

**GREENWOOD CITY COUNCIL MEETING**  
**Wednesday, November 7, 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 7:00 P.M.

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

Others Present: City Attorney Kelly (arrived at 7:31 P.M. and departed at 8:30 P.M.), City Zoning Administrator/City Clerk Karpas, City Engineer Martini (departed the meeting at 7:39 P.M.)

Members Absent: None

Councilmember Fletcher asked that Item 7.A be discussed after Item 4.B on the agenda because the applicant is already here.

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

**2. CONSENT AGENDA**

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

- A. October 3, 2012, City Council Work Session Minutes**
- B. October 3, 2012, City Council Meeting Minutes**
- C. September 2012 Cash Summary Report**
- D. October 2012 Verifieds, Check Register, Electronic Fund Transfers**
- E. November 2012 Payroll Register**

**Motion passed 5/0.**

**3. MATTERS FROM THE FLOOR**

None.

**4. PRESENTATIONS, GUESTS & ANNOUNCEMENTS**

- A. South Lake Minnetonka Police Department Quarterly Update**

Mayor Kind noted South Lake Minnetonka Police Department (SLMPD) Lieutenant Dave Pierson is present this evening to provide Council with a SLMPD quarterly update.

Lieutenant Pierson noted SLMPD Patrol Officer Denis Hansen, the coordinator of the SLMPD's Reserve Unit, is also present this evening. He explained the reserve unit is made up of private citizens and they are residents from the SLMPD as well as other communities. Hansen was a member of the SLMPD's Reserve Unit before he became a patrol officer, as was Pierson.

Officer Hansen explained SLMPD reserve officers are unpaid volunteers. One is a resident of Greenwood. Some of the reserve officers' responsibilities include assisting licensed patrol officers (including riding along with them), providing assistance at community events (e.g. crowd control), assisting with traffic control, conducting house checks, providing assistance with booking detainees (reserve officers are all trained in finger printing) and so forth. There are openings in the Reserve Unit. Some reserve officers just want to volunteer in the community. Others are planning to enter the law enforcement profession. Some of the qualifications for becoming a reserve officer include: being at least 19 years of age; being in good physical condition; possessing a valid driver's license; never having been convicted of a felony or gross misdemeanor; passing an oral examination; and, passing a background investigation. Reserve officers must give 120 hours of volunteer time each year. Reserve officers are trained in use of force and in how to use a Taser. They do not carry a weapon because they are unlicensed officers. The SLMPD has a paging system for reserve officers. The SLMPD's Reserve Unit has been in existing for more than 30 years.

Councilmember Page asked Officer Hansen what legal authority reserve officers have being they are not a peace officer. Do they have the same authority as any other citizen when it comes to things such as making an arrest? Hansen explained a licensed peace officer handles any arrest situations. Reserve officers cannot issue citations.

Councilmember Quam asked if the officers down at the dock are reserve officers. Officer Hansen stated they typically are, while noting park service officers are also used for that. Some park service officers are also reserve officers. The park service officers are paid.

Mayor Kind noted Council had been forwarded information about year-to-date offenses and calls in the City.

Councilmember Fletcher asked if there is anything to be concerned about based on that information. Lieutenant Pierson stated he does not see any trends with regard to burglaries or major crimes. Fletcher then asked if there is anything the City should be doing differently. Pierson stated he cannot think of anything, and noted that the types of crimes in Greenwood are consistent with other communities.

Lieutenant Pierson stated the SLMPD appreciates receiving calls about suspicious people or activities. And he encourages residents to call.

In response to a question from Councilmember Fletcher, Lieutenant Pierson stated the types of calls received from Greenwood residents are no different than in the other three SLMPD member cities or other surrounding communities.

Councilmember Fletcher stated that he went on a ride along when he participated in the SLMPD Citizens Police Academy in 2011. He became very aware of how beneficial it is to have reserve officers providing assistance to patrol officers. Lieutenant Pierson stated reserve officers provide another set of needed eyes and ears in the patrol cars.

Mayor Kind thanked Lieutenant Pierson and Officer Hansen for coming this evening.

**B. Update on Excelsior Boulevard Watermain and Sidewalk Projects**

**1. Support of Concept for Excelsior/Shorewood Watermain Interconnection Through Greenwood**

Engineer Martini stated he continues to work on the project to possibly extend watermain along Excelsior Boulevard. Over the last month Martini and Councilmembers Cook and Fletcher have been meeting with representatives from the Cities of Excelsior and Shorewood to discuss how the project the Greenwood is considering to extend Excelsior watermain along Excelsior Boulevard would tie into the potential Excelsior and Shorewood interconnect project (which requires watermain being installed along Excelsior Boulevard in Greenwood). A draft feasibility study report has been prepared to potentially extend watermain to the residents in Greenwood along Excelsior Boulevard who petitioned for municipal water service. The draft feasibility report was presented to the Planning Commission during its October 17, 2012 meeting. The Commission considered the report from the perspective of compliance with the City's Comprehensive (Comp) Plan. The Commission determined there would not be an issue.

Martini noted the meeting packet contains a copy of an email dated October 18, 2012, sent by him outlining two options identified by him and Councilmembers Cook and Fletcher based on their meeting with representatives from Excelsior and Shorewood. He then noted the Metropolitan (Met) Council has adjusted its schedule for finalizing the scope of its Force Main Upgrade Project to accommodate the three Cities deciding on what they would like to do with regard to potential watermain expansion and interconnection. He explained that the Met Council hopes to finalize its plans and advertise for the project in February 2013 and to start construction in May 2013. He noted the meeting a packet contains a copy of a preliminary schedule identifying milestones including when decisions need to be made about extending watermain.

Councilmember Fletcher stated he spoke with Excelsior City Manager Luger earlier in the day and learned that the Excelsior City Council is going to be discussing the potential interconnect project during its November 19, 2012 work session. It's his understanding that Excelsior's engineer has told the Excelsior Council it has to decide what it wants to do.

Engineer Martini noted the three Cities have received the 90-percent-complete plan from the Met Council for what it wants to do. Staff is in the process of reviewing that plan to ensure there is consistency with what the City may want to do. The current plan shows watermain being extended to the properties of the owners who petitioned for water service. It also shows an option to extend watermain through Greenwood. The scope of the effort can be downsized once the bids are received.

Mayor Kind explained that when the meeting packet was being prepared there was discussion that it may be helpful for Council to consider a motion which would express its support for the concept of the Excelsior and Shorewood interconnect project. She asked the other Councilmembers if they think it would be helpful to take a position on that.

Engineer Martini stated that in the past there has been discussion that if watermain is ultimately extended through Greenwood it would make sense to provide water service for future connections. That would involve properties that are not asking for water service at this time. He then stated it is up to Excelsior and Shorewood to decide if they want to interconnect their water systems. It would be prudent for Greenwood to have a plan for what it wants to do if that connection is made.

Mayor Kind stated she thinks the council should consider acting as a body because the memorandum reflects the recommendations of Engineer Martini and Councilmembers Cook and Fletcher. She suggested that full Council should consider endorsing what is being proposed.

Councilmember Page asked if the potential sidewalk would be on the south side of Excelsior Boulevard near the cemetery property. Engineer Martini responded it would be on the south side. Martini explained the intent would be to have concrete curb and gutter on both sides of Excelsior Boulevard and there would be a new trail behind the curb along the south side of the roadway. Page then asked which agency is taking the lead on the terrible drainage issues in that area. Martini explained he and a drainage expert with Bolton & Menk went to look at the area and met with a couple of property owners in that area to enhance their understanding of the residents' concerns and the existing problems. He also walked the area with Councilmember Quam and with representatives from Met Council. The intent is to control the stormwater and direct its flow with curb and gutter. There is no plan to add storm sewer or do extensive repairs in that area. Page went on to ask who is reconstructing the roadway. Mayor Kind explained the Met Council will be contracting for that. Martini noted that he is making sure that addressing stormwater control is included in the Met Council's plans.

Councilmember Quam noted the engineers from Met Council have been out to that area twice to gain an understanding of how to address the stormwater issue. He also noted there is no sidewalk now alongside of the cemetery; that would be added. He clarified that when Engineer Martini said the watermain would be extended throughout Greenwood he means along Excelsior Boulevard only, not the entire city.

Councilmember Cook stated there is some Excelsior watermain installed in Greenwood. He asked if Greenwood has an agreement with Excelsior regarding locating those Excelsior facilities in Greenwood's right-of-way (ROW). He recommended the City be prepared to amend an existing agreement or craft a new agreement if watermain is to be extended in Greenwood. He asked someone to research if there is an existing agreement and to determine what needs to be done regarding future agreements. Councilmember Quam stated he assumed there must be an agreement for watermain that is currently installed in Greenwood.

Cook then stated from his vantage point the interconnection being considered is essentially for the benefit of Excelsior and Shorewood. Council has to decide if this would be an assessment arrangement or a resident project and if the watermain would be extended partially down Excelsior Boulevard or all the way along Excelsior Boulevard in Greenwood. He thought a motion of support for the interconnect project would be premature at this time. Councilmember Quam agreed with Cook's statement. Cook stated that support would be appropriate after Excelsior and Shorewood decide what they want to do.

Engineer Martini stated based on past conversations it's his understanding that Greenwood has no interest in promoting the extension of watermain for that interconnection. Rather, the City needs to think about what it would want to do in the future if that is done.

Mayor Kind noted that for the City to manage to the timeline Excelsior needs to make its decision about what it wants to do by November 28. She asked that be communicated to Excelsior staff. Engineer Martini stated that one of the reasons for sending the email is to put this back into Excelsior's court. Martini noted that the extension of the watermain in Greenwood would never be more feasible than doing it in conjunction with the Met Council project.

Mayor Kind stated this evening Council could via motion endorse its support for the concept that Engineer Martini and Councilmembers Cook and Fletcher have presented. Councilmember Fletcher stated he would find that helpful. Councilmember Quam asked if it is necessary to pass a motion. Kind stated

there needs to be some understanding of Council's position on this. Kind noted she is in support of the concept and therefore there are three Councilmembers that agree with the concept.

Councilmember Quam stated he thought it would be better if the Greenwood waits for Excelsior and Shorewood to say they want to do the interconnect project.

Engineer Martini stated he understands there to be Council support for the concept he and Councilmembers Cook and Fletcher presented. He then stated the intent was for that to be a framework for a future agreement. It does not commit Greenwood to anything at this time. He asked Councilmember Fletcher to continue his communications with Excelsior staff. He stated he will pass the information on to the other engineers involved with this at Bolton & Menk.

Councilmember Fletcher noted he does not hear any disagreement from Councilmembers about the concept presented.

## **2. Sidewalk Plan Options**

Councilmember Fletcher stated he and Engineer Martini walked the area for the proposed sidewalk and determined it was not feasible to have a boulevard between the sidewalk and the roadway.

Engineer Martini stated starting at the west limits of Greenwood and going to the east through Christmas Lake Road there is an opportunity and room to construct an eight-foot-wide sidewalk. At the start of the hill the landscaping gets really close to the roadway and the ditch is pretty narrow; therefore, what is feasible is limited with regard to expanding the trail. The intent is to make the sidewalk as wide as possible, especially through the intersection, and then it would become narrower (close to its current width) as it goes up the hill. There will be a recommendation to relocate poles that are located in the current trail, and to do some landscape trimming.

Mayor Kind asked if Council will have an opportunity to see the plan for the walkway. Engineer Martini stated he can forward a copy of the plan to Council. Kind asked if that means there already is a plan with the Met Council. Martini stated it is the 90-percent-complete plan. Kind suggested Martini email the portion of the plan affecting Greenwood to Zoning Administrator/Clerk Karpas and he can then forward it on to Council.

Engineer Martini departed the meeting at 7:39 P.M.

Discussion moved to Item 7.A on the agenda.

## **C. Assessor Sales Ratio Meeting Update**

This was discussed after Item 7.A.

Mayor Kind stated she and Councilmember Fletcher attended the fall sales ratio study meeting with the assessors on October 25. She noted the meeting packet contains a copy of the Fall Residential Direct Ratio Study reports. She explained the study indicates the assessed values for offshore residential properties decreased slightly for 2013. The assessed values are based on four sales of residential properties and the amounts decreased 3.36 percent. The assessed values for residential properties that front Lake Minnetonka went down significantly. The assessed values are based on eight sales of residential lakefront properties and the amounts decreased 18.66 percent. The assessed values for condominiums remained about the same. The assessed values are based on the sale of one condominium

and the amount increased 0.96 percent. She distributed a copy of the actual study which she received from the assessor earlier in the day. She explained there were a couple of sales that occurred after the attending the October 25 meeting. That changed the median for residential lakeshore properties to 102.47 percent.

Kind explained the Assessment Growth Report (a copy of which is included in the meeting packet) which is for the last 11 years indicates Greenwood is number one in residential lakeshore assessment growth when compared to 12 other cities that have properties that front Lake Minnetonka. Greenwood's growth is 71.8 percent. The average growth for the other South Lake area Cities of Deephaven, Excelsior, Shorewood and Tonka Bay is 48.4 percent; a difference of 23.4 percent. She noted she told the assessor that Greenwood is a great place to live, but she did not think it is that much better than the neighboring cities. She explained 15.8 percent of the 23.4 percent was based on very few sales. This year there were 10 sales. The City will be working with the assessor to ensure the growth appropriately reflects a lower growth rate.

Councilmember Fletcher clarified the City does not control what the assessor does in terms of assessment. He stated he hoped that by showing interest and concern it would lead to changes.

Attorney Kelly stated the public does not distinguish whether a house is located in any particular South Lake city. From his vantage point when a person is shopping for property in the area they are shopping in the entire South Lake area.

Mayor Kind stated the City will continue to show interest in assessments and hopefully that will narrow the growth gap between Greenwood and the other cities in the South Lake area.

**D. Election Canvassing Meeting, 6:00 P.M., Tuesday November 13, 2012**

Mayor Kind noted that the 2012 Election Canvassing meeting is scheduled for November 13, 2012, at 6:00 P.M. The date has been changed because the original date was the Veterans Day holiday.

**5. PUBLIC HEARING**

**A. None**

**6. UNFINISHED BUSINESS**

**A. Sanitary Sewer Discharge Program Report and Next Steps**

Mayor Kind explained the sanitary sewer discharge program has been an ongoing project for Council and Staff. The City is attempting to reduce excess flow into its sanitary sewer system. Two mailings have been sent out to residents. The second mailing was sent to 54 properties. The City has still not received sanitary sewer discharge certification forms for 20 properties. Zoning Administrator/Clerk Karpas noted the City has received a couple more since the meeting packet information was prepared. Kind noted she could not find the addresses for a couple of them. Kind explained the information in the meeting packet contains two possible motions for Council's consideration. The basic difference between them is one directs Zoning Administrator/Clerk Karpas to call the owners of the properties for which the City has not received a certification form back.

Councilmember Fletcher asked Zoning Administrator/Clerk Karpas what his preference is. Karpas stated the number of property owners to call is manageable.

**Fletcher moved, Quam seconded, authorizing the following regarding the City's sanitary sewer discharge program: a) the City Clerk to call each of the owners of the properties that have not returned a sanitary sewer certification discharge form to inform them of the financial consequences for not returning the form, to leave a message if there is no answer, and if there is no known phone number to implement steps b-d; b) the City's utility billing clerk to add the "Sanitary Sewer Non-Compliance Surcharge" (\$300 residential, \$750 commercial) to the next utility bill for the properties that did not return the sewer certification form, and to include copies of the certification letter and form in the bills with an additional letter stating that the surcharge fee will be removed from future bills once the property owner certifies that there is no existing connection; c) the City's utility billing clerk to have discretion to waive the surcharge fee for new homeowners who return the completed certification form with their utility bill payment; and, d) the City's utility billing clerk to have discretion to waive the surcharge fee for someone who claims to have returned the certification form and returns a newly-completed certification form with their utility bill payment.**

Zoning Administrator/Clerk Karpas explained there are a number of property owners who would like an inspection because they do not know if their sump pump is connected to the sanitary sewer system. Councilmember Quam then asked how many need to be connected to negatively impact the flow. Cook had responded 6 are enough to make a huge difference. He noted there are 17 people requesting inspections.

Councilmember Cook explained that one sump pump connected to the sanitary sewer system has the potential of being equivalent to the discharge into the system from 12 – 15 homes.

Zoning Administrator/Clerk Karpas stated the City is trying to reduce excess flow into the system. Councilmember Quam explained the City is fined by Metropolitan Council Environmental Services (MCES) for excess flow into the sanitary sewer system which ultimately flows into the MCES system.

Mayor Kind noted that to date there have been four people who have said they are going to disconnect their sump pump from the sanitary sewer system because of this certification process.

Councilmember Cook stated step d in the motion on the table seems to be incomplete to him. He thought steps c and d are the same thing. Mayor Kind stated step c is for new homeowners and step d is for someone who claims to have returned the form.

Councilmember Page stated Council has given property owners sufficient time to return their sanitary sewer certification discharge forms. He expressed some reluctance to agree to the motion. He noted he wants those who have not returned the forms to clearly understand that they have to submit their forms by the end of this utility billing period or they will be fined.

Councilmember Fletcher expressed his preference to leave the motion as stated.

**Motion passed 5/0.**

Discussion moved to Item 7.B on the agenda.

## **7. NEW BUSINESS**

### **A. Variance Extension, Bob Schmitt Property (License Center)**

This was discussed after Item 4.B on the agenda.

Mayor Kind explained on December 2, 2008, Council adopted Resolution No. 23-08, a resolution approving a variance and conditional use request to develop a commercial parcel of property owned by Robert Schmitt, Jr. at 21550 State Highway 7. Variances expire one year after approval. The reason for expiration dates is to prevent a property owner from claiming that a variance approved decades ago is still valid. Typically cities extend these types of variances. Council approved variance extensions for Mr. Schmitt's property in 2009, 2010 and 2011. The current extension expires on December 2, 2012. Mr. Schmitt has submitted a letter seeking another extension to expire on December 2, 2013.

Councilmember Cook asked what the variances are for.

Robert Schmitt Jr., business address 21550 State Highway 7, stated he is asking for an extension because of these historic economic times which he has no control over. He explained when the variance was first approved there were a number of people interested in putting a retail operation on that site. People have pulled back because of the economy. It does not make sense to invest in the property at this time based on the improvements he would have to make and the rent he would be able to collect. His investors don't want him to jump into something. He noted that when he can make this work it would add to Greenwood's tax base. He explained the variances are for hardcover and signage. He noted that his Deputy Register business on his site is very restricted to where he can be located. If he moves it even a block the State could tell him he does not qualify. He stated he is taking a chance by putting a development on that property. He noted he and his father have had that site for 28 years.

**Page moved, Fletcher seconded, granting a twelve month extension to expire on December 2, 2013, of Resolution No. 23-08 a Conditional Use Permit and Variance for Robert C. Smith Jr. for the real property located at 21550 State Highway 7, Greenwood, Minnesota (PID No. 35-117-23-12-0016), with the understanding that no further extension will be granted and further development similar to those outlined in Resolution No. 23-08 will require the property owner to resubmit the necessary applications.**

Councilmember Quam asked Councilmember Page why he wants to make this the last extension. Page responded this has already been extended three times; this will be the fourth time. Page noted he is aware that Mr. Schmitt has put a lot of money into the site, and that some of the ordinances have changed. He stated either the financing will work out over the next twelve months or it is time to reassess especially when this Council can't remember what the variances are for. Quam noted the original paper work can always be found in the file.

Mr. Schmitt stated the times are different than what they were when the variances were originally approved. He then stated based on what Zoning Administrator/Clerk Karpas has told him if he lets this go he cannot get them again. Mayor Kind clarified that he could reapply. Karpas noted that the hardship criterion has actually been relaxed to a "practical difficulty" standard. Mr. Schmitt questioned what the harm would be in extending this annually. He stated he wants to develop the site and that would generate additional tax revenue for the City. He then stated he has other investors and none want to build something only to lose it all. He noted that there are many buildings for lease along Highway 7.

Mayor Kind asked Mr. Schmitt if he is actively trying to market the site. Mr. Schmitt responded he is.

Councilmember Fletcher stated he could not find the subject property on the Minnesota Association of Commercial Relators' website. He explained the property should be listed on that website if the intent is to market the property. He then explained the reason he seconded the motion is because he does not see any evidence that is being actively marketed.

In response to a comment from Councilmember Cook, Mayor Kind explained the billboards would only be taken down if Mr. Schmitt builds a new development.

Councilmember Quam questioned the need to limit this renewal to one more time. Mayor Kind stated the best reason she can think of is it will put an emphasis on getting it done. Quam noted Mr. Schmitt's financial dealings are not the City's business.

Councilmember Fletcher reaffirmed his support for the motion on the table.

**Motion passed 3/2 with Cook and Kind dissenting.**

Councilmember Quam noted Council can consider extending it another year in 2013.

Mayor Kind informed Mr. Schmitt that he has been put on notice that the variances may not be renewed again in 2013.

Discussion returned to Item 4.C on the agenda.

**B. Variance Requests, Chip and Kathy Fischer, 5185 Greenwood Circle (setback, hardcover, and structure volume variances to remove and rebuild an existing legal nonconforming home and existing legal nonconforming lakeside accessory structure)**

This was discussed after Item 6.A on the agenda.

Mayor Kind stated Chip and Kathy Fisher, 5185 Greenwood Circle, are requesting setback, hardcover and structure volume variances to remove and rebuild an existing legal nonconforming home and an existing nonconforming lakeside accessory structure.

Zoning Administrator/Clerk Karpas explained the applicant is requesting variances to remove an existing nonconforming single family home on the property located at 5185 Greenwood Circle and construct a new single family home which would encroach into required front and east side yard setbacks, and exceed the maximum permitted impervious surface and the maximum structure volume. The applicant also proposes to reconstruct an existing nonconforming lakeside accessory structure within the required lake and west side yard setbacks. The existing house encroaches 14 feet into the required 15-foot east side yard setback. The applicants would increase that setback from 1 foot to 6 feet requiring a variance of 9 feet. The existing house encroaches 28 feet into the required 30-foot front yard setback. That setback would be doubled to 4 feet requiring a variance of 26 feet of the front yard setback. The current west side yard setback is 2 feet 6 inches. The applicant is proposing a setback of 15 feet which would be within the City Code. The current lake yard setback is 39 feet. The applicant proposes to comply with the setback of 50 feet. The plan shows a 30-inch cantilever off of the balcony. The overall height of the proposed structure is 31 feet and that is in compliance with the ordinance. The current impervious surface is 31.7 percent and it is proposed to be increased to 36.3 percent. That requires a variance of 6.3 percent. The applicant is permitted a structure volume of 32,390 cubic feet. They are proposing a structure volume of 34,946 cubic feet; a variance of 2,556 cubic feet.

Karpas then explained this is a second generation plan. The applicant originally came before the Planning Commission with a different plan that also sought a variance of the lake yard setback to maintain a setback of the existing house. It sought a greater volume request which included an increase in height of

the existing boat house. The Planning Commission told the applicant to rework the plan. They submitted a revised plan which the Commission did discuss. He noted the meeting packet contains the verbiage of the Commission's action as well as a copy of the Planning Commission meeting minutes when the revised plan was discussed.

Councilmember Page asked if Planning Commissioner Beal was in attendance when the Commission discussed this. Zoning Administrator/Clerk Karpas stated he was present for the discussion about the original plan but not for the revised plan. Karpas noted that Beal worked very closely with the architect on the structure volume calculations after the original submittal. Mayor Kind noted that she spoke with Beal about this and his perspective was that because of the drastic drop-off so much of the home that would normally be considered basement is considered above grade because of the drop-off. Beal thought some slack should be granted. Councilmember Fletcher stated he was the Council liaison to the Commission meeting when the original plan was discussed and based on the revised plan he thought Beal's concerns with the original plan had been addressed in the revised plan.

Councilmember Quam asked what the differences were between the original plan and the revised plan. Zoning Administrator/Clerk Karpas stated the structure volume was reduced by over 3,000 square feet. The lake yard setback was increased by 11 feet not counting the balcony cantilever. The structure was moved closer to the street. The height of the new boathouse would be consistent with the height of the existing boathouse.

Mayor Kind noted the front yard setback is proposed to be improved by 2 feet, the east side yard setback is proposed to be improved by 5 feet and that the overall height of 31 feet is well below the allowable 42 feet. The 31 foot height does not include the chimney. She explained the accessory nonconforming structure is legal so by state law the applicant is allowed to rebuild the structure but they cannot expand it.

Councilmember Page asked if the chimney is supposed to count in the overall height per the City Ordinance. Mayor Kind stated the chimney is allowed to go 5 feet above the roofline.

Mayor Kind stated the City Ordinance states cantilevers and balcony overhangs are allowed in front or rear yards but not side or lake yards. Therefore, two additional variances would be needed for encroachment into the side yard and the lake yard. Attorney Kelly stated the City has always allowed for stoops and certain side yard amenities, but the concept of a cantilevered deck has not been addressed in the City Ordinance. Kelly encouraged Council to address it directly, while expressing caution that it could set a precedent. Kind noted that it does count as hardcover and that it was included in the hardcover calculations. Kelly asked if it is distinctive to have a cantilevered item versus one with posts. Kind stated that traditionally if the Ordinance is silent on something it means that it is not allowed. Councilmember Fletcher stated another way of looking at it is the structure, even with the overhang in front, is still improving the lake side setback and with the bump out on the west side it is still improving the setback from 2.5 feet to 13 feet. Kind asked if that needs to be added to the list of variances or if it allowed by Code. Kelly asked if Council was ready to amend the code to allow for cantilevered projections of less than a to-be-determined size. Kind clarified she does not have an objection to the cantilevers; the question is whether or not it encroaches into the setback.

In response to a comment from Mayor Kind, Attorney Kelly stated a bay window is allowed in the Code within a certain distance. Kind stated it is allowed in front and rear yards but it is silent on side yards.

Councilmember Fletcher stated that given the applicant is going to improve setbacks he did not think approving this would be setting a precedent.

Mayor Kind stated she wants to be clear about what variances are required. From her vantage point the cantilevers encroach into the west side yard setback and into the lake side setback.

Attorney Kelly noted that in the Carlson matter setbacks were measured from the projection of the fireplace cantilever. Mayor Kind stated therefore the cantilevers for the Fisher plan should be measured the same way. Kelly agreed that the cantilever measurements should be from the edge of the projection.

Chip Fisher, 5185 Greenwood Circle, asked the Councilmembers how many of them had the opportunity to go and walk their property. He stated it is impossible to build on the site without being granted various variances. He noted they have been speaking with Zoning Administrator/Clerk Karpas for 5 to 6 months about their proposed project as well as with the Planning Commission. He then stated the biggest issue the Commission had with their original proposal was the structure volume issue. He noted there is no way to build a house on their property without a variance for structure volume that would be economically practical.

Ms. Fisher explained the City Code addresses practical difficulties a lot like theirs has. There are a number of practical difficulties as it relates to meeting the restrictions. The property itself is less than 6,500 square feet and that is significantly below what the City Ordinance requires for minimum lot size. He noted the high water table prevents having a basement. Therefore, almost the entire house has to be built above grade which results in everything counting toward structure volume. He explained the elevation drops dramatically from the street level to the flat part of the property near the lake.

Mr. Fisher then explained the Ordinance made it very clear that the intent of the Ordinance is to ensure a wise use in development of the neighborhood that is impacted. The Ordinance talks about using general uniformity in the scale of houses. It refers to mansionization and states mansionization that threatens to substantially and negatively alter the appearances and general character of the existing neighborhood. It states it wants homes that will be in scale with the existing homes. They propose a 2,400 square foot house which would clearly be the smallest house in the neighborhood. It is estimated that 8 out of 9 houses in the area have larger cubic volume than theirs and 7 out of 9 of the properties in the area have more hardcover percentage than theirs. He stated in this instance there is the opposite of mansionization. Their house is actually getting to the point that it is too small for the neighborhood. If it was any smaller it would have a negative impact on the neighborhood and the mansionization provision is intended to prevent that.

Mr. Fisher stated he and Kathy and their architect have worked hard at coming up with what they believe is a reasonable plan that will work on their property and that they can live with. He noted that the architect, various builders and relators have indicated that a smaller house will not fit in with the character of the neighborhood and it would not be an economically feasible investment.

Councilmember Quam asked how the structure volume was reduced between the first and second proposals. Mr. Fisher explained the house has a flat roof over the garage. The original roofline went all the way over the garage which allowed for much needed storage space. That is gone in the plan being considered. The footprint was shortened resulting in rooms being smaller. The 39-foot setback from the lake was moved back 11 feet.

Councilmember Fletcher stated the main bedroom upstairs was larger in the original proposal.

Mr. Fisher stated the house in the original design had approximately 3,000 square feet of living space. The house in this plan will have 2,400 square feet.

In response to a question from Mayor Kind, Rehn Hassell, with Yunker Associates, Inc. and the architect for the Fishers, stated the chimney on the proposed house would be approximately 3 feet higher than the ridge. Kind noted that would be well within Code. Kind then asked Mr. Hassell to confirm that the proposed plan for the lakeside structure is to build it with the same footprint and height as the current accessory structure. Mr. Hassell confirmed that.

Mr. Hassell noted the Planning Commission encouraged him and the Fishers to get closer to the structure volume restriction. He explained the only way they could do that was to shorten the house and take the storage space out above the garage. Small things were done all over. For example, the original plan had larger gables and they were clipped off in the revised plan. He stated the balcony cantilever issue is his misinterpretation because he took the lake side yard to be the rear yard.

Mayor Kind noted the setback would count from that overhang then, but it would still be farther back than today.

Mr. Hassell stated the provision in the ordinance for overhanging eaves and gutters was used for the side yard setback. That was a little vague. He explained because of the effort to keep the house so narrow that feature on the side is very important to the design of the house.

Mayor Kind stated that philosophically she does not have an issue with either of the cantilevers because there is no hardcover below them. But, they would technically require a variance into the lake side and side yard setbacks.

Mayor Kind stated when she went to the site it was apparent that it would be easy to park a car on the driveway because there is a wide unpaved right of way boulevard that allows for a longer driveway.

Mr. Hassell stated the existing garage is a one-stall garage. The proposed wider garage will be farther back than the current garage.

Mayor Kind explained there is currently an area that has gravel on it and gravel counts as hardcover. The area is in the in the City's right-of-way (ROW). The City Ordinance does require the adjacent property to landscape with planting materials. She asked if the applicant would be open to have that area landscaped rather than be gravel. Mr. Fisher stated they would prefer it be landscaped. Councilmember Page noted that is where people are parking before they go down to the boat slips. Kind said they can park on the street. Page stated that is not how they do it now and he wants the gravel to remain so people can continue to park there, noting the road is narrow and there is no shoulder on the other side of the road. That is why it was done. Zoning Administrator/Clerk Karpas noted that public parking is only on that side of the street.

Mayor Kind explained City Code Section 1140.60 Regulations on Screening, Landscaping, Lighting, Storage and Outdoor Displays Subd. 2.A states "*Landscaping Required. Within all zoning districts, exposed ground areas surrounding a principal or accessory use including street boulevards which are not devoted to drives, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees, or other ornamental landscaping material.*" Councilmember Cook stated he thought parking could be one of the other uses.

Councilmember Fletcher stated he did not think the landscaping would hold up very well in that area because people will likely park on it. Councilmember Page stated people go over the curb to allow more room for traffic on the street.

Mayor Kind stated her reading of the City Code is that area needs to be landscaped.

Mr. Fisher noted there is a tree in that area of City ROW that is dead and needs to be removed. Mayor Kind noted the City will have that tree removed.

Councilmember Page stated the retaining wall on the Fishers plan appears to go into the ROW. Mayor Kind stated it is an existing condition.

Bob Newman, 5230 Meadville Street, explained when the City was devising the massing ordinance it was a very complex issue. The then council struggled with how to make it fair for the smaller lots. The curve it drew for what the volume measurement should be was almost parabolic based on the size of the lot. It increased greatly in the smaller lots. The then council could not come to a consensus on what the volume should be for the smaller lots. Back then there was a sense that over time it would play out as to what was practical and appropriate.

Mr. Newman then explained that Mr. Steussi submitted something to the neighbors which stated that so much of the City Ordinance is centered around the minimum lot size of 15,000 square feet. He noted that many lots are larger than that and many are smaller. He stated to impose the same setbacks on lots smaller than 15,000 square feet seems onerous in some cases. He explained that in the past the smaller lot variance requests were considered from the perspective of what would be reasonable, what would be consistent with past actions that would not set precedent for the future and would fit in with the neighborhood. That opens the door widely for opinionated taste type decisions. He stated it would be most appropriate if ordinances could be adjusted to be less flexible (more clearly defined) so variances of the magnitude of the Fishers' requests are not required. He then stated if 15-foot setbacks are required for 15,000 square foot lots then certainly they must be less than that for smaller lots. Otherwise, it ends up with a very small house in the middle of the lot. If a lot is less than 15,000 square feet and if a property owner abides by all of the setback requirements that to some degree ends up with houses being too small for the size of the lot and the character of Greenwood.

Mr. Newman stated he thought it is an injustice to impose large lot restrictions on small lots. He then stated he thought it is worthy of discussion by Council to assess how to impose different restrictions (e.g., side yard setbacks) based on lot size. The intent would be to allow the houses on small lots to fit in somewhat with the look on larger lots.

In response to a comment from Mr. Newman, Zoning Administrator/Clerk Karpas explained that lowest finished floor elevation has to be three feet above the ordinary high water level. The Fishers' proposed house is at 933.75 and it has to be at 932.4; it is about 1 foot above what is required. The Fishers house will be a slab on grade.

Mr. Newman stated if all of the ordinances are strictly interpreted as they are written for the larger size lots the result is counterproductive for this property. He asked Council to make sure it does not go too far in the wrong direction for this lot.

Councilmember Quam stated Mr. Newman is looking at a broader plan that can be applied in the future. This evening Council has to deal with what is before them. He then stated variances are because things seem unfair for a particular lot. He clarified he is not disagreeing with Mr. Newman's suggestion.

**Mayor Kind recessed the meeting at 8:56 P.M.**

**Mayor Kind reconvened the meeting at 9:10 P.M.**

Councilmember Cook stated he serves as the Council Liaison to the Planning Commission and he expressed his willingness to convey to the Commission the direction Council would like it to take regarding re-evaluating the City Ordinances that could possibly be changed to accommodate smaller lots. He noted that he is in agreement with doing that because he went through a similar process as the Fishers are going through about 10 years ago. He stated he has some thoughts about how to do that, noting he would like to keep it as simple as possible.

Councilmember Cook recommended the lake side setback be 48 feet to avoid having to deal with the issue of the overhang. He stated if the bump-out on the left side is an issue he recommended granting a variance for that as well. He noted that he is personally getting concerned that the house is getting to be too small, and that it will be a problem in the neighborhood if it has to be made any smaller.

Zoning Administrator/Clerk Karpas stated during the election a resident expressed concern to him about construction parking on that narrow street. The resident wanted to know if Council could do anything to control the construction parking. Mayor Kind explained the City has a Construction Management Ordinance and therefore the City can impose some parking requirements. Kind that thought ordinance would cover parking. Karpas stated it does.

**Cook moved, Fletcher seconded, approving the variance application of Chip and Kathy Fischer, 5185 Greenwood Circle, subject to the lake side setback being 48 feet and granting a side yard setback variance encroachment of 2 feet to accommodate the bump out based on the following findings and conditions and directing the City Attorney to prepare findings of fact in resolution form. Findings: a) the variances, if granted, will be in harmony and keeping with the spirit and intent of the zoning ordinance because it maintains the character of the neighborhood; b) the variances, if granted, will be consistent with the comprehensive plan's guiding use for the subject property in the applicable zoning because of the character of the proposed use which is consistent with the applicable zoning; c) the property owner's proposed manner of use of the property is reasonable because the house being proposed is a very modest single-family house and it will be located in a single-family neighborhood; d) the plight of the landowner-applicant is due to property geometry, elevation difference and property dimensions circumstances unique to the property and not created by the landowner; and, e) the variances, if granted, will not alter the essential character of the locality because it is a single family house in a single-family neighborhood.**

**Without objection from the maker, the seconder amended the motion to change "subject to lake side setback being 48 feet and granting a side yard setback variance encroachment of 2 feet to accommodate the bump out" to "subject to approving additional variances to allow a 24-inch overhang on the west side of the first floor and a 30-inch cantilevered balcony on the lake side as shown on the plans submitted with the variance application".**

Councilmember Fletcher stated there is a special Council meeting, the election canvassing meeting, scheduled for November 13, 2012. He asked Attorney Kelly if it would be appropriate to have findings of fact ready for consideration during that meeting or would it be more appropriate to wait to approve findings of fact during Council's regular December 2012 meeting. Kelly stated that could be added to the agenda, and noted that it has to be included in the public notice for the meeting.

Attorney Kelly stated there are also the conditions that the structures be built according to the plans as submitted and that the applicant records the variances of record that need to be added.

**Without objection from the maker or seconder, the motion was amended to include the conditions that the structures be built according to the plans as submitted and that the applicant records the variances of record.**

Mayor Kind proposed amending the motion to add the following conditions: Based on to City Code Section 1140.17 Height Regulations Subd. 2(1) a condition be added to restrict the chimney height to no more than 5 feet above the roofline. Based on City Code Section 1140.60 Regulations on Screening, Landscaping, Lighting, Storage and Outdoor Displays Subd. 2.A a condition be added to remove the existing gravel in the street boulevard and replace it with grass, shrubs, trees or other ornamental landscaping material in order to reduce run-off and noted that plastic sheets and other hardcover may not be used in the street boulevard.

**Without objection from the maker or seconder, the motion was amended to include the condition to restrict the chimney height to no more than 5 feet above the roofline.** Cook and Fletcher did not agree to the additional condition regarding landscaping the boulevard.

Councilmember Quam expressed concern that the restrictions are over-squeezing the size of the proposed structure. He stated the City's massing ordinance was put in place to protect against constructing a great big house in a neighborhood with a bunch of little houses. In this case the majority of houses are mansions. He expressed concern that the City is squeezing the applicant a little too much with regard to the intent and spirit of the massing ordinance. He recommended the applicant be allowed to put the storage area back above the garage. He did not think that would create much of a problem as it relates to the massing factor / structure volume.

Mayor Kind explained she spoke with Planning Commissioner Beal who was one of the "architects" of the massing ordinance. Beal reminded her that the intent when the ordinance was approved was it could be tweaked if in practice it was discovered that it would not work well for smaller lots. She related Beal suggested that for lots of 7,500 square feet or less in size that the massing factor be 6. She explained if a factor of 6 were used for this lot size of 6,478 square feet the mass could be calculated to be 38,868 cubic feet (6478\*6). That is very close to what the applicant originally proposed.

Councilmember Quam stated from his vantage point allowing the roofline to flow over the garage and thereby allow the storage space above the garage would improve the appearance of the proposed house without adding any difficulty to the neighborhood.

Councilmember Page stated his recollection of the massing ordinance is very different, noting he was present for all of the time it was being developed through the Planning Commission and then through the then council. He noted that he has no problem with the setback variances. He does have objection to exceeding the structure volume. He stated the massing ordinance was developed over a long period of time with architectural models. He explained City Code Section 1140.18. Building Volume Structure Limitations Subd. 1 states "... *general uniformity in the scale of houses located on similarly sized lots in neighborhoods throughout the community* ...". He stated from his perspective the aim of the massing ordinance was to ensure that there was adequate green space and to provide a variety of housing in Greenwood. It was not to try and match it up to a particular neighborhood. The objective was to make a break with the prior ordinance and to make houses fit lots; not the neighborhood. He cited the house to the east of the applicants. That house crept over the years by violation and otherwise so it is not a good example of what the City should have in the neighborhood. He stated there are plenty of smaller houses even along the bottom of Greenwood Circle that the proposed house is of comparable size to.

Page noted that he does not think there is any reason not to require the proposed house to meet the massing requirements set forth in the massing ordinance. He then noted that every other application considered since the massing ordinance was approved has met the massing criteria. He stated he thought the applicant should meet the massing criteria. He noted economic practicability does not count when granting variances. He stated the applicant bought their property with the knowledge of what the existing massing ordinance was. The applicant made an economic decision to do that. He did not think Council can agree with the economic argument.

Page stated that when he looks at the front of the proposed house (the lake side of the house) he sees the very thing that the then planning commission and council objected to when the massing ordinance was approved. That was the above grade looking basement, which is in essence what the applicant is claiming. Back when the massing ordinance was being discussed everyone agreed that it did not want the Tonka Bay look in Greenwood. People did not want to allow a lot more structure volume above the grade because people could not have a basement. He stated from his perspective it is a bad look and it negatively impacts surrounding houses, in particular if they are smaller houses. He noted the massing ordinance states that mansionization “... *adversely impacts upon the health, safety, welfare and quality of life in Greenwood ...*” That was already been decided when the ordinance was approved.

Page noted that he is opposed to any variances related to the volume structure cubic feet requirement. Other than that he does not have any complaints about what is being proposed.

Councilmember Quam stated when ordinances are put in place they do not necessarily have to be cast in concrete. If that were the case applicants would not have to come before Council with variance requests. He then stated the applicants will be very short on storage space, other than their small accessory structure (boat house / shed). He clarified that comparing the house to other houses in the neighborhood is not his reason for recommending the roofline be carried across the garage to allow for storage space. He thinks that is an area of the house the applicants need. He noted he does not think it would establish a precedent, while noting anytime a variance is granted it potentially establishes a precedent.

Mayor Kind asked the council how they felt about possibly adding the volume above the garage back.

Councilmember Cook recommended moving on the application before Council as presented.

Councilmember Page stated he would not give the applicant more than they are asking for.

Councilmember Fletcher stated he agrees with Councilmember Cook. He then stated the Planning Commission recommended the applicant to scale back the massing. The applicant did that and the Commission accepted it. He noted that he is fine with the motion on the table.

Councilmember Quam explained that he is not going to vote against the plan being considered, but he did want to have Council give some consideration to restoring the structure volume to what was originally submitted.

**Motion passed 4/1 with Page dissenting.**

Mayor Kind noted that the findings of fact will be considered during Council’s special meeting on November 13, 2012.

Councilmember Fletcher stated that he thought this was the best variance application presentation that he has seen.

**C. First Reading: Ordinance 213 Amending Code Chapters 5 and 7 to Update Fees**

Mayor Kind stated this is the first reading of Ordinance 213, amending Ordinance Code Chapters 5 & 7 to update fees. Council discussed changes to fees during its October 3, 2012, work session. The meeting packet contains a copy of draft Ordinance 213 which is based on the discussion during that work session. It was determined that Hennepin County recommends the amount of assessment penalties Greenwood currently charges, but individual cities have the final authority regarding the amounts. The Cities of Deephaven, Greenwood and Woodland charged 8 percent interest plus \$20 per utility account with the recent assessment for delinquent accounts. Those amounts are similar to what most cities charge. All of the money (including the assessment penalties) comes back to cities. She noted the amendment also adds a provision which states "*Blanket special operating permit holders must pay the additional March 1-May 1 per round trip fee for operation of vehicles in excess of the stated March 1-May 1 weight restriction.*" A few other changes were made to clean up the language in the Code.

**Quam moved, Page seconded, adopting the first reading of Ordinance 213, amending Greenwood Ordinance Code Chapters 5 and 7 to update fees. Motion passed 5/0.**

**D. Draft Ordinance Regarding Impervious Surface Requirements (trading landscaping hardcover for structural hardcover)**

Attorney Kelly noted that he spoke with Mayor Kind about some of his ideas about the draft ordinance regarding impervious surface requirement related to trading landscaping hardcover for structural hardcover. He will be happy to share them with the Planning Commission. He asked to be respectfully excused from the meeting at this time. He departed the meeting at 8:30 P.M.

Mayor Kind explained that during the May 16, 2012, City Council and Planning Commission joint work session an issue was raised regarding trading landscaping for structural hardcover in the issuance of variances. At that time it was decided to have the Commission discuss the issue further and make a recommendation to Council. She noted that this topic has been on Planning Commission agendas since May but the Commission has yet to take up the discussion. To help move that discussion along she along with Attorney Kelly and Zoning Administrator/Clerk Karpas thought it would be helpful to draft an ordinance for the Commission to react to. The meeting packet contains a copy of a draft ordinance for Councilmembers to discuss. If Council agrees with the concept of the draft ordinance the next step would be to send it to the Commission for review and revision, and then return it to Council for a first and second reading. With the goal being to publish the final ordinance in the Sun-Sailor on February 14, 2013, at which time it would go into effect.

Kind noted that at the dais this evening was a document written by Councilmember Fletcher that would expand the scope of this draft ordinance.

Zoning Administrator/Clerk Karpas stated when people are looking to put an addition on their house over existing impervious surface and they are already at 40 percent impervious surface they question why they need a variance to do that. He explained he tries to explain to them it is a different visual and that there is more structure. He noted there will be a variance coming before the Planning Commission this month where the applicant proposes to attach a detached garage to a structure. The applicants say they are not increasing their impervious surface and question why they need a variance. He explained to them there will be more structure. He stated the draft ordinance goes a long way toward addressing replacing nonstructural hardcover with structural hardcover. He noted that he thought it is a good ordinance and that

it is a very good start. He stated it was time to take the position that removing landscaping plastic will not allow people to build structures.

Mayor Kind stated that the City has been gamed before when people put down landscaping plastic over the years and then remove some of the plastic and claim that they are reducing their hardcover when they seek a variance to construct a larger home. Councilmember Quam stated that means people are illegally putting down impervious surface. Kind stated she thought they were unwittingly doing that.

Councilmember Quam noted structure is different from impervious surface. Structure is dealt with in the massing ordinance. Impervious surface is the same whether it be landscaping plastic or run-off from a building. Visual has nothing to do with impervious surfaces. Councilmember Fletcher agreed that massing deals with structure size.

Councilmember Cook stated he has heard of the comment about people gaming the system. In his opinion people are just following the system.

**Cook moved, Page seconded, directing the Planning Commission to discuss and revise as it deems appropriate the draft ordinance regarding variances and impervious surfaces during its upcoming meetings and to return a revised ordinance to Council for a first reading during Council's February 2013 meeting.**

Councilmember Fletcher reviewed the document he distributed earlier this evening expanding the scope of the draft ordinance. He explained Section 5 takes R-2 zoning where 10,000 square foot lots have a 10-foot side yard setback requirement and increases the setback as lots approach 15,000 square feet in size. For every additional 500 square feet of area another 6 inches of setback is required.

Councilmember Page recommending taking action on the motion on the table, noting he does not accept an amendment to his motion.

**Motion passed 5/0.**

Mayor Kind asked Council if it had interest in directing the Planning Commission to consider an ordinance that includes Councilmember Fletcher's suggestions which he distributed.

**Page moved, Cook seconded, referring Councilmember Fletcher's suggestions to the Planning Commission for review and comment based on the same schedule as the previous motion.**

Councilmember Fletcher explained the second suggestion he presented is to increase the hardcover allowance as the size of the lot decreases. The third suggestion is a cleanup item to make commercial impervious surface allowances consistent. He clarified the numbers in his suggestions were intended to start discussion.

**Motion passed 5/0.**

## **8. OTHER BUSINESS**

**A. None**

## **9. COUNCIL REPORTS**

**A. Cook: Planning Commission**

Councilmember Cook explained the Planning Commission spent a great deal of time on the Fishers' request.

**B. Fletcher: Lake Minnetonka Communications Commission, Xcel Energy Project, Excelsior Fire District**

With regard to the Lake Minnetonka Communications Commission (LMCC) activities, Fletcher stated the LMCC is still busy working on the franchise renewal.

With regard to the Xcel Energy Transmission Line Upgrade Project, Fletcher stated the Department of Commerce has gotten an extension until November 9, 2012, to submit its report on findings.

With regard to the Excelsior Fire District (EFD), Fletcher stated EFD Chief Gerber was asked by the State of Minnesota Homeland Security and Emergency Management (HSEM) to be part of a five member Incident Management Team from Minnesota to deploy to the State of Massachusetts for support to their Massachusetts EOC in response and recovery efforts related to Hurricane Sandy. He went on to the State of New York to do the same thing. He then stated he thought that was a good thing in terms of providing support and also in terms of the experience that Gerber gained in the event of a significant emergency here. He noted there are two training sessions scheduled for elected officials all around Lake Minnetonka to discuss NIMS (National Incident Management System), ICS (Incident Command System) and the roles elected officials play in it. One is scheduled for November 20, 2012, and the other for January 30, 2013, at the Long Lake Fire Department Station 1. Gerber will be conducting the training. He also noted there had not been an EFD Board meeting since the last Council meeting. The next meeting is scheduled for November 28, 2012.

Mayor Kind noted that the training is required of elected of officials.

**C. Kind: Police, Administration, Mayors Meetings, Website**

With regard to the South Lake Minnetonka Police Department (SLMPD), Mayor Kind stated she attended a League of Minnesota Cities (LMC) work session titled *Policing and the New Normal*. The main thrust of the session was managing risk by setting policies for law enforcement personnel. Another key point conveyed was psychological training is more important than firearms training. She then stated she is attending the SLMPD Citizens Police Academy.

With regard to administration, Kind stated she attended local board training regarding the assessment process. She noted the local board (city council) can appeal to the Hennepin County Board if it feels there is an injustice in a certain area of the City and that the local board has the authority to add properties to the assessment roll to make changes in valuations even if the property owners did not appeal their valuation.

Kind stated she received an invitation from the Minnehaha Creek Watershed District (MCWD) for the City Council to share its thoughts about a draft stop-gap plan to control aquatic invasive species. The MCWD wants the feedback by November 26. Councilmember Page asked that it be forwarded to all Councilmembers. Kind stated that because Council's next regular meeting is on December 5, 2012, she asked how Council wants to deal with a response. The council decided to discuss this further during Councilman Page's LMCD report.

With regard to mayors meetings, Kind noted she attended a mayors' lunch on October 17. She learned that quite a few of the cities in the school district do not have a civil citation process like Greenwood does. She provided those interested with a copy of the City's ordinance. During the luncheon a question was raised regarding cities having policies about council meeting attendance. Apparently there are a few candidates that ran for office who knew they would be gone during the winter months.

Mayor Kind noted residents can sign up on the City's website to receive email blasts from the City. They are generally done on a monthly basis.

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

Councilmember Page reported on significant Lake Minnetonka Conservation District (LMCD) activities. The LMCD's Lake Vegetation Management Plan has moved from the LMCD Aquatic Invasive Species (AIS) Task Force sub-committee on to the AIS Task Force. The Plan was presented to the LMCD Board during its last meeting. The Board made various suggestions to tweak some of the language. The Bay Captains in attendance at the last Board meeting were not able to provide input because they were not on the agenda for a public hearing. The Captains have since provided feedback in a memorandum. Based on direction from the LMCD Executive Director he directed the memorandum be sent out with the revised Plan to all LMCD Boardmembers. The revised Plan recommended by the AIS Task Force will be discussed by the Board during its November 14 meeting, but it will not be voted on. He thought a public hearing on the Plan was scheduled for December 12.

Mayor Kind asked Councilmember Page if he can provide Council with the copy of the recommended Plan. Page stated he can when he receives the revised recommended Plan.

Councilmember Page stated he thought there are two issues that are up for substantial discussion. One is which agency is going to manage the herbicide treatment if herbicide treatment is done. That was not decided at the AIS Task Force level. He noted the majority of the Task Force members thought the LMCD should be the manager of all AIS management. The LMA takes issue with that because it could potentially be providing the greater portion of the funding, and therefore it should manage it. He stated that is a legitimate discussion point at the Board level. He noted the LMCD Board Chair thinks the LMCD should be the manager, but he does not think there is LMCD Board consensus about that. He stated the second issue is the amount of funding that will be provided by the LMCD. The AIS Task Force recommends the LMCD make \$75,000 available annually for herbicide treatment. That would be new levy money. The Plan recommends to quit fooling around with grants to the Save-the-Lake Fund each year.

Page then stated it is his understanding that the Minnehaha Creek Watershed District (MCWD) wants to develop a plan for AIS management. The MCWD does not want to implement or manage their plan; it wants to help fund it. The MCWD can determine what it wants to allocate when it finds out the LMCD proposes to allocate \$75,000 toward herbicide treatment. The Minnesota Department of Natural Resources (DNR) can also decide what it wants to contribute. He noted this will be a public and private monetary partnership. He explained the LMCD lacks the authority to levy enough to conduct the entire program. He stated he does not think the \$75,000 will cost Greenwood more than \$1,000.

Page explained there are subsidiary issues related to funding. He told the LMCD Board Chair that if the \$75,000 is levied for herbicide treatment it must be spent on that. The Chair supports putting \$75,000 in the budget, but it should include the \$21,000 the DNR has been giving. He noted that he does not support counting on the DNR's money as part of the \$75,000.

Mayor Kind stated that because Council's next regular meeting is on December 5, 2012, she asked how Council wants to deal with a response to the MCWD about the draft ordinance (discussed in her report) by November 26. Councilmember Page suggested having it on the agenda for November 13 special Council meeting (the election canvassing meeting) which starts at 6:00 P.M. Zoning Administrator/Clerk Karpas noted the Woodland City Council has a meeting at 7:00 P.M. that evening, so that the Greenwood special meeting would need to adjourn by 7:00 P.M.

**E. Quam: Roads & Sewer, Minnetonka Community Education**

With regard to Minnetonka Community Education (MCE), Councilmember Quam stated there is nothing special going on at this time.

With regard to roads and sewers, Quam stated the sewer system is working and the roads are plowed.

**10. ADJOURNMENT**

**Page moved, Cook seconded, Adjourning the City Council Regular Meeting of November 7, 2012, at 10:10 P.M. Motion passed 5/0.**

**RESPECTFULLY SUBMITTED,**  
**Christine Freeman, Recorder**