

# AGENDA

## Greenwood City Council Meeting

THURSDAY, July 5, 2012  
20225 Cottagewood Road, Deephaven, MN 55331



*Welcome! The public is invited to address the council regarding any agenda item. If your topic is not on the agenda, you may speak during Matters from the Floor. Agenda times are approximate.*

- 7:00 PM 1. CALL TO ORDER ~ ROLL CALL ~ APPROVE AGENDA
- 7:00 PM 2. CONSENT AGENDA
  - Council members may remove consent agenda items for discussion. Removed items will be put under Other Business.*
  - A. Approve: May Cash Summary Report
  - B. Approve: June Verifields, Check Register, Electronic Fund Transfers
  - C. Approve: July Payroll Register
- 7:05 PM 3. MATTERS FROM THE FLOOR
  - This is an opportunity for the public to address the council regarding matters not on the agenda. The council will not engage in discussion or take action on items presented at this time. However, the council may ask for clarification and may include items on a future agenda. Comments are limited to three minutes.*
- 7:10 PM 4. PRESENTATIONS, GUESTS & ANNOUNCEMENTS
  - A. Announcement: Budget Worksession, 6 PM, 08-01-12 (before regular council meeting)
  - B. Announcement: Night to Unite, 08-07-12
  - C. Announcement: Old Log Ice Cream Social & Sousa Band, 4:30 PM, 07-29-12, Free
- 7:15 PM 5. PUBLIC HEARINGS
  - A. None
- 7:15 PM 6. UNFINISHED BUSINESS
  - A. Consider: Resolutions Regarding Excelsior Blvd. Watermain Project
    - Resolution 07-12, Declaring Insufficiency of 05-05-12 Petition and Supplemental Petitions
    - Resolution 15-12, Declaring Adequacy (or Insufficiency) of 06-13-12 Petition
  - B. Consider: Resolution 16-12, Variance Findings of Fact, Keith and Stacy Carlson, 20965 Channel Drive (deck variance)
  - C. Consider: Resolution 17-12, Conditional Use Permit Findings of Fact, Keith and Stacy Carlson, 20965 Channel Drive (to exceed the annual permitted significant tree harvest)
  - D. 2nd Reading: Ordinance 210, Amending Code Section 310.30, Subd. 5(d) and (f), Use of Sewers (authorizing the council to institute programs to ensure compliance with ordinances that prohibit discharge of clean water into the sanitary sewer system)
- 7:40 PM 7. NEW BUSINESS
  - A. Consider: Variance Application, Matt and Angela Lindberg, 5160 Greenwood Circle (grade alteration)
  - B. 1st Reading: Ordinance 212, Amending Code Section 425, Municipal Watercraft Spaces (establishing procedures for canoe racks)
  - C. 1st Reading: Ordinance 211, Amending Code Sections 520.15 and 525.15 (changing the deadline for delinquent sewer and stormwater payments from Sept. 30 to Sept. 15)
  - D. Discuss: Possibility of Adding Section 825, Intoxicating Liquor Prohibitions (prohibiting commercial businesses from serving or allowing attendees to bring liquor to business events)
  - E. Discuss: Possibility of Revising Code Section 1215 (to allow the council to waive the second reading of ordinances)
- 8:30 PM 8. OTHER BUSINESS
  - A. None
- 8:30 PM 9. COUNCIL REPORTS
  - A. Fletcher: Planning Commission, Lake Mtka. Comm. Commission, Milfoil, Xcel Project
  - B. Kind: Police, Administration, Mayors' Meetings, Website
  - C. Page: Lake Minnetonka Conservation District
  - D. Quam: Roads & Sewer, Minnetonka Community Education
  - E. Rose: Excelsior Fire District
- 8:45 PM 10. ADJOURNMENT



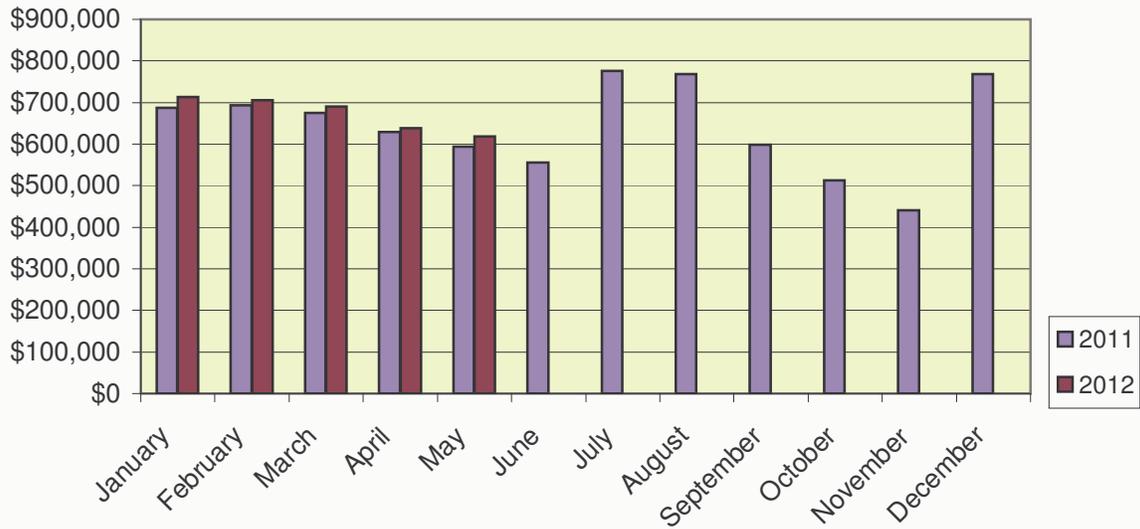
**Agenda Item:** Consent Agenda

**Summary:** The consent agenda typically includes the most recent council minutes, cash summary report, verified report, electronic fund transfers, and check registers. The consent agenda also may include the 2nd reading of ordinances that were approved unanimously by the council at the 1st reading. Council members may remove consent agenda items for further discussion. Removed items will be placed under Other Business on the agenda.

**Council Action:** Required. Possible motion ...

1. I move the council approves the consent agenda items as presented.

### City of Greenwood Monthly Cash Summary



Month	2011	2012	Variance with Prior Month	Variance with Prior Year
January	\$686,781	\$712,814	-\$56,305	\$26,033
February	\$693,859	\$704,873	-\$7,941	\$11,014
March	\$675,719	\$690,422	-\$14,451	\$14,703
April	\$629,569	\$637,990	-\$52,432	\$8,421
May	\$593,928	\$618,262	-\$19,728	\$24,334
June	\$555,064	\$0	-\$618,262	-\$555,064
July	\$776,650	\$0	\$0	-\$776,650
August	\$768,223	\$0	\$0	-\$768,223
September	\$599,139	\$0	\$0	-\$599,139
October	\$512,188	\$0	\$0	-\$512,188
November	\$440,946	\$0	\$0	-\$440,946
December	\$769,119	\$0	\$0	-\$769,119

Bridgewater Bank Money Market	\$411,207
Bridgewater Bank Checking	\$3,769
Beacon Bank CD	\$120,000
Beacon Bank Money Market	\$83,186
Beacon Bank Checking	\$100
	\$618,262

**ALLOCATION BY FUND**

General Fund	\$87,995
General Fund Designated for Parks	\$27,055
Bridge Capital Project Fund	\$59,004
Stormwater Special Revenue Fund	\$8,695
Sewer Enterprise Fund	\$391,068
Marina Enterprise Fund	\$44,445
	\$618,262

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Amount
07/01/12	PC	07/01/12	7011201	Debra J. Kind	34	283.05
07/01/12	PC	07/01/12	7011202	Fletcher, Thomas M	33	88.70
07/01/12	PC	07/01/12	7011203	H. Kelsey Page	35	188.70
07/01/12	PC	07/01/12	7011204	Quam, Robert	32	188.70
07/01/12	PC	07/01/12	7011205	William Rose	36	188.70
Grand Totals:						<u>937.85</u>

Check Issue Date(s): 06/01/2012 - 06/30/2012

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
06/12	06/07/2012	10591	9	CITY OF DEEPHAVEN	101-20100	7,198.49
06/12	06/07/2012	10592	802	GRAINGER	605-20100	107.19
06/12	06/07/2012	10593	803	HSBC BUSINESS SOLUTIONS	101-20100	80.42
06/12	06/07/2012	10594	3	KELLY LAW OFFICES	101-20100	3,507.50
06/12	06/07/2012	10595	99	LAKE MTKA CONSERVATION DISTRIC	101-20100	1,566.00
06/12	06/07/2012	10596	105	METROPOLITAN COUNCIL ENV SERV	602-20100	2,598.16
06/12	06/07/2012	10597	783	SGC HORIZON LLC	101-20100	350.00
06/12	06/07/2012	10598	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	14,376.58
06/12	06/07/2012	10599	15	South Lake-Excelsior Chamber	101-20100	1,400.00
06/12	06/07/2012	10600	136	Sun Newspapers	101-20100	139.35
06/12	06/07/2012	10601	745	Vintage Waste Systems	101-20100	1,568.40
06/12	06/07/2012	10602	145	XCEL	101-20100	190.71
06/12	06/25/2012	10603	51	BOLTON & MENK, INC.	101-20100	4,865.00
06/12	06/25/2012	10604	784	HERITAGE SHADE TREE CONSULT	101-20100	525.00
06/12	06/25/2012	10605	804	M.A. APPAREL & PROMOTIONS	101-20100	299.50
06/12	06/25/2012	10606	742	Marco, Inc.	101-20100	212.15
06/12	06/25/2012	10607	136	Sun Newspapers	101-20100	47.96
Totals:						<u>39,032.41</u>

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

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

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

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

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

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
<b>BOLTON &amp; MENK, INC.</b>					
51	BOLTON & MENK, INC.	0147955	2012 MISC ENGINEERING FEES	05/31/2012	85.00
			2012 MISC ENGINEERING FEES		27.50
			2012 MISC ENGINEERING FEES		435.00
			2012 MISC ENGINEERING FEES		192.00
		0147956	2012 STREET IMPROVEMENT	05/31/2012	4,125.50
	Total BOLTON & MENK, INC.				4,865.00
<b>CITY OF DEEPHAVEN</b>					
9	CITY OF DEEPHAVEN	JUNE 2012	RENT & EQUIPMENT	05/31/2012	542.95
			Postage		24.30
			COPIES		1.60
			SEWER		975.12
			WEED/TREE/MOWING		1,787.72
			Docks		325.04
			Clerk Services		3,143.00
			ZONING		357.41
			LUMBER FOR DOCKS		41.35
	Total CITY OF DEEPHAVEN				7,198.49
<b>GRAINGER</b>					
802	GRAINGER	9841193593	FIRE EXTINGUISHER BOXES	05/31/2012	107.19
	Total GRAINGER				107.19
<b>HERITAGE SHADE TREE CONSULT</b>					
784	HERITAGE SHADE TREE CONSULT	5217	URBAN FORESTRY CONSULTING	06/14/2012	525.00
	Total HERITAGE SHADE TREE CONSULT				525.00
<b>HSBC BUSINESS SOLUTIONS</b>					
803	HSBC BUSINESS SOLUTIONS	4062049605	BROOMS/SQUEEGEE - TENNIS CRTS	05/03/2012	80.42
	Total HSBC BUSINESS SOLUTIONS				80.42
<b>KELLY LAW OFFICES</b>					
3	KELLY LAW OFFICES	5986	GENERAL LEGAL	05/24/2012	2,863.50
		5987	LAW ENFORCE PROSECUTION	05/25/2012	644.00
	Total KELLY LAW OFFICES				3,507.50
<b>LAKE MTKA CONSERVATION DISTRIC</b>					
99	LAKE MTKA CONSERVATION DIST	052912	3rd QTR LEVY PMT	05/29/2012	1,566.00
	Total LAKE MTKA CONSERVATION DISTRIC				1,566.00
<b>M.A. APPAREL &amp; PROMOTIONS</b>					
804	M.A. APPAREL & PROMOTIONS	42746	4TH OF JULY T-SHIRTS	06/19/2012	299.50
	Total M.A. APPAREL & PROMOTIONS				299.50
<b>Marco, Inc.</b>					
742	Marco, Inc.	205473945	Copier lease	06/13/2012	212.15
	Total Marco, Inc.				212.15

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
105	METROPOLITAN COUNCIL ENV SE	0000990874	Monthly wastewater Charge	06/04/2012	2,598.16
	Total METROPOLITAN COUNCIL ENV SERV				2,598.16
<b>SGC HORIZON LLC</b>					
783	SGC HORIZON LLC	68390	2012 STREET IMPROVEMENT	05/28/2012	175.00
		68786	2012 STREET IMPROVEMENT	06/01/2012	175.00
	Total SGC HORIZON LLC				350.00
<b>SO LAKE MINNETONKA POLICE DEPT</b>					
38	SO LAKE MINNETONKA POLICE DE	JUNE 2012	OPERATING BUDGET	06/01/2012	14,376.58
	Total SO LAKE MINNETONKA POLICE DEPT				14,376.58
<b>South Lake-Excelsior Chamber</b>					
15	South Lake-Excelsior Chamber	060712	JULY 4TH FIREWORKS FUND	06/07/2012	1,400.00
	Total South Lake-Excelsior Chamber				1,400.00
<b>Sun Newspapers</b>					
136	Sun Newspapers	1107226	2012 ST IMPROVEMENT	05/24/2012	139.35
		1111052	Legal Notices	06/07/2012	47.96
	Total Sun Newspapers				187.31
<b>Vintage Waste Systems</b>					
745	Vintage Waste Systems	052512	City Recycling Contract	05/25/2012	1,568.40
	Total Vintage Waste Systems				1,568.40
<b>XCEL</b>					
145	XCEL	052912	Sleepy Hollow Road *	05/29/2012	8.76
			LIFT STATION #1		31.07
			LIFT STATION #2		30.26
			LIFT STATION #3		20.47
			LIFT STATION #4		28.54
			LIFT STATION #6		59.10
			4925 MEADVILLE STREET *		8.92
			SIREN		3.59
	Total XCEL				190.71

Total Paid: 39,032.41

Total Unpaid: -

Grand Total: 39,032.41



Agenda Number: **6A**

Agenda Date: 07-15-12

**Agenda Item:** Consider: Resolutions Regarding Excelsior Blvd. Watermain Project

**Summary:** The city received petitions in May regarding extension of the city of Excelsior's watermain along Excelsior Blvd. The council discussed the petitions at the 06-06-12 council meeting and decided that the petitions were unclear whether the petitioners were asking for an 8-inch or 12-inch pipe. Since then the city has received a 06-13-12 petition that clarifies that the request is for a watermain up to 12-inches. The 06-13-12 petition has been reviewed by the city attorney and he has provided a memo (attached) outlining his review and the next steps in the process.

Also attached are resolutions declaring insufficiency of the May petitions, declaring adequacy or insufficiency of the 06-13-12 petition, as well as drafts of resolutions for future steps in the process.

**Council Action:** Petition action required. Possible motions ...

1. I move the council approves resolution 07-12 declaring insufficiency of the May 5, 13, 14, 2012 petitions for a watermain extension along Excelsior Blvd.
2. I move the council approves resolution 15-12 declaring adequacy of the 06-13-12 petition for watermain extension along Excelsior Blvd., and ordering preparation of report and city planning commission review for compliance with the city land use plan.
3. I move the council approves resolution 15-12 declaring insufficiency of the 06-13-12 petition for watermain extension along Excelsior Blvd.

PETITION FOR INSTALLATION OF WATER MAIN

Greenwood, Minnesota June 13, 2012

To the City Council of Greenwood, Minnesota:

We, the undersigned, owners of not less than 35 percent in frontage of the real property abutting on Excelsior Boulevard between 21170 Excelsior Boulevard and 21380 Excelsior Boulevard (list of properties attached) hereby petition that such street be improved by installing water main of up to 12 inches in size pursuant to Minnesota Statutes, Chapter 429. The proposed water main would connect to existing City of Excelsior water main that is currently in place to the west of the proposed improvement. The proposed improvement would take place during the proposed reconstruction of Excelsior Boulevard by the Metropolitan Council.

Signature of Owner(s)	Description of Property
1. <u>[Signature]</u>	<u>21170 Excelsior Blvd.</u>
2. <u>[Signature]</u>	<u>21170 Excelsior Blvd.</u>
3. <u>[Signature]</u>	<u>21210 Excelsior Blvd</u>
4. <u>[Signature]</u>	<u>21210 Excelsior Blvd</u>
5. <u>[Signature]</u>	<u>21270 Excelsior Blvd</u>
6. <u>[Signature]</u>	<u>21270 Excelsior Blvd.</u>
7. <u>[Signature]</u>	<u>21250 Excelsior Blvd.</u>
8. <u>[Signature]</u>	<u>21250 Excelsior Blvd</u>
9. <u>[Signature]</u>	<u>21350 Excelsior Blvd</u>
10. <u>[Signature]</u>	<u>21350 Excelsior Blvd</u>
11. <u>[Signature]</u>	<u>21190 Excelsior Blvd.</u>
12. <u>[Signature]</u>	<u>21190 Excelsior Blvd</u>

Examined, checked, and found to be in proper form and to be signed by the required number of owners of property affected by the making of the improvement petitioned for:

\_\_\_\_\_  
City Clerk

PID	FEE OWNER	FEE OWNER ADDRESS	CITY/STATE	ZIP CODE	PROPERTY ADDRESS	USE DESCRIPTION	ASSESSMENT RATE (UNIT)
<b>EXCELSIOR BOULEVARD WATER MAIN IMPROVEMENT PROJECT</b>							
1	35-117-23-12-0010	KIM, JUNG L & SUNNY S.	GREENWOOD, MN	55331	21380 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
2	35-117-23-12-0009	DAHLIN, GENE R & CAROL L.	GREENWOOD, MN	55331	21350 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
3	35-117-23-12-0008	FULL, BRANDON M.	GREENWOOD, MN	55331	21320 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
4	35-117-23-12-0007	BRANDS, WILLIAM J.	GREENWOOD, MN	55331	21290 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
5	35-117-23-12-0006	ROY, JOLEEN M & ROBERT J.	GREENWOOD, MN	55331	21270 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
6	35-117-23-12-0005	LANE, BONNIE & TIMOTHY	GREENWOOD, MN	55331	21250 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
7	35-117-23-12-0004	FARRAHER, MICHAEL & ANNE	GREENWOOD, MN	55331	21230 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
8	35-117-23-12-0003	JANUSEK, STEVEN	GREENWOOD, MN	55331	21210 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
9	35-117-23-11-0021	FLETCHER, THOMAS M. & PATRICIA	GREENWOOD, MN	55331	21190 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
10	35-117-23-11-0022	OGLIVIE, CHRISTIAN & SARAH	GREENWOOD, MN	55331	21170 EXCELSIOR BLVD	RESIDENTIAL	\$13,511.76
11	35-117-23-12-0017	MORGAN V LLC	UNION CITY, CA	94687	21390 STATE HWY NO 7	COMMERCIAL	\$14,511.76
12	35-117-23-12-0016	5TH STREET VENTURES LLC	CHASKA, MN	55318	21000 STATE HWY NO 7	COMMERCIAL	\$14,511.76

K:\01140-00\Excelsior Blvd Water Main Imp - Feas\Preliminary Assessment Roll.xlsx

# KELLY LAW OFFICES

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*Established 1948*

MARK W. KELLY  
WILLIAM F. KELLY (1922-1995)

351 SECOND STREET  
EXCELSIOR, MINNESOTA 55331

(952) 474-5977  
FAX 474-9575

## MEMORANDUM

Date: June 15, 2012

To: Mayor Kind and Council Members

From: Mark W. Kelly Attorney at Law

Re: Excelsior Boulevard Water Main Petition

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### INTRODUCTION

After the City Council indicated at their June City Council meeting, that the Petition for installation of Water Main in Excelsior Blvd, received from petition circulator Tom Fletcher, needed a more definite statement of the scope and size of the requested water main improvement, a second petition has been received.

#### Extent of Requested Improvement:

The petition dated June 13, 2012, states that the undersigned...

“petition that [Excelsior Boulevard] be improved by installing water main of up to 12 inches in size pursuant to Minnesota Statutes, Chapter 429. The proposed water main would connect to existing City of Excelsior water main that is currently in place to the west of the proposed improvement.”

The Petition seeks installation of water main, between 21170 Excelsior Boulevard and 21380 Excelsior Blvd. Because the Met Council project will excavate and rebuild Excelsior Boulevard, the simple extension thereof is possible. The new petition describes the requested improvement in a manner that appears to inform the petitioners of the size of the pipe requested and by implication that the associated special assessment would be for such.

However no such extension can proceed without city council approval after a full report from the city engineer and a duly noticed and conducted public hearing.

These petitions are authorized under state statutes governing improvements to be paid for by special assessment (MN ST §429). Where improvements authorized by state statute are desired the special benefit associated with the proposed improvement is typically assessed to the abutting property owners. The general benefit to the city is the city's expense. That expense may be paid for through the general levy and/or bonding may be employed. In any event the process stated in Chapter 429 must be followed.

The Council should know that UPON RECEIPT OF A PETITION OF 100% OF THE ABUTTING PROPERTY OWNERS to a proposed improvement, the city has the ability to assess the entire cost against those properties. In this case the petition bears the signatures of only 6 out of 12 abutting properties. Consequently, there will be a general benefit component of the project cost that the city as a whole must share in.

#### Legal Adequacy Analysis

The first step in the Chapter 429 process is to determine the legal adequacy of the Petition. The combined petitions dated May 5, 13, & 14 contained signatures of the owners of 8 properties. The June 13<sup>th</sup> Petition contains signatures of the owners of 6 properties. Missing from the June petition are the owners of 21290 Excelsior Blvd and 21320 Excelsior Blvd. For purposes of this review, it is assumed that the May 5, 13, 14 petition will be formally withdrawn by the petitioners or formally rejected by the city council for lack of precision. Thereafter the June 13<sup>th</sup> petition may be considered.

The 429 process begins when a Petition is received containing the signatures of the owners of at least 35 percent in frontage of the property bordering the proposed improvements.

The Petition of June 13<sup>th</sup> employs a format of the League of Minnesota Cities. It is therefore appropriate. The Petition represents that the signatories comprise the owners of not less than 35% in frontage of real property abutting Excelsior Blvd between 21170 Excelsior Blvd and 21380 Excelsior Blvd. A review of Hennepin County property tax records shows this stretch of Excelsior Boulevard is abutted by 10 residential and 2 commercial properties. The Petition bears signatures of the co-owners of 6 out of 12 properties or 50% of all abutting properties along this section of Excelsior Blvd. A review of Hennepin County Property Tax records for property owner names shows that the names of the petition signers match the county records.

#### Legal Standard of Review

MN ST §429.035 mandates that when any petition for the making of any improvement in any statutory city..., however organized, for the cost of which special assessments may be, in whole or in part, levied therefor, is presented to the governing body of the municipality, the [city council] shall, by resolution, determine *whether or not the petition has been signed by the required percentage of owners of property affected thereby.*

City Attorney Opinion.

I find that as regards the Petition dated June 13, 2012:

- (1) the form of the petition legally acceptable;
- (2) the signatures thereon match the names of the owners of record on file for the stated addresses found online at Hennepin County Property Tax Information, and are apparently genuine; and
- (3) the signers represent owners of 50%, 6 of the 12 affected properties and therefore not less than 35 percent of the total abutting properties of the frontage of real property abutting the proposed improvement between the west line of 21380 Excelsior Boulevard and the east line of 21170 Excelsior Boulevard, Greenwood, Minnesota.

Given the foregoing, I believe the petition has been signed by the required percentage of owners of property directly affected by the proposed improvement. However, the opinion of the city attorney is not controlling. The determination of whether the petition has been signed by the required percentage of owners of property affected thereby is a matter that must be considered and handled by resolution of the city council.

**COUNCIL ACTION ITEM: May Petition Rejection.**

By statute, the city council must determine whether a petition has sufficient detail to know the scope of the requested improvement. As earlier considered, the May Petition lacked any reference to the size of the requested water main. That lack of detail placed the city at risk of bearing all cost above and beyond a standard 8-inch water main. It also left the city open to a legal challenge on the whether the city has legal authority to upgrade the project from a nominal 8-inch pipe to 12-inch pipe. To address those issues the council must formally reject the May petition before considering the June 13<sup>th</sup> Petition. *To do so the Council needs to adopt Resolution 1B attached.*

**COUNCIL ACTION ITEM: June Petition Review.**

*Then, if the city council is satisfied* it understands the scope of the requested project and that the June 13, 2012 petition has been signed by the required percentage of owners of property affected thereby, and that the new petition adequately describes the requested improvement in a manner that appears to sufficiently inform the petitioners of the size of the pipe requested and by implication that the associated assessment would be for 12-inch water main, **the council must adopt Resolution 1: Resolution Declaring the Adequacy of Petition and Ordering Preparation of (Engineering) Report.**

*This resolution must be published in the official newspaper to begin the 30-day clock for filing an appeal.* Any person directly affected by the resolution may challenge the council's determination (as to the legal sufficiency of the petition) in district court. The appeal must be made within 30 days and include a bond of \$250.

This resolution refers the matter to the city engineer for preparation of a report advising the council in a preliminary way as to whether the proposed improvement is necessary, cost effective, and feasible whether it should be made as proposed or in connection with some other improvement; the estimated cost of the improvement as recommended; and a description of the methodology used to calculate individual assessments for affected parcels.

This resolution also refers the petitioned improvement to the City Planning Commission for determination whether the proposed capital improvement is in compliance with the city's comprehensive plan, as required by MN ST §462.356.

***If the city council is not satisfied*** that the June 13<sup>th</sup> petition has been signed by the required percentage of owners of property affected thereby, or adequately describes the requested improvement in a manner that appears to sufficiently inform the petitioners of the size of the pipe requested and by implication that the associated assessment would be for 12-inch water main, ***the city council must*** adopt a **Resolution Declaring the Petition Inadequate.** (see, Exhibit 1A) In that case the petitioners may then revise and resubmit the petition with added specificity. In that event, the foregoing review will be conducted again.

#### Feasibility Report Receipt and Call for Public Hearing on Improvement.

When the city engineer's report has been ordered and is available, the report must be presented to the council and the council must by resolution formally receive the report. (see Exhibit 2) Typically, that resolution will also call for a public hearing to be held thereon on a day, time and place certain. Per statute, the city clerk must cause notice thereof to be given by two publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed\*\*. The two publications must be a week apart, and the hearing must be at least three days after the second publication.

Not less than ten days before the hearing, notice of the hearing must also be mailed to the owner of each parcel within the area proposed to be assessed and must contain a statement that a reasonable estimate of the impact of the assessment will be available at the hearing, but failure to give mailed notice or any defects in the notice does not invalidate the proceedings.

At the improvement hearing, interested persons may voice their concerns, whether or not they are in the proposed assessment area.

The hearing may be adjourned from time to time. To provide proper notice, before the improvement hearing is adjourned, the council must state on the record, the date, time and place of the continuation of the improvement hearing, if any.

A resolution ordering the improvement *may* be adopted at any time within *six months* after the date of the hearing by vote of *a majority of all members of the*

*council.* This resolution may reduce, but not increase, the extent of the improvement as stated in the notice of hearing.

Comment: In the end, the City council may elect not to proceed.

***If the council rejects the project,*** it may not reconsider that same project unless another hearing is held following the required notice. The council must prepare a record of the proceedings and make written findings.

Either arrangements for day labor or a contract must be made within one year of adopting the resolution ordering the improvement -- unless the council specifically states a different timeframe in the resolution ordering the improvement.

Typically, cities assess all properties abutting or bordering on the improvement, but the council may wish to levy assessments against adjacent, non-abutting properties if the properties benefit from the improvement. In that event the Notice of Hearing must include the following statement: *“The area proposed to be assessed for such improvement is \_\_\_\_\_.”*

#### Limits on Scope of Project

***If the council elects to rely upon the June 13, 2012 petition*** as its basis for proceeding, it cannot make a substantial change in the nature of the improvement from that asked for in the petition. Thus for example, it may not order an improvement for water and sewer when the petition has asked for water alone, or add curb and gutter to a petition for blacktop, or order an extension of 12-inch water main for a greater distance than that petitioned.

***If the council elects not to rely upon the petition*** as its basis for proceeding, it may act on its own initiative in proposing a local improvement and ordering a feasibility report. A resolution directing preparation of a feasibility report requires only *simple majority vote of all members of the council*. Later in the process, a “super-majority” vote, meaning a *four-fifths vote of all members of the council* is required to pass the resolution *ordering* an improvement initiated by council. But first the council must calculate the cost of the improvement or direct staff to do so and hold the requisite public hearing.

#### **SPECIAL ASSESSMENTS**

If the council intends to use a special assessment as opposed to a budget expenditure/general levy increase to pay for the improvement, all steps of Chapter 429 must be followed.

Special assessments are a charge imposed on properties for a particular improvement that benefits the owners of those selected properties. The authority to use special assessments originates in the state constitution which allows the state legislature to give cities and other governmental units the authority “to levy and collect assessments for local

improvements upon property benefited thereby.” The legislature confers that authority to cities in Minnesota Statutes Chapter 429.

Special assessments reflect the influence of a specific local improvement on the value of selected property. No matter what method the city uses to establish the amount of the assessment, the real measure of benefit is the increase in the market value of the land because of the improvement.

Under the special benefit test, special assessments are presumptively valid if

- The land receives a special benefit from the improvement.
- The assessment does not exceed the special benefit measured by the increase in market value due to the improvement.
- The assessment is uniform as applied to the same class of property, in the assessed area.

Because special assessments are appealable to district court, it is important that the city considers the benefit to the property as a result of the specific improvement. Councils often do this by retaining a qualified, licensed appraiser. At the hearings on the assessments the appraiser presents a written or oral report on the increase in market value as a result of the improvement.

Chapter 429 allows coordinating the timelines of the special assessment and competitive bidding processes in a way that may protect the city from successful appeals and ensuing budget shortfalls. The city may determine the assessment amount and prepare the assessment roll before work on the local improvement even begins.

The city can also avoid appeals by paying a substantial portion of the cost of all improvements out of general funds. The larger the portion of cost the city assumes, the less the chances that any individual assessment would exceed the benefit from the improvement as measured by the increase in market value. Indeed, the council can proceed with the proposed assessment based on estimates -- and plan to use monies from a reserve fund from general taxes and other uncommitted sources of revenue making up any difference between the assessments and the project cost.

#### PROS and CONS OF SPECIAL ASSESSMENTS - SUMMARY

Following is a summary of the advantages and disadvantages of special assessment financing. The council can avoid many of the disadvantages with adequate plans and a long-range capital improvement program.

*Advantages of special assessment financing include:*

- Special assessments are generally a dependable source of revenue.
- Special assessments are a means of raising money outside city debt and general property taxes. (Special assessment bonds do not count toward statutory debt limitations.)

- Special assessments provide a means of levying charges for public services against property otherwise exempt from taxation.
- Special assessments lower the cost to the community of bringing undeveloped land into urban use
- Charging the property owner for the benefit received prevents or minimizes the possibility that a property owner will reap a financial profit from the improvement at the expense of the general taxpayer.

*Disadvantages of special assessment financing include:*

- The difficulty and expense in establishing the special benefit to the property.
- The difficulties in special assessment administration. The administrative procedures require careful execution in order to avoid litigation.
- Cities have at times used special assessments to pay for premature public improvements. Because the city generally bears some of the cost of every public improvement, land speculators sometimes urge councils to do unjustifiable special assessment programs.
- The availability of special assessment financing often tempts city officials to underwrite the cost of governmental programs that should be an obligation of the entire city.
- Unless special assessments conform to a city's long-term financial and capital improvement plans, they can subject a city to two serious financial dangers. First, if a city frequently undertakes special assessment bond issues backed by the full faith and credit of a city in an unplanned manner, city credit might be overextended. This leads to higher interest charges on all city and school district borrowing and increases the possibility of default. Second, placing too heavy a burden on individual property owners (with special assessments and regular property taxes) runs the risk of increasing tax delinquencies and potentially jeopardizes a city's credit and borrowing position.
- From the council's point of view, the public's reaction to a proposed special assessment might be the most important determinative factor. While taxpayer resistance is usually minimal, this is not true in every instance. Special assessment programs receive much greater public support if the council adequately informs people of its intentions to make the improvement, the benefit the improvements will provide, and the necessary financial demands.

At any time before or after the city actually incurs expenses for the improvement, the council must pass a resolution determining how much the city plans to pay (above and beyond what it may decide to pay for city-owned property in the assessment area) and

separate from amounts to be assessed. Cities may assess the cost of an improvement to property benefited whether or not any part of the cost of the improvement is paid from the county state-aid highway fund, the municipal state-aid street fund or the trunk highway fund. Best practice suggests the council work with an appraiser and an attorney to determine the appropriate city share of a particular project.

The council must also decide, with consultation from staff and consultants, which cost allocation methodology most nearly equates costs and benefit. Such methodology is often described as unit or area charges and involves classification of assessed properties. (The third prong of the benefit test requires a uniform assessment applied to the same class of property, in the assessed area.) Methodology may address the treatment of corner and odd-shaped lots.

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Source note: The foregoing memorandum includes excerpts from The League of Minnesota Cities, *Special assessment Guide* published February 22, 2012. and other LMC materials.

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Below are copies of statutes applicable to the petition review process:

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## **429.021 LOCAL IMPROVEMENTS, COUNCIL POWERS.**

### **Subdivision 1. Improvements authorized.**

The council of a municipality shall have power to make the following improvements:

(1) To acquire, open, and widen any street, and to improve the same by constructing, reconstructing, and maintaining sidewalks, pavement, gutters, curbs, and vehicle parking strips of any material, or by grading, graveling, oiling, or otherwise improving the same, including the beautification thereof and including storm sewers or other street drainage and connections from sewer, water, or similar mains to curb lines.

(2) To acquire, develop, construct, reconstruct, extend, and maintain storm and sanitary sewers and systems, including outlets, holding areas and ponds, treatment plants, pumps, lift stations, service connections, and other appurtenances of a sewer system, within and without the corporate limits.

(3) To construct, reconstruct, extend, and maintain steam heating mains.

(4) To install, replace, extend, and maintain street lights and street lighting systems and special lighting systems.

- (5) To acquire, improve, construct, reconstruct, extend, and maintain water works systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a water works system, within and without the corporate limits.
- (6) To acquire, improve and equip parks, open space areas, playgrounds, and recreational facilities within or without the corporate limits.
- (7) To plant trees on streets and provide for their trimming, care, and removal.
- (8) To abate nuisances and to drain swamps, marshes, and ponds on public or private property and to fill the same.
- (9) To construct, reconstruct, extend, and maintain dikes and other flood control works.
- (10) To construct, reconstruct, extend, and maintain retaining walls and area walls.
- (11) To acquire, construct, reconstruct, improve, alter, extend, operate, maintain, and promote a pedestrian skyway system. Such improvement may be made upon a petition pursuant to section [429.031, subdivision 3](#).
- (12) To acquire, construct, reconstruct, extend, operate, maintain, and promote underground pedestrian concourses.
- (13) To acquire, construct, improve, alter, extend, operate, maintain, and promote public malls, plazas or courtyards.
- (14) To construct, reconstruct, extend, and maintain district heating systems.
- (15) To construct, reconstruct, alter, extend, operate, maintain, and promote fire protection systems in existing buildings, but only upon a petition pursuant to section [429.031, subdivision 3](#).
- (16) To acquire, construct, reconstruct, improve, alter, extend, and maintain highway sound barriers.
- (17) To improve, construct, reconstruct, extend, and maintain gas and electric distribution facilities owned by a municipal gas or electric utility.
- (18) To purchase, install, and maintain signs, posts, and other markers for addressing related to the operation of enhanced 911 telephone service.
- (19) To improve, construct, extend, and maintain facilities for Internet access and other communications purposes, if the council finds that:

(i) the facilities are necessary to make available Internet access or other communications services that are not and will not be available through other providers or the private market in the reasonably foreseeable future; and

(ii) the service to be provided by the facilities will not compete with service provided by private entities.

(20) To assess affected property owners for all or a portion of the costs agreed to with an electric utility, telecommunications carrier, or cable system operator to bury or alter a new or existing distribution system within the public right-of-way that exceeds the utility's design and construction standards, or those set by law, tariff, or franchise, but only upon petition under section [429.031, subdivision 3](#).

(21) To assess affected property owners for repayment of voluntary energy improvement financings under section [216C.436, subdivision 7](#).

### **Subd. 2. Combining improvements.**

An improvement on two or more streets or two or more types of improvement in or on the same street or streets or different streets may be included in one proceeding and conducted as one improvement.

### **Subd. 3. Relation to charter and other laws.**

When any portion of the cost of an improvement is defrayed by special assessments, the procedure prescribed in this chapter shall be followed unless the council determines to proceed under charter provisions; but this chapter does not prescribe the procedure to be followed by a municipality in making improvements financed without the use of special assessments.

If the council determines to proceed under charter provisions for special assessments, such provisions shall be deemed to include a requirement that notices of proposed assessments inform property owners of the procedures they must follow under the charter in order to appeal the assessments to district court. The notices shall also inform property owners of the provisions of sections [435.193](#) to [435.195](#) and the existence of any deferment procedure established pursuant thereto in the municipality.

Charter provisions shall also be deemed to require that when the council determines to make any improvement, it shall let the contract for all or part of the work, or order all or part of the work done by day labor or otherwise as may be authorized by the charter, no later than one year after the adoption of the resolution ordering such improvement, unless a different time limit is specifically stated in the resolution ordering the improvement.

## **429.031 PRELIMINARY PLANS, HEARINGS.**

### **Subdivision 1. Preparation of plans, notice of hearing.**

(a) Before the municipality awards a contract for an improvement or orders it made by day labor, or before the municipality may assess any portion of the cost of an improvement to be made under a cooperative agreement with the state or another political subdivision for sharing the cost of making the improvement, the council shall hold a public hearing on the proposed improvement following two publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. The two publications must be a week apart, and the hearing must be at least three days after the second publication. Not less than ten days before the hearing, notice of the hearing must also be mailed to the owner of each parcel within the area proposed to be assessed and must contain a statement that a reasonable estimate of the impact of the assessment will be available at the hearing, but failure to give mailed notice or any defects in the notice does not invalidate the proceedings. For the purpose of giving mailed notice, owners are those shown as owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. For properties that are tax exempt or subject to taxation on a gross earnings basis and are not listed on the records of the county auditor or the county treasurer, the owners may be ascertained by any practicable means, and mailed notice must be given them as provided in this subdivision.

(b) Before the adoption of a resolution ordering the improvement, the council shall secure from the city engineer or some other competent person of its selection a report advising it in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible and as to whether it should best be made as proposed or in connection with some other improvement. The report must also include the estimated cost of the improvement as recommended. A reasonable estimate of the total amount to be assessed, and a description of the methodology used to calculate individual assessments for affected parcels, must be available at the hearing. No error or omission in the report invalidates the proceeding unless it materially prejudices the interests of an owner.

(c) If the report is not prepared by an employee of a municipality, the compensation for preparing the report under this subdivision must be based on the following factors:

- (1) the time and labor required;
- (2) the experience and knowledge of the preparer;
- (3) the complexity and novelty of the problems involved; and
- (4) the extent of the responsibilities assumed.

(d) The compensation must not be based primarily on a percentage of the estimated cost of the improvement.

(e) The council may also take other steps prior to the hearing, including, among other things, the preparation of plans and specifications and the advertisement for bids that will in its judgment provide helpful information in determining the desirability and feasibility of the improvement.

(f) The hearing may be adjourned from time to time, and a resolution ordering the improvement may be adopted at any time within six months after the date of the hearing by vote of a majority of all members of the council when the improvement has been petitioned for by the owners of not less than 35 percent in frontage of the real property abutting on the streets named in the petition as the location of the improvement. When there has been no such petition, the resolution may be adopted only by vote of four-fifths of all members of the council; provided that if the mayor of the municipality is a member of the council but has no vote or votes only in case of a tie, the mayor is not deemed to be a member for the purpose of determining a four-fifths majority vote.

(g) The resolution ordering the improvement may reduce, but not increase, the extent of the improvement as stated in the notice of hearing.

**Subd. 2. Approval by park board or utilities commission.**

A resolution ordering a park improvement may be adopted only by a four-fifths vote of the council and shall also be approved by the park board, if there is one; provided, that if the mayor of the municipality is a member of the council but has no vote or votes only in case of a tie, the mayor shall not be deemed to be a member for the purpose of determining such four-fifths majority vote. A resolution ordering an improvement of the water, sewer, steam heating, street lighting or other facility over which a utilities commission has jurisdiction shall also be approved by the utilities commission.

**Subd. 3. Petition by all owners.**

Whenever all owners of real property abutting upon any street named as the location of any improvement shall petition the council to construct the improvement and to assess the entire cost against their property, the council may, without a public hearing, adopt a resolution determining such fact and ordering the improvement. The validity of the resolution shall not be questioned by any taxpayer or property owner or the municipality unless an action for that purpose is commenced within 30 days after adoption of the resolution as provided in section [429.036](#). Nothing herein prevents any property owner from questioning the amount or validity of the special assessment against the owner's property pursuant to section [429.081](#). In the case of a petition for the municipality to own and install a fire protection system, a pedestrian skyway system, or on-site water contaminant improvements, the petition must contain or be accompanied by an undertaking satisfactory to the city by the petitioner that the petitioner will grant the municipality the necessary property interest in the building to permit the city to enter upon the property and the building to construct, maintain, and operate the fire protection system, pedestrian skyway system, or on-site water contaminant improvements. In the case of a petition for the installation of a privately owned fire protection system, a

privately owned pedestrian skyway system, or privately owned on-site water contaminant improvements, the petition shall contain the plans and specifications for the improvement, the estimated cost of the improvement and a statement indicating whether the city or the owner will contract for the construction of the improvement. If the owner is contracting for the construction of the improvement, the city shall not approve the petition until it has reviewed and approved the plans, specifications, and cost estimates contained in the petition. The construction cost financed under section [429.091](#) shall not exceed the amount of the cost estimate contained in the petition. In the case of a petition for the installation of a fire protection system, a pedestrian skyway system, or on-site water contaminant improvements, the petitioner may request abandonment of the improvement at any time after it has been ordered pursuant to subdivision 1 and before contracts have been awarded for the construction of the improvement under section [429.041, subdivision 2](#). If such a request is received, the city council shall abandon the proceedings but in such case the petitioner shall reimburse the city for any and all expenses incurred by the city in connection with the improvement.

#### **429.035 IMPROVEMENTS, PETITION.**

When any petition for the making of any improvement in any statutory city, town, or city of the second, third, or fourth class, however organized, for the cost of which special assessments may be, in whole or in part, levied therefor, is presented to the governing body of the municipality, this body shall, by resolution, determine whether or not the petition has been signed by the required percentage of owners of property affected thereby.

**RESOLUTION NO. 07-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF GREENWOOD, MINNESOTA**

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**Declaring the Insufficiency of Petition**

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

A certain petition requesting the improvement of Excelsior Boulevard between the West line of 21380 Excelsior Boulevard and the east line of 21170 Excelsior Boulevard, Greenwood, Minnesota by installing a water main, dated the 5th day of May, 2012, has been filed with the city clerk. Two supplemental petitions dated May 13, 2012 and May 14, 2012 also were filed with the city clerk. The Petition fails to advise that the size of the needed water main pipe for this improvement will be a 12-inch and not an 8-inch water main. It therefore fails to adequately demonstrate that the petitioners are knowingly petitioning for 12-inch water main. The failure to clearly state a request for a 12-inch water main will potentially deny the city the ability to fully assess the associated special benefit to the petitioners and the other affected properties.

Therefore, acting pursuant to Minn. Stat. §429.035, The City Council of the City of Greenwood Minnesota declares the Petition dated May 5, 2012 and the supplemental petitions dated May 13, 2012 and May 14, 2012 for proposed water main improvement of Excelsior Boulevard between the West line of 21380 Excelsior Boulevard and the east line of 21170 Excelsior Boulevard, Greenwood, Minnesota legally insufficient and the petition is hereby rejected.

Adopted by the council this \_\_\_ day of July, 2012.

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

\_\_\_\_\_  
Gus Karpas, City Clerk

**RESOLUTION NO. 15-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF GREENWOOD, MINNESOTA**

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**Declaring Adequacy of Petition and Ordering Preparation of Report  
and City Planning Commission Review for Compliance with the  
City Land Use Plan**

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

1. A certain petition requesting the improvement of Excelsior Boulevard between the West line of 21380 Excelsior Boulevard and the east line of 21170 Excelsior Boulevard, Greenwood, Minnesota by installing a water main, dated June 13, 2012 and filed with the council on the 13th day of June, 2012, is hereby declared to be signed by the required percentage of owners of property affected thereby. This declaration is made in conformity to Minn. Stat. §429.035.
2. The petition for proposed improvement (hereinafter Improvement No. 1) is hereby referred to City Engineer David Martini of Bolton & Menk and that person is instructed to report to the council with all convenient speed advising the council in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible; whether it should best be made as proposed or in connection with some other improvement; the estimated cost of the improvement as recommended; and a description of the methodology used to calculate individual assessments for affected parcels. In preparing said report, the City Engineer shall consult with the City Engineer of Excelsior, and Metropolitan Council representatives as necessary.
3. The City Planning Commission with the benefit of the advice of the City Engineer and the City Attorney shall review the proposed capital improvement and report in writing to the Council its findings as to compliance of Improvement No. 1 with the Comprehensive Municipal Plan, as required by Minn. Stat. §462.356.

Adopted by the council this \_\_\_\_ day of July, 2012.

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

\_\_\_\_\_  
Gus Karpas, City Clerk

**RESOLUTION NO. 15-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF GREENWOOD, MINNESOTA**

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**Declaring the Insufficiency of Petition**

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

1. A certain petition requesting the improvement of Excelsior Boulevard between the West line of 21380 Excelsior Boulevard and the east line of 21170 Excelsior Boulevard, Greenwood, Minnesota by installing a water main, filed with the council \_\_\_ day of \_\_\_\_\_, 2012, fails to adequately describe the extent of the improvement requested and therefore the required percentage of owners of the property affected thereby cannot be determined.
2. Pursuant to Minn. Stat. §429.035 said petition for proposed water main improvement is hereby declared legally inadequate.

Adopted by the council this \_\_\_\_\_ day of June, 2012.

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

\_\_\_\_\_  
Gus Karpas, City Clerk



Agenda Number: **6B**

Agenda Date: 07-05-12

**Agenda Item:** Resolution 16-12, Variance Findings of Fact, Keith and Stacy Carlson, 20965 Channel Drive (deck variance)

**Summary:** Based on verbal findings at the 06-06-12 meeting the council approved the variance requests from Keith and Stacy Carlson to encroach into the lakeside setback and exceed the permitted hardcover to construct a deck addition. The council directed that written findings be drafted for confirmation by the council. The attached findings were drafted by the city attorney.

**Council Action:** Required. Suggested motions ...

1. I move the council approves resolution 16-12 setting out the findings of fact and conclusions of law regarding the Keith and Stacy Carlson deck addition variance requests.
2. I move the council approves resolution 16-12 setting out the findings of fact and conclusions of law regarding the Keith and Stacy Carlson deck addition variance requests with the following revisions: \_\_\_\_\_.

**RESOLUTION NO. 16-12**

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

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**APPROVING**

**IN RE: The Application of Keith and Stacey Carlson for a Variance to  
Section 1120.10 to:**

**Permit an expanded lakeside deck which would encroach into the  
required lake yard setback and exceed the maximum permitted  
impervious surface area.**

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**WHEREAS**, Keith and Stacey Carlson are the owners of property commonly known as 20965 Channel Drive, Greenwood, Minnesota 55331 (PID No. 26-117-23-44-0025); and

**WHEREAS**, application was made for the above-stated variance to Section 1120.10 so as to permit an expanded lakeside deck which would encroach into the required lake yard setback and exceed the maximum permitted impervious surface area; and

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

**WHEREAS**, public comment was taken at the Public Hearing before the Planning Commission on April 18, 2012 and May 16, 2012; and

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

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

**FINDINGS OF FACT**

1. That the real property located at 21780 Fairview Street, Greenwood,

Minnesota 55331 (PID No. 26-117-23-31-0025) is a single family lot of record located within the R-1A Single Family Residential District. The westerly and northerly yards of the subject property abut Lake Minnetonka.

2. The applicant proposes to expand an existing non-conforming lakeside deck. In May the applicant proposed and was granted variances to (1) add a fireplace to the northerly side of the house which would be cantilevered and project lakeward 1.5 feet and; (2) add a covered entryway to the easterly side of the house.
3. Section 1120:15 of the Zoning Ordinance requires a minimum lake yard setback of fifty (50) feet from the Ordinary High Water Level (OHWL) along the north property line. The survey submitted by the applicants indicates the proposed deck alteration would be set back forty-three (43) feet from the OHWL. As presented, the applicant requires a variance of seven (7) feet of the required lake yard setback.
4. Section 1176:04(3) permits a maximum impervious surface area of 30% in the Shoreland District. The survey submitted by the applicants indicates the proposed impervious surface area on the property is 36.2%. As presented, the applicants require a variance to exceed the maximum permitted impervious surface area by 6.2%.
5. In conjunction with the variances granted in May, (described at ¶ 2 above), the Applicant proposed to reduce existing impervious hardcover from 39.37% to 35.7%, which the city accepted as a condition of those variance grants. Thereby establishing 35.7% as the permitted amount of impervious hardcover for the lot.
6. The findings of Greenwood Resolution No. 11-12 adopted June 6, 2012 relative to the above described Carlson variance requests are adopted as if setout hereat in full.
7. The applicants state that the existing non-conforming deck is in need of replacement as built and that, with the exception of a widened rebuilt stair (to be expanded from 3 ft to 4 ft in width), the proposed deck addition will be built wholly outside of the required 50 ft lake yard setback. The stair encroaches on the lakeside yard setback and its widening, needed for utility and safety will add marginally to that encroachment.
8. The Applicants assert that the practical difficulty in meeting the lakeside yard setback is created by the need for added utility and safety provided by a 4 ft verses the in place non-conforming 3 ft stair. The

reasonableness of the request is set by Greenwood Ordinance Section 1176.04 which allows 4 ft wide stairs within the shoreland and lake yard setbacks for residential properties. The essential character of the locality will not change if the variance is granted.

9. The Planning Commission voted to recommend the City Council approve the variance request.
10. The City council determined that (1) the property is a legal non-conforming use, (2) the variance if granted would be in keeping with the spirit and intent of the Zoning Code, (3) the proposed stair rebuild/width expansion is a normal and expected use of a residential property, (4) the plight of the owner (inadequate lakeside yard set back) is due to circumstances unique to the property and not created by the landowner, necessitated by needed added utility and safety afforded by a marginally wider stair and (5) the variance if granted will not alter the essential character of the locality.
11. In light of the variances granted to these Applicants in May 2012, the proposed increase in hardcover from 35.7% to 36.2%, has not been demonstrated to be in keeping with the spirit and intent of the Zoning Code; or a normal and expected use of a residential property; or that the plight of the owner (needed hardcover) is due to circumstances unique to the property and not created by the landowner, or that the variance if granted will not alter the essential character of the locality.
12. The grant of the additional impervious surfacing is therefore not in the public interest and should be left at a maximum of 35.7% as earlier permitted.

### **CONCLUSIONS OF LAW**

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

1. A variance from Section 1120.15; minimum required lake yard setback along the westerly property line, for the proposed setback compliant deck addition and non-conforming stair width expansion, from 3 ft to 4 ft, should be granted subject to condition of total lot impervious surface hardcover being not more than 35.7%.
2. The variance from 1176:04(3) to permit a maximum impervious surface area of 36.2% is denied.

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 variance to Greenwood Ordinance Code Section 1120.10; 50 foot lake yard setback along the north property line, to accommodate the proposed widened staircase, from 3 ft to 4 ft, is granted.

The grant of said variance is subject to the following condition:

- A. When the proposed improvement is complete, the property shall have impervious surface hardcover of no more than 35.7% as verified by as-built survey to be submitted by applicant in a timely manner to the City Clerk.
2. That a variance to Greenwood Ordinance Code Section 1176.04(3) to increase impervious surface from 35.7% to 36.2% is denied.

PASSED THIS \_\_\_\_ DAY OF JULY, 2012 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

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

**CITY OF GREENWOOD**

ATTEST:

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

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

1\RESOLU.CarlsonKeith2.Approving



Agenda Number: **6B**

Agenda Date: 07-05-12

**Agenda Item:** Resolution 17-12, Conditional Use Permit Findings of Fact, Keith and Stacy Carlson, 20965 Channel Drive (to exceed the annual permitted significant tree harvest)

**Summary:** Based on verbal findings at the 06-06-12 meeting, the council approved the conditional use permit request from Keith and Stacy Carlson to exceed the annual permitted significant tree harvest. The council directed that written findings be drafted for confirmation by the council. The attached findings were drafted by the city attorney.

**Council Action:** Required. Suggested motions ...

1. I move the council approves resolution 17-12 setting out the findings of fact and conclusions of law regarding the Keith and Stacy Carlson tree harvest conditional use permit request.
2. I move the council approves resolution 17-12 setting out the findings of fact and conclusions of law regarding the Keith and Stacy Carlson tree harvest conditional use permit request with the following revisions:  
\_\_\_\_\_.

**RESOLUTION NO. 17-12**

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

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**APPROVING**

**IN RE:** The Application of Keith and Stacey Carlson for a Conditional Use permit under Sections 1140:80/1150:20 to permit removal of five (5) “significant” trees within the Shore Impact Zone.

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**WHEREAS**, Keith and Stacey Carlson are the owners of property commonly known as 20965 Channel Drive, Greenwood, Minnesota 55331 (PID No. 26-117-23-44-0025); and

**WHEREAS**, application was made for a Conditional Use permit under Sections 1140:80/1150:20 to permit removal of five (5) “significant” trees within the Shore Impact Zone; 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 May 16, 2012; and

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

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

**FINDINGS OF FACT**

1. That the real property located at 21780 Fairview Street, Greenwood, Minnesota 55331 (PID No. 26-117-23-31-0025) is a single family lot of record located within the R-1A Single Family Residential District. The westerly and northerly yards of the subject property abut Lake Minnetonka.

2. The applicant proposes to remove eight trees, 5 of which are “significant” trees under Section 1140:80 and are located within the Shore Impact Zone, (the twenty-five feet back from the OHWL). Code permits removal of 2 significant trees per lot per year and allows a conditional use permit to remove up to five significant trees which may be issued no more than once every five years.
3. The City Arborist has reviewed and approved the amended tree harvesting plan, which reflects Planning Commission concerns.
4. Under Section 1150: 20, the council may authorize a conditional use by resolution provided the evidence presented is such as to establish:
  - (a) That the proposed use will comply with the regulations specified in the ordinance for the district in which the proposed use is to be located.
  - (b) That the use is one of the conditional uses permitted for the district in which it is to be located.
  - (c) The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city.
  - (d) The use will be harmonious with the objectives of the comp plan.
  - (e) The use will not be hazardous or disturbing to existing or future neighboring uses.
  - (f) The use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, 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.
  - (g) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
  - (h) The use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
  - (i) The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
  - (j) The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
  - (k) The use will not depreciate surrounding property values.

The council may impose such conditions and safeguards upon the premises benefited by a conditional use permit as may be necessary to

prevent injurious effects therefrom upon other properties in the neighborhood.

5. The Council finds that the requested Tree Harvesting CUP, if granted, meets the standards of Section 1150:20 set forth above, including:
  - (a) the use will comply with the regulations specified in the ordinance,
  - (b) the use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city, and
  - (c) the use will not be hazardous or disturbing to existing or future neighboring uses.
6. The Planning Commission has reviewed the tree harvesting plan and voted to recommend the City Council approve the Tree Harvesting CUP request.
7. The Council finds that it is appropriate that the requested Tree Harvesting CUP, if granted, should include a condition that addresses the need for the property owner to anticipate the future loss/removal of the existing Silver Maple on the westerly side of the house and plan for its replacement with a 3-inch deciduous hardwood tree.
8. To shield the house from the lake, the Council finds that it is appropriate that the requested Tree Harvesting CUP, if granted, should include a condition that one large hardwood tree be added on the south side of the lot towards the lake west of the Dwarf Korean Larch on the proposed tree planting plan.

### **CONCLUSIONS OF LAW**

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

1. A conditional use permit under Section 1140:80/1150:20 should be granted subject to the conditions (1) that no more than 5 significant trees be removed and no more than 8 trees in all as proposed, (2) that one large hardwood tree be planted on the southside of the lot towards the lake west of the Dwarf Korean Larch, and (3) that if the existing Silver Maple tree dies or is removed, a 3-inch deciduous hardwood tree will be planted close to the location of the existing Silver Maple.

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 under Greenwood Ordinance Code Section 1140:80/1150:20 is granted subject to the conditions (1) that no more than 5 significant trees be removed and no more than 8 trees in all as proposed, (2) that one large hardwood tree be planted on the southside of the lot towards the lake west of the Dwarf Korean Larch, and (3) that if the existing Silver Maple tree dies or is removed, a 3-inch deciduous hardwood tree will be planted close to the location of the existing Silver Maple.

PASSED THIS \_\_\_\_ DAY OF JULY, 2012 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

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

**CITY OF GREENWOOD**

ATTEST:

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

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

1\RESOLU.CarlsonKeith3.Approving



Agenda Number: **6D**

Agenda Date: 07-05-12

**Agenda Item:** Second reading of ordinance 210, Amending Code Section 310.30, Subd. 5(d) and (f), Use of Sewers (to authorize the council to institute programs to ensure compliance with ordinances that prohibit discharge of clean water into the sanitary sewer system)

**Summary:** At the 02-01-12 council meeting the council discussed the possibility of conducting a new “sump pump program” to reduce the amount of money the city is paying to treat clean water. The last sump pump program was conducted in 2006. At that time it is believed that each property owner was asked to complete a form to certify that their sump pump was not hooked up to the sewer system, but there was no follow up with the properties that did not return the certification form. If the council desires to conduct a new “sump pump program,” section 310.30 of the code would need to be revised.

At the 04-04-12 council meeting the council received input from the city engineer and from Bill Cook (Greenwood resident, planning commissioner, and Met Council manager of engineering services). Based on the 04-04-12 discussion, the council directed that an ordinance be drafted to conduct a new “sump pump program.” The ordinance has been reviewed by the city attorney.

At the 06-06-12 council meeting the council approved the first reading of the ordinance and directed that paragraph (ii) be revised to delete language about “failure to comply” being a misdemeanor. Copies of a redlined and clean version of the ordinance are attached.

**Council Action:** None required. Possible motions ...

1. I move the council approves the first reading of ordinance 210 as written.
2. I move the council approves the first reading of ordinance 210 with the following changes \_\_\_\_\_.
3. Do nothing.

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA  
AMENDING GREENWOOD ORDINANCE CODE SECTION 310.30, SUBD. 5(D) and (F), USE OF SEWERS  
TO AUTHORIZE THE COUNCIL TO INSTITUTE PROGRAMS TO ENSURE COMPLIANCE WITH ORDINANCES THAT  
PROHIBIT DISCHARGE OF CLEAN WATER INTO THE SANITARY SEWER SYSTEM**

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

SECTION 1.

Greenwood ordinance code section 310.30. Use of Sewers, Subd. 5(d) is amended to read as follows:

- “(d) From time to time the city council may institute the following procedure to ensure compliance with section 310 et seq. subdivision 5:
- (i) A sanitary sewer discharge certification letter with a return certification form shall be sent to every person owning improved real estate property that discharges into the city’s sanitary sewer system.
  - (ii) Property owners must return the completed certification form within 14 days of the certification letter notification date. ~~Failure to return a fully completed certification form within 14 days of the certification letter notification date shall be a misdemeanor and subject the property owner to prosecution as permitted in paragraph (h) below.~~ **In addition,** Any property owner that does not return a fully completed certification form by the deadline will incur a surcharge fee on their quarterly sewer utility bill as established in subsection (f) and set forth in chapter 5.
  - (iii) If a property owner requests assistance in completing the certification form or an inspection to determine where roof drains, foundation drains, or sump pumps feed, the inspection will be provided at no cost to the property owner.
  - (iv) If a property owner declares they have roof drains, foundation drains, or sump pumps that are connected to the sanitary sewer, they shall have 90 days from the date of mailing of the city's sanitary sewer discharge certification letter to remove all such connections.
  - (v) If a property owner certifies that their property has no roof drains, foundation drains, or sump pumps connected to the sanitary sewer system and it subsequently is discovered that the property is not in compliance with this code or otherwise has unlawful discharges, the property owner shall be back-charged to the date of the completed certification form on file, a surcharge fee, double that provided in paragraph (ii) above, shall be assessed, and prosecution for violation of this code, (as permitted in paragraph (h) below), may follow.”

SECTION 2.

Greenwood ordinance code section 310.30. Use of Sewers, Subd. 5(f) is amended to read as follows:

“(f) A sewer non-compliance surcharge fee per quarter is hereby imposed and shall be added to every residential and commercial property utility billing issued to property owners who are found not in compliance with this section. The sewer non-compliance surcharge fee amount shall be determined by the city council and set forth in chapter 5 of this code book. If a property owner certifies that their property is in compliance and it subsequently is discovered that they were not in compliance, the property owner will be back-charged to the date of certification and the surcharge fee will double.”

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 \_\_\_\_\_, 2012.

There were \_\_\_ AYES and \_\_\_ NAYS as follows:

<b>Greenwood City Council</b>	<b>YEAS</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mayor Debra Kind				
Councilman Tom Fletcher				
Councilman H. Kelsey Page				
Councilman Bob Quam				
Councilman William (Biff) Rose				

CITY OF GREENWOOD

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

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

First reading: \_\_\_\_\_, 2012  
Second reading: \_\_\_\_\_, 2012  
Publication: \_\_\_\_\_, 2012

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA  
AMENDING GREENWOOD ORDINANCE CODE SECTION 310.30, SUBD. 5(D) and (F), USE OF SEWERS  
TO AUTHORIZE THE COUNCIL TO INSTITUTE PROGRAMS TO ENSURE COMPLIANCE WITH ORDINANCES THAT  
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**SECTION 2.**

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**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 \_\_\_\_\_, 2012.

There were \_\_\_ AYES and \_\_\_ NAYS as follows:

<b>Greenwood City Council</b>	<b>YEAS</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mayor Debra Kind				
Councilman Tom Fletcher				
Councilman H. Kelsey Page				
Councilman Bob Quam				
Councilman William (Biff) Rose				

CITY OF GREENWOOD

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

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

First reading: \_\_\_\_\_, 2012  
Second reading: \_\_\_\_\_, 2012  
Publication: \_\_\_\_\_, 2012



**Agenda Item:** Consider Variance Request, Matt and Angela Lindberg, 5160 Greenwood Circle

**Summary:** Matt and Angela Lindberg are proposing a landscaping project which includes the relocation of retaining walls and an alteration of grade in their rear yard. The proposed grade alteration includes digging back into the hill in the rear of the property and relocating the existing retaining walls to help with drainage and enlarge the rear yard.

Section 1140.19(5) states that with the exception of that portion of a lot host to the foundation of a permitted structure and or driveways and necessary stormwater management, the pre-grading permit topography of a lot shall not be altered by the addition of fill or the removal of fill or by grading so as to increase or decrease the elevation of the land within any one hundred square foot area of the lot by more than one vertical foot. An exception to this standard may not be granted by condition use permit.

The city engineer has reviewed the proposal and required additional review of the drainage, stormwater pollution prevention plan and structure engineering for the proposed retaining walls. The engineer has reviewed this additional information and his comments are attached.

In reviewing this request the city council must consider the criteria outlined in section 1155.10 of the ordinance:

Practical Difficulty Standard

- (a) That the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) The plight of the homeowner 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 practical difficulties.

Findings

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

**Planning Commission Action: Motion by Chairman Lucking to recommend the city council approves the variance request to alter the grade greater than one vertical foot in conjunction with a rear yard landscaping project. The maximum extent of the grade alteration would be a difference of the grade by thirteen vertical feet, as presented. A practical difficulty exists in the existing grade of the property which allows drainage from Highview Place to settle between the existing retaining wall and house rendering the rear yard of the property unusable. The motion is conditioned that the city engineer provide a greater review of the proposal and provide a report to the Council which includes an analysis of the proposed drain tile profile, structural characteristics and a review of the hydrostatic pressure behind the wall. The applicant must also include some type of safety fencing at the top of the wall in their design. Paeper seconded the motion. Motion carried 5-0.**

**Council Action:** Action required by July 14, 2012. Possible motions ...

1. I move the council approves (or denies) the variance request by Matt and Angela Lindberg to alter the existing grade on their property by thirteen feet as part of a landscaping project to improve drainage on their property and enlarge their rear yard as presented (or with the following conditions: \_\_\_\_\_), based on the following findings (must be in writing if denial): \_\_\_\_\_. I further move that the council directs the city attorney to draft findings of fact for the council's consideration at the August 1, 2012 council meeting.
2. I move the council asks the applicant to provide written approval for a further extension of the time limit for action to \_\_\_\_\_, 2012 for the following reason(s): \_\_\_\_\_.

*Note: MN statue 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).*

# Conditional Use Permit & Variance Checklist



Submitted  Accepted  Consult with the zoning administrator to determine which ordinances and procedures apply to your application. Unless waived by the zoning administrator you must provide all of the following items with conditional use permit (CUP) or variance applications. Incomplete applications will be rejected.  
 If you prefer to complete this form electronically, it is available for downloading at [www.greenwoodmn.com](http://www.greenwoodmn.com).

- Complete CUP or variance application form.
- Pay nonrefundable CUP or variance application fee. Fee: \$400 plus consultant and contract service provider expenses incurred by the city as they exceed the base fee amount.
- Pay nonrefundable shoreland compliance review fee. Required for all properties within 1,000 feet of the OHW of Lake Minnetonka. Fee: \$200 (section 1176.03, subd. 10). The city will send copies of public hearing notices to the DNR at least 10 days before the hearing (section 1176.07, subd. 4).
- One full-size scalable certified survey and one 11 x 17 copy that includes:
  - Legal description and street address.
  - Parcel size in acres and square feet.
  - Topography of the site - for major construction delineate grading and drainage plan with contours at 2-foot intervals.
  - Location and dimensions of all the existing improvements, including: buildings, structures, retaining walls, steps, parking areas, driveways, storage areas, utilities, and wells.
  - Location and dimension of all proposed buildings and structures.
  - Impervious surface calculations – existing and proposed – % and square footage.
  - Outline of “building pad” setbacks according to the ordinance provisions and show the closest distance between the buildings and front, side, lake and rear lot lines.
  - Distance between principal buildings and accessory buildings and structures.
  - Building volume, building height, and structure height calculations (section 1140.18).
  - Delineate all wetland, OHW of lakes, bluffs, easements and driveways.
  - Significant tree conditions and all significant trees proposed to be removed.
- One large-scale drawing, one 11x 17 copy of the proposed structure elevations on all sides. Indicate structure height at the roof peak. Scale must be appropriate for the size of the project (eg: 1 inch = 10 feet or 1 inch = 20 feet).
- One 11 x 17 copy of the floor plan(s) – existing and proposed.
- Stake the location in the field of proposed buildings, structures and lot lines.
- Tree preservation plan if applicable (section 1140.80).
- Lighting plan for sports courts, pools, new home construction, accessory buildings, driveways, and parking if applicable.

### Notices and Reminders

1. The application and related materials are due by the published deadline (available from the zoning administrator or online by clicking on the “meetings” button at [www.greenwoodmn.com](http://www.greenwoodmn.com)).
2. The city has the right to require additional plans or information as necessary.
3. All plans, applications, and written information become public information once filed, and will be used in the planning commission and council staff reports and distributed to the public.
4. Submittal of an application grants the city permission to physically enter, inspect, and photograph the property.
5. The planning commission typically meets on the third Wednesday of each month to hold the public hearing and make a recommendation; the city council typically meets on the first Tuesday of the following month to make the final decision. Applicants and owners are encouraged to attend both the planning commission and city council meetings.
6. Public notices will be published in the designated paper prior to the planning commission meeting and notice will be sent to residents within 350 feet of the subject property.
7. If approval is granted, you may apply for a building permit. Tree removal, land alteration and wetland alteration all require separate permits and approvals from the city.
8. If a variance is granted and not used within one year after the date of the council approval, the variance will expire. If a final inspection (in the case of remodeling), or an occupancy permit (in the case of new construction), is not obtained within one year from the date that the building permit is issued, the variance also will expire unless extended by the city council.
9. By state statute the city has 60 days from the acceptance of an application deemed complete to review and rule on the application. If additional time is needed, the city may elect an additional 60-day review process (MN statute 15.99)
10. Conditional use permits (CUP) and variances, if granted, may be subject to conditions imposed by the city council (board of appeals and adjustments) imposed at the time of approval (section 1150 & 1155).

### Key Dates ~ For Office Use Only:

5/15	Materials received (complete / incomplete), electronic copy forwarded to planning commission
5/22	Sent either notice of incomplete information or notice that information is complete (within 15 workdays from date materials received), with email copy of notice to mayor and councilmembers
7/14	Date of 60-day deadline
	Notice of 60-day extension (if applicable) PHN COMP - SENT TO SS - 5/24
6/20	Planning commission meeting (public hearing) NN COMP - 5/24
5/15	Applicant given deadlines and meeting schedule NN MAILED - 6/6

Form Updated 05-06-12

City of Greenwood  
 20225 Cottagewood Road  
 Deephaven, MN 55331  
 952-474-4755  
 www.greenwoodmn.com

Variance Application

Applicant is (circle one) Owner Developer **Contractor** Architect Other \_\_\_\_\_

Property address for which variance is requested 5160 GREENWOOD CIRCLE

Applicant (individual or company name): BUILDSCAPES LLC ~~SE~~

Contact for Business: JASON ROBINSON Title: PRESIDENT

Address: 5205 WINDSON AVE City: EDINA State: MN Zip: 55436

Wk Phone: 651-283-4453 Hm Phone: \_\_\_\_\_

Email address: BUILDSCAPES@YAHOO.COM Fax: \_\_\_\_\_

Present use of property: RESIDENTIAL

Property acreage: 12,429 FT<sup>2</sup>

Existing Variances: Yes \_\_\_\_\_ No ?

If yes, please explain \_\_\_\_\_

Describe Request: Build New \_\_\_\_\_ Add On X Remodel \_\_\_\_\_ Replace \_\_\_\_\_

What is the Variance being requested for: EXCAVATION OF SOIL FOR RETAINING WALL 13 1/2 feet  
155 cu yards

Variance for:

	Required	Proposed
Side Yard	_____ feet	_____ feet
Front Yard	_____ feet	_____ feet
<u>X</u> Rear Yard	_____ feet	<u>755</u> feet <sup>2</sup>
Lake setback	_____ feet	_____ feet
Building height	_____ feet	_____ feet
Structure height	_____ Feet	_____ feet
Wetland	_____ feet	_____ feet
Impervious Cover	_____ sq ft	_____ Sq ft
Shoreland	_____ feet	_____ feet
Massing	_____ volume	_____ volume
Other	_____ feet	_____ feet
<b>If other, please explain</b>		

## MAKING YOUR CASE FOR THE GRANT OF A VARIANCE

STATE LAW: Minnesota Statutes 462.357 controls the grant of variances to established zoning codes. Before a variance can be granted the Applicant must establish to the satisfaction of the City that: A) Strict enforcement of the applicable code would cause a practical difficulty because of circumstances unique to the individual property under consideration, and B) the grant of the requested variance will be in keeping with the spirit and intent of the ordinance.

"Practical Difficulty" as used in connection with the granting of a variance means: 1) the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls; 2) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and 3) the variance, if granted, will not alter the essential character of the locality.

NOTICE: Simple inconvenience of a landowner or occupant, including self-created situations, are not considered a practical difficulty under Minnesota case law.

Economic considerations alone shall not constitute a practical difficulty if reasonable use of the property exists under the ordinance. (MN Statutes 462.357)

If you have difficulty in establishing an practical difficulty please consider alternatives to your construction plans that may remove the need for a variance.

The Applicant must respond fully and in detail to each of the following questions and data requests or the Application may be rejected as incomplete.

Establishing that the requested variance will be in keeping with the spirit and intent of the Zoning Code:

The requested variance, if granted, will be in keeping with the spirit and intent of the City Zoning because:

VARIANCE WILL BE USED TO INCREASE USABLE AREA IN ~~THE~~ REAR YARD,  
NOT AFFECTING NEIGHBORING PROPERTIES; AND IMPROVE DRAINAGE AROUND RESIDENCE.

Establishing Practical Difficulty:

1. The landowner's (Applicant's) property cannot be put to a reasonable use if used under conditions allowed by the official controls because:

THE EXISTING SLOPE IS GREATER THAN 3:1 MAKING THE SPACE  
UNUSABLE

2. The plight of the landowner (Applicant) is due to circumstances unique to the property not created by the landowner property because:

EXISTING ELEVATIONS

3. The variance, if granted, will not alter the essential character of the locality because:

WILL BE USING MATERIALS THAT WILL MATCH AND BLEND IN WITH  
EXISTING SURROUNDINGS

Establishing the variance, if granted, will not adversely impact the rights of others:

Describe the effect of the variance, if granted, on neighboring properties and on the neighborhood in general:

NO NEGATIVE EFFECT ON NEIGHBORS - CREATING A SAFER SPOT FOR TWO  
CHILDREN TO PLAY - KEEPING THEM AWAY FROM THE FRONT YARD AND STREET

Describe the effect of the variance, if granted, on supply of light and air to adjacent properties.

NONE

Describe the effect of the variance, if granted, on traffic congestion in the public street.

SOME DISTURBANCE DURING CONSTRUCTION - NO EFFECT UPON COMPLETION

Describe the effect of the variance, if granted, on the danger of fire.

NONE

Describe the effect of the variance, if granted, on the danger to public safety.

NONE

Describe the effect of the variance, if granted, on established property values in the surrounding area.

WILL INCREASE SUBJECT PROPERTY'S VALUES, NO EFFECT ON NEIGHBORS

Describe the effect of the variance, if granted, on the impairment of the public health, safety or welfare.

NONE

Applicant(s) have determined that the following approvals may be necessary from other regulatory bodies:

NO

\_\_\_\_\_ LMCD # 952-745-0789

\_\_\_\_\_ Watershed District # 952-471-0590

### Applicant's Acknowledgement & Signature(s)

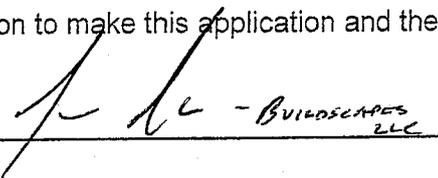
This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name, and I am the party whom the City should contact about this application. The applicant certifies that the information supplied is true and correct to the best of his/her knowledge.

The undersigned also 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 processing and may necessitate a re-scheduling of the review time frame. The application time line commences once an application is considered complete when all required information and fees are submitted to the City. The applicant recognizes that he/she is solely responsible for submitting a complete application being aware that upon failure to do so, the staff has no alternative but to reject it until it is complete or to recommend the request for denial regardless of its potential merit.

A determination of completeness of the application shall be made within 15 business days of the application submittal. A written notice of application deficiencies shall be mailed to the applicant within 15 business days of application.

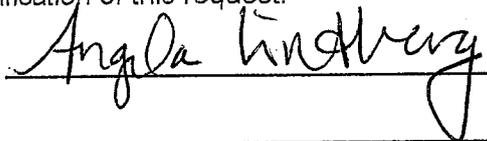
I am the authorized person to make this application and the fee owner has also signed this application.

Applicant's Signature:  - BUILDSCAPES LLC Date: 5/15

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Owner's Acknowledgement & Signature(s)**

I am / we are the fee title owner of the above described property. I / we further acknowledge and agree to this application and further authorize reasonable entry onto the property by City Staff, Consultants, agents, Planning Commission Members, and City Council Members for purposes of investigation and verification of this request.

Owner's Signature:  Date: 5/15/12

Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Note** – Both signatures are required, if the owner is different than the applicant, before we can process the application, otherwise it is considered incomplete.

ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (WE) Kaylene Kichhafer of 5170 Greenwood Cr  
[print name(s)] [print address]

have reviewed the plans for the proposed improvements or proposed use of the property located at 5760 Greenwood Circle.

I (we) understand that in executing this acknowledgement, I am (we are) not asked to declare approval or disapproval of the property or use, but merely to confirm for the City Council that I am (we are) aware of the improvement plans and that the proposed neighbor's project or use requires Council approval.

Kaylene Kichhafer \_\_\_\_\_ 5-15-12  
Property owner's signature Date

\_\_\_\_\_  
Property owner's signature Date

\*\*\*\*\*

I (we) Karen Chapman of 5155 Greenwood Cr  
~~Kaylene Kichhafer~~ \_\_\_\_\_ ~~5170 Greenwood Cr~~  
[print name(s)] [print address]

have reviewed the plans for the proposed improvements or proposed use of the property located at 5760 Greenwood Circle.

I (we) understand that in executing this acknowledgement, I am (we are) not asked to declare approval or disapproval of the property or use, but merely to confirm for the City Council that I am (we are) aware of the improvement plans and that the proposed neighbor's project or use requires Council approval.

~~Kaylene Kichhafer~~ Karen Chapman \_\_\_\_\_ 5-15-12  
Property owner's signature Date

\_\_\_\_\_  
Property owner's signature Date

If you have any information that may assist the City in the review of this application, please submit your comments to the City Clerk's office at least 10 days prior to the scheduled Council meeting.

# LINDBERG RESIDENCE GREENWOOD, MINNESOTA

## GENERAL NOTES:

### DESIGN PROVISIONS:

- THE FOLLOWING EFFECTIVE STRENGTH PARAMETERS WERE ASSUMED IN THE PREPARATION OF THE STRUCTURAL CALCULATIONS FOR THE RETAINING WALL SYSTEM:

	$\phi$	c	$\gamma$	SOIL TYPE
REINFORCED SOIL	26°	0 PSF	120 PCF	SANDY LEAN CLAY
RETAINED SOIL	26°	0 PSF	120 PCF	SANDY LEAN CLAY
FOUNDATION SOIL	26°	0 PSF	120 PCF	SANDY LEAN CLAY

SOIL TYPES AND DESIGN PROPERTIES SHALL BE CONFIRMED BY THE SITE GEOTECHNICAL ENGINEER PRIOR TO WALL CONSTRUCTION.

- THE WALLS ARE DESIGNED TO SUPPORT THE FOLLOWING MAXIMUM SURCHARGE LOADINGS:

LIVE LOAD: 50 PSF  
 DEAD LOAD: NONE  
 BACK SLOPE: 4H:1V MAX  
 SEISMIC: NOT APPLICABLE  
 HYDROSTATIC: NOT APPLICABLE

- THE FOUNDATION SOILS AT THE WALL LOCATIONS SHALL BE CAPABLE OF SAFELY SUPPORTING 2,200 PSF WITHOUT FAILURE OR EXCESSIVE SETTLEMENT. LOCAL BEARING CAPACITY SHALL BE CONFIRMED BY THE SITE GEOTECHNICAL ENGINEER AFTER FOUNDATION EXCAVATION AND PRIOR TO WALL CONSTRUCTION.

## SHEET INDEX

SHEET	DESCRIPTION
1.	TITLE SHEET
2.	SITE PLAN
3.	WALLS 1 AND 2 ELEVATION
4.	TYPICAL WALL SECTION

## GENERAL NOTES:

### SUGGESTED QUALITY ASSURANCE PROVISIONS:

- WALL CONSTRUCTION SHALL BE SUPERVISED BY A QUALIFIED ENGINEER OR TECHNICIAN TO VERIFY FIELD AND SITE SOIL CONDITIONS. IF THIS WORK IS NOT PERFORMED BY THE SITE GEOTECHNICAL ENGINEER, A QUALIFIED GEOTECHNICAL ENGINEER/TECHNICIAN SHALL BE CONSULTED IN THOSE MATTERS PERTAINING TO THE SOIL CONDITIONS AND WALL PERFORMANCE.
- THE FOUNDATION SOILS AT THE BASE OF THE WALLS SHALL BE INSPECTED BY THE GEOTECHNICAL ENGINEER. ANY UNSUITABLE SOILS OR IMPROPERLY COMPACTED EMBANKMENT MATERIAL SHALL BE REMOVED AND REPLACED AS DIRECTED BY THE ENGINEER PRIOR TO WALL CONSTRUCTION TO PROVIDE ADEQUATE BEARING CAPACITY AND MINIMIZE SETTLEMENT.
- ALL WALL EXCAVATION AND RETAINED SOILS SHALL BE INSPECTED FOR GROUNDWATER CONDITIONS. ANY ADDITIONAL DRAINAGE PROVISIONS REQUIRED IN THE FIELD SHALL BE INCORPORATED INTO THE WALL CONSTRUCTION AS DIRECTED BY THE GEOTECHNICAL ENGINEER.
- WALL BACKFILL MATERIAL SHALL BE TESTED AND APPROVED BY THE ENGINEER, MEETING THE MINIMUM REQUIREMENTS OF THE APPROVED DESIGN PLANS OR SPECIFICATIONS.
- ALL SOIL BACKFILL SHALL BE TESTED BY THE GEOTECHNICAL ENGINEER FOR MOISTURE, DENSITY, AND COMPACTION PERIODICALLY (EVERY 2' VERTICALLY, 100'-200' C/C) MEETING THE MINIMUM REQUIREMENTS OF THE APPROVED DESIGN PLANS OR SPECIFICATIONS.
- THE CONTRACTOR SHALL ESTABLISH AND MAINTAIN QUALITY CONTROL FOR THE CONSTRUCTION OF THE WALL TO ASSURE COMPLIANCE WITH CONTRACT REQUIREMENTS AND MAINTAIN RECORDS OF ITS QUALITY CONTROL.
- ALL WALL ELEVATIONS, GRADES, AND BACK SLOPE CONDITIONS SHALL BE VERIFIED BY THE ENGINEER IN THE FIELD FOR CONFORMANCE WITH APPROVED DESIGN PLANS. ANY REVISIONS TO THE STRUCTURE GEOMETRY OR DESIGN CRITERIA SHALL REQUIRE DESIGN MODIFICATIONS PRIOR TO PROCEEDING WITH CONSTRUCTION.

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No.	Date	Revision	By
1			
2			
3			
4			
5			
6			

Designed By: MRJ  
 Scale: N/A  
 Date: 08 JUNE 2012

Project: LINDBERG RESIDENCE  
 GREENWOOD, MN  
 Title: TITLE SHEET

Registration No: 25493  
 Project No: 12-207  
 Sheet No: 1

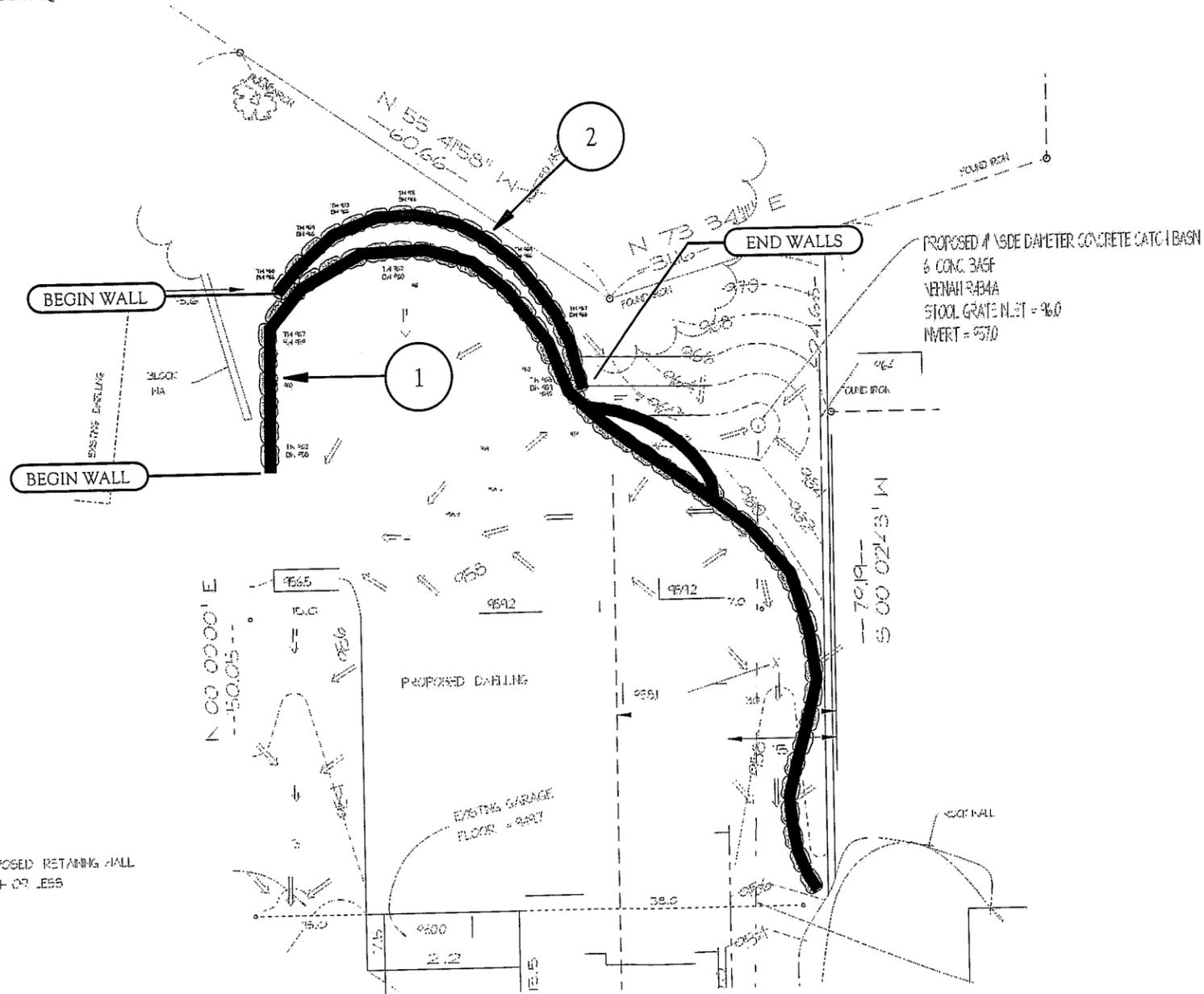
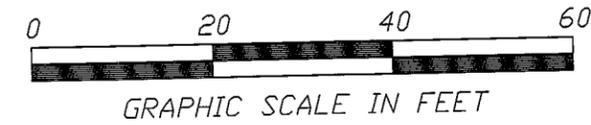
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Michael R. Johnson, P.E.

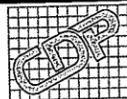
Date: 06/08/2012

**NOTES:**

1. THE SITE PLAN SHOWN IS FOR ILLUSTRATIVE PURPOSES ONLY. IT WAS REPRODUCED FROM TIER ONE LANDSCAPING PLAN DATED 5-13-12.
2. THE END WALL NOTE SIGNIFIES THE END OF THE ENGINEERED BOULDER WALLS AT THE LINDBERG RESIDENCE. ALL REMAINING BOULDER WALLS ARE UNDER 4'-0" NOT PROFILED OR ENGINEERED DUE TO THEIR LIMITED HEIGHT.
3. THE CONTRACTOR SHALL VERIFY INVERTS OF PROPOSED AND EXISTING UTILITIES TO ENSURE THERE ARE NO CONFLICTS. THE ENGINEER SHALL BE CONTACTED IF CONFLICTS ARISE AND AN ALTERNATIVE DESIGN MAY BE REQUIRED.



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No.	Date	Revision	By
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Designed By: MRJ  
Scale: 1" = 20'  
Date: 08 JUNE 2012

Project: LINDBERG RESIDENCE GREENWOOD, MN  
Title: SITE PLAN

Registration No: 25493  
Project No: 12-207  
Sheet No: 2

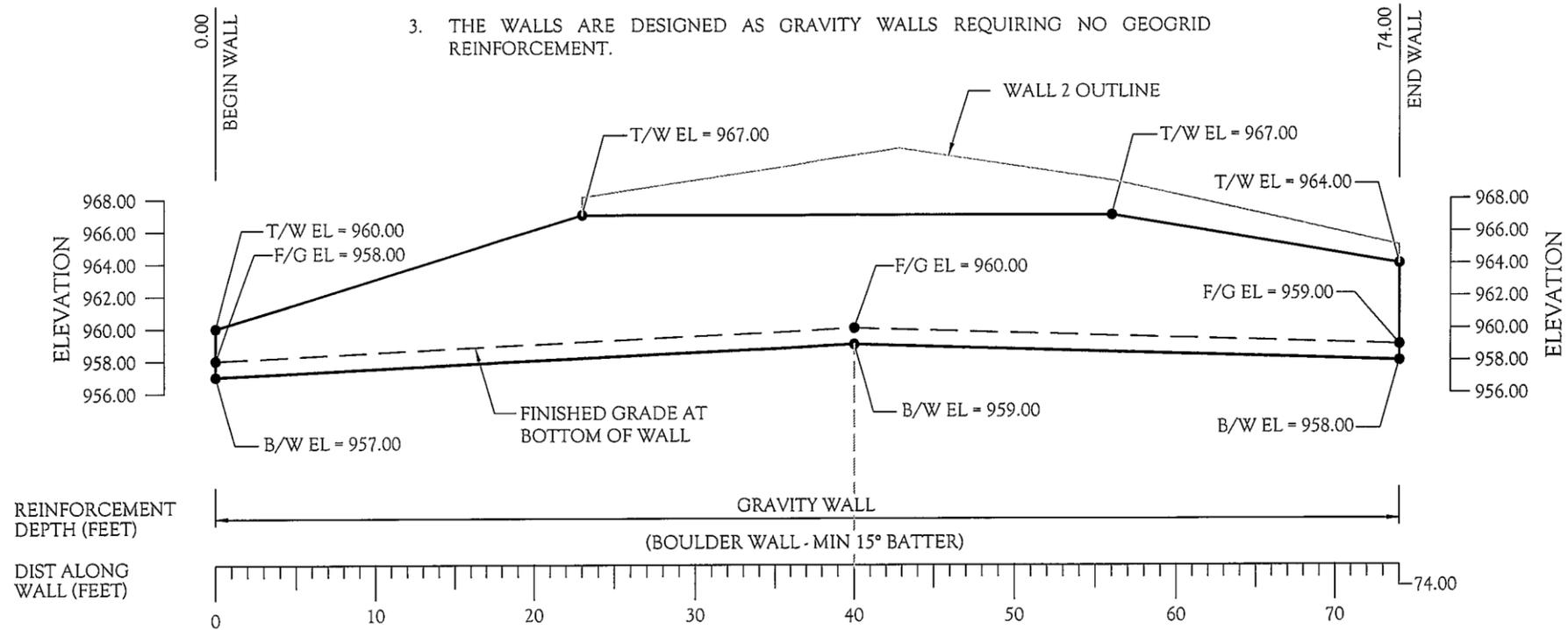
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Michael R. Johnson, P.E.

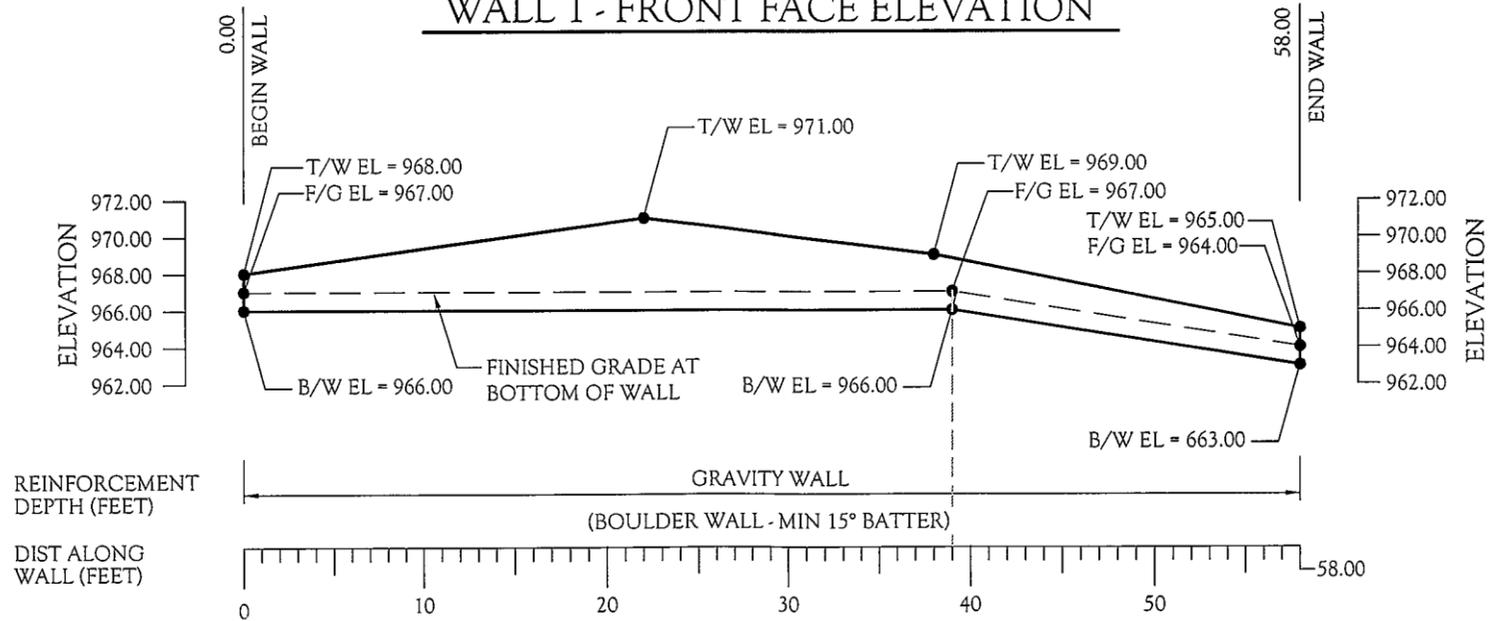
Date: 06/08/2012

**GENERAL NOTES:**

1. ALL WORK AND MATERIALS SHALL COMPLY WITH ALL STATE, COUNTY AND CITY REGULATIONS AND CODES AS WELL AS OSHA STANDARDS.
2. THE WALLS SHALL BE CONSTRUCTED WITH BOULDERS WITH A MINIMUM WALL BATTER OF 15°.
3. THE WALLS ARE DESIGNED AS GRAVITY WALLS REQUIRING NO GEOGRID REINFORCEMENT.



**WALL 1 - FRONT FACE ELEVATION**



**WALL 2 - FRONT FACE ELEVATION**

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No.	Date	Revision	By
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Designed By: **MRJ**  
Scale: **1" = 10'**  
Date: **08 JUNE 2012**

Project: **LINDBERG RESIDENCE  
GREENWOOD, MN**  
Title: **WALLS 1 AND 2 ELEVATION**

Registration No: **25493**  
Project No: **12-207**  
Sheet No: **3**

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Michael R. Johnson, P.E. Date: **06/08/2012**

**NOTES:**

1. THE SECTION SHOWN REPRESENTS TYPICAL CONSTRUCTION FOR THE BOULDER WALLS AT THE LINDBERG RESIDENCE. THE WALL HEIGHTS, ELEVATIONS, BACK SLOPES AND TOE SLOPES VARY AS SHOWN ON THE SITE PLAN AND ELEVATIONS PLANS RESPECTIVELY.
2. UPON EXCAVATION, WHERE UNSUITABLE SOILS ARE FOUND, SUBCUT TO DEPTH AS REQUIRED BY THE ONSITE GEOTECHNICAL ENGINEER AND REPLACE WITH SUITABLE COMPACTED STRUCTURAL FILL TO ACHIEVE THE REQUIRED BEARING CAPACITY. THE STRUCTURAL FILL SHALL BE COMPACTED TO A MINIMUM 95% STANDARD PROCTOR DENSITY.
3. APPROXIMATE LIMITS OF EXCAVATION VARIES WHERE SUBCUT IS REQUIRED. ACTUAL LIMITS AND SIDE SLOPES TO BE DETERMINED BY CONTRACTOR AND MATCH FIELD CONDITIONS AND OSHA REGULATIONS.
4. THE MINIMUM BOULDER DEPTH (D) IS A FUNCTION OF THE WALL HEIGHT (H) OF EACH WALL AS SHOWN IN THE BOULDER DEPTH SCHEDULE. THE HEIGHT OF WALL 1 IS THE SUM OF THE OVERALL HEIGHT OF WALLS 1 AND 2 AS SHOWN DUE TO THE CLOSE PROXIMITY OF WALL 2 TO WALL 1.
5. A SMALLER BOULDER MAY BE USED AS A TOP BOULDER (D/2) FOR FINISHED GRADING PURPOSES.
6. THE BOULDERS SHALL BE PLACED TO AVOID CONTINUOUS JOINT PLANES IN VERTICAL OR LATERAL DIRECTIONS. LATERAL COURSES SHALL BE CONSTRUCTED SUCH THAT EACH BOULDER BEARS ON AT LEAST TWO BOULDERS BELOW IT.
7. COMPACT ALL SOILS PLACED BEHIND THE DRAINAGE ZONE TO 95% STANDARD PROCTOR DENSITY.
8. THE WALLS SHALL BE CONSTRUCTED WITH A MINIMUM 12.0" OF EMBEDMENT.
9. DO NOT BRING HEAVY COMPACTION OR PAVING EQUIPMENT WITHIN 3' OF THE BACK OF THE PROPOSED BOULDER WALL.
10. THE BOULDER WALLS ARE DESIGNED AS GRAVITY WALLS:  
 MINIMUM SAFETY FACTOR FOR OVERTURNING \_\_\_\_\_ 1.50  
 MINIMUM SAFETY FACTOR FOR SLIDING \_\_\_\_\_ 1.50  
 MINIMUM SAFETY FACTOR FOR BEARING \_\_\_\_\_ 2.00
11. PLACE A 4" DIAMETER CORRUGATED PERFORATED PLASTIC DRAINPIPE WRAPPED WITH A GEOTEXTILE FABRIC INSTALLED AT FINISHED GRADE OF WALL AS SHOWN. OUTLET AT 20' O.C. AND AT LOW POINTS ALONG WALLS.
12. TO PREVENT PONDING OF WATER, POSITIVE DRAINAGE SHALL BE PROVIDED AT THE TOP AND BOTTOM OF WALL. INSPECT EXCAVATION SLOPES FOR ACTIVE SEEPAGE AND PLACE ADDITIONAL DRAINS WHERE SEEPAGE OCCURS.

**BOULDER DEPTH SCHEDULE:**

WALL HEIGHT (H):	MINIMUM BOULDER DEPTH (D):
0 - 4'	24"
5' - 6'	28"
7'	32"
8'	36"
9'	40"
10'	44"
11'	48"
12'	53"
13'	58"

THE LONG DIMENSION OF BOULDERS SHALL EXTEND INTO THE BANK TO PROVIDE MAXIMUM STABILITY.

**DRAINAGE STONE SPECIFICATION:**

DRAINAGE STONE SHALL CONSIST OF CLEAN 1" MINUS CRUSHED STONE MEETING THE FOLLOWING GRADATION:

SIEVE SIZE:	% PASSING
1"	100
3/4"	100 - 75
No. 4	0 - 10
No. 50	0 - 5

FREE DRAINING SAND IS ALSO ACCEPTABLE FOR THE DRAINAGE MATERIAL. IT MUST HAVE LESS THAN 10% FINES PASSING THE NO. 200 SIEVE. ONSITE MATERIAL IS ACCEPTABLE IF IT MEETS THIS CRITERIA.

**RETAINED BACKFILL SPECIFICATION:**

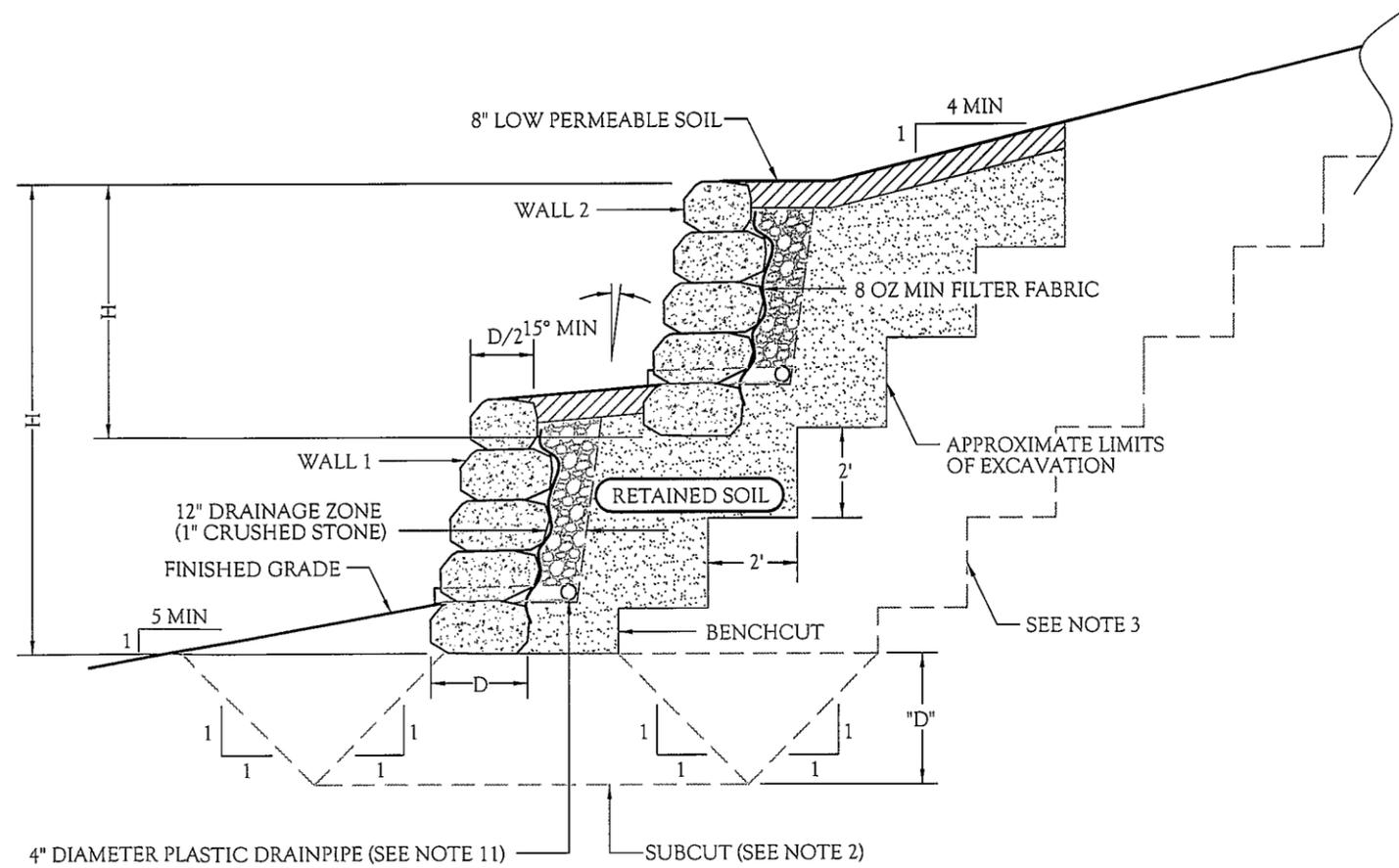
RETAINED BACKFILL SHALL BE FREE OF DEBRIS OR ORGANIC MATERIAL MEETING THE FOLLOWING GRADATION:

SIEVE SIZE:	% PASSING
1"	100
3/4"	100 - 75
No. 4	20 - 100
No. 200	0 - 40

PLASTICITY INDEX (PI) < 20 AND LIQUID LIMITS (LL) < 40.

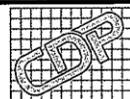
**NOTES:**

- HI = EXPOSED WALL HEIGHT
- H = EXPOSED WALL HEIGHT + EMBEDMENT



**TYPICAL BOULDER WALL SECTION**

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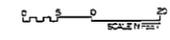
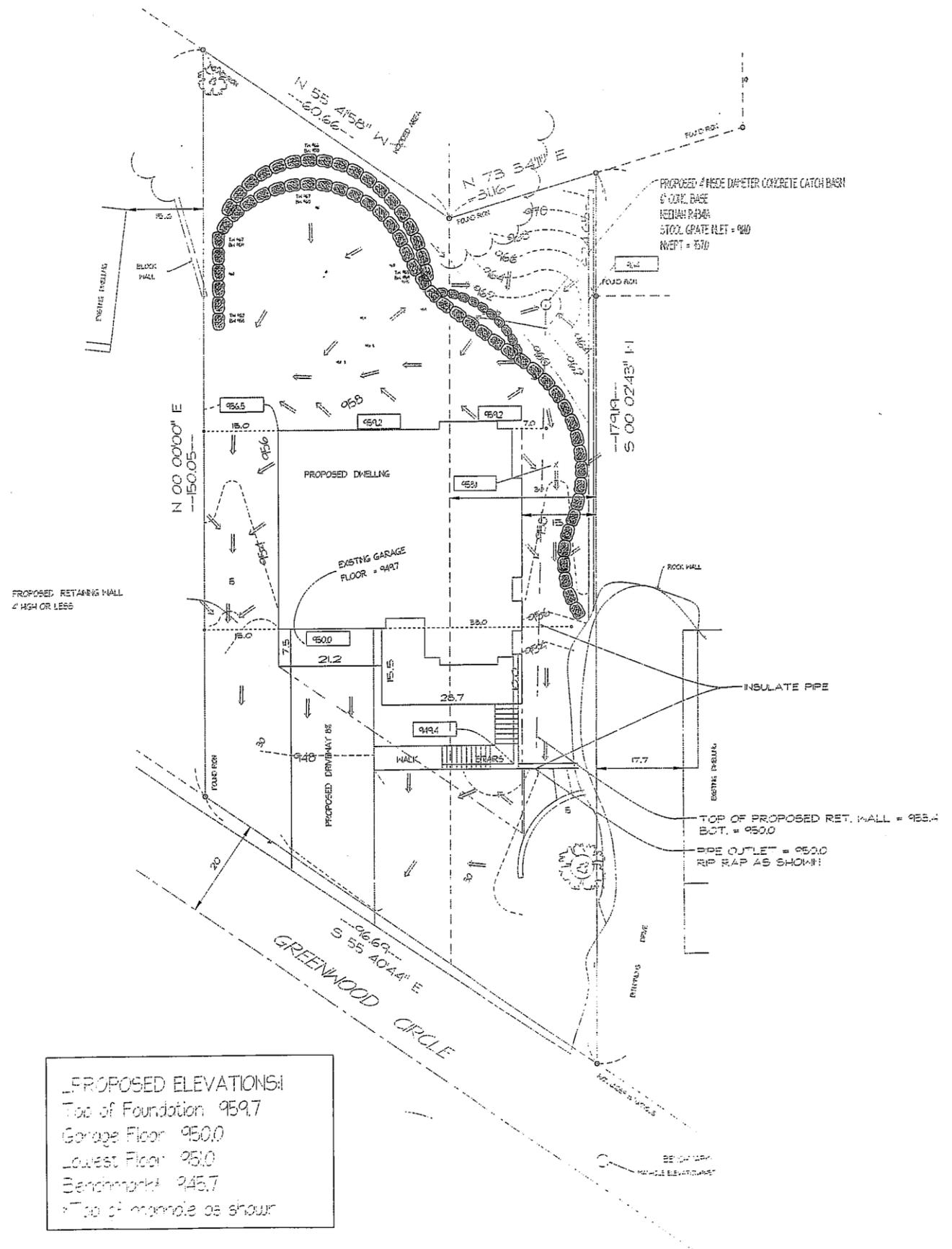
Designed By: MRJ  
 Scale: N. T. S.  
 Date: 08 JUNE 2012

Project: LINDBERG RESIDENCE GREENWOOD, MN  
 Title: TYPICAL WALL SECTION

Registration No: 25493  
 Project No: 12-207  
 Sheet No: 4

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Michael R. Johnson, P.E. Date: 06/08/2012

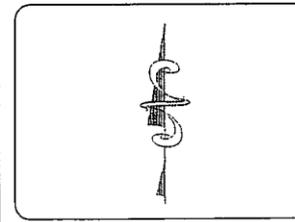


PROPOSED HARDCOVER	
House	200 Sq. Ft.
Driveway	748 Sq. Ft.
Walk & Stone	182 Sq. Ft.
Deck	184 Sq. Ft.
Stone Ret. Wall	220 Sq. Ft.
TOTAL PROPOSED HARDCOVER	1434 Sq. Ft.
AREA OF LOT	2439 Sq. Ft.
PERCENTAGE OF HARDCOVER	58.8%

NOTES

1. See plan for location of manhole.

Tier One Landscape
domon@tieronelandscapes.com
612-363-3603
Damon Roth
Copyright Tier One Landscape 2012
No. Date Description
Revisions



Backyard Retaining wall Project

Lindberg  
Matt & Angela  
5160 Greenwood Circle  
Greenwood, MN 55331

SCALE	1"=8'
DRAWN BY	Damon Roth
CHECKED BY	
DATE	3-8-12
DATE OF PLAN	

PROJECT NO.	1
SHEET NO.	RI





# 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

June 12, 2012

City of Greenwood  
Attn: Gus Karpas  
20225 Cottagewood Road  
Deephaven, MN 55331

RE: Retaining Wall Plan Review  
5160 Greenwood Circle

Dear Mr. Karpas:

As requested, we have reviewed the submitted Plans for the above referenced project. Our current review is based on the Erosion Control Plan prepared by Tier One Landscape, dated May 31, 2012 and the Retaining Wall Plans prepared by Civil Design Professionals, dated June 8, 2012. We offer the following observations, comments, and recommendations for your consideration:

1. Inlet protection or siltfence should be placed to protect the existing catchbasin located directly east of the proposed work.
2. All disturbed green areas should be restored with seed and mulch or sod within 7 days of completing work.
3. The Contractor should take care when working along the west property line. An existing block wall is located on the adjacent property and field adjustments may be necessary to avoid reinforcement for the existing wall. Any adjustments necessary should be approved by Civil Design Professionals and the City prior to the work.

Please let me know if you have any questions or need additional information.

Sincerely,  
BOLTON & MENK, INC.

Robert E. Bean, Jr., P.E.  
Water Resources Engineer



# BOLTON & MENK, INC.<sup>®</sup>

## Consulting Engineers & Surveyors

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June 26, 2012

City of Greenwood  
Attn: Gus Karpas  
20225 Cottagewood Road  
Deephaven, MN 55331

RE: Retaining Wall Plan Review #2  
5160 Greenwood Circle

Dear Mr. Karpas:

As requested, we have reviewed the Planning Commission motion regarding the construction of a retaining wall in the rear yard of 5160 Greenwood Circle. The motion was conditioned that “the City Engineer provide a greater review of the proposal and provide a report to the Council which includes an analysis of the proposed drain tile profile, structural characteristics and a review of the hydrostatic pressure behind the wall. The applicant must also include some type of safety fencing at the top of the wall in their design”. We offer the following observations, comments, and recommendations for your consideration:

1. During our initial review, we examined the Typical Wall Section Detail. The detail shows a 12” wide crushed stone drainage zone with 4” drain tile behind the wall. Outlets for the drain tile will be placed at 20’ on center and low points. We believe this will provide adequate drainage behind the wall.
2. The proposed boulder wall was designed by a licensed Civil Engineer as a gravity wall, using safety factors of 1.5 for overturning, 1.5 for sliding, and 2.0 for bearing. We believe this is an adequate structural design.
3. If the City has additional concerns about the proposed wall regarding hydrostatic pressure, the applicant should be required to provide additional analysis for review.
4. We agree that a safety fence should be placed at the top of the wall due to the close proximity of the adjacent Highview Place cul-de-sac. Details of the fence should be submitted to the City for review.

Please let me know if you have any questions or need additional information.

Sincerely,  
BOLTON & MENK, INC.

Robert E. Bean, Jr, P.E.  
Water Resources Engineer



Agenda Number: **7B**

Agenda Date: 07-05-12

**Agenda Item:** First Reading: Ordinance 212 Amending Code Section 425, Municipal Watercraft Spaces (establishing procedures for canoe racks)

**Summary:** At the 05-16-12 planning commission / city council joint worksession, Kristi Conrad suggested the idea of installing a canoe rack at the Meadville boat launch. The consensus of the group was that it would be a good idea and that the council should consider the topic at the 06-06-12 council meeting.

At the 06-06-12 council meeting, the council agreed the placement of the racks would benefit the residents of the city and asked staff to direct public works to construct a six-space canoe rack and draft an ordinance for the council's review. Attached is the ordinance with the amendments to the relevant provisions within section 425 of the city code. This ordinance has been reviewed by the city attorney. Also attached is a redlined document showing the proposed changes in the context of section 425 of the city code book.

If the council approves the first reading of the ordinance at the July meeting, the ordinance will be placed on the August agenda for a second reading. After that the ordinance needs to be published in the designated newspaper before it goes into effect. Therefore, the soonest the ordinance will be effective will be August 9, 2012.

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

1. I move the council approves the first reading of Ordinance 212, amending Greenwood Code Section 425 regulating the use of canoe racks at the Meadville Boat Launch.
2. I move the council approves the first reading of Ordinance 212, amending Greenwood Code Section 425 regulating the use of canoe racks at the Meadville Boat Launch with the following revisions: \_\_\_\_\_.
3. Do nothing.

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING  
GREENWOOD ORDINANCE CODE SECTION 425 TO ESTABLISH PROCEDURES FOR CANOE RACKS**

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

**SECTION 1.**

The heading for Greenwood ordinance code section 425 is amended to read as follows:

“SECTION 425. MUNICIPAL WATERCRAFT SPACES.”

**SECTION 2.**

Greenwood ordinance code section 425.00 purpose statement is amended to read as follows:

“The city maintains municipal docks, sailboat slips, and canoe racks on and adjacent to Lake Minnetonka to provide watercraft facilities primarily for residents of the city who do not own lakeshore properties.”

**SECTION 3.**

Greenwood ordinance code section 425.10 is amended to read as follows:

“Space permits for the St. Alban’s Bay municipal docks, Meadville sailboat slips, and Meadville canoe racks are granted based on the following priority schedule:

1. First Priority: Off-shore Greenwood residents immediate past watercraft space permit holders.
2. Second Priority: Off-shore Greenwood residents on the waiting list.
3. Third Priority: Lakeshore Greenwood residents immediate past watercraft space permit holders.
4. Fourth Priority: Lakeshore Greenwood residents on the waiting list.
5. Fifth Priority: Non-residents.”

**SECTION 4.**

The introductory sentence and paragraph (a) of Greenwood ordinance code section 425.15 is amended to read as follows:

“The following outlines the process for issuance of watercraft space permits:

- (a) Get on the waiting list: Residents and non-residents must complete a "waiting list" application and deliver by mail or in person to the city clerk who will put up to 2 names per household per position on the appropriate waiting list in the order they are received. Separate lists will be maintained for the St. Alban’s Bay docks, Meadville sailboat slips, and Meadville canoe rack locations for the 5 priority categories listed in section 425.10. An address is allowed to appear only once per waiting list. Once a household is assigned a watercraft space, the address may not appear on the same waiting list. Waiting list applications for the Meadville canoe rack spaces will be accepted beginning \_\_\_\_\_, 2012 at 8 a.m.”

**SECTION 5.**

Greenwood ordinance code section 425.15 (e) is amended to read as follows:

- (e) Open spaces assigned to waiting list: The city clerk will offer remaining open spaces to the person(s) at the top of the waiting list in writing. New permittees must complete the application requirements in section 425.25 within 10 days of the date on the notification letter. Failure to meet the 10-day deadline shall be treated the same as if the space was declined. If the person(s) at the top position on the waiting list declines to take a watercraft space, their name(s) shall go to the bottom of the waiting list, and the offer will go to the next person(s) on the list. If more than one space opens up in a given year, a letter (A, B, C, etc.) is added to the year for seniority purposes. The letter corresponds to the order the new permittee’s name appeared on the waiting list.”

**SECTION 6.**

Greenwood ordinance code section 425.25 paragraphs (c), (d), and (e) are amended to read as follows:

- (c) Submit a photocopy of the watercraft title and registration card indicating that at least one of the applicants is the owner of the watercraft. Maximum of 2 names (both must reside at the same residence) may appear on the title and registration card. If a watercraft does not have a title or registration card, this requirement may be waived and alternate satisfactory proof of ownership will need to be presented.
- (d) Provide a complete description of the watercraft including make, model, length (St. Alban’s Bay dock maximum 23 ft.), beam (St. Alban’s Bay dock maximum of 8.5 ft.), and Minnesota Department of Natural Resources (DNR) registration number. Note: Immediate past St. Alban’s Bay dock permit holders whose watercraft identified on their 1997 watercraft space permit violates the size requirements of this paragraph shall not be denied renewal of the permit for

non-conformance of the same watercraft. If a watercraft does not have a DNR registration number, this requirement may be waived and alternate satisfactory proof of ownership will need to be presented.

- (e) All watercraft space permit holders must sign an acknowledgement that they assume all risks associated with use of a city-provided watercraft space.”

**SECTION 7.**

Greenwood ordinance code section 425.26 is created to read as follows:

“Section 425.26. Additional Provisions for Canoe Rack Spaces.

- (a) Canoe rack permit holders may place one canoe, or one kayak, or up to two paddleboards within their designated space provided that doing so does not impede the usage of adjacent spaces.
- (b) Private locks may be used to secure watercraft, but must be removed by October 15.”

**SECTION 8.**

Greenwood ordinance code section 425.30 subdivision 5 is amended to read as follows:

“Subd. 5. Fees. Fees paid in conjunction with the issuance of a permit are non-refundable. Watercraft space permit fees shall be established, from time to time by the city council and set forth in chapter 5 of this code. Fees may be prorated for permits issued mid-season.”

**SECTION 9.**

Greenwood ordinance code section 425.30 subdivisions 7 and 8 are amended to read as follows:

“Subd. 7. Final Decisions. All determinations by the city clerk relating to prioritization of the waiting lists, the issuance of permits, and space assignments shall be final.

Subd. 8. Limit on Permits. No more than 1 watercraft space permit may be issued per individual per boating season and no more than 1 watercraft space may be issued per single-family residence / applicant.”

**SECTION 10.**

Greenwood ordinance code section 425.30 subdivision 11 is amended to read as follows:

“Subd. 11. Quiet Enjoyment. No person, permittee, or watercraft operator shall disturb the quiet enjoyment of municipal watercraft spaces by other persons, permittees, or the general public in or about any watercraft space, nor otherwise obstruct the use of watercraft spaces nor allow a watercraft owned, operated, or under their control, to go unattended or improperly tied or secured. A violation of this paragraph shall be a misdemeanor.”

**SECTION 11.**

Greenwood ordinance code section 425.30 subdivision 13 is amended to read as follows:

“Subd. 13. Watercraft Parking and Beaching. Only permittees are allowed to park watercraft at municipal docks slips, or racks. No watercraft is allowed to beach or pull up on municipal shoreline.”

**SECTION 12.**

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 \_\_\_\_, 2012.

There were \_\_ AYES and \_\_ NAYS as follows:

<b>Greenwood City Council</b>	<b>YEAS</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mayor Debra Kind				
Councilman Tom Fletcher				
Councilman H. Kelsey Page				
Councilman Bob Quam				
Councilman William (Biff) Rose				

CITY OF GREENWOOD

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

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

First reading: \_\_\_\_\_, 2012  
Second reading: \_\_\_\_\_, 2012  
Publication: \_\_\_\_\_, 2012

## SECTION 425. MUNICIPAL DOCKS WATERCRAFT SPACES.

### Section 425.00. Purpose.

The city maintains municipal docks, **sailboat slips, and canoe racks** on **and adjacent to** Lake Minnetonka to provide **watercraft for docking** facilities primarily for residents of the city who do not own lakeshore properties.

### Section 425.05. Definitions.

See chapter 12 for definitions.

### Section 425.10. Priority Schedule for Space Permits.

Space permits for the St. Alban's Bay municipal docks, **and** Meadville sailboat slips, **and Meadville canoe racks** are granted based on the following priority schedule:

1. First Priority: Off-shore Greenwood residents immediate past watercraft space permit holders.
2. Second Priority: Off-shore Greenwood residents on the waiting list.
3. Third Priority: Lakeshore Greenwood residents immediate past watercraft space permit holders.
4. Fourth Priority: Lakeshore Greenwood residents on the waiting list.
5. Fifth Priority: Non-residents."

### Section 425.15. Process.

The following outlines the process for issuance of watercraft space permits: and slips at the municipal docks on St. Alban's Bay and the Meadville sailboat slips.

- (a) Get on the waiting list: Residents and non-residents must complete a "waiting list" application and deliver by mail or in person to the city clerk who will put up to 2 names per household per position on the appropriate waiting list in the order they are received. Separate lists will be maintained for the St. Alban's Bay **docks, and Meadville sailboat slips, and Meadville canoe rack** locations for the 5 priority categories listed in section 425.10 ~~(a total of 10 lists)~~. An address is allowed to appear only once per waiting list. ~~Once a household is assigned a watercraft space, the address may not appear on the same waiting list. Once you are assigned dock space, your address may not appear on the same waiting list. For example, if you are assigned a space at the St. Alban's Bay Docks, your address may not appear on the St. Alban's Bay Docks waiting list. However, your address may be on the waiting list for the St. Alban's Bay Docks if you are assigned a space at the Meadville Sailboat Slips, and vice versa.~~ Waiting list applications for the Meadville canoe rack spaces will be accepted beginning \_\_\_\_\_, 2012 at 8 a.m.
- (b) Past permittees must submit an application by March 15: The city clerk will mail "slip renewal" applications to past permittees before February 1 each year. The applicant shall cause the application form, all required information, and the required non-refundable fee to be delivered to the city clerk no later than March 15. Failure to meet the March 15 deadline shall cause immediate past permittees to lose their priority and their name will go to the bottom of the appropriate waiting list.
- (c) Slips are assigned to past permittees first: Past permittees will be assigned the same slip as the previous year.
- (d) Open spaces assigned to past permittees who request relocation: After March 15 open spaces will be assigned to past permittees who request relocation on their application. Open spaces will be assigned based on seniority. Seniority is determined by the year the permittee was assigned a space.
- (e) Open spaces assigned to waiting list: The city clerk will offer remaining open spaces to the person(s) at the top of the waiting list in writing ~~by mailing an application for "first time slip assignment."~~ New permittees must complete the application requirements in section 425.25 ~~within 10 days of the date on the notification letter. by the deadline on the application (10 days from the date of mailing)~~. Failure to meet the 10-day deadline shall be treated the same as if the space was declined. If the person(s) at the top position on the waiting list declines to take a watercraft space, their name(s) shall go to the bottom of the waiting list, and the offer will go to the next person(s) on the list. If more than one space opens up in a given year, a letter (A, B, C, etc.) is added to the year for seniority purposes. The letter corresponds to the order the new permittee's name appeared on the waiting list.
- (f) Adding or deleting names: A second name may be added or changed, as long as the second person resides at the same household. If either person moves from the city, their name shall be removed from the list. In the case of one person moving to another household in the city, the person staying at the original household shall keep the priority position on the list and the other person will go to the bottom of the appropriate waiting list. In the case of death, the priority position can only go to a second person if their name was on the list with the deceased. In other words, a child cannot move back into the home and take over the priority rights. No one under the age of 18 is allowed to be on a dock list or waiting list. All requests for name changes must be in writing and establish residency by including a photocopy of a Minnesota driver's license or Minnesota state identification card.

### **Section 425.20 Additional Provisions for the Meadville Sailboat Slips.**

The city holds interest in various public right-of-way and other properties that abut public waters of Lake Minnetonka (apart from the St. Alban's Bay municipal dock site). The subdivisions set forth below state special conditions and provisions related to the identified lake access lots.

Subd. 2. Terms and Conditions. The use of that certain public access lying westerly of Meadville Street located between property tax ID parcels 261172332-0004 and 261172332-0011 (commonly called the Meadville sailboat slips) is subject to the following terms and conditions:

- (a) The city may offer watercraft permits for up to 2 watercraft.
- (b) Watercraft spaces shall be for sailboats only.
- (c) The city shall not be responsible for providing any docking facilities at this site.
- (d) Boatlifts supplied by the permittee may be used. The city may refuse permits for boatlifts because of size considerations. Any watercraft space permittee that desires to place a boatlift at this assigned site shall request preapproval from the city clerk.

Subd. 3. Meadville sailboat permits are not transferrable to the St. Alban's Bay municipal docks. Holders of a Meadville sailboat permit shall be entitled to renewal, but shall not obtain rights of priority to a permit at the St. Alban's municipal dock site on St. Alban's Bay. Nothing herein shall prevent the holder of a Meadville sailboat permit from being on the waiting list for a permit at the municipal dock site on St. Alban's Bay. In the event a Meadville sailboat permit holder is granted a permit for the municipal dock site on St. Alban's Bay, such person shall not also be entitled keep their Meadville sailboat permit.

### **Section 425.25. Application Requirements.**

An applicant for a watercraft space permit must:

- (a) Complete the application form and pay the requisite non-refundable fee (set forth in chapter 5).
- (b) Establish residency by submitting a photocopy of a Minnesota driver's license or Minnesota state identification card to the city clerk. If 2 names are on the application, both must prove residency and live at the same residence.
- (c) Submit a photocopy of the watercraft title and registration card indicating that at least one of the applicants is the owner of the watercraft. Maximum of 2 names (both must reside at the same residence) may appear on the title and registration card. **If a watercraft does not have a title or registration card, this requirement may be waived and alternate satisfactory proof of ownership will need to be presented.**
- (d) Provide a complete description of the watercraft including make, model, length (**St. Alban's Bay dock** maximum 23 ft.), beam (**St. Alban's Bay dock** maximum of 8.5 ft.), and Minnesota Department of Natural Resources (**DNR**) registration number. Note: Immediate past **St. Alban's Bay dock watercraft space** permit holders whose watercraft identified on their 1997 watercraft space permit violates the size requirements of this paragraph shall not be denied renewal of the permit for non-conformance of the same watercraft. **If a watercraft does not have a DNR registration number, this requirement may be waived and alternate satisfactory proof of ownership will need to be presented.**
- (e) ~~Provide proof of current watercraft liability insurance in the name of at least one of the applicants.~~ **All watercraft space permit holders must sign an acknowledgement that they assume risks associated with use of a city-provided watercraft space.**
- (f) If an applicant does not have a boat, they may request a 30-day extension from the application deadline in writing to provide items c, d, e above. Failure to secure a boat within 30 days shall result in loss of the fee, space assignment, and the applicant's name shall go to the bottom of the appropriate waiting list.

### **Section 425.26. Additional Provisions for Canoe Rack Spaces.**

- (a) **Canoe rack permit holders may place one canoe, or one kayak, or up to two paddleboards within their designated space provided that doing so does not impede the usage of adjacent spaces.**
- (b) **Private locks may be used to secure watercraft, but must be removed by October 15.**

### **Section 425.30. Use of Watercraft Space and General Regulations.**

Subd. 1. Rights Not Assignable. A watercraft space permit is not assignable. No watercraft space permit holder may sell, assign, lease, sublet, or otherwise transfer any rights in the waiting list, or under a watercraft space permit, nor allow any watercraft other than that designated on the watercraft space permit holder's application to be moored or kept within the designated watercraft space.

Subd. 2. Watercraft Use. No person may keep a watercraft within a watercraft space except with a valid watercraft space permit first issued pursuant to this ordinance. Watercraft space permit holders who desire to change the watercraft authorized to use a watercraft space shall submit all of the information required to the city clerk in advance for review and confirmation of compliance. No watercraft shall be moored in a watercraft space until the city clerk approves such watercraft as the identified watercraft in the owner's application. In the event a watercraft is sold during mid-boating season, the successor in interest shall have no right to use the watercraft space.

Subd. 3. Non-Use of Watercraft Space. The permittee's watercraft shall occupy the watercraft space on or before June 15 of the boating season. In the event a permittee fails to place the authorized watercraft within the assigned watercraft space by midnight on June 15, the permittee shall lose their watercraft space for the current and future seasons, and the space shall be offered to the next person on the waiting list (there will be no refund of the fee paid). If the permittee fails to employ the assigned watercraft space for a term of 60 days or greater during the boating season, the city shall not renew the watercraft space permit for future boating seasons. The determination by the city, not to renew a watercraft space permit for non-use shall be final.

Subd. 4. Permittee Assumption of Liability and Indemnification. The acceptance of a watercraft space permit by the permittee shall constitute the acknowledgment and agreement by the applicant/permittee that they shall be responsible for any and all damages caused by the permittee, their guests and invitees, or the watercraft itself, to the watercraft space, the dock in general, any other watercraft, persons or property which may arise as a result of storm, vandalism, accident, negligence, intentional act, or act of God. By accepting a watercraft space permit, the permittee agrees to hold the city harmless against any and all claims, directly or indirectly, connected with their watercraft.

"Subd. 5. Fees. Fees paid in conjunction with the issuance of a permit are non-refundable. Watercraft space permit fees shall be established, from time to time by the city council and set forth in chapter 5 of this code. **Fees may be prorated for permits issued mid-season.**"

Subd. 6. Cooperation. Permit holders shall cooperate with city officials in all inquiries, verifications, directions or orders that the city makes or issues to permit holders or applicants. Failure to cooperate with inquiries, verifications, directions, or orders made or issued by the city shall be cause to bar a watercraft space permit holder, permittee, or applicant from applying for or obtaining a watercraft space permit for up to 3 boating seasons.

Subd. 7. Final Decisions. All determinations by the city clerk relating to prioritization of the waiting lists, the issuance of permits, and ~~slip~~ **space** assignments shall be final.

Subd. 8. ~~Separate Permit Applications~~; Limit on Permits. ~~A separate permit application is required for each watercraft space requested.~~ No more than 1 watercraft space permit ~~shall may~~ be issued per individual per boating season and no more than 1 watercraft space ~~shall may~~ be issued per single-family residence / applicant.

Subd. 9. Common/Collective Ownership or Commercial Use. Watercraft owned by partnerships, corporations, associations, or used or licensed for commercial purposes shall not be eligible to receive a watercraft space permit.

Subd. 10. Additional Watercraft Permit Regulations. The city may adopt by resolution watercraft, and watercraft space permit regulations regarding use of municipal docks, watercraft spaces, proper mooring, hours of use, conduct of persons on or about municipally owned, operated, or controlled watercraft spaces or other related topics. A violation of said regulations shall be a petty misdemeanor. Failure to abide by regulations shall be cause for the city to revoke or elect not to renew a permittee's watercraft space permit for the coming boating season and the loss of all waiting list priority.

Subd. 11. Quiet Enjoyment. No person, permittee, or watercraft operator shall disturb the quiet enjoyment of municipal ~~docks~~ **watercraft spaces** by other persons, permittees, or the general public in or about any watercraft space, nor otherwise obstruct the use of watercraft spaces nor allow a watercraft owned, operated, or under their control, to go unattended or improperly tied or secured. A violation of this paragraph shall be a misdemeanor.

Subd. 12. Acknowledgment of City Code. As a pre-condition to the issuance of any watercraft space permit by the city clerk, the permittee shall be given a copy of code section 425 et. seq. and shall sign an acknowledgment that they have received the copy and understand that they are subject to the provisions thereof.

Subd. 13. Watercraft Parking and Beaching. Only permittees are allowed to park watercraft at municipal docks ~~or shore spaces, slips, or racks~~. No watercraft is allowed to beach or pull up on municipal shoreline.

### **Section 425.35. Boating Season, Expiration of Permit and Removal of Watercraft.**

The boating season is May 15 to October 15. All watercraft space permits shall expire at the end of the boating season. Watercraft shall be removed from watercraft space permits on or before the end of the boating season. Subsequent to the end of the boating season, the city may impound all watercraft remaining in watercraft spaces. All impoundment and storage cost incurred by the city shall be payable by the permittee and may be certified to taxes if unpaid. Failure to pay impoundment and storage costs shall be cause for the city to revoke or elect not to renew a permittee's watercraft space permit for the coming boating season and the loss of waiting list priority.

### **Section 425.40. Parking.**

It shall be unlawful to park any trailer or vehicle used in the transportation of boats upon any public parking space or adjacent to any public ground within the city, without obtaining written permission of the city council. Any vehicle used for the transportation of boats or any boat dock, trailer or fish house which shall be parked, placed, kept, or abandoned on, or which shall obstruct any public street, highway, or other public property, may be seized and impounded by any authorized officer or employee of the city.

**Section 425.45. Launching.**

No person shall launch or remove from the waters of Lake Minnetonka any watercraft requiring or utilizing a trailer of similar conveyance for the transportation when such launching or removal requires crossing over or through property owned by the city, except as specifically authorized by the city, and then upon such fees as may be established by the city council from time to time and set forth in chapter 5 of this code book.

**Section 425.50. Swimming, Fishing.**

No person shall swim or water ski from the municipal docks. Fishing is permitted, provided proper precautions are taken so as not to interfere with the normal operation of watercraft, or otherwise damage watercraft moored or docked at the municipal docks.

**Section 425.55. Littering.**

No person shall deposit, throw, or leave any refuse, cans, bottles, paper, or other discarded material of whatsoever kind or nature on or near the municipal docks or the public lands from which the municipal docks emanate nor throw said materials into the waters of Lake Minnetonka.



Agenda Number: **7C**

Agenda Date: 07-05-12

**Agenda Item:** Consider: Ordinance 211, Amending Code Sections 520.15 and 525.15, Regarding Deadlines for Delinquent Sewer and Stormwater Payments

**Summary:** The city ordinance currently requires all delinquent sewer and stormwater payments be made no later than September 30 or they will be certified and assessed to the property owner's upcoming property taxes. The September 30 date is inconsistent with the September 15 deadline for the payment of delinquent recycling fees. The proposal to amend to ordinance to reflect the September 15 date for all utility bills allows the billing clerk time to prepare the required paperwork for approval at the October council meeting, so everything can be filed with the county in October.

**Council Action:** Suggested motion ...

1. I move the council adopts ordinance 211 amending sections 520.15 and 525.15, regarding the deadlines for delinquent sewer and stormwater payments.

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA AMENDING  
GREENWOOD ORDINANCE CODE SECTIONS 520.15 AND 525.15,  
REGARDING DEADLINES FOR DELINQUENT SEWER AND STORMWATER PAYMENTS**

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

SECTION 1.

Greenwood ordinance code section 520.15 is amended to read as follows:

“All charges for sewer shall be due within 30 days of mailing of the statement of charges, and shall be delinquent thereafter. It shall be the duty of the sanitary sewer utility to endeavor to promptly collect delinquent accounts, and in all cases where satisfactory arrangements for payment have not then been made, instructions may be given to discontinue service by shutting off the water at the stop box, if city water is in use. Any sanitary sewer utility fees 60 or more days past due as of September 15, of any year, may be certified to the county auditor for collection with real estate taxes of the real property in the following year pursuant to Minnesota statutes section 444.075, subdivision 3. In addition, the city also may assess and collect unpaid fees and delinquency charges related thereto by ordinance memorialized in chapter 5 of this code book. Such action may be optional or subsequent to taking legal action to collect delinquent accounts.”

SECTION 2.

Greenwood ordinance code section 525.15 is amended to read as follows:

“All charges for stormwater management shall be due within 30 days of mailing of the statement of charges, and shall be delinquent thereafter. It shall be the duty of the stormwater management utility to endeavor to promptly collect delinquent accounts. Any stormwater management utility fees 60 or more days past due as of September 15, of any year, may be certified to the county auditor for collection with real estate taxes of the real property in the following year pursuant to Minnesota statutes section 444.075, subdivision 3. In addition, the city also may assess and collect unpaid fees and delinquency charges related thereto by ordinance memorialized in chapter 5 of this code book. Such action may be optional or subsequent to taking legal action to collect delinquent accounts.”

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 5th day of July, 2012.

There were \_\_\_ AYES and \_\_\_ NAYS as follows:

<b>Greenwood City Council</b>	<b>YEAS</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mayor Debra Kind				
Councilman Tom Fletcher				
Councilman H. Kelsey Page				
Councilman Bob Quam				
Councilman William (Biff) Rose				

CITY OF GREENWOOD

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

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

First reading: July 5, 2012  
Second reading: \_\_\_\_\_, 2012  
Publication: \_\_\_\_\_, 2012



Agenda Number: **7D**

Agenda Date: 07-05-12

**Agenda Item:** Consider: Ordinance Regarding Intoxicating Liquor Prohibitions

**Summary:** When a Greenwood business was told that the city does not issue special event liquor licenses the question was asked whether liquor could be provided by attendees at their customer appreciation party. The city attorney advised that nuisances section 900.10 (H) of the city code prohibits such activity. The city attorney also advised that the city council should consider a new section 825 ordinance for the liquor chapter 8 of the city code that clearly states:

Section 825. Intoxicating Liquor Prohibitions.

No premise, other than a private residence or licensed liquor establishment, may offer, give, provide or allow any person to possess or consume alcohol in or about any premise or commercial business nor allow liquor to be consumed by established customers or potential customers thereof, nor allow consumption of alcohol in conjunction with any commercial business, commercial transaction, or customer appreciation event, including inviting customers to bring their own alcoholic beverages to the site.

**Council Action:** Required. Suggested motions ...

1. I move the council directs staff to draft an ordinance creating code section 825 Intoxicating Liquor Prohibitions and place on the \_\_\_\_\_, 2012 agenda for a first reading.
2. I move the council directs staff to draft an ordinance creating code section \_\_\_\_\_, based on the council discussion, and place on the \_\_\_\_\_, 2012 agenda for a first reading.
3. Do nothing.



Agenda Number: **7E**

Agenda Date: 07-05-12

**Agenda Item:** Consider: Possibility of Revising Code Section 1215 (to allow the council to waive the second reading of an ordinance)

**Summary:** There are times when ordinances are routine or when the council may wish to speed up the implementation of an ordinance (such as the new canoe rack ordinance). Current Greenwood code (attached) requires two readings of ordinances. Since ordinances must be published in the designated paper before they go into effect, an additional week is needed to allow time for publication. Also, often an ordinance concept is discussed by the council prior to ordering the drafting of the actual ordinance. Since the council only meets once a month, this entire process can take awhile. A slow, deliberate process can be a good thing. However, there are cases when it might be nice for the council to have the option to speed up the process. If the council desires to have the option to waive the second reading of an ordinance, the city attorney advises that the city code would need to be revised.

A sampling of neighboring cities (attached) shows that there is discretion regarding the implementation of ordinances:

1. **Deephaven** code states, "The second reading may be waived by a majority vote of the council."
2. **Minnetonka** code states, "Except for an emergency ordinance, an ordinance cannot be adopted at the meeting when it is introduced, and at least seven days must elapse between introduction and adoption." Emergency ordinances and ordinances that are not subject to initiative and referendum are effective immediately upon passage.
3. **Shorewood** code states, "All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided." There is no mention in the Shorewood code about "readings."

**Council Action:** None required. Suggested motions ...

1. I move the council directs staff to draft an ordinance amending code section 1215.06 to add a sentence that reads, "The second reading may be waived by a majority vote of the council," and place on the \_\_\_\_\_, 2012 agenda for a first reading.
2. I move the council directs staff to draft an ordinance based on the council discussion, and place on the \_\_\_\_\_, 2012 agenda for a first reading.
3. Do nothing.

## GREENWOOD

### **1215.05. Ordinance Enactment.**

Ordinances must be enacted in accordance with state law, city charter and this code. Ordinances will be integrated into this code in accordance with this chapter.

### **Section 1215.06. Two Readings of Ordinances.**

There shall be 2 readings of all ordinances prior to adoption. The second reading shall be within 3 months of the first. There may be changes between the first and second readings.

### **Section 1215.07. Ordinance Voting.**

Every ordinance shall be enacted by a majority vote of all members of the council except where a larger number is required by law.

### **1215.10. Form.**

An ordinance amending this code must specify the number of the provision to be amended. Only the text of a separately identified provision need be included for an amendment; the larger section of which it is a part may be omitted.

## DEEPHAVEN

### 200.10 Ordinances, Resolutions, and Petitions.

Subd. 1. Readings. Every ordinance will be presented in writing, except in emergency situations. Every ordinance will receive two readings before the Council prior to final adoption. The second reading may be waived by a majority vote of the Council.

Subd. 2. Signing and Proof of Publication. Every ordinance and resolution passed by the Council will be signed by the Mayor, attested by the Clerk, numbered, recorded and filed in an ordinance or resolution book. Proof of publication of every ordinance will be attached to and filed with the ordinance. No resolution will be published unless the laws of the State require it to be published or unless it is directed to be published by the Council.

Subd. 3. Repeals and Amendments. Every ordinance or resolution repealing or amending all or a part of a previous ordinance or resolution will give the number of the ordinance, resolution or Code Section to be repealed or amended.

Subd. 4. Petitions. Every petition or other communication addressed to the Council will be in writing and will be read in full upon presentation to the Council unless the Council dispenses with the reading. Each petition or other communication will be recorded in the minutes by title.

## MINNETONKA

### **Section 3.06. Adoption of Ordinances.**

Subd. 1. Unless this charter or state law provides otherwise, legislation must be enacted by ordinance, and an ordinance must be approved by a majority of all council members.

Subd. 2. An ordinance must be presented in writing. The enacting clause of an ordinance is: "The City of Minnetonka ordains:". Except for an emergency ordinance, an ordinance cannot be adopted at the meeting when it is introduced, and at least seven days must elapse between introduction and adoption.

Subd. 3. An ordinance passed by the council must be signed by the mayor or acting mayor and attested to by the city clerk. An ordinance must be published at least once in the official means of publication. The city council may by the affirmative votes of at least five members approve publication of only the title and a summary of an ordinance, in the same manner as statutory cities.

Subd. 4. An emergency ordinance and an ordinance that is not subject to initiative and referendum under Section 5.01 are effective immediately upon passage or at a later date stated in it. Other ordinances adopted by the council are effective 30 days after publication or at a later date stated in them. An ordinance adopted by the voters is effective immediately upon adoption, or at a later time stated in it.

### **Section 3.07. Emergency Ordinances.**

An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, safety or welfare. It must be adopted by the affirmative votes of at least five council members and contain a preamble that defines and declares the emergency. The city may not prosecute a violation of an emergency ordinance until 24 hours after the ordinance was either (a) filed with the city clerk and posted in three conspicuous places in the city or (b) published at least once in the official means of publication, unless the person charged had actual notice of the ordinance adoption before the alleged violation. An emergency ordinance is automatically repealed on the 61st day after adoption, but the ordinance may be re-enacted if the emergency still exists.

## **SHOREWOOD**

### **101.10 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

### **101.11 REPEAL OR MODIFICATION OF ORDINANCE.**

Subd. 1. Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

Subd. 2. No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

Subd. 3. When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.



Agenda Number: **9A-E**

**Agenda Item:** Council Reports

**Summary:** This is an opportunity for each council member to present updates and get input regarding various council assignments and projects. Related documents may be attached to this cover sheet.

**Council Action:** None required.



Agenda Number: **FYI**

**Agenda Item:** FYI Items in Council Packet

**Summary:** The attached items are included in the council packet for your information (FYI) only. FYI items typically include planning commission minutes, ViBES (Violations Bureau Electronic System) report of traffic citations processed by Hennepin County District Court, monthly report of activity on the Greenwood website, and other items of interest to the council.

**Council Action:** No council action is needed for FYI items.



# BOLTON & MENK, INC.<sup>®</sup>

## Consulting Engineers & Surveyors

1960 Premier Drive • Mankato, MN 56001-5900  
Phone (507) 625-4171 • Fax (507) 625-4177  
www.bolton-menk.com

May 24, 2012

Robert Finley  
Regional Manager  
Minnesota Pollution Control Agency  
12 Civic Center Drive  
Suite 2165  
Mankato, MN 56001

RE: Comments on Mississippi River Total Suspended Solids (TSS) TMDL

Dear Mr. Finley:

This letter is written on behalf of our many MS4 client communities as listed below:

- |                        |                   |
|------------------------|-------------------|
| 1. Waconia             | 7. St. Bonifacius |
| 2. Louisville Township | 8. Woodland       |
| 3. Deephaven           | 9. Big Lake       |
| 4. Greenwood           | 10. Buffalo       |
| 5. Mound               | 11. Litchfield    |
| 6. Orono               |                   |

All of these cities are MS4 communities that are directly affected by the proposed Mississippi River Total Suspended Solids (TSS) TMDL. As such, each city has a vested interest in this TMDL report and any associated waste load allocations. We have reviewed the draft Report for the South Metro Mississippi Total Suspended Solids Total Maximum Daily Load. On behalf of these Cities, we hereby officially request consideration of the following concerns associated with the proposed TMDL allocation.

1. Section 7.1, Economic Analysis (page 70) of the report states, "*the required TSS reduction load for regulated MS4s results in an aggregate cost estimate of \$850 million for the MS4s affected by this TMDL.*"

Given the magnitude of these costs, it is imperative that MPCA postpone any required implementation plans until:

- a. Additional analyses regarding cost effectiveness are completed
- b. The local implications of establishing new policies are known.

We are concerned that our upcoming MS4 permit will be scrutinized relative to this TMDL and that we will be penalized for failing to blindly implement presumed turbidity reduction measures at a significant cost to our constituents without knowing whether those strategies will be effective relative to the cost.



**Requested Action:** Include language stating that implementation plans may be postponed until the cost effectiveness of the many alternative Best Management Practices (BMPs) designed to reduce TSS is better quantified and application parameters associated with the more cost effective BMPs are fully established.

**Specific Reason for Requested Action:** Unless outside funding is readily available, these MS4 Cities are economically challenged with the slow recovery from the recession. Dealing with a new unfunded mandate to address this issue is extremely difficult without having proof that the actions taken will be cost effective.

2. The math of the study does not make sense. The MS4's currently contribute 5.8% of the TSS load to the river (page 57). Reducing this by 25% is a 1.5% reduction in the load to the river. The explicit margin of safety used in the calculation was 6% (page 61)! It seems that \$850 million for a 1.5% reduction in the loading does not make a lot of financial sense.

**Requested Action:** Reallocate the waste load allocations to address the issue rather than focusing on MS4s because of the relative ease of enforcement.

**Specific Reason for Requested Action:** We are concerned that the MS4 communities will expend significant funds in an effort to meet the load reduction requirement only to find that the problem still exists due to a lack of enforcement or funds addressing the load contribution from non MS4 sources.

3. The proposed waste load allocation appears to be unfairly weighted toward current permittees (i.e., MS4s, municipalities with wastewater treatment plants, etc.) with the only justification being that only these entities are subject to enforcement. The City believes that the waste load allocation should be fairly distributed to all load contributors regardless of whether the allocation is enforceable.

**Requested Action:** Write the final TMDL report in a manner that fairly and evenly distributes the waste load allocations among all contributors.

**Specific Reason for Requested Action:** We are concerned that our all of the MS4 communities will expend significant funds in an effort to meet the load reduction requirement only to find that the problem still exists due to a lack of enforcement or funds addressing the load contribution from non MS4 sources.

4. The constitutional amendment funding is a great source for assistance in the financing, but the funding is limited relative to the magnitude of the funding available for Municipal TMDLs. According to page 4 of the MPCA Clean Water Fund Expenditure Report website (<http://www.pca.state.mn.us/index.php/view-document.html?gid=17142>), the 2011 Legislative session allocated \$47.77 million to the Minnesota Pollution Control Agency. The website goes on to note that over the 2012-2013 biennium, this funding will be allocated as follows:

- \$16.5 million for water quality monitoring and assessment,
- \$21.9 million for water quality study (TMDLs) and tool development,
- \$5.1 million for Water quality protection and restoration efforts, including St. Louis River restoration
- \$4.27 million for Groundwater assessment and SSTS

From this it appears that more than half of MPCAs constitutional amendment monies are being spent monitoring and developing TMDLs and approximately 10% is allocated toward protection and



Mississippi River Total Suspended Solids (TSS) TMDL

Comment Letter

May 24, 2012

Page 3

restoration. If constitutional amendment funding is considered a potential financing mechanism to help permittees offset the high cost of the designated waste load allocation, and if the estimated total cost of the South Metro TMDL is \$850 million, it will take over 330 years at the current \$5.1 million restoration allocation per biennium to fully finance only the South Metro Mississippi Turbidity TMDL. Unless the allocation is redistributed to focus on restoration efforts rather than studies and tool development, Minnesota will have spent a significant amount of its Clean Water Fund to set TMDLs with comparatively insignificant funding allocated toward restoration.

**Requested Action:** The report should address more than just the cost. It should further analyze the economic impact on the watershed and its MS4 communities. It should also discuss the likelihood of successful financial implementation. Under the current scenario, and without adequate grant financing, enforcement penalties for failing to adequately implement strategies to meet the waste load allocations are likely to be far less than the cost of implementation.

**Specific Reason for Requested Action:** We are concerned that our all of the MS4 communities will expend significant funds in implementation efforts without proper grant opportunities that are insignificant relative to the magnitude of the costs cited in the draft report.

Although there are more issues that should be addressed, we feel that the most important comment we can make is to request fair and equitable treatment of all contributors to the problem regardless of the enforceability and to address the ramifications of the exorbitant costs involved. If the MPCA insists on unequal allocations, then the Clean Water Fund should be used to provide more significant grant opportunities and should be similarly and unequally allocated.

We sincerely hope that all branches of the MPCA, including the MS4 permit reviewers, consider the inequality of the proposed TMDL when reviewing the individual municipal applications and auditing the associated SWPPPs.

Thank you for the opportunity to share our feelings on this matter.

Sincerely,

BOLTON & MENK, INC.

A handwritten signature in blue ink, appearing to read 'William R. Douglass'.

William R. Douglass, P.E.  
Principal  
Water Resources Group Manager  
WRD/wrd



June 11, 2012

Dear Greenwood Circle Resident,

The city has received complaints from dock holders that obstructions and/or private "no parking" signs have been placed along the south side of Greenwood Circle. Public parking is permitted in this area. Any future placement of any obstruction, including trash/recycling receptacles outside of a schedule pick up day, cones or the placement of any non-sanctioned no parking sign will be deemed a public nuisance per Section 900.15(h) of the city code which reads as follows:

900.15 Public Nuisances Affecting Peace and Safety – The following are declared to be nuisances affecting public peace and safety;

(h) Obstruction and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law.

Please let me know if you have any questions.

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

Gus Karpas  
City Clerk/Zoning Administrator



# 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

June 15, 2012

LMCD NEWS- FOR IMMEDIATE RELEASE

**Contact:** Greg Nybeck, Executive Director  
(952) 745-0789 or [gnybeck@lmcd.org](mailto:gnybeck@lmcd.org)

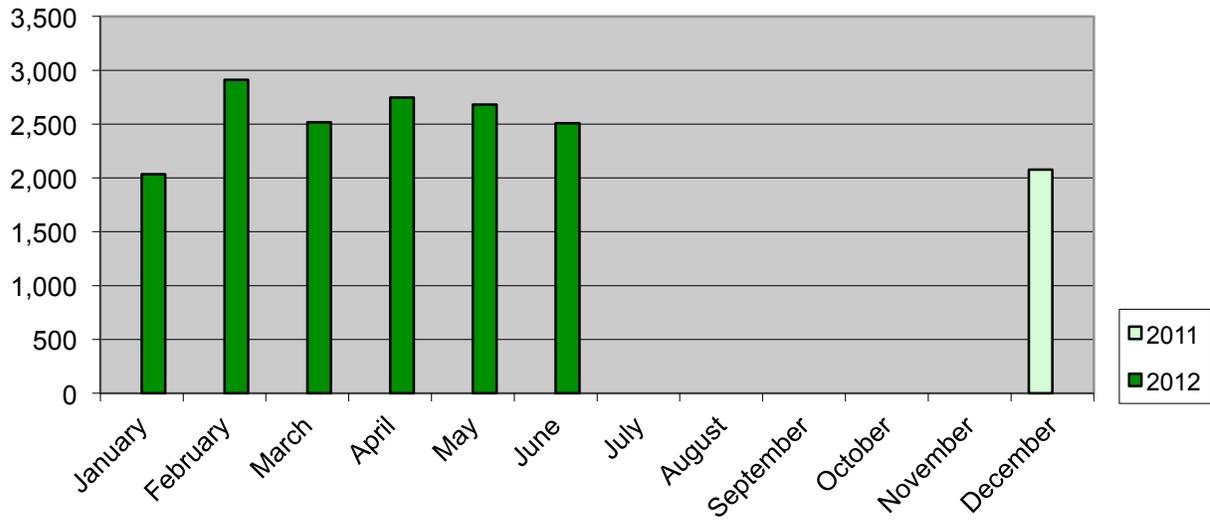
**RE: Termination of “Low Water” Declaration on Lake Minnetonka**

When the Lake levels fall below 928.0 feet, the Lake Minnetonka Conservation District (LMCD) Code states that the Board of Directors may approve a resolution declaring “Low Water.” This declaration was adopted by the LMCD Board on April 11<sup>th</sup>; providing for permitted temporary dock length extensions.

On June 13<sup>th</sup>, the Lake level was 929.09 feet (over one foot higher than the trigger point of 928.0 feet). Since the Lake level has risen to typical historical measurements, the “Low Water” declaration on Lake Minnetonka has been terminated, effective immediately. Legally permitted temporary dock length extensions, in accordance with the LMCD Code, are allowed to remain in place for the remainder of the 2012 boating season. All dock extensions must be removed prior to November 15<sup>th</sup>.

For further information, contact LMCD Executive Director Greg Nybeck at (952) 745-0789 or [gnybeck@lmcd.org](mailto:gnybeck@lmcd.org).

**City of Greenwood  
Website Total Hits**



<b>Month</b>	<b>2011</b>	<b>2012</b>	<b>Variance with Prior Month</b>	<b>Variance with Prior Year</b>
January	0	2,034	-43	2,034
February	0	2,911	877	2,911
March	0	2,516	-395	2,516
April	0	2,746	230	2,746
May	0	2,682	-64	2,682
June	0	2,509	-173	2,509
July	0	0	-2,509	0
August	0	0	0	0
September	0	0	0	0
October	0	0	0	0
November	0	0	0	0
December	2,077	0	0	-2,077



Content Tools

Data Center

Site Management

Security

Live Site

## Site Statistics

Use this reporting tool to see your site statistics for your public site for this month or the previous month. Statistics for the Administration (or "admin") side of your site are not included in this report. Additionally, visits you make to your own site while administering it are not included in these statistics. All data collected before the previous month has been purged from our system and is not available for use; therefore, we recommend printing this report each month for your records.

The first report - Page Views by Section - shows total page views for each section. The second report - Unique Visitors by Section - shows the total page views for each section without the return visitors (showing only views from unique IP addresses). For example, if you browse to a page today, and then browse to that same page tomorrow, your viewing of that page would only be counted once in the unique (second) report.

Each report lists sections in page view order (highest number of page views first) and only lists sections that have had traffic within the reporting period. It does not list those sections without traffic.

<b>Begin Date</b>	5/15/2012 ▾
<b>End Date</b>	6/15/2012 ▾
<b>Report Name</b>	Page Views (Default) ▾
<input type="button" value="Get Report"/>	

### Page Views by Section

Section	Page Views	Percent of Total
<a href="#">Default Home Page</a>	1049	41.81%
<a href="#">Agendas, Packets &amp; Minutes</a>	202	8.05%
<a href="#">City Departments</a>	102	4.07%
<a href="#">Welcome to Greenwood</a>	80	3.19%
<a href="#">Mayor &amp; City Council</a>	78	3.11%
<a href="#">Docks</a>	66	2.63%
<a href="#">Planning Commission</a>	65	2.59%
<a href="#">Code Book</a>	62	2.47%
<a href="#">Comprehensive Plan &amp; Maps</a>	57	2.27%
<a href="#">Assessments &amp; Taxes</a>	52	2.07%
<a href="#">Forms &amp; Permits</a>	50	1.99%
<a href="#">Crime Alert!</a>	48	1.91%
<a href="#">RFPs &amp; Bids</a>	45	1.79%
<a href="#">Search Results</a>	39	1.55%
<a href="#">Budget &amp; Finances</a>	37	1.47%
<a href="#">What's New?</a>	36	1.43%
<a href="#">Lake Minnetonka</a>	35	1.39%
<a href="#">Photo Gallery</a>	35	1.39%
<a href="#">Events</a>	34	1.36%
<a href="#">Garbage &amp; Recycling</a>	33	1.32%
<a href="#">Meetings</a>	31	1.24%
<a href="#">Xcel Project</a>	26	1.04%
<a href="#">Milfoil Project</a>	24	0.96%
<a href="#">Swiffers NOT Flushable</a>	24	0.96%
<a href="#">Spring Clean-Up Day</a>	22	0.88%

### Quick Tips

The reports offered in your Site Statistics tool only track activity on the public side of your site.

In each report, a section named "Default" and a section named "Home" may appear.

A page view gets attributed to "Default" when a visitor to your site types your URL into his or her Web browser. In most cases, the "Default" section is your Home Page.

A page view gets attributed to "Home" each time a visitor clicks the "Home" button on your Web site.

In the Page View (Default) report, only sections with Web traffic are reported and they are listed in page view order.

In the Page View by Section report, sections are listed in the order they appear in the navigation menu and are reported regardless of their traffic level.

In the Referrers report, it is important to remember that your own site acts like a referrer. So, don't be surprised if you see your own Web address(es) listed -- this tracks the number of times people went from one part of your site to another.

<a href="#">Email List</a>	20	0.8%
<a href="#">Well Water</a>	19	0.76%
<a href="#">Old Log Community Events</a>	19	0.76%
<a href="#">Meetings on TV</a>	18	0.72%
<a href="#">Southshore Center</a>	17	0.68%
<a href="#">Links</a>	16	0.64%
<a href="#">Health &amp; Safety</a>	15	0.6%
<a href="#">Elections</a>	14	0.56%
<a href="#">Animal Services</a>	12	0.48%
<a href="#">Community Surveys</a>	11	0.44%
<a href="#">Emergency Preparedness</a>	11	0.44%
<a href="#">Unsubscribe</a>	5	0.2%
<b>TOTAL</b>	<b>2509</b>	<b>100%</b>

### Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	456	32.16%
Agendas, Packets & Minutes	85	5.99%
City Departments	77	5.43%
Welcome to Greenwood	60	4.23%
Mayor & City Council	53	3.74%
Docks	44	3.1%
Planning Commission	43	3.03%
Crime Alert!	40	2.82%
Forms & Permits	36	2.54%
Assessments & Taxes	33	2.33%
Comprehensive Plan & Maps	30	2.12%
Code Book	29	2.05%
Photo Gallery	28	1.97%
Lake Minnetonka	28	1.97%
Events	26	1.83%
What's New?	25	1.76%
Meetings	24	1.69%
Garbage & Recycling	23	1.62%
RFPs & Bids	21	1.48%
Xcel Project	20	1.41%
Swiffers NOT Flushable	19	1.34%
Spring Clean-Up Day	18	1.27%
Search Results	17	1.2%
Milfoil Project	17	1.2%
Well Water	17	1.2%
Budget & Finances	17	1.2%
Old Log Community Events	16	1.13%
Email List	15	1.06%
Meetings on TV	14	0.99%
Southshore Center	14	0.99%
Links	13	0.92%
Elections	13	0.92%
Health & Safety	12	0.85%
Community Surveys	11	0.78%
Emergency Preparedness	10	0.71%
Animal Services	9	0.63%
Unsubscribe	5	0.35%
<b>TOTAL</b>	<b>1418</b>	<b>100%</b>

Generate Download File (.csv) for the current report:

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, June 20, 2012**  
**7:00 P.M.**

**1. CALL TO ORDER/ROLL CALL**

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members Bill Cook, David Paeper, Douglas Reeder (5:09) and Alternate members Lisa Christian and Kristi Conrad

Absent: Commissioner John Beal

Others Present: City Attorney Mark Kelly, Council Liaison Tom Fletcher and Zoning Administrator Gus Karpas.

Due to the absence of Commissioner Beal, Alternate Conrad will be a voting member of the Commission at tonight's meeting.

**2. OATH OF OFFICE**

City Attorney Mark Kelly administered the Oath of Office to incoming Commissioner Lisa Christian.

**3. APPROVE AGENDA**

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

**4. MINUTES OF May 16, 2012.**

Commissioner Cook moved to approve the minutes of May 16, 2012 as amended. Commissioner Paeper seconded the motion. Motion carried 5-0.

**LIAISON REPORT**

Council Liaison Fletcher informed the Commission on a number of issues including the Council's appointment of Lisa Christian to the Planning Commission, its discussion of and adoption of two resolutions regarding the proposed Xcel Energy project, the adoption of the first reading of a sump pump ordinance, the approval of the Carlson variance request with the condition the impervious surface not increase what was approved by the Planning Commission, the approval of the Carlson conditional use permit, the approval for the construction and placement of a canoe rack at the Meadville fire lane and the reappointment of Vintage Waste as the city's recycler for the next three years.

**5. PUBLIC HEARINGS**

**Matt and Angela Lindberg, 5160 Greenwood Circle**, variance request to alter the grade greater than one vertical foot in conjunction with a rear yard landscaping project. The maximum extent of the grade alteration would be a difference of the grade by thirteen vertical feet.

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, June 20, 2012**  
**7:00 P.M.**

Section 1140:19 of the Zoning Ordinance requires the issuance of a variance for any increase in grade greater than one vertical foot within any one hundred square foot of area on the lot.

Chairman Lucking summarized the request and opened the public hearing.

David Roth and Jason Robinson from Buildscape Design were present to answer any questions. Mr. Robinson said the property currently has a small retaining wall at the rear of the house and the property slopes up from there to Highview Place. The plan proposes to remove that wall and push the grade back and redirect the water that comes down the slope around the house.

Chairman Lucking clarified that Highview Place drains into the subject property. Mr. Roth said it does and that the portion that is not caught by the catch basin drains directly to the house. Commissioner Paeper asked, under the proposal, where would the overflow be directed. Mr. Roth said it would be directed around the left side of the wall into the rear yard. He said this design would allow them to slope the grade away from the home.

Commissioner Cook asked about the material to be used for the wall. Mr. Robinson said it would be a field stone wall.

Zoning Coordinator Karpas commented that the existing retaining wall is not shown on the plan so it's hard to get perspective on how large an area is actually being leveled. Mr. Robinson said it was included on the plan submitted to the engineer and he assumed that would be passed on to the Commission. He will submit a copy to the city.

City Attorney Kelly asked if the existing drainage from Highview Place would be altered. Mr. Robinson said it would not and that the wall will have points in it that will let the water "seep" through instead of building up behind it. Kelly asked what steps would be taken to prevent the wall from eroding. Mr. Roth said they would place an eight ounce filter fabric behind the wall. Mr. Robinson said everything would be directed to the catch basin and anything that goes through would be direct to the house.

Commissioner Paeper asked if there would be a swale behind the wall. Mr. Roth said there would be a swale. Paeper asked about plantings. Mr. Robinson said there would be some, but they haven't been determined yet.

Council Liaison Fletcher commented on the intent of the ordinance stating it was drafted in the context of massing, preventing someone from building up a lot and then placing a home on top of it. Zoning Coordinator Karpas said drainage was also a concern.

Commissioner Reeder commented that a thirteen foot change in grade is a big change. Chairman Lucking noted they were not raising the grade, rather cutting into the hill which would not impact the mass of the existing structure.

Zoning Coordinator Karpas said the comments submitted by the City Engineer were rather vague and he will ask for more specific comments for the Council meeting. City Attorney Kelly said he would like the engineer to weigh in on the drain tile profile. Commissioner Paeper would like him to look at the structure characteristics and hydrostatic pressure behind the wall.

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, June 20, 2012**  
**7:00 P.M.**

City Attorney Kelly said a possible practical difficulty could be the depth of the yard. He asked how much additional level yard this request would create. Mr. Robinson said it would create an additional twenty-five to thirty feet. He said there is also an issue with drainage between the existing wall and the house because the wall is too close to the house; there is not enough area to allow filtration of the water that settles there. He said this would be solved by extending this area.

Mr. Robinson asked if a catch basin could be put at the top of the wall to direct water to the other catch basin. Commissioner Paeper said this may cause the regular catch basin to overload.

Mr. Robinson said this proposal would also create a safe environment for the applicant's children to play. Mr. Roth added this request would not add any additional impervious surface.

Council Liaison Fletcher asked if there were any concerns about the longevity of the proposed walls or issues they may create on adjacent properties. Commissioner Cook said he was not sure of impacts on adjoining properties but the longevity of walls is based on their design and installation. If designed and installed correctly they become almost permanent. He said most walls are too steep and too tall and they start to fail. Fletcher said he agrees the engineer needs to be more specific in his review.

Commissioner Paeper said he has no issue with the project but is struggling with defining a practical difficulty. Zoning Coordinator Karpas discussed the criteria and suggested some ideas the Commission could use if they were inclined to recommend approval for the request.

Commissioner Paeper said he has no issue with the intent or execution but believes the plan is more for the convenience of the homeowner and even though it improves the drainage, it's more for convenience.

Chairman Lucking said it could be argued the property is not well drained. Commissioner Cook said the plight could be the existing grade increases the velocity of the runoff. Commissioner Conrad asked about plantings. Cook said he could support the request if it was intended to correct a drainage issue. Conrad agrees, but stated the application doesn't state that as the main reason for the request in the application. She feels the application should have stated the intent differently. She would also like to see planting between the walls. It was noted that plantings could actually damage the barriers and cause the walls to erode.

City Attorney Kelly said if the Commission is inclined to recommend the Council approve the request, it should be based on the City Engineer providing a greater review of the overall design. Commissioner Reeder agreed the engineer report is very important.

Motion by Chairman Lucking to recommend the City Council approves the variance request to alter the grade greater than one vertical foot in conjunction with a rear yard landscaping project. The maximum extent of the grade alteration would be a difference of the grade by thirteen vertical feet, as presented for 5160 Greenwood Circle. A practical difficulty exists in the existing grade of the property which allows drainage from Highview Place to settle between the existing retaining wall and house rendering the

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, June 20, 2012**  
**7:00 P.M.**

rear yard of the property unusable. The motion is conditioned that the City Engineer provide a greater review of the proposal and provide a report to the Council which includes an analysis of the proposed drain tile profile, structural characteristics and a review of the hydrostatic pressure behind the wall. The applicant must also include some type of safety fencing at the top of the wall in their design. Paeper seconded the motion. Motion carried 5-0.

**6. ADJOURN**

Motion by Commissioner Cook to adjourn the meeting. Commissioner Paeper seconded the motion. The meeting was adjourned at 8:02 p.m.

Respectively Submitted  
Gus Karpas - Zoning Administrator