

**Greenwood City Council
Worksession Minutes**

6:00 pm, Tuesday, August 1, 2012
Deephaven City Hall ~ 20225 Cottagewood Avenue ~ Deephaven, MN 55331

1. Call to Order/Roll Call/Approval Agenda

Mayor Kind called the meeting to order at 6:00 pm.

Council members present: Fletcher, Page, Quam and Rose (6:05)
Others present: City Clerk Karpas

Quam moved to approve the agenda. Second by Fletcher. Motion carried 4-0.

2. Discuss Rules Regarding City Council Resignations and Residency Requirements

Mayor Kind discussed questions raised from residents regarding the residency status of Councilmember Rose. She said she discussed the issue with Mr. Rose who then submitted a letter of resignation on July 7th and then a letter rescinding his resignation on July 13th. She asked the City Attorney to draft a memo on the statutes regarding this issue which was included in tonight's Council packet.

Councilmember Page questioned who was raising the issue. Mayor Kind said they were just concerned citizens and that none of them were specifically looking to remove Rose from the Council, they just wondered why the Council was not addressing the issue. Page felt it was public information to bring up the names of those who raised the concern. City Attorney Kelly said the Mayor was obligated to disclose that information unless the individuals asked her to keep their names confidential. Mayor Kind disclosed the names of two specific individuals and noted there were a number of others who raised the issue during the 4th of July parade. She said all of them felt the Council should discuss the issue.

Councilmember Quam said there are two issues, the residency requirement and the resignation letter and when it goes into effect. City Attorney Kelly explained the statutes look at resignations in a couple of ways and is not particularly clear. He said if a letter is submitted with conditions, such as subject immediately, it is valid at that point, but Mr. Rose's email does not indicate that. Councilmember Fletcher asked the attorney's opinion on where that leaves the Council. Kelly said it leaves the Council with a dilemma since it could take the position to accept the rescinding letter or decide not to accept it. It could also say it has an issue with the residency status of Mr. Rose. Mayor Kind asked what the standard is for residency.

Councilmember Rose asked if the statute indicated the number of days a person has to stay in a home to be considered a resident? He said this became an issue the day he put up his for sale sign. He said he didn't know he couldn't own multiple houses. He decided to rescind his resignation when he remembered the city had a mayor who was elected who didn't live in the city because his house wasn't even completed. He believes he's fine serving on the Council since he pays property taxes in the city. He stated his intention was to resign when his house sells.

Councilmember Fletcher noted if you still stay at the house, you're still a resident. He said if he reads the statute correctly if the Council declares a vacancy it can select a replacement. He would be fine accepting the resignation and then appointing Mr. Rose to the Council. Councilmember Rose feels that puts him in limbo and is concerned since nobody called him about their concerns about his resident status. Mayor Kind agreed that residency is not clearly

defined. She read the requirements from the Secretary of State's office which notes the "intention of moving" is one of the ways of determining residency.

City Attorney Kelly referenced literature put out by the League of Minnesota Cities that said unless a letter of resignation states a specific future date, the resignation will be effective once it is received by the Council. If the resignation states it is to be effective at a future date, it may be withdrawn, but to withdraw the resignation, the resigning officer must submit a written statement of withdrawal in the same manner as the resignation and it must be received before the resignation was to be effective. Councilmember Rose's resignation letter did not indicate a future effective date, therefore it was effective the date it was delivered by City Clerk Karpas to the Council via email on July 9th and cannot be rescinded.

Councilmember Quam verified the written resignation was received on July 7th and the withdrawal on July 13th. Councilmember Page believes the letter doesn't say he resigned. Fletcher disagreed saying the language looks as though he resigned. Page believes Councilmember Rose was pressured to resign and feels this item should be taken off the agenda.

Mayor Kind asked the Council if they believe Councilmember Rose meets the standards for residency. Councilmember Page believes he does. Kind asked if the Council would like to adopt the Secretary of State's standards for residency. Councilmember Quam feels it is a gray issue. Kind suggested the Council could go with Councilmember Fletcher's idea of accepting the resignation and reappointing Councilmember Rose. Quam felt that would set a bad precedent. He said the Council has to be very careful on what it does, but it has to do something. He asked Councilmember Rose if he believes he is a resident. Rose said he did. Quam said that was good enough for him. Mayor Kind said it was for her too.

City Attorney Kelly said the Council can take any action it wants since it is discretionary, but it does have to take action. Councilmember Fletcher suggested that the Council could formally accept Councilmember Rose's letter rescinding his resignation to make it clear that Rose still is a Councilmember. Mayor Kind suggested amending the regular agenda to add this item to take action on it. The majority of the Council agreed.

3. Discuss 2013 Budget

Mayor Kind said she and Councilmember Fletcher have been working on a preliminary budget for the Council's review. She said the Council must approve a preliminary budget at its September meeting, at that time the levy cannot go up, though it can go down. The final budget approval will be at the December Council meeting. She suggested going through the budget page by page and if any Councilmembers had a question they could reference the line item for discussion.

Councilmember Page was opposed to line items 36-39 which included a transfer from the Marina Fund and 10% administrative fees for the Marina, Sewer, and Stormwater Funds. He disagreed they should be used as funding sources. Councilmember Fletcher noted there was administrative time spent on marinas, sewers and stormwater, so the fees were appropriate. Councilmembers Quam and Rose didn't have an issue with the fees. Councilmember Quam raised concern about the transfer of Marina funds since he has never seen a plan for the replacement of docks. He would like to see one. Mayor Kind noted that page 6 contained cost information on dock replacement. Page objected to characterizing the Marina fund as an enterprise fund. Kind said this is the technical term used by the auditors. Page also said there is no such thing as a Tonka Dock and the terminology should be changed to wood stationary dock. He also noted that the city has nowhere near enough money to replace the dock it already has. Quam asked how long it would take to get to the \$120,000 it would take to replace the docks. Page noted that Bean's Greenwood Marina is switching to floating docks due to their many advantages over stationary docks. Councilmember Fletcher asked about the projected

lifespan of the existing city docks. Page estimated about five to six years. He feels there needs to be more money in the fund.

The majority of the Council agreed on line items 37-39 and to further discuss line item 36.

Councilmember Page question line item 193, \$5,000 for milfoil. He doesn't understand why that is attributed to the Marina Fund since it benefits the whole bay. Councilmember Rose agrees since it only costs a fraction of that to treat the area by the marina. Page believes the money should come out of the general fund.

Councilmember Rose asked about line item 44, Council Salaries, noting that salary costs for police and fire have gone up over the years, yet this Council has been able to keep its pay at a zero increase. Councilmember Page said the salaries should go up since the amount of work has increased. Councilmember Quam commented the Mayor is underpaid for the amount of work she does, but the concern with raising the Mayor's salary would be is the next Mayor capable or willing to do the same amount of work. He noted Councilmembers could be paid for their outside meetings. Page said the Council should consider raising their salaries. The Council will discuss this further.

Councilmember Page felt that line item 107, Engineer Fees, seemed a little "light." Mayor Kind explained that engineering is being coded differently now, with fees being coded by streets, sewer, and stormwater line items.

Councilmember Page asked about line item 117, \$11,000 for sign replacement. He thought the city had five years to meet the federal mandate for sign replacement. Mayor Kind said the city is phasing them in over five years to spread out the cost and that \$11,000 was the result of the total estimated cost divided by five.

Councilmember Page asked about line item 118, Street Sweeping, noting it was coming out of the Stormwater Fund. Councilmember Fletcher said the city was required to have a Stormwater Fund so it might as well use the fee. Mayor Kind stated that the city may reach the phosphorus reduction goal by adding a second sweeping.

Councilmember Page felt that line item 133, Southshore Center, could be increased to \$100 a month. The majority of the Council supported increasing the budgeted amount to \$1,200 a year.

Councilmember Page discussed line item 135, Lake Minnetonka Conservation District, noting there are potential increases on the horizon that the city should be aware of that will drastically increase its expenses. Mayor Kind said the budgeted number is based on what was sent out by Director Greg Nybeck.

Councilmember Rose asked about the increase in line item 120, Trees, Weeds, Mowing from \$13,000 to \$20,000. Mayor Kind said the increase was based on the 2012 actual. She said there were a lot of trees removed this year and there looks to be more removed again this upcoming year.

Councilmember Fletcher discussed line item 143, Transfer to Bridge Fund, stating it is down to \$10,000 from \$20,000 from the year before. He said this can be replenished if the contingency fund not spent.

4. Adjournment

Quam moved to adjourn. Second by Rose. Meeting adjourned at 6:58 pm.

Respectfully submitted

Gus Karpas
City Clerk