expenses to process applications. It means money would be set aside upfront for the City to draw upon as it incurs expenses. The meeting packet also contains a second option of Ordinance 207 which includes the escrow language.

Zoning Administrator/Clerk Karpas stated he has never seen an escrow account requirement for a variance. He has seen them for subdivision applications. Subdivisions tend to incur higher expenses because of the need for engineering services, legal, and administrative services. He expressed concern about the amount of administrative time it will take to manage escrow accounts. He explained that in the past the City has used invoices it receives for legal and administrative services to assess if the City's expenses have exceeded the permit fee paid. When the expenses have greatly exceeded the fee paid the City has at times billed the applicant for those expenses in excess of the fee paid.

Mayor Kind asked Zoning Administrator/Clerk Karpas if there has been any problem with trying to collect fees in addition to the permit fee to cover the City's costs. Karpas explained the City does not issue a building permit until all fees are paid. Karpas stated for a subdivision the resolution could include a requirement that all fees must be paid prior to the final plat being signed. Karpas then stated he can understand requiring an escrow for a subdivision, but not a variance. He explained that he thought the variance fee of \$400 should cover legal and administrative expenses as well as the cost to mail necessary public hearing notices.

Councilmember Page stated he reviewed the City of Shorewood's ordinance relating to subdivisions and Shorewood requires an escrow for a subdivision in the amount of \$1,000 plus \$25 per lot. He noted that he has not ever seen where an escrow has been required for things such as a variance or conditional use permit. He stated he is not concerned that the City does not require an escrow because the City will not sign the final plat until all fees have been paid.

Councilmember Quam also expressed concern about the administrative time required to manage the escrow accounts. Quam stated he does not think it has been a problem in the past. Zoning Administrator/Clerk Karpas noted it has not been.

Councilmember Page asked if the City receives timely invoices of the costs the City is incurring. Mayor Kind responded yes. Zoning Administrator/Clerk Karpas stated that the City Attorney and the City Engineer know how much time they have spent on an application before the City is invoiced for their services. Therefore, Karpas could easily verify expenses.

Page moved, Quam seconded, Approving Ordinance NO. 207, “An Ordinance Amending the Greenwood Ordinance Code Section 510 Updating Various Fees” as reflected in Ordinance Option 1.

Councilmember Fletcher noted he would be fine with Option 1. He also noted that the City of Spring Park does escrow for variances and the City of Plymouth does not. He stated if a variance application does not get approved the City may have incurred expenses above the base fee that it may have a hard time collecting on.

Fletcher asked Council if it would support reducing the recycling collection fee to \$15 quarterly from \$16 quarterly. This is based on the comments he made earlier in the meeting about the City making more than a 10 percent margin in 2011 on its recycling program based on the recycling fees collected and the grant money received from the County. Councilmember Quam suggested waiting until the bids for recycling service are received and then the City could determine what its margin would be based on the current fee. Councilmember Page stated the City will likely incur additional costs in 2012 because of the requirement to promote recycling. Fletcher noted the grant from the County is not supposed to help the City make money.

There was Council consensus to leave the recycling collection fee as is and review after the bids for the recycling service are received.

Motion passed 5/0.

B. First Reading, Ordinance 208, Temporary parking Permits (allowing temporary parking in no-parking zones)

Mayor Kind explained that currently the City Code requires a parking permit for on-street parking of construction vehicles at a price of \$50 per project (Section 305.00 and Section 510.00). The Code does not allow for temporary parking permits in no-parking zones for parties and similar events. In the past the City has issued such permits. If the City wishes to continue with the practice of issuing these types of temporary parking permits, the Code should be amended accordingly. She noted that Council discussed this item during its January 4, 2012, meeting and it directed Staff to draft an ordinance to help focus the discussion. The meeting packet contains a copy of draft Ordinance 208 for Council’s consideration.

Councilmember Quam stated the first sentence in the proposed new Section 710.05 states “*Upon the request of a resident holding a party...*” He expressed he does not like the word “*party*.”

Mayor Kind noted the City has an ordinance for showcase events.

There was Council consensus to change “*holding a party or similar event*” to “*holding a social event*.”

Quam moved, Page seconded, approving the first reading of ordinance 208 regarding temporary parking permits subject to changing “*holding a party or similar event*” to “*holding a social event*.”
Motion passed 5/0.

7. NEW BUSINESS

A. Estimates for Clean up of Greenwood Park Pond

Mayor Kind explained that during its January 4, 2011, meeting Council directed the City Clerk to secure estimates for the cost to clean up the pond at Greenwood Park. As of this meeting the City has not received any estimates.

Zoning Administrator/Clerk Karpas explained the contractor the City uses to do these types of things had been out of town. He will be back in town in the next few days and will provide the City with a bid some time during the upcoming week. He noted because it is getting to the end of the season for outdoor ice skating he suggested waiting until next season to create an ice rink on the pond.

Councilmember Page suggested using funds in the Park Fund for this because it is not normal maintenance. Zoning Administrator/Clerk Karpas clarified the Park Fund can only be used for acquisitions.

Page moved, Fletcher seconded, continuing this item to the March 7, 2012, Council meeting. Motion passed 5/0.

B. First Reading: Ordinance 202, Amending Code Section 1102, Shore Impact Zone Definition

Mayor Kind explained this is the first reading of Ordinance 202, amending Ordinance Code Section 1102 updating the definition of the Shore Impact Zone. The Planning Commission held a public hearing and reviewed the draft ordinance during its December 21, 2011, meeting. The Planning Commission on a 4/1 vote recommended Council approve Ordinance 202 amending Section 1102 of the Zoning Ordinance redefining the definition of Shore Impact Zone to mean *“the land located between the ordinary high water level of Lake Minnetonka and a line parallel to it at a setback of 25 feet from the ordinary high water level of the lake.”* Commissioner Malo cast the dissenting vote.

Zoning Administrator/Clerk Karpas stated the proposed language would more closely follow the intent in the State Statute. Councilmember Page stated he had understood the current definition to mean 50 feet back from the shoreline. Karpas explained that Shore Impact Zone is different than the Building Setback which is 50 ft. and is not being changed. Mayor Kind stated the only place she could find where the Shore Impact Zone is used in the Zoning Ordinance is with regard to tree removal.

Fletcher moved, Quam seconded, adopting the first reading of Ordinance 202 amending Section 1102 definition of Shore Impact Zone.

Motion passed 5/0.

C. Authorization of Recycling Request for Proposals

Mayor Kind explained the City's contract with Vintage Waste Systems for recycling collection services began on September 1, 2009. The contract included the option for two 1-year extensions if agreed upon by both parties. Last year the City Council approved the second of the two 1-year extensions for service to be provided from September 1, 2011 through August 31, 2012. There are no more options for extension in the current contract. The meeting packet contains a copy of a proposed request for proposals (RFP) for citywide recycling services for Council's consideration. She noted that yesterday the City's auditors informed her that the City does not have to go through the RFP process for projects less than \$100,000. Councilmember Fletcher questioned why the City would not go through the RFP process.

Mayor Kind stated she thought it prudent to go through the RFP process for contract services periodically to ensure the City is getting the best price.

Councilmember Fletcher suggested adding a statement to the RFP which states "*The proposer shall also provide a written report each November showing the October household participation in the recycling program.*" He explained that is to dovetail with Hennepin County information reporting requirements. Mayor Kind stated the RFP contains the statement "*At the end of each year, the proposer shall provide the city with a written report detailing types of recycling and tonnage as required by the Hennepin County Residential Recycling Program.*" Fletcher suggested including his proposed requirement right after that statement in the same bulleted item. Fletcher noted the County wants October participation.

Fletcher moved, Quam seconded, approving the request for proposals for Citywide recycling services subject to adding the statement "*The proposer shall also provide a written report each November showing the October household participation in the recycling program*" after the statement "*At the end of each year, the proposer shall provide the city with a written report...*"

Councilmember Page stated the blanks in the final bulleted item in the RFP about when the final selection of the vendor will occur and when the RFPs have to be submitted by need to be filled in. Also, the size of the three ____-gallon containers for the 17-unit apartment complex needs to be filled in.

Mayor Kind asked if Council wants to change when the recycling services contract goes into effect. She stated for budgeting purposes it would be nice if would be on a calendar year cycle (January through December). Councilmember Fletcher cautioned against doing that because recycling containers could potentially have to be changed during the winter months.

Without objection from the maker or seconder, the motion was amended to specify the final selection of the vendor will take place on or before July 5, 2012, and that the electronic copy of the proposal must be submitted by 4:30 P.M. on June 1, 2012.

Zoning Administrator/Clerk Karpas suggested that maybe the first term of the contract be one year with a renewal option term of two years.

Councilmember Quam stated the City used to have a longer term contract. Mayor Kind explained it was the vendor that asked for 1-year terms. Councilmember Fletcher stated from his perspective a longer term contract favors larger haulers.

Councilmember Fletcher suggested the City allow the proposers to either submit a RFP for a 1-year contract with the option to extend it twice for one year each or to submit a RFP for a 3-year contract.

Without objection from the maker or seconder, the motion was amended again to modify the RFP to allow the proposers to either submit a RFP for a 1-year contract with the option to extend it twice for one year each or to submit a RFP for a 3-year contract and to have the City Clerk determine the size of the containers for the 17-unit apartment complex and put that in the RFP. Motion passed 5/0.

D. Potential Sump Pump Program

Mayor Kind stated that in light of the recent excess water flow problem on Channel Drive that Council may want to consider conducting a new sump pump program. She explained that the last program was conducted in 2006. The program is outlined in Section 310.30 subd. 5(d) of the City Code. A copy of that

Section is included in the meeting packet. In 2006 it is believed that property owners were asked to complete a form to certify that their sump pump was not hooked up to the sewer system. Unfortunately, there was no follow-up with onsite inspections of property owners that did not return the certification form. The City Attorney recalls that in-home inspections were seen as intrusive and costly by the Council at that time. That Council chose to focus on repairing manholes instead. If this Council desires to conduct a new sump pump program the code would need to be amended.

Kind explained that earlier in the day she had asked Zoning Administrator/Clerk Karpas to contact Metropolitan Council Environmental Services (MCES) to get information about the City's typical flow into the Metropolitan Sanitary Sewer System sewer system. MCES provided Gus with flow information for August 7, 9, 11, 13, and 15 of 2010.

Zoning Administrator/Clerk Karpas stated the information from MCES indicated that for 2011 the City had an annual flow of 16.82 million gallons. MCES takes the annual flow amount and divides it by the number of residents in the City and then divides the results by the number of days in the year. That came out to be 65 gallons per day per resident. MCES sets its average standard at 70 – 80 gallons per day per resident in dry conditions. For one rain event there was a significant spike in the flow into the sewer system. The MCES representative he spoke with said when that is averaged out with other flows the City's daily flow is still below the MCES average standard. He noted he did tell the representative the City did do another sewer repair project in 2011 and that could help reduce stormwater flow into the Sewer System during rain events.

Mayor Kind suggested that maybe the City should wait to find out if the sewer system repairs made in 2011 have had a positive impact during rain events. Councilmember Quam expressed his agreement with that.

In response to a question from Councilmember Page, Mayor Kind stated the owners of the 20840 Channel Drive property are receiving invoices for all costs associated with excess clean water flow into the City's sanitary sewer system and that she thinks the invoices are being paid. Page asked if the excess flow is from a sump pump. Zoning Administrator/Clerk Karpas explained the people renting that property don't know what the problem is. Karpas noted the renters have been very helpful. He also noted that he is not sure if the City Engineer or if anyone from Public Works went into the home to find out if there is a sump pump and if so is it draining into the City's sewer system. He explained the City Engineer thought the problem could possibly be a broken pipe because there is a continuous flow of water.

There was Council consensus to have Zoning Administrator/Clerk Karpas go to the property to find out if there is a sump pump and if so where it drains.

Councilmember Fletcher suggested waiting a year before making any more non-emergency sewer system repairs in order to determine the impact the repairs have had. Councilmember Quam clarified that the repairs Fletcher is talking about are complete. Fletcher expressed his confidence that not all of the repair work was completed due to budget constraints. Quam agreed that the final part of the project remains to be done.

Mayor Kind stated the March Council meeting agenda will include a report on this.

8. OTHER BUSINESS

A. December 2011 Cash Summary Report

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

Councilmember Fletcher explained that during its November 2, 2011, meeting Council directed the City Treasurer to open a 13-month certificate of deposit (CD) at Beacon Bank using \$60,000 in funds from the Bridgewater Bank savings account. The \$60,000 CD is not reflected in the December Cash Summary Report. He suggested the Report be corrected and then it can be approved during Council's March 7, 2012, meeting.

Discussion moved to Item 9.B on the agenda.

9. COUNCIL REPORTS

A. Fletcher: Planning Commission, Lake Minnetonka Communications Commission

This was discussed after Item 9.B on the agenda.

With regard to the Planning Commission, Councilmember Fletcher stated the Commission did not meet in January so there is nothing to report on.

With regard to the Lake Minnetonka Communications Commission (LMCC), Fletcher stated agenda parsing has been implemented for government meeting recordings on the LMCC's website. He explained the LMCC is starting to consider contracting out its video production services. Being the LMCC is a government body he asked what Council thinks about that. Councilmember Quam stated he doesn't think the LMCC should do that. Councilmember Page stated he doesn't have an opinion on that. Mayor Kind stated it bothers her philosophically to have taxpayer money competing with the private sector.

Discussion moved to Item 9.C on the agenda.

B. Kind: Police, Administration, Freshwater Society Mayor's Meeting

This was discussed after Item 8.A on the agenda.

Mayor Kind stated John Utley with Kennedy & Graven is present this evening to answer questions Council may have about the email he wrote to the City of Woodland City Clerk about conduit revenue bond financing for Wayzata Bay Senior Housing, Inc. A copy of the email was included in the FYI section of the meeting packet.

Kind summarized the email. Presbyterian Homes & Services formed Wayzata Bay Senior Housing, Inc., a Minnesota nonprofit corporation (the Corporation), to undertake the Wayzata Bay Project (the Project). The development will be comprised of multifamily housing for seniors and commercial. The Corporation is proposing to finance the construction of a substantial portion of the Project through the issuance of tax-exempt conduit revenue bonds (the Bonds). Approximately \$60 million in bonds will have to be issued. Wayzata will issue approximately \$10 million of the Bonds.

Kind explained other issuers have been asked to participate in the financing of the Project through the issuance of bank-qualified Bonds by such other issuers. The City has been asked if it would like to participate. She noted this topic came up at a mayor's luncheon she attended. She stated the Cities of Shorewood and Woodland are seriously considering doing this. She explained if the City did participate and issued \$10 million of Bonds it would be paid an administrative fee of approximately \$12,500 which would be paid on the date of the issuance of the Bonds.

Mr. Utley gave a brief overview of what the Project will entail. He explained that because the Corporation is a qualified 501(c)(3) organization it can use tax-exempt financing. A political subdivision such as the City has to issue the debt and sell it in this case to a bank. The bank would loan out the purchase price of the note. He noted they have to be revenue bonds and he explained how revenue bonds work. In the event that the developer had trouble paying the debt there would be no recourse to the City should it decide to participate. The bank could not come after the City. He stated the State has allowed this type of financing for about 50 years and there has never been a problem for a municipality when they did this type of thing.

Mayor Kind asked Mr. Utley to explain why Kennedy & Graven is involved with this.

Mr. Utley explained there is quite a history behind tax-exempt municipal bonds. When anyone buys a tax-exempt bond in today's world they need to have an opinion from a qualified bond counsel which Kennedy & Graven is. He noted this is a very narrow area of law. There are about six law firms in the State that are considered qualified to be a bond counsel. Kennedy & Graven has worked with Presbyterian Homes on this type of thing in the past.

Mr. Utley explained that many, many years ago Congress adopted a law, which is codified under Section 265 of the United States Revenue Code, which prohibits double dipping. It states if you borrow money to buy tax-exempt bonds then you can't have the deduction on the interest of your borrowing at the same time you are taking the tax-exempt interest. That affected banks in a big way and resulted in banks basically stopping buying bonds. Banks can purchase these types of Bonds and not have to do a reduction on their interest rate deduction. Because a municipality can't issue more than \$10 million of such bonds in a year the request has gone to municipalities in addition to Wayzata to see if they are interested in issuing such Bonds.

Councilmember Page stated if there was a default on the \$10 million in Bonds issued by the City there could be a judgment issued against the City for that amount.

Mr. Utley clarified it is non-recourse to the issuing entity, noting that is absolutely established by Minnesota law. Mr. Utley noted there has not been a case where this type of debt has had to be paid by the issuer. Mr. Utley explained revenue bonds are secured solely by the revenue from the facility. He also gave further explanation why there is no liability for the City.

Councilmember Page asked if the City would have to pay taxes on the administrative fee it would be paid. Mr. Utley noted the City is tax exempt.

Mr. Utley stated that in December 2011 the City of Minnetonka issued \$6.25 million in such Bonds for the Project and it was paid an administrative fee equal to one-eighth of one percent of the principal amount of the Bonds it issued.

In response to a question from Mayor Kind, Mr. Utley stated eight other cities have expressed interest in participating in this. In response to another question from Kind, Mr. Utley stated the developer is looking at other options besides bank-qualified bonds. If the developer decides to go the route of bank-qualified bonds other interested cities will be asked to hold public hearings on it and adopt resolutions approving the debt. March would be the common time for that to happen. The transactions would be approved in March or April. In response to a third question, Mr. Utley stated it would be fair to classify the administrative fee as "free money."

Mr. Utley explained that if the City issued \$10 million in such Bonds and then later in 2012 needed to issue more bonds, it could issue other debt at a higher interest rate. He noted the developer has told him that if that situation would arise the developer would pay the difference between the two interest rates.

Mayor Kind stated if Council is interested in proceeding with this she asked what the next steps would be. Mr. Utley stated Kennedy & Graven would prepare a notice of public hearing that would be published at least 15 days before the public hearing. A representative from Kennedy & Graven and from the developer would be present at the public hearing. Council would be asked to consider a resolution approving the debt and the documentation that goes with it at that same time. He noted Kennedy & Graven considers the issuer of the Bonds its client. The client's fees are covered and it is its highest priority.

Mayor Kind thanked Mr. Utley for coming.

The Council consensus was to put the Bond topic on the March Council meeting agenda for further discussion.

Mayor Kind stated the 2011 audit is in progress. She then stated that Councilmember Fletcher had noticed that there was a discrepancy in the financial reporting of cash. She asked Council if it would prefer to use an accrual reporting methodology or a cash reporting methodology. There was Council consensus to use the cash reporting methodology.

Kind stated the City's tree inspector asked for Council direction on what to do regarding tree diseases. The tree inspector suggested the discussion could be in a worksession or regular Council meeting. Councilmember Page stated he preferred the presentation be no more than 15 or 20 minutes on a regular Council meeting agenda and Council would have 5 minutes for questions. Councilmember Fletcher stated the Council could have a worksession held just prior to a regular meeting.

The Council consensus was to have a worksession before the March regular Council meeting.

Mayor Kind noted South Lake Minnetonka Police Department (SLMPD) Community Service Supervisor (CSS) Hohertz apologized for not being able to deploy the speed buggy last fall. He is going to train others on how to deploy the speed buggy. CSS Hohertz explained that the recording feature that allows the speed buggy to capture speeds without the display being on is now functioning. She stated the SLMPD Coordinating Committee is scheduled to meet on February 8, 2012.

Kind stated the City received a letter from the Hennepin County Sheriff regarding potential fees for 911 dispatch calls. The Hennepin County Board of Commissioners is considering charging cities for 911 dispatched calls. The Sheriff does not support charging a fee and encouraged cities to weigh in on this issue. Council did not favor being charged a fee.

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

Mayor Kind reconvened the meeting at 9:15 P.M.

Kind reported on the Minnetonka School District meeting for mayors in the District she attended on January 25th. All children in the District get into language emersion programs if they want to. The Minnetonka school district spends \$9,500 per student per year for their education. The City of Minneapolis spends \$13,000 per student per year. There are 745 children in the current kindergarten class with 400 being residents and 345 being open-enrollment students. There were 850 open-enrollment applicants for the class. The Cities of Chanhassen, Minnetonka and Woodland have changed their

mayoral terms to 4-year terms. She stated it may be beneficial for Greenwood to consider changing its mayoral term for the 2014 election and indicated she will place it on an upcoming agenda for Council discussion.

Kind then reported on a mayors' meeting hosted by the Freshwater Society and Orono mayor Lili McMillan on January 26th. The topic of discussion was total maximum daily load (TMDL). TMDL is used to help determine phosphorous reduction goals. Minnehaha Creek Watershed District (MCWD) District Administrator Eric Evenson explained the MCWD assumes responsibility for reducing half of the phosphorous flow into waters within the District and the municipalities in the District are responsible for the other half.

Kind noted she will attend a mayors' meeting with Hennepin County Commissioner Jan Callison on February 3rd.

Councilmember Fletcher stated based on studies done by the MCWD the phosphorous level in St. Alban's Bay has changed little since the late 1800s.

Mayor Kind noted she had told Mr. Evenson that she does not agree with how Greenwood's reduction goal is calculated.

Councilmember Quam stated the City should continue its efforts (primarily street sweepings) to reduce phosphorus flow into Lake Minnetonka.

Discussion returned to Item 9.A on the agenda.

C. Page: Lake Minnetonka Conservation District

This was discussed after Item 9.A on the agenda.

Councilmember Page reported on Lake Minnetonka Conservation District (LMCD) activities. He noted the Minnesota Department of Natural Resources (DNR) has indicated it does not think it is necessary to have an all-lake aquatic invasive species (AIS) management plan for Lake Minnetonka (the Lake). For example, there is no need for a Eurasian Watermilfoil (milfoil) plan for Halsted Bay because milfoil doesn't grow in that Bay because the water clarity is extremely bad. There has been a lot of discussion about an all-lake plan and the cost to create one. There has been a wide range of estimates for what it will cost to create the plan (\$30,000-\$70,000). The DNR will not require an all-lake plan unless there is an effort to do an all-lake chemical treatment of milfoil.

Councilmember Quam stated he can understand that with regard to milfoil but what about Asian Carp.

Councilmember Page responded the plan is that Asian Carp is to be addressed at the county, state and federal level.

Page stated from the LMCD's perspective there has been a milfoil plan in place for many years to determine where the milfoil is in the lake and to eradicate it; to harvest it. He then stated no one is stepping up to develop the plan or to say they will pay to have the plan developed. From a theoretical perspective people would like to have a plan. If the LMCD decided it wants to have an all-lake plan it will have to levy the Cities to fund it. He noted that the Minnehaha Creek Watershed District (MCWD) has been talking about developing an AIS management plan that would include the Lake.

Page noted the contract has been approved to accept the bid for a new harvester. The LMCD has the funding to pay for it. The LMCD's fund to replace harvesters has approximately \$100,000 in it and the LMCD will receive \$65,000 for an insurance settlement. The cost for the new harvester is \$172,000. The remainder of the cost will be funded out of the unused portion of the LMCD's 2011 harvesting budget.

Councilmember Fletcher asked if the LMCD is putting money aside each year to replace harvesters. Councilmember Page responded for most years that had been true. Page stated there has been discussion about the need to replenish the fund because of the age of the other harvesters.

Councilmember Page stated the LMCD's Save the Lake Committee did not recommend using funds in the Save the Lake Fund to help fund the chemical treatment of St. Alban's Bay and Gideon Bay for milfoil. The applications for those two bays were denied. That Committee is comprised of four LMCD Boardmembers. Contributions to the Fund have been on the decline the last few years. The Committee did approve \$12,000 to help purchase a machine to be used to search for bodies under the water. He expressed he was not pleased with that decision. The Hennepin County Sheriff's Water Patrol can borrow one when needed.

D. Quam: Roads & Sewer, Minnetonka Community Education

Councilmember Quam stated there is nothing to report on roads and sewer. He also had nothing to report on Minnetonka Community Education.

E. Rose: Excelsior Fire District

Councilmember Rose stated he attended an Excelsior Fire District (EFD) Board meeting on January 25, 2012. One topic of discussion was about communication from the EFD when major incidents occur. The EFD Board agreed that during those events the EFD (the Chief or another EFD Officer) will try to make contact with the EFD Board Chair, the city administrator and mayor of the affected community as soon as practical. The EFD will also provide an email update as soon as possible that can be shared with all communities and city council members.

10. ADJOURNMENT

Page moved, Fletcher seconded, Adjourning the City Council Regular Meeting of February 1, 2012, at 9:35 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder