

GREENWOOD CITY COUNCIL MEETING
Wednesday, October 3, 2012, 7:00 P.M.
Council Chambers, 20225 Cottagewood Road, Deephaven, MN 55331

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

Mayor Kind called the meeting to order at 7:01 P.M.

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

Others Present: City Attorney Kelly, City Zoning Administrator/City Clerk Karpas and City Engineer Martini (departed the meeting at 7:16 P.M.)

Members Absent: None

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

1.A WILLIAM COOK, AFFIRMATION OF OATH OF OFFICE

Mayor Kind welcomed Councilmember William Cook, the newest member of the Council. She noted that Cook will affirm the oath of office in a public ceremony at this time.

Attorney Kelly re-administered the oath of office to recently appointed Councilmember Cook.

2. CONSENT AGENDA

Mayor Kind reviewed the items on the Consent Agenda.

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

- A. September 5, 2012, City Council Work Session Minutes**
- B. September 5, 2012, City Council Meeting Minutes**
- C. August 2012 Cash Summary Report**
- D. September 2012 Verifieds, Check Register, Electronic Fund Transfers**
- E. October 2012 Payroll Register**

Motion passed 5/0.

3. MATTERS FROM THE FLOOR

There were no matters from the floor presented this evening.

4. PRESENTATIONS, GUESTS & ANNOUNCEMENTS

A. City Engineer Martini – Phosphorus Report and Resolution No. 27-12 Authorizing Inflow / Infiltration Grant Applications

Engineer Martini explained the City has a goal of removing five pounds of phosphorous annually from its stormwater runoff. A couple of options for achieving that goal were considered. It was decided that a lot of phosphorous is being removed by sweeping the streets. The last few years the City has sent samples of the sweepings in to find out how much phosphorous is contained in what is being removed from the streets. This year's results based on 52.5 tons of sweepings indicate that 25 pounds of phosphorus were removed. What the City has established over the last several years is that the City is removing more than enough phosphorous to meet its goal assigned to the City by the Minnehaha Creek Watershed District (MCWD). Staff had its annual meeting with MCWD representatives a few weeks ago and there seems to be acceptance that the City is meeting its phosphorous removal goal. The intent is to inform the MCWD that the City does not think there is a need to continue to test the sweepings annually for levels of phosphorous.

Martini then explained that two years ago the City applied for and received grant money through Metropolitan Council Environmental Services 2012 Municipal Infiltration / Inflow Grant Program to help fund the City's inflow / infiltration projects. Met Council has again offered the opportunity to apply for grants. The maximum amount of grant a municipality can be awarded is \$50,000 or 50 percent of the eligible costs, whichever is less. There are still a handful of improvements that should be done. When improvements were last made Council decided to do only trenchless improvements because of cost. Excavation, point repairs and site restoration for the point repair areas are what remain. The total estimated construction cost for the remaining improvements is \$65,110.50 (all eligible) and that would result in a possible grant amount of \$32,555.25. Eligible projects have to occur between May 12, 2012, and June 30, 2014. The street project completed earlier this year included work on some sanitary sewer manholes and some chimney seals were put on manholes. Those actual costs are included in the estimate.

Martini stated the meeting packet contains a copy of a resolution authorizing Staff to submit a grant application. Staff recommends Council adopt the resolution authorizing Staff to submit the grant application and directing Mayor Kind and Councilmember Quam to work with Staff on the application. He noted the application must be submitted by the end of the month.

Councilmember Fletcher asked if this project includes everything that remains to be done with regard to inflow / infiltration improvements. Engineer Martini responded it does.

Engineer Martini stated that with this project things will have come full cycle. It started with televising the sanitary sewer system and starting that process over again will be discussed again next year. It is a never ending cycle of evaluating and improving the system.

Councilmember Fletcher asked if the cost estimate reflects today's costs. Engineer Martini responded a concerted effort was made to do that. Martini noted that a couple of excavations that have to be done will be along Excelsior Boulevard. The plan is to make the sewer repairs when Excelsior Boulevard is torn up for other purposes. That will help control the costs. Martini stated Staff, Mayor Kind and Councilmember Quam will do their best to ensure the application reflects what it will cost the City.

Fletcher moved, Quam seconded, Adopting RESOLUTION NO. 27-12, "A Resolution Authorizing Application to the Metropolitan Council for a Grant from the Municipal Infiltration / Inflow Grant Program for the City of Greenwood's 2013 Sewer Rehabilitation Project" subject to adjusting the cost estimate to be more inclusive where possible.

Mayor Kind stated she heard Engineer Martini ask Council to authorize her and Councilmember Quam to work with him on the project.

Without objection from the maker or seconder, the motion was amended to authorize Mayor Kind and Councilmember Quam to work with the City Engineer on the application and authorizing Kind to sign the application.

Mayor Kind noted that the grant application cover letter has an incorrect date on it of 20012. Engineer Martini noted the form is from Met Council and that Staff will verify it has the correct form and it will address the date if it needs to be changed.

Councilmember Cook explained that the way the Met Council figures its surcharges is a relationship between the average flow and peak flow. Therefore, it is in the City's best interest to attack the peak flow elements and not the average flow elements. He stated it is believed that the peak flow in Greenwood is due to sump pumps. He explained there is a risk of driving the average flow down and the peak flow up which will result in a higher surcharge and make it more difficult to get off Met Council's list. He stated it is prudent to go after the peak flows.

Mayor Kind noted Council will be discussing the City's new sump pump program later on the agenda.

Kind asked Councilmember Cook if he is advocating not doing infiltration projects. Cook clarified he thinks infiltration issues need to be fixed but the improvements need to be timely.

Councilmember Cook stated he thought the City should be getting grant funds for the City's sump pump work as well because that is an inflow element. Engineer Martini stated he will look into what elements are eligible.

Motion passed 5/0.

Engineer Martini departed the meeting at 7:16 P.M.

B. City Prosecutor Greg Keller: Annual Prosecution Update

Mayor Kind stated City Prosecutor Greg Keller is present to give his annual update on prosecution services he provides to the City.

Prosecutor Keller stated the past year has been unremarkable. There has been nothing unusual as to the types or mix of cases. The largest segment continues to be DWIs. He then stated that eCharging / eComplaint system has been implemented. He noted he had mixed feelings about the benefits of that. He stated Greenwood does not have a large volume of cases. To date the new system has taken more time and effort on his part than the time savings achieved.

Mr. Keller explained there is going to be a new virtual criminal file and when that is implemented there will not be any paper documents when a person shows up for court. Attorneys have been advised that they will need to bring a laptop computer with them. In the last year there have rumors about wanting to close one or two of the suburban court houses and consolidate things downtown. Sometimes that is done for cost savings reasons. More recently court room security has been somewhat of an impetus. Prosecutors often interpret a decision to close court rooms as the first step in moving away from city prosecuting attorneys and toward a district attorney system. Doing that would take a lot of control away from local entities. If Greenwood cases would move downtown Minneapolis from the Ridgedale Government Center

Greenwood's prosecuting costs would increase 10-20 percent because of the additional drive time and parking costs.

Mr. Keller stated the issue about the reliability of breath testing has been resolved. During the time that was up on appeal police agencies were moving away from breath testing and toward urine and blood testing. Often it took a few weeks for the results for those types of tests to be available and it was only after that when a person could be charged. Agencies have now gone back to breath testing and therefore results are available more readily. He noted the State of Minnesota is switching over to a new breath testing device. He stated it is highly possible a new list of challenges will be presented for that new device.

Mr. Keller then stated he has read the social host ordinance. In the short time that he been doing prosecutions for Greenwood he can only recollect one case when that may have applied. But, he does not think having the ordinance in effect would have made any difference in terms of charging and prosecution.

Councilmember Fletcher asked Mr. Keller if he is stating that he cannot think of an example where having that ordinance in place would have helped in prosecuting a case.

Mr. Keller stated every tool in the tool kit is helpful. He noted that he is not familiar with the background or drafting of the ordinance. He stated his biggest concern is if it is something that has been tested and that Greenwood would not have to go up on appeal for it.

Councilmember Fletcher stated he does not hear Mr. Keller saying he needs the ordinance in his tool kit.

Councilmember Fletechr then commented about courtroom security. He asked Mr. Keller if he has a security concern at the various Hennepin County courtrooms. Mr. Keller stated he had not been worried about it. He noted that he has been a prosecutor since 1977. He commented that if someone wants to get someone, anyone can be got.

Mr. Keller stated security started in downtown Minneapolis for Hennepin County in family court. It has been expanded to criminal courts. He then stated the only time he had someone come to his home and try and do harm was about an \$850 conciliation court judgment. It is hard to predict what is going to set someone off.

Councilmember Quam asked Mr. Keller if there are any statistics on the number of cases won by prosecutors of DWIs. Mr. Keller responded he has no idea. He noted that less than 5 percent of any cases go to trial in Hennepin County. He stated the only case that he can think of in recent history in either Greenwood or Spring Park that he had to dismiss without prejudice was because he was not able to subpoena two essential witnesses who were not law enforcement officers.

Councilmember Fletcher asked Mr. Keller if there is anything that the City needs to be doing differently. Mr. Keller responded that he cannot think of anything. Mr. Keller stated he is happy with the way things are going.

Attorney Kelly stated that from his perspective one of the things that is driving sending cases downtown Minneapolis from the court house near Southdale is it is poorly designed to handled security. It is on the upper level of a library and there is no room. The Ridgedale court house is not much better.

Councilmember Fletcher suggested letting Hennepin County Commissioner Callison know that Greenwood does not want to have its cases heard downtown.

5. PUBLIC HEARING

A. Delinquent Sewer, Stormwater and Recycling Charges

Mayor Kind stated the notice for this public hearing on delinquent sewer, stormwater and recycling charges was published in the Sun-Sailor Newspaper on September 13, 2012, and September 20, 2012. A list of the delinquent accounts is included in the meeting packet. Members of the public may address Council during this meeting. She noted Council will take action on the resolution for the assessment under Item 7.C on the agenda.

Page moved, Cook seconded, opening the Public Hearing at 7:30 P.M. Motion passed 5/0.

No one spoke during the public hearing.

Quam moved, Page seconded, closing the Public Hearing at 7:30 P.M. Motion passed 5/0.

6. UNFINISHED BUSINESS

A. Variance Findings of Fact, Frank Precopio, 5520 Maple Heights Road (setback variances and hardcover variance for a deck and accessory structure)

Mayor Kind explained that during Council's September 5, 2012, meeting Council approved Frank Precopio's requests for setback and hardcover variances to permit the relocation and rebuilding of an existing accessory structure and deck for his property located at 5520 Maple Heights Road. During that meeting Council directed the City Attorney to draft Findings of Fact for approval during this meeting. She noted that a copy of the Findings of Fact prepared by the City Attorney is included in the meeting packet.

Fletcher moved, Quam seconded, Adopting RESOLUTION NO. 22-12, "A Resolution of the City Council of the City of Greenwood, Minnesota Acting as the Board of Appeals and Adjustments, for real property located at 5520 Maple Heights Road setting out the findings of fact and conclusions of law regarding the Frank Precopio variances to side yard setbacks, accessory structures and impervious surface to permit reconstruction of an existing accessory deck and the relocation of an accessory shed."

Zoning Administrator/Clerk Karpas asked if Councilmember Cook can vote on this resolution being he was not a member of the Council when it approved the requests. Attorney Kelly responded he can. Mayor Kind stated he can also abstain if he chooses.

Motion passed 5/0.

B. Variance Findings of Fact, Justin and Jen Zygmunt, 5370 Manor Road (setback variance for a home addition)

Mayor Kind explained that during Council's September 5, 2012, meeting Council approved Justin and Jen Zygmunt's requests for setback variances for a home addition. During that meeting Council directed the City Attorney to draft Findings of Fact for approval during this meeting. She noted that a copy of the Findings of Fact prepared by the City Attorney is included in the meeting packet.

Kind moved, Quam seconded, Adopting RESOLUTION NO. 23-12, “A Resolution of the City Council of the City of Greenwood, Minnesota Acting as the Board of Appeals and Adjustments, for real property located at 5370 Manor Road setting out the findings of fact and conclusions of law regarding the Justin and Jen Zygmunt variances” subject to changing “The Application of Justin and Jen Zygmunt for Variances to Section 1120:15 (side yard setbacks), 1140:10 (accessory structures), and 1176:04 (impervious surface) to permit reconstruction of an existing deck and relocation of an accessory shed.” to “The Application of Justin and Jen Zygmunt for Variances to Section 1120:15 (rear and exterior side yard setbacks) to permit remodeling of an existing house.” Motion passed 5/0.

7. NEW BUSINESS

A. Potential Buckthorn and Brush Removal Projects

Mayor Kind explained that during its September 5, 2012, meeting Greenwood resident Val Muceniaks spoke during Matters from the Floor to request that the City remove the buckthorn and brush growing in the right-of-way between his property and the Georgetown apartments as well as along the shore by the City-owned docks. A similar request was received from another resident earlier in the year to remove buckthorn and brush along the Minnetonka Boulevard shoreline of St. Alban's Bay. During the September 5th meeting Council authorized a team of volunteers to remove buckthorn growing in the lilacs along Excelsior Boulevard. The City contributed \$290 for the project (\$46 for chemicals and applicators, \$244 for public works to haul and dispose of the brush). The trees / weeds / mowing budget for 2012 is \$13,000. As of August 31, 2012, the City has spent \$12,441 of that budget. In 2011 the year-end total was \$21,575 for this category. Council has budgeted \$20,000 for this category in 2013.

Councilmember Quam asked if the City has any legal liability when volunteers do this type of work on public land.

Attorney Kelly responded potentially, noting the City is not establishing a hazard. He explained it is just the natural lay of the land. If the City supplies the tools and chemical applicators and someone harms themselves the City is exposed to a potential claim. But, the City is capped by its sovereign immunity and insurance. Council should consider if this is inherently dangerous work. If Council decides it is not then that will guide Council's decision.

Councilmember Page recommended Public Works personnel do the work. They know what they are doing and they can haul the brush away.

Mayor Kind asked if that means that if it becomes too expensive to remove all of the brush on public property then it will just stay there. Councilmember Page stated that is the way it has been.

Councilmember Fletcher stated he would change the recommendation to say a plan should be submitted to the Council and therefore no resolution is needed. He then stated the area between Mr. Muceniaks' property and the Georgetown apartments could be a lot of work. He does agree with having Public Works do the work along the shoreline.

Mayor Kind stated she boated by that shoreline area the past weekend and she decided she somewhat likes the brush there. To some extent it hides the garages.

Councilmember Quam stated the brush along the shoreline could be trimmed but he does not support taking it all out.

Councilmember Cook stated he thought it should either be maintained in a nice visual way or be removed. He then stated there is nothing that can be done to block the view of all of the garages. He would like the shoreline to be maintained. He noted he would prefer it be removed because it would be a cleaner look.

Mayor Kind stated Council could authorize Zoning Administrator/Clerk Karpas to get quotes to remove the brush along the shoreline and authorize expenditures up to a certain amount. She noted in the past the city has used two resources for trimming trees. One is Cornerstone Industries and the other is Public Works. Public Works requires two men and a truck; Cornerstone does not. She recommended using Cornerstone.

Councilmembers Fletcher and Quam stated they could support using Cornerstone.

Zoning Administrator/Clerk Karpas asked if the City has to contact the Minnehaha Creek Watershed District about removing brush along the shoreline. Mayor Kind stated she did not think that has to be done for cutting. Buckthorn can be removed at will as long as the soil is not disturbed.

Fletcher moved, Cook seconded, authorizing Mayor Kind to approve an amount she deems reasonable but not to exceed \$1,000 to remove the brush down by the City-owned docks.

Mayor Kind asked what account the funds should be taken from to pay for this. Councilmember Fletcher suggested using the trees / weeds / mowing budget.

Motion passed 5/0.

B. Updating Appointments and Assignments

Mayor Kind noted the meeting packet contains an update of the resolution Council adopted in January 2012 regarding appointments and assignments. She explained the representative to the Excelsior Fire District (EFD) Board needs to be filled due to the resignation of former Councilmember Rose. Councilmember Fletcher is the alternate representative to the Board and he has agreed to be the primary representative. Councilmember Quam has agreed to be the alternate. The B-2 Planning Commission seat needs to be filled due to former Planning Commissioner Bill Cook's appointment to the City Council. Past practice has been to appoint the most senior alternate to vacant voting position on the Commission. This means: Kristi Conrad would move from Alternate 1 to the B-2 position; Lisa Christian would move up from the Alternate 2 to the Alternate 1 position; and, the Alternate 2 position would become vacant. Because Fletcher has agreed to be the EFD representative he wants to give up being the liaison to the Planning Commission. Cook has agreed to be the Liaison.

Quam moved, Fletcher seconded, Adopting RESOLUTION NO. 26-12, "A Resolution Appointing Councilmember Fletcher to the Primary Representative to the Excelsior Fire District (EFD) Board, Councilmember Quam as the Alternate to the EFD Board, Moving Kristi Conrad to the Planning Commission B-2 position, Moving Lisa Christian to the Planning Commission Alternate 1 Position and Vacating the Planning Commission Alternate 2 Position." Motion passed 5/0.

C. Resolution 24-12, Assessment Roll for Delinquent Sewer, Stormwater and Recycling Charges

Mayor Kind stated the meeting packet contains a list of properties with past due utility accounts with the City as well as a draft resolution that authorizes the amount of the accounts be assessed to the properties. She noted a public hearing was held earlier on the agenda.

Quam moved, Cook seconded, Adopting RESOLUTION NO. 24-12, “A Resolution Directing Delinquent Sewer Charges and Recycling Charges be Placed on the 2013 Property Tax Rolls.” Motion passed 5/0.

D. Sewer Discharge Certification Report and Next Steps

Mayor Kind explained that during it August 1, 2012, meeting Council approved the implementation of a “sump pump program” and directed the City Clerk to mail the cover letter and certification form to all property owners in the City. The meeting packet contains a copy of the letter and form that were mailed on August 8, 2012. Property owners were given until August 22, 2012, to return the form. A few residents complained that the deadline was too short. Therefore, Council decided the City would not be strict about the date that the forms were returned. The meeting packet contains a copy of a report showing the properties for which forms were and were not returned as well as some information filled in on the forms.

Kind highlighted the summarized information. There were 348 forms mailed out. Of those 253 (or 72.7 percent) were sent back with 231 certifying they had no connection. Of the 93 that were not sent back 3 were because the mailing was not deliverable to the property and for 5 it was impossible to determine which property they were for because the forms were not filled out completely. Seventeen of the people completing the form requested an inspection to help fill out the form. Five forms indicated the properties had a connection – 4 of the 5 indicated the property owner would remove the connection within 90 days and the fifth noted they have a “grey water” sump pump connection which is required by Metropolitan Council Environmental Services (MCES).

Zoning Administrator/Clerk Karpas explained the property owner with the “grey water” sump pump submitted information about it the last time the City conducted a similar certification. That individual was going to share additional information with the City but had to have surgery and has not been able to provide that before this meeting. He noted that based on the information provided it seems that the connection needs to remain. His household waste water runs through his sump pump and then into the sanitary sewer system.

Councilmember Cook explained that “grey water” is sewage. For that property it flows into a sump in the basement and that is connected to the sanitary sewer. If it also includes ground water that seeps into the basement then the property owner should separate the sewage from the stormwater that seeps into the basement. He noted he has a little pump station in his house that pumps into the sanitary sewer system and it conveys his sewage and water but his ground water goes outside. He recommended that the classification of sump pump for this be changed to either a foundation drain or ground water pump or stormwater pump to make it clearer.

Mayor Kind stated in 2006 that property owner checked the box on that form that states there was no foundation drain system.

There was Council consensus to have the property with the “grey water” sump pump inspected to ensure ground water is not flowing through it.

Mayor Kind reviewed the possible next steps in this process.

1. A decision needs to be made about what to do about the 93 people who did not respond. Should Council direct that the penalty (\$300 for a residential property and \$750 for a commercial property) be added to the utility bill for each property? If so, should a letter and certification form be enclosed with the bill stating that the penalty will be forgiven, or reduced by some percent, if the certification form is returned with the utility payment? Should Council give the utility clerk discretion to waive the fee for someone who claims to have returned the form and completes a new form? There were 5 people who sent in forms that were not fully completed and were not legible.
2. A decision needs to be made about what to do about properties in transition. There are some that are in the process of being sold. Should Council give the utility clerk discretion to waive the fee for a new homeowner who completes a certification form?
3. A decision needs to be made about what to do about the 3 properties where the mailing was not deliverable?
4. A contractor needs to be selected to schedule inspections for the 17 properties that requested help completing the form and for the 4 properties that said they would remove a connection within 90 days (by November 20, 2012). Bolton & Menk would charge \$25 per inspection, and Kieran Hannigan (a Greenwood resident) would charge \$30 per hour. Jack MacKinnon (a Chaska inspector) was contacted and has gracefully declined the opportunity. Mr. MacKinnon related that he has inspected 4,000 properties in Chaska and about 10 percent of them had improper connections.
5. A decision needs to be made about what to do about the property that has a "grey water" sump pump connection.
6. Consideration could be given to mailing out a second cover letter and the same certification form to the 95 properties that did not respond.

Kind distributed a draft copy of a second cover letter. A new paragraph was added to the first letter. Comments were added that this same certification process was conducted in 2006 and at that time the City chose to focus on sewer repairs in hopes of reducing the City's excess flow into the storm sewer system. Many repairs and improvements have been made to the system yet the City continues to have excess flow into the sanitary sewer system during rain events. Therefore, the current Council approved the implementation of a new certification program with a goal to eliminate all improper connections of roof drains, foundation drains and sump pump connections that are connected to the sanitary sewer system. There is a great common benefit to the City if the City solves its inflow problems. It notes that even if a certification form was sent in in 2006 another form must be returned now, and that the form must be fully completed. The time to return the form will be longer than 14 days.

Kind recommended an inspector be hired to conduct the inspections for those 17 respondents who requested inspections to help them complete the form.

There was Council consensus to hire Bolton & Menk to conduct the inspections.

Councilmember Quam stated he heard comments from some property owners who explained they did not send the certification form back because they did so the last time. He asked what to do about property owners who said they did not receive the letter. Mayor Kind stated the surcharge should get their attention. Quam stated if forms aren't returned this second time he suggested contacting those who don't respond by phone.

Zoning Administrator/Clerk Karpas stated he will include a postage paid return envelope for this next mailing to the 95 people. Councilmember Fletcher expressed confidence that it will help the return rate.

Kind moved, Fletcher seconded, authorizing the following regarding the City's "sewer pump program": 1) the City Clerk to determine the correct addresses for the 3 undeliverable properties; 2) the City Clerk to send a new cover letter and certification form to the properties that did not respond to the original mailing; and, 3) the City Clerk to include a pre-addressed stamped envelope in the new mailing. And, hiring Bolton & Menk as the inspection contractor at a rate \$25 per inspection to perform the following services: a) schedule and inspect the 17 properties where the property owner requested help completing the certification form; 2) schedule and inspect the 4 properties where the property owner said they would remove a connection by November 20, 2012; c) schedule and inspect the property that has a "grey water" sewer pump connection to determine if it is a legal connection and provide a written report to the City Council and property file; d) schedule and inspect all future requests from the City Clerk; and, e) provide written documentation of all inspection results to the City Clerk.

Councilmember Cook recommended changing the title of the program to make it clear that it is about sanitary sewer connections.

There was ensuing Council discussion about which aspects of the new cover letter and certification form that should be changed to make things clearer.

Without objection from the maker or seconded, the motion was amended to also authorize Mayor Kind and Councilmember Cook to determine the title of the program and make the necessary revisions to the new cover letter and the certification form to be consistent with the new title. Motion passed 4/1 with Page dissenting.

Mayor Kind asked Councilmember Page if he wants to explain his dissenting vote, to which Page responded no.

E. Cornerstone Path Snowplowing Proposal

Mayor Kind explained that for the 2011-2012 snow season the City contracted with Cornerstone Industries to provide snowplowing services for the City paths. Cornerstone is interested in providing services again for the 2012-2013 season. A copy of Cornerstone's proposal is included in the meeting packet. The City of Deephaven's hourly rates and vehicle for its Public Works Department are also included in the packet.

Councilmember Fletcher stated that last year the paths were well plowed. He expressed concern that if there is a lot more snowfall this season that the City budget for this activity would be a budget buster. Mayor Kind agreed based on 2011 actual snowfall events.

Councilmember Quam asked if Deephaven's Public Works Department wants to plow the paths. Mayor Kind stated it's her understanding that Public Works is fine with not plowing the paths. Zoning Administrator/Clerk Karpas noted that Cornerstone would be able to plow the paths faster. Kind agreed.

Quam asked Councilmember Page what his perspective is on how quickly the paths should be plowed. Page responded as soon as feasible because people want to get out and get some exercise quickly after a snowfall. Page explained the sidewalk near Minnetonka Boulevard would be treacherous if left unplowed for a couple of days.

Mayor Kind suggested changing the minimum snow fall amount to 2 inches from 1 inch. Councilmember Page expressed his agreement.

Quam moved, Fletcher seconded, authorizing Staff to sign the 2012 – 2013 Snow-Blowing and Plowing contract with Cornerstone Industries subject to changing the one inch minimum to two inches. Motion passed 5/0.

F. Three Rivers Park District Permit for Winter Trail Activities

Mayor Kind explained that annually the Three Rivers Park District requests cities that use its regional trail system during the winter submit a winter use permit application asking for the authorization to do so. By renewing the permit the City is agreeing to maintain the portion of the trail that is located in the City from November 15, 2012, to March 31, 2013. The agreement lists Tim Lovett from Cornerstone Industries as the contact person. The permit application states the City will hold harmless the Park District from any liability related to winter use of the trail. The application also requires the City to submit a certificate of insurance valid through March 31, 2013. The permit was supposed to be submitted by 09-07-12. She noted that this item was inadvertently left off of the September 7, 2012 Council meeting agenda. Three Rivers has been notified of the delay.

Page moved, Quam seconded, directing Staff to complete the Three Rivers Park District Regional Trail System 2012-2013 Winter Use Permit application expressing the City's desire to use the trail for cross-country skiing and walking; mail the completed application and a proof of insurance through March 31, 2013, and an excerpt of the October 3, 2012, meeting minutes showing Council's action; and, inform Cornerstone Industries of its responsibilities to maintain that portion of the Regional Trail System located within the City. Motion passed 5/0.

G. Resolution 25-12, Supporting Deephaven Youth Sports Program Grant Application

Mayor Kind explained the City of Deephaven is looking for support for its application for a Hennepin Youth Sports Grant to install additional platform tennis courts and an adjacent warming hut. Deephaven's current platform tennis court is one of the few public courts in the area. Platform tennis is a growing sport that primarily is played in the winter. Greenwood residents use the current court. She noted the meeting packet contains a copy of a proposed resolution supporting Deephaven's grant application.

Quam moved, Fletcher seconded, ADOPTING RESOLUTION NO. 25-12, "A Resolution Supporting the City of Deephaven's Hennepin Youth Sports Program Grant Application" and directing the City Clerk to send a copy of the signed resolution to the Deephaven City Administrator. Motion passed 5/0.

8. OTHER BUSINESS

A. None

9. COUNCIL REPORTS

A. Cook: Welcome

Mayor Kind again welcomed Councilmember Cook and noted that he will be giving the Planning Commission report in the future.

B. Fletcher: Planning Commission, Lake Minnetonka Communications Commission, Xcel Transmission Line Upgrade Project, Excelsior Fire District

With regard to the Planning Commission, Councilmember Fletcher stated during its last meeting the Commission did consider a variance request for a property located on Greenwood Circle. Based on the strong concerns expressed by the Commission the applicant decided to come back to the next Commission meeting for further discussion.

With regard to the Xcel Energy Transmission Line Upgrade Project, Fletcher stated the Department of Commerce is in the process of conducting its review.

With regard to the Excelsior Fire District (EFD) activities, Fletcher stated he attended the September 26, 2012, EFD Board meeting. He explained the 2013 EFD's Budget was formally approved by the EFD Board; it had been approved by all five member cities. The Excelsior Firefighters Relief Association's (EFRA) fund for pension is about 98 percent funded. During the meeting there was mention of more active management of the EFRA's pension fund. He expressed concern that often times there is a tendency for people to invest in more aggressive investments when there is a low interest rate environment. He was not sure that would be the best time to get more aggressive with investments. He stated that is something the EFRA should watch and be aware of.

Councilmember Quam noted that there is almost zero risk in the types of funds the EFRA invests in (they are managed by the State).

Councilmember Fletcher stated he thought it prudent to pay close attention next year to EFD budget increases and so forth. He clarified he is in support of public safety. He noted EFD Chief Gerber has to have a formal 360 performance review. Gerber has not had a formal review since 2009. He explained that up to \$1,500 was approved by the Board to hire an outside resource to help with the questionnaire and compile the results if that is what the EFD Operating Committee decides is necessary.

Councilmember Quam expressed concern that Gerber had not had a review since 2009.

Mayor Kind expressed discomfort with the cost of \$1,500. She noted that the South Lake Minnetonka Police Department (SLMPD) Coordinating Committee handles the SLMPD Chief of Police's review annually.

Councilmember Quam stated he can understand the desire to hire someone to compile the feedback.

Councilmember Fletcher stated the EFRA President presented a request from the EFRA Board to pay the \$300 paid to the few EFRA individuals who manage the EFRA fund for pension out of the EFRA's special fund (the fund for pensions) rather than out of the EFRA's general fund which is funded out of donations and fundraising activities. He noted that he made the motion to allow that and it passed on a 3/2 vote. If the fundraising dance went away that money would still have to be paid.

With regard to the Lake Minnetonka Communications Commission (LMCC) activities, Fletcher stated the franchise renewal process with Mediacom has started. He noted Mediacom has approached some of the larger LMCC member cities and asked them if they would like to contract with Mediacom directly.

Fletcher explained that the LMCC is a \$700,000 a year organization. It is funded through franchise fees (5 percent of a subscriber's cable television costs) plus a soon to be \$1.20 per subscriber PEG (public, education and government) fee. For the City of Orono the total amount of franchise fees subscribers pay is about \$90,000 annually. Mediacom is telling cities they could instead use those fees to build out the network. He noted the total amount paid by residents living in Greenwood is about \$10,000. He thought

that about \$200,000-\$250,000 of the LMCC's \$700,000 budget is government meetings such as this Council meeting. About \$100,000 is to deal with the franchise should subscribers have issues with Mediacom. Then there is an educational component for things such as member cities' school events. LMCC also provides services for people to produce their own programs.

Mayor Kind stated if a larger LMCC member city pulls out there will be a smaller pool of funding, if the LMCC even survives. She asked Councilmember Fletcher is he is concerned that if that happens then the LMCC may not survive.

Councilmember Fletcher noted that the joint powers agreement between the LMCC member cities stipulates that a member city cannot pull out unless there is a very good reason. He stated the LMCC members cities have indicated they get good service; therefore, there would not be good cause. Mayor Kind commented that cause could be lack of coverage area.

Mayor Kind asked if it would behoove the LMCC to reinvent itself to possibly rebate some of the franchise fees or PEG fees back to the member cities so they stay part of the consortium.

Councilmember Fletcher stated each LMCC member city needs to decide what services are important to them. He then stated the LMCC provides a great level of service; better than many larger communications commission organizations. He encouraged the Councilmembers to give some thought to that because he was confident it is going to come up in the future.

Mayor Kind stated from her perspective she thinks it is important to keep the LMCC because she cannot envision Greenwood being able to have council meetings televised for \$10,000 annually. That is the primary service that needs to be provided. Councilmember Fletcher asked Kind how important she thought election coverage is. Kind responded that is not as important to her in reference to having the candidate statements.

Councilmember Quam agreed that it is important to televise council meetings.

In response to a number of queries by Councilmember Fletcher Mayor Kind responded as follows. Kind stated she did think televising election forums for contested City council races is important. She did not think it was important to televise forums for state races. She thought allowing the studio to be used by people to create their own programs is okay provided the user pays for it. There was not any disagreement with Kind's perspectives.

C. Kind: Police, Administration, Mayor Meetings, Website

With regard to the South Lake Minnetonka Police Department (SLMPD), Mayor Kind stated she is attending the SLMPD Citizens Police Academy. Rob Roy, who is running unopposed for an open council seat, is also attending. She finds the Academy to be very informative. She went on a 4-hour ride along. She then stated she is attending a course on October 4 at the Bloomington city Hall hosted by the League of Minnesota Cities titled Police Leadership and the New Normal. She said SLMPD Chief Litsey Litsey and a few SLMPD officers will attend the course when it is held in White Bear Lake.

With regard to administration, Kind explained the Fall Sales Ratio meeting with the assessors is scheduled for 4:00 P.M. on October 25. The date should already be on Council's calendar. Kind and Councilmember Fletcher are planning on attending.

With regard to mayor meetings, Kind stated there have not been any since the last Council meeting.

With regard to the city website, Kind stated it continues to have strong use with over 2,500 hits in the last month.

D. Page: Lake Minnetonka Conservation District

Councilmember Page reported on significant Lake Minnetonka Conservation District (LMCD) activities. He stated the subcommittee of the LMCD Aquatic Invasive Species (AIS) Task Force has completed its proposed Lake Minnetonka Lake-Wide Vegetation Management Plan. It will be presented to the full AIS Task Force on October 12 at 8:30 A.M. and then to the full LMCD Board in late October.

Page noted that when Mayor Kind wrote a letter on behalf of the Council dated September 7, 2012, to the LMCD expressing Council's support for the proposed plan for the reconstruction and reconfiguration of the docks at Bean's Greenwood Marina an application had not been submitted to the LMCD. An application still has not been submitted. He stated that he has learned a lot about that situation that was not presented by Aaron Bean when he came before Council during its September 5 meeting to ask Council for its support. He suggested that in the future Council only comment on applications submitted to the LMCD. Kind stated she could contact Mr. Bean and tell him that if there are any substantial changes to the plans he reviewed with Council then Council would like to be informed of what they are. Page suggested waiting until an application has been submitted to the LMCD.

With regard to bow fishing, Page explained there had been discussion by the LMCD Board about whether or not to exempt certain municipalities from the start with regard to the proposed ordinance. A decision was made to send it to all LMCD member cities as a uniform ordinance. He then explained there was discussion about the lighting on bow fishing boats. The lights are set up to light up a lot of water. There was some concern that the lighting is not restricted by the State Statute. The Board's preference is have some restrictions about lighting and it discussed that in in length. The proposed ordinance had a timeframe which he thought was two hours after sunset and one hour before sunrise where there were certain restrictions. He noted that bow fishing occurs in shallow waters. He also noted that bow fisherpersons do not want restrictions that are stricter than the State of Minnesota's. He stated Council had indicated it did not want tighter restrictions than State Statute. He clarified that he did not articulate that during the Board discussion.

Page stated that during the LMCD Board meeting he learned that the Minnehaha Creek Watershed District (MCWD) is stepping up its plans for invasive species control involving Lake Minnetonka and some of the surrounding lakes. The MCWD is talking about having an interim plan and allocating some funding to it. The MCWD's policy to date has been to take a couple of years to develop a MCWD-wide invasive species management plan and had not intended to contribute on a smaller level to Lake Minnetonka and the surrounding lakes. The MCWD representatives talked about \$250,000 being allocated from the MCWD budget but only if a plan comes together.

Mayor Kind noted that the MCWD has a grant program for invasive species for watercraft inspections. Zoning Administrator/Clerk Karpas stated it was for at launches and the grant is a matching grant.

Councilmember Page stated the MCWD provided \$6,000-7,000 last year as educational funds. At that time the MCWD did not have the authority to contribute funding to inspections. He then stated there is some talk afloat about the possibility of the MCWD providing funding again. He noted there is an MCWD representative on the LMCD AIS Task Force subcommittee.

Councilmember Fletcher stated it is his recollection that former Councilmember Rose (who is a bow fisherperson) thought some of the changes proposed by the LMCD were reasonable. He noted that he was okay with the changes the LMCD was considering.

Mayor Kind noted that she does not want to be a lot more restrictive than State Statute because she thinks there is a value in reducing the amount of rough fish in Lake Minnetonka.

Councilmember Page stated he does not think there is enough appreciation for the number of rough fish bow fisherpersons will harvest out of Lake Minnetonka. One boat can fill up the back of a pickup truck full of carp in one fishing session. He noted there is a cost to net and remove the rough fish in the winter.

Mayor Kind noted she sees bow fisherpersons on Lake Minnetonka during the day as well as the evening.

E. Quam: Roads & Sewer, Minnetonka Community Education

Councilmember Quam stated Council already discussed sewers. The roadway project is complete. The project came in over the bid amount because of enhancements and changes that had to be done but still under budget.

With regard to Minnetonka Community Education, Quam stated there is nothing new to report.

Mayor Kind noted that Council is going to continue its work session held just prior to this meeting.

10. ADJOURNMENT

Quam moved, Cook seconded, Adjourning the City Council Regular Meeting of October 3, 2012, at 8:40 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder