

**GREENWOOD CITY COUNCIL MEETING**  
**Wednesday, June 5, 2013, 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, Quam (departed the meeting at 9:00 P.M) and Roy

Others Present: Attorney Kelly, City Zoning Administrator / City Clerk Karpas and Engineer Martini (departed the meeting at 7:15 P.M.)

Members Absent: None

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

**2. CONSENT AGENDA**

Kind reviewed the items on the consent agenda.

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

- A. **May 1, 2013, City Council Meeting Minutes**
- B. **May 15, 2013, City Council / Planning Commission Joint Work Session Minutes**
- C. **April 2103 Cash Summary Report**
- D. **May Verifieds, Check Register, Electronic Fund Transfers**
- E. **June 2013 Payroll Register**
- F. **Approving ORDINANCE NO. 291, “An Ordinance of the City of Greenwood, Minnesota, Amending Greenwood Ordinance Code Section 320 Regarding Rental Properties.”**

**Motion passed 5/0.**

**3. MATTERS FROM THE FLOOR**

None.

**4. PRESENTATIONS, GUESTS & ANNOUNCEMENTS**

- A. **City Engineer Dave Martini**
  - **2013 Inflow & Infiltration Project Bids**

Martini explained the inflow and infiltration project was started in 2011. The City again applied to the Metropolitan (Met) Council for a Grant from its Municipal Infiltration / Inflow Grant Program. The City has been awarded \$19,728 for repairs it intends to make in 2013. Staff solicited four bids for the 2013 Sanitary Sewer Rehabilitation Project. The City received one bid and it was from Infratech in the amount of \$45,004.88. The engineer's estimate for the project was \$52,522 and he recommended awarding the project to Infratech. He noted he had provided Council with maps of the project area.

Quam asked Martini to explain what inflow / infiltration (I/I) is and why it's a problem.

Martini explained inflow is when water flows directly into the sewer system; for example, from sump pumps hooked directly to drains. There are places where ground water (also referred to as clean water) seeps into the sanitary sewer system and that's called infiltration. The system should keep ground water out. When ground water enters the system it ends up being treated as waste water. The system has to be sized larger to handle the ground water. It's cheaper to operate the system when ground water is kept out of it. The sewage and ground water eventually flow into the Metropolitan (Met) Council's sanitary sewer system. The goal of the I/I program is to make the system as water tight as possible.

Quam stated the Met Council knows how many residential properties there are in the City and can estimate how much should flow through the sanitary sewer system. If it is more than the estimate the Met Council can impose a serious fine on a municipality. The repairs to the sewer system are to repair areas where there are leaks.

Martini noted that at some time the sewer system will have to be televised again to find out if additional repairs are needed. He stated one way to determine there is infiltration is if the flow into the system spikes after a heavy rain event.

Kind stated Highview Place is a relatively new road and the area near there is in the project area. She asked if the roadway will have to be torn up as part of the project. Martini responded it will not because the improvements will be trenchless.

**Quam moved, Cook seconded, accepting bid and awarding contract for the 2013 Sanitary Sewer Rehabilitation Project to Infratech for an amount not to exceed \$45,004.88 and directing that the costs be paid out of the Sewer Fund. Motion passed 5/0.**

- **Excelsior Boulevard Street and Watermain Improvements**

Kind noted that the meeting packet contains a copy of the signed Excelsior-Greenwood Water Service Expansion Agreement for Excelsior Boulevard and the Excelsior-Greenwood Municipal Water Service Agreement. It also contains a copy of the updated Excelsior Boulevard Project timeline. She then noted task 30 in the timeline which is for Greenwood to sign the Cooperative Agreement with the Metropolitan Council Environmental Services (MCES) has been completed. She asked Cook if he knows if MCES has opened bids for the project. Cook stated it has and that the bids were below the engineer's estimate.

Martini noted that he has been invited to a preconstruction meeting for the MCES project next week and his plan is to go to the meeting. He then noted the second water system expansion area in Greenwood will be added to the project by a change order.

Kind asked Martini to keep Council informed. Martini stated he will send out an email after the preconstruction meeting.

Kind stated task 36 in the timeline is for the City to prepare an assessment role for the water system expansion improvements. She asked if the City can move forward with that now or wait until the project has been started. Martini explained that once the cost is know the assessment role can be done. Or, the assessment hearing can be held after the project is complete. Doing it after the project is complete allows for incorporating the cost of any changes.

Fletcher asked if Council has to give a go ahead for either the Petition 1 or the Petition 2 water system expansion areas. Martini responded that Council has already taken the necessary action.

Cook recommended the City formally notify MCES of what the City believes the scope of the City's projects are including the Petition 2 expansion area.

**Cook moved, Quam seconded, directing the City Engineer to write a letter to Metropolitan Council telling it the City has formally reviewed and approved the extension of watermain in the Petition 1 and the Petition 2 areas. Motion passed 5/0.**

Martini stated MacLynn Island does not have municipal water and staff was asked to assess whether watermain should be extended to it. He stated there is some interest in having that done. He noted there is no reason that extension could not be done as a standalone project in the future. It would be appropriate to do it as part of a road project.

Kind stated the same is true with Maple Heights Road as well.

Quam asked if a stub will be put in at those two intersections. Kind stated a stub will be put in at Maple Heights Road. Kind explained the City of Excelsior has water along MacLynn Road but the watermain does not go out to the island.

Martini departed the meeting at 7:15 P.M.

**B. Metropolitan Council Environmental Services Excelsior Boulevard Project Open House June 18, 6:00 – 7:00 P.M.**

Kind stated on June 18, 2013, from 6:00 P.M. to 7:30 P.M. at Shorewood City Hall Metropolitan Council Environmental Services (MCES) is holding an open house about its force main project in the Cities of Excelsior, Greenwood and Shorewood.

**C. Fourth of July Parade, 10:00 A.M. Start Time at Greenwood Park**

Kind stated the Greenwood Fourth of July parade will be held at Greenwood Park and it will start at 10:00 A.M. She encouraged Councilmembers to attend.

**5. PUBLIC HEARING**

**A. Public Hearing Showcase Event Application, Denali Custom Homes, 5190 Meadville Street**

Kind explained that per the City Code Section 450 anyone desiring to hold a showcase event in the City must apply for a permit, all property owners within 350 feet of the site must be notified, and a public hearing is required. On May 22, 2013, the City received an application from Denali Custom Homes to participate in a showcase event on weekends from June 7 through June 23. A public hearing meeting

notice was mailed to property owners within 350 feet on May 23, 2013, informing them that a public hearing will be held on June 5, 2013, and a notice for the public hearing was published in the Sun-Sailor on May 30, 2013. As of the council packet deadline no written comments have been received by the City.

**Cook moved, Roy seconded, opening the Public Hearing at 7:18 P.M. Motion passed 5/0.**

Jan Gray, 5170 Meadville Street, stated she lives two properties down from the showcase house. She then stated that she and others in the area are looking forward to the addition of the new home in the community. She noted that Denali has done a very good job of managing the traffic during construction. She explained the challenge the neighborhood when having events such as a wedding or a graduation party is the substandard roadway. Once vehicles are parked on two sides of the roadway there is no access to emergency care. She stated it's her understanding that Greenwood has an ordinance or a policy that about special needs for high traffic during events. In the past, owners of the Old Log Theater have allowed people to use its parking lot unless there was a conflict with something going on at the Theater. In the past neighbors having an event sent out a notice to other property owners telling them about the event and that they would try not to inconvenience others to the best possible. She expressed hope that Denali would have off-street parking somewhere. She clarified she does not have any plans on any of the three weekends proposed for the showcase event.

Kind stated Denali's plans are to have off-site parking at the Old Log Theater.

Karpas stated the City did receive an email from a neighbor who expressed support for the request. They raised the same issue about parking. The City also heard from the another neighbor who is having a graduation party on one of the weekends and he gave them the contact information for Denali. And, the City did hear from the former owner of the property who expressed his pleasure that 5190 Meadville Street is a stop in the Luxury Home Tour and that he did not want the renters at the 5165 Meadville Street property inconvenienced.

David Bieker, President and General Manager of Denali Custom Homes, thanked Council for allowing him to make his request to show a beautiful home in a beautiful city. He stated Denali intends to be respectful of residents in the area. He noted that he did speak to the property owners directly across from the 5190 property about the graduation party they will be hosting on June 9. Denali will have someone managing traffic to make sure the graduation party attendees do not get mixed up with Luxury Home Tour drivers. He expressed hope that the residents will understand that the cars that will be parked in front of their properties are not there to see the showcase house.

Mr. Frankenfield, the new owner of the Old Log Theater, stated that attendees at the graduation party can also park at the Theater.

**Cook moved, Roy seconded, closing the Public Hearing at 7:25 P.M. Motion passed 5/0.**

The next step in the process is for the Council to take action regarding the application. That will be done under Item 7.A on the agenda.

**B. Public Hearing Liquor License Application, Mayette Enterprises LLC, 5175 Meadville Street**

Kind stated Mayette Enterprises LLC, 5175 Meadville Street, has applied for a liquor license.

**Cook moved, Quam seconded, opening the Public Hearing at 7:26 P.M. Motion passed 5/0.**

**Roy moved, Quam seconded, closing the Public Hearing at 7:26 P.M. Motion passed 5/0.**

The next step in the process is for Council to take action regarding the application. That will be done under Item 7.B on the agenda.

**6. UNFINISHED BUSINESS**

**A. Revised Report of Past Variances Granted for Possible Code Revisions**

**Fletcher moved, Roy seconded, moving Item 6.A to Item 8.A on the agenda.**

**7. NEW BUSINESS**

**A. Findings Regarding Showcase Event Application, Denali Custom Homes, 5190 Meadville Street**

Kind stated Denali Custom Homes, Inc., has applied for a showcase event permit so that it can include the new single family home it constructed at 5190 Meadville Street in the upcoming Luxury Home Tour. She noted the meeting packet contains a copy of the application and a copy of the section of the City Code that applies.

**Fletcher moved, Cook seconded, Adopting RESOLUTION. NO 15-13, "A Resolution Approving the Showcase Event Permit Application for Denali Custom Homes, 5190 Meadville Street." Motion passed 5/0.**

**B. Liquor License Application, Mayette Enterprises LLC, 5175 Meadville Street**

Kind stated the City has received an on-sale intoxicating liquor license application from Greg Frankenfield of Mayette Enterprises LLC (the buyer of the Old Log Theater property). The application process for the license is outlined in Section 820 of the City Code. The process includes a background investigation, a public hearing (held earlier in the meeting), and 3/5 vote of Council. The meeting packet includes copies of the application, background investigation authorization documents, and background investigation results.

Fletcher asked Mr. Frankenfield if he will be running the Old Log Theater on a day-to-day basis. Mr. Frankenfield responded he will be for a while. Fletcher explained that the South Lake Minnetonka Police Department has been known to conduct liquor sting operations where it sends in an underage person to try and buy liquor. He encouraged Mr. Frankenfield to err on the side of caution when carding people.

**Cook moved, Quam seconded, approving the on-sale intoxicating liquor license requested by Greg Frankenfield, Mayette Enterprises LLC.**

Kind suggested amending the motion to include the prorated license fee.

**Without objection of the maker or the seconder, the motion was amended to include conditioned upon the receipt of \$6333.33 (\$500 investigation fee, plus \$5833.33 for prorated portion of the \$10,000 fee set forth in section 510 of the City Code for an on-sale intoxicating liquor license).**

Fletcher clarified that this is for a full liquor license.

**Motion passed 5/0.**

**C. Liquor License Refund, Stolz Family LLC, 5185 Meadville Street**

Kind stated the City has received a request for a liquor license refund from the Stolz Family, LLC (the sellers of the Old Log Theater property). Minnesota Statutes Section 340.408 states that liquor license fees may be refunded on a prorated basis if the “licensee ceases to carry on the licensed business under the license.” The prorated amount is \$1,666.67.

**Roy moved, Cook seconded approving the prorated refund amount of \$1666.67 for the liquor license fee paid by Stolz Family, LLC, due to the fact that the licensee has ceased to carry on the licensed business under the license. Motion passed 5/0.**

**D. Findings of Fact, Variance Requests, Jim and Libby Pastor, 5100 Greenwood Circle**

Karpas noted the 5100 Greenwood Circle property is a very unique property. He explained that Jim and Libby Pastor have requested variances to demolish an existing non-conforming single-family home down to the foundation and construct a new single family home on the existing foundation with additions onto the north and front of the home and the inclusion of a wrap-around deck beginning at the midpoint of the east face of the home and wrapping around the entire front of the home. The proposed alterations would encroach into minimum required east exterior side yard setback, encroach into the minimum required rear yard setback, exceed the maximum permitted impervious surface, and exceed the maximum permitted grade alteration with the installation of a new driveway to access the proposed attached garage. The applicant proposes to remove existing non-conforming accessory structures on the north and south side and in return construct a small attached garage on the north side of the house. It would still encroach into the north side yard setback but to a lesser amount.

The applicant is seeking a 22-foot variance of the exterior east side yard setback, a 2-foot variance for the west side yard setback for the addition, and a 31-foot variance into the rear yard setback for the garage addition. The garage would be a much better situation than the one that exists. The survey shows impervious is 40.2 percent. It is actually 47.2 percent; 17.2 percent more than what is permitted. The survey did not take into account the paved area for the driveway. The current impervious surface is 36 percent. The applicant is still working with the City Engineer. The access to the subject property is very difficult. A neighbor did show up at the May 15, 2013, public hearing held by the Planning Commission and stated he will work with Mr. Pastor on grading for access to his garage since they share a driveway. The neighbor is supportive of Mr. Pastor’s request.

Karpas noted the Planning Commission did vote unanimously to approve the request. He then noted the Commission discussed the project on two different occasions and then modified its recommendation based on changes made. He went on to note that Mr. Pastor has tried to work with the Commission throughout the process.

Fletcher stated it’s his understanding that the applicant is now proposing a deck on the front of the house only. Karpas clarified it is on the east and the front.

Jim Pastor, 5100 Greenwood Circle, stated his current home is very narrow. He stated the proposed garage will be 20 feet by 22 feet. The existing garage is 30 feet by 16 feet wide. They propose to go out

six feet in the front, squaring it off, putting on an attached garage and putting a deck from the front door on the east side around to the lakeside.

Quam asked how far the wraparound proposed deck is. Karpas explained the house is 21.4 feet and there is a four-foot walkway from the door. Quam then asked what deck was taken off the application. Mr. Pastor stated it was on the west side and it came out about four feet and then extended six feet down the west side. Quam stated it seems that the current proposed deck will be very nice.

Cook stated he thought the Pastors have worked well with the Planning Commission and accommodated the Commission's requests. He then stated that consolidating two garages into one will be a big improvement on the property. He commended the Pastors for making it a better situation for the City as well and themselves.

Mr. Pastor noted the City Engineer helped him work things out.

In response to a comment from Quam, Mr. Pastor stated they are removing the garage that is down near the lake. In response to another comment from Quam, Mr. Pastor stated the existing retaining wall will be redone.

Kind stated she agreed that the proposed changes will be a nice improvement.

Fletcher expressed concern that the proposed 47.2 percent impervious surface may be more than what is needed based on how the calculation has been done. The calculation may not be correct. He noted he does not want to delay approval of this.

Karpas explained that what threw him off is the surveyor included 450 feet of drive under what currently exists, but there isn't 450 feet of drive. He suggested going back to the 40.2 percent impervious surface based on what the application states.

Kelly asked Karpas if a post construction survey is required. Karpas responded it is. Kind clarified the City may require an as-built survey if desired, but it is not automatically required.

There was consensus to change all references of 17.2 percent impervious surface to 10.2 percent.

**Fletcher moved, Cook seconded, Adopting RESOLUTION NO. 16-13, "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 5100 Greenwood Circle setting out the findings of fact and conclusions of law regarding the James Pastor variances to east and west side yard setbacks and rear yard setback, and impervious surface to permit the remodeling of an existing home on an existing lot" subject to changing: in the Findings of Fact Item 5 the proposed impervious surface to 40.2 percent, the proposed variance to 10.2 percent, and the increase over the existing amount to 8.2 percent; in in the Findings of Fact Item 14 change the surface area variance to 10.2 percent from 11.3 percent; and in in the Findings of Fact Item 19 the exceeding permitted amount to 10.2 percent from 17.2 percent; in the Conclusions of Law in Item 1.D the amount of impervious surface in excess of 30 percent to 10.2 percent from 17.2 percent; and under THEREFORE BE IT RESOLVED Item D change the amount of impervious surface in excess of 30 percent to 10.2 percent from 17.2 percent." Motion passed 5/0.**

#### **E. Fourth of July Fireworks Contribution**

Kind stated that annually the South Lake - Excelsior Chamber of Commerce asks the City to make a contribution to help pay for the fireworks display on the Fourth of July. The event draws people from the entire South Lake area. The city's 2013 General Fund Budget has earmarked \$1,400 for a contribution.

**Roy moved, Quam seconded, directing the City Treasurer to disburse a check in the amount of \$1400 to the South Lake - Excelsior Chamber of Commerce for the 2013 Fourth of July fireworks fund. Motion passed 5/0.**

#### **F. Draft of Uniform Animal Control Ordinance**

Kind explained that on May 9, 2012, in response to concerns raised by animal enforcement officers, the South Lake Minnetonka Police Department (SLMPD) Coordinating Committee directed SLMPD staff to draft a uniform animal ordinance to make enforcement consistent between the jurisdictions served by the SLMPD. SLMPD staff then worked with the SLMPD member City Administrators / Manager to refine the ordinance. The meeting packet contains a copy of the general timeline starting on May 9 showing the major steps in the process for drafting the ordinance. She commented she thought there had been seven drafts of the ordinance. She noted Kelly was instrumental in providing input during the refinement process. The packet also contains a copy of the final draft of the ordinance that was approved by the Coordinating Committee for consideration by the SLMPD member City Councils and two memorandums from Kelly regarding the third draft and the final draft of the ordinance.

Kind noted that the Tonka Bay City Council did not take action on the ordinance during its most recent meeting. It had some questions about it.

Cook asked if the SLMPD operates a pound. Kind responded it does. He then asked if there is a leash law in the ordinance. Kind responded yes and noted the City has a leash law.

Cook stated based on changes it appears that there was difficulty coming up with the definition for wild animals. Kelly commented it looks like it was written by a committee. Quam stated he did not think it would be possible to list all of the wild animals. Kelly stated he looked at it from the legal standpoint. Kelly commented that he was not on the committee so he did not have any direct input.

Quam asked Kelly what he thought about the ordinance. Kelly stated the recommendations he made about the third draft are not incorporated into the final draft.

Quam stated nothing in the ordinance jumped out at him.

Fletcher stated when there is a group of four cities trying to accept a common ordinance no city is going to get everything they want.

Kelly stated the first draft said no livestock. That would include horses. He thought that was something that warranted more discussion.

Kind stated from her perspective the ordinance has come a long way when compared to the first draft.

Kelly stated by appendix a member city may address exceptions to permitted non-domesticated animals.

Kind noted that the City Code does not allow things like chickens and horses.

Kind stated that if Council desires to move forward with the ordinance, it will be converted into a format that fits with the Greenwood Code Book.

Fletcher noted that he does not want to delay this for the SLMPD. But, he stated there may be benefit in having one of the other three SLMPD member cities adopt the uniform animal control ordinance first and then Greenwood can follow in their footsteps. Roy concurred.

**Roy moved, adopting the uniform animal ordinance.**

**Roy withdrew the motion because it cannot be adopted without it being noticed.**

Fletcher suggested Kind tell the SLMPD Coordinating Committee that Greenwood supports a uniform animal ordinance. But, it wants to wait and see what other member cities do so it can consider any changes other cities may have made.

**Cook moved, Quam seconded, authorizing the Mayor to write a letter to the South lake Minnetonka Police Department explaining that the Greenwood Council supports the concept of a uniform animal ordinance and is waiting to adopt it until it knows what changes any of the other three member cities propose.**

**Motion passed 5/0.**

#### **G. 2014 Lake Minnetonka Conservation District Budget Options**

Roy, the City's representative on the Lake Minnetonka Conservation District (LMCD) Board, stated LMCD Executive Director Nybeck sent a memorandum to the LMCD member cities which outlined the differences between two budget options for the LMCD for 2014. The meeting packet contains a copy of that memo and a copy of each of the budget options.

Roy explained Option 1 reflects a 3 percent increase when compared to 2013. Expenses increased 1.3 percent. It includes a \$25,000 transfer from the Administration Reserve Fund to the Equipment Replacement Fund to start to build a fund for the future replacement of harvesters. It also includes compensation adjustments of 2 percent. Option 2 reflects a 16.6 percent increase when compared to 2013 and expenses increased 9.0 percent. The primary differences in Option 2 from Option 1 include a reduction to \$20,000 from \$30,000 for watercraft inspections and the addition of \$55,000 for whole bay or large scale herbicide treatments in suitable areas. The difference between the two Options is \$45,000.

Roy then explained in 2013 the LMCD adopted a Comprehensive Eurasian Watermilfoil (milfoil) and Curly-Leaf Pondweed (CLP) Plan for Lake Minnetonka. Prior to adoption the Plan included \$75,000 for herbicide treatment. The LMCD Board thought funding for herbicide treatments should be part of a budget process and therefore took it out of the Plan.

Roy noted there is no guarantee the LMCD would contribute anything to the funding of herbicide treatment of St. Alban's Bay should Option 2 be approved. Some of the \$55,000 would be used to treat some of the bays that have already been treated with herbicides.

Kind asked Roy to share his perspective about the \$25,000 transfer into the Equipment Replacement Fund.

Roy stated the budget was drafted by the LMCD Financial Committee. He explained he attended one of the Committee's meeting to explore why the LMCD is not depreciating any capital equipment which would offset the Reserve Fund. The financials do not talk about capital equipment. He stated he does not have trouble setting rainy day money aside but it should be offset so people know what the true cost of harvesters is.

Fletcher asked Roy which option he prefers. Roy responded he favors herbicide treatment of milfoil. Roy stated there has been discussion about establishing a lake improvement district to fund herbicide treatments of St. Alban's Bay. If that does not come to fruition then St. Alban's Bay would benefit from budgeting \$55,000 for herbicide treatments. He stated he has mixed feelings about the two Options.

Kind stated she does not like either Option. She explained that while the Council supported the purchase of a replacement harvester after one was seriously damaged because an insurance reimbursement would help fund the purchase, she is not sure the LMCD needs to have a fleet of harvesters. She envisions milfoil mitigation solutions moving away from harvesting in the future.

Roy stated equipment is replaced when it reaches the end of its useful life. But, that will not always be done with insurance monies.

Fletcher stated it's his understanding that the engine in a harvester has a very long life. And, if the harvesters are properly maintained there is not a lot that can go wrong.

Roy stated he does not know what the useful life of a harvester is. He has not seen a depreciation schedule.

Fletcher stated the depreciation schedule could be 15 years while the useful life is more like 30-40 years.

Kind stated it's her understanding that the LMCD Board approves the budget on a majority vote. Roy stated that is correct.

Fletcher stated from a Greenwood perspective he supports Option 2 because it includes funding for herbicide treatments of milfoil. But, because herbicide treatment is a divisive issue among the LMCD member cities he would go with Option 1.

Roy stated from the perspective of being a Bay Captain the Bay Captains would also like funding for milfoil mitigation through herbicide treatments. He then stated there is no formula yet for how the money for herbicide treatment would be split for the bays that would be treated. That is a concern for him. He noted that St. Alban's Bay does not have to be treated annually. The same is true for Gray's Bay. He stated if the LMCD wants to treat landings he has no idea how that will be funded; maybe it will come out of the \$55,000.

**Fletcher moved, Quam seconded, authorizing Roy to use his discretion when voting on the Lake Minnetonka Conservation District 2014 budget; either Option 1 or Option 2 or some other variation. Motion passed 4/1 with Cook dissenting.**

Cook stated he was not comfortable with the motion.

## **H. Recycling Education Options**

Kind explained the City entered into a Residential Recycling Grant Agreement with Hennepin County on June 6, 2012. In addition to requiring reporting from the City's recycling provider, the City's agreement with the County requires education and outreach activities. The City has complied with four of five requirements for education and outreach: 1) County terminology has been used in city communications when describing recycling guidelines; 2) images provided by the County have been used when describing the recycling program; 3) the County's terminology, guidelines, and images are being used on the City's website; and, 4) the County's recycling guide will be included in the City's June 2013 newsletter mailing. The City has yet to comply with the fifth requirement which is to complete to additional educational activities from a menu of options provided by the County. That requirement was waived in 2012 because the County had not provided the menu of options. The City recently received information regarding education options. The County expects the City needs to complete two additional education activities in 2013. She noted the meeting packet contains a copy of documents that list options for the Council's consideration. She suggested Council authorize Karpas and her to select and implement two education activities.

**Fletcher moved, Cook seconded, authorizing the City Clerk and Mayor to select and implement two education activities to fulfill the requirements of the City's recycling agreement with Hennepin County. Motion passed 5/0.**

**I. Potential City Council Input Regarding the Minnehaha Creek Watershed District's Draft Minor Plan Amendment and also Related to the Metropolitan Council 2014 – 2015 Transportation Improvement Program**

Kind noted the Minnehaha Creek Watershed District (MCWD) has requested comments about its draft plan amendments to the Capital Improvement Program (CIP) of its Comprehensive Water Resources Management Plan (WRMP). She asked Council if it has interest in sending comment to the MCWD about this.

There was Council consensus not to comment on this.

Kind then noted the Metropolitan Council is seeking comments regarding its draft of the Twin Cities Draft 2014-2015 Transportation Improvement Program.

There was Council consensus not to comment on this.

Kind went on to note that Hennepin County wants to know if the City wants to weigh in on its Pedestrian Plan.

There was Council consensus not to comment on this.

**8. OTHER BUSINESS**

**A. Revised Report of Past Variances Granted for Possible Code Revisions**

Kind explained that during its March 6, 2013, meeting Council directed Zoning Administrator Karpas to research past variances to help determine whether there is a pattern to indicate changes should be made to the City Zoning Code. The meeting packet contains a copy of a spreadsheet showing the results of the research.

She highlighted observations made from the research:

1. Variances for properties 15,000 square feet or greater tend to maintain the status quo or improve existing nonconformities of hardcover and setbacks.
2. The number of the variances and magnitude of new variances tend to be higher for properties under 15,000 square feet.
3. Most of the properties less than 15,000 square feet of area were granted hardcover (impervious surface) variances, with an average variance of 9.36 percent for properties that were not granted a conditional use permit (C.U.P.) for up to 40 percent hardcover prior to 2003. (Prior to 2003 hardcover could go up to 40 percent with a C.U.P.)
4. Most of the properties less than 15,000 square feet of area were granted front yard variances, with an overall average of 21.36 feet from the 30-foot requirement.
5. Most of the properties under 15,000 square feet of area were granted side yard variances, with an overall average of 7.2 feet from the 15-foot requirement.

She stated based on this information Council may want to consider an ordinance that relaxes hardcover rules, front yard rules, and side yard rules for properties less than 15,000 square feet of area. She noted that if Council decides to move forward with changes to the Zoning Code, the changes will need to go to the Planning Commission for its review and recommendations.

She then stated this matter is not urgent. She explained that due to full meeting agendas the past several months Council has continued the discussion of the research for several meetings and may wish to do so again.

Karpas stated that of all of the requests since 2000 there have only been three denials. He then stated because the lots in the City vary so much he did not think it possible to amend the Zoning Code to eliminate the need for variances; especially for lots less than 15,000 square feet of area. He went on to state from his perspective the current Code and process allows the Planning Commission and Council the opportunity to assess each lot carefully and give consideration to what is going on in that particular area. For lots under 15,000 square feet of area typically property owners are trying to make things better.

Quam stated he thought it would be better to handle lots on a case-by-case basis which is the current practice.

Kind stated the relatively new State practical difficulties regulations versus the old undue hardship regulations make it easier to work with applicants.

Fletcher stated there are two items to consider – setbacks and hardcover. He asked if changes to the Zoning Code for hardcover maybe appropriate.

Kind suggested the City could go back to allowing 40 percent hardcover with a C.U.P.

Cook stated from his perspective the State has bailed the City out with regard to hardcover because the State has stipulated people are entitled to the existing footprint. Now there is a starting point for property owners.

Karpas stated there was a time when a property owner was not guaranteed their existing footprint if it was nonconforming. Now they are because of a change to state statute a number of years ago. He noted the City is still bound by shoreland management rules. He questioned what type of message the City would be sending if it allows 40 percent hardcover with a C.U.P. when it just tightened up hardcover restrictions related to trading landscaping hardcover for structural hardcover.

Karpas stated he thought the process the City has been following for smaller lots is probably the best. He cited the request for variances for the Pastors at 5100 Greenwood Circle as an example where the applicants and the Planning Commission worked together cooperatively to achieve a good result for a very small lot.

Kind stated she could envision a sliding scale for hardcover where it is 1 percent for every 1,000 square feet less than 15,000 square feet.

Fletcher stated he had come up with a sliding scale idea for the Planning Commission which it did not like. He believes a sliding scale is easy to do; it's done in the City's massing ordinance. He noted that everyone knows that 30 percent hardcover was not realistic for the Pastor property and home. He expressed his preference for having a realistic standard for the smaller lots.

Karpas noted that not one of the past variance requests for properties less than 15,000 square feet in size was for impervious surface only. He questioned why it would be considered a problem to have an applicant request an impervious surface variance at the same time they request setback variance(s).

Kind noted that normally the City does not expand the existing impervious surface. Doing so for the Pastors earlier in the meeting was an exception.

Cook stated from his perspective if a property owner is proposing a project that does not increase their impervious surface or if reduces the amount it should not require a variance. A reduction in impervious surface could potentially be exchanged for setback variances. He then stated the Pastor property is very narrow and hilly. The City is encroaching with its roadway onto that property. He noted the Pastors traded two existing detached garages for one smaller attached garage and most of the deck the Pastors wanted. He stated that having an ordinance that does not require a variance to maintain existing impervious surface would help property owners plan projects without having to come before the Planning Commission. If they want to increase the impervious surface or get setback variances then the Commission becomes involved.

Kind asked if Council is inclined to allow the smaller lots to have more impervious surface than they currently have. In the Pastor case it was. If Council is inclined to do that she thought it should be put in the Zoning Code.

Cook stated he thought that should be done on a case-by-case basis variance process. He is not inclined to allow that without the Planning Commission and Council considering it. He reiterated his preference if a property owner is proposing a project that does not increase their impervious surface or if it reduces it that should not require a variance. Kind stated if that is what Council wants the Zoning Code should be amended to say that.

Quam stated he would support Cook's suggestion. He then stated he thought it prudent for the Council and the Planning Commission to continue to consider the uniqueness of each request. He noted he does not think there is a one-size-fits-all model.

Cook stated he would hate to have an impervious surface ordinance that is as complicated as the volume ordinance.

Kind stated the current Zoning Code states if a property is a legal nonconforming use and if the property owner is proposing to rebuild the house on same footprint it requires a variance. She asked Kelly if that is state law or can the Code be changed.

Quam clarified the same footprint is one thing; the same hardcover is another.

Kelly stated the Minnesota Department of Natural Resources (DNR) at one time did not want hardcover to exceed 25 percent. That did not work for the very small lots. He then stated that Karpas has pointed out that the current process, although not ostensibly immediately predictable, is actually quite predictable. He went on to state that during the government planning and zoning training session in January 2013 people learned that municipalities cannot demand people to give up their grandfathered rights. But, when a property owner needs a variance and they have a garage in the front yard that they don't want, the result is better for the City. There are tradeoffs.

Kind clarified that if a property has a house on their property that takes up 36 percent hardcover and they want to rebuild the house on the same footprint, the current City code requires them to get a variance. Kelly stated that the variance process forces a review and this is good because there always are nuances.

Fletcher stated he cannot remember when Council ever considered a request where someone wanted to rebuild on the same footprint.

Karpas stated the language in state statute is substantially the same footprint and substantially the same height.

Kelly stated from his perspective one of the largest services the City provides to the community is the review process.

Kind stated she understands staff to be saying they do not support taking away the requirement for a variance process regarding hardcover. Kelly stated there is a benefit in retaining the variance process.

There was Council consensus not to change the Zoning Code.

## **9. COUNCIL REPORTS**

### **A. Cook: Planning Commission**

Cook stated the Planning Commission had been working on the application for Jim and Libby Pastor.

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

With regard to the Lake Minnetonka Communications Commission (LMCC) activities, Fletcher explained there was a meeting on June 4 that he and the mayor attended to talk about the joint powers agreement (JPA). The City of Medina has given notice that it is leaving the LMCC. He would not be surprised if the City of Orono does the same. The LMCC Budget Committee is working on a substantially reduced budget. The Cities of Orono and Victoria have expressed a desire to get a portion of the franchise fees currently paid by Mediacom individual cable television subscribers to the LMCC.

Cook asked at what point the LMCC becomes unviable. Fletcher stated there still is a group of core cities that want to remain a part of the LMCC. Cook asked at what point does the cost get so out of hand that residents go to some other technology such as Direct TV.

Fletcher stated it's his understanding most of the cities want their Council meetings recorded and viewable. Kind noted the video recordings can be viewed via the internet as well as on Mediacom cable television.

Kind noted if the LMCC JPA were to dissolve it would be Greenwood's responsibility to negotiate a franchise agreement with Mediacom for cable services.

Fletcher stated the LMCC owns its facility free and clear. It maintains solid cash reserves. If a member city leaves the LMCC it has no claim to cash reserves or any of the production equipment. He then stated if too many cities leave the LMCC, the LMCC coverage of community events will diminish. He believes a core group of cities support the coverage of council meetings and agenda parsing.

Quam asked if the LMCC has better bargaining power with Mediacom than a city would have on its own. Fletcher stated Medina basically took what the LMCC had put together to use in its negotiations with Medina. The LMCC put the framework and package together. He explained that Mediacom cable television is available in the City of Chanhassen. A few years ago Chanhassen hired the auditor the LMCC uses and the auditor determined that Chanhassen was due about \$500,000 from Mediacom. He stated if Greenwood were to negotiate a deal with Mediacom on its own, the City may not be able to have any leverage in five years. He stated from his perspective there may come a time when the LMCC may have to outsource its administration activities to a member city to be more cost effective. That would allow it to use more of its funds for programming.

With regard to the Excelsior Fire District (EFD), Fletcher stated he attended an EFD Board Meeting on May 22, 2013. During the meeting there was discussion about the level of reserves in the EFD's operating fund. At the end of 2012 the level was about 40 percent and the target is 30 percent. He noted that typically the EFD comes in under budget because of sound fiscal practices. That increases the level of reserves a modest amount. He stated options for what to do with the excess reserves were discussed. One was to advance the purchase of capital items. Another is to keep the reserves as is; the excess could be used as a contingency. Another is return money to the EFD member cities. Another could be to set aside money within the EFD for future required contributions to the Excelsior Fire Firefighters Relief Association's (EFRA) fund for pensions.

Another EFD topic was regarding the salary compensation for EFD staff. Per the EFD Board's request a market analysis had been done using data from the League of Minnesota Cities for the fire chief position and the fire inspector position. Chief Gerber also conducted a salary survey of other fire departments about the fire chief position, the fire inspector position, the administrative specialist position, firefighter pay and firefighter per-year-of-service benefit. The results show the fire inspector is paid substantially below what other fire inspectors are paid. The fire chief is paid below market average. The firefighters are paid less than what Plymouth firefighters are paid. The Boardmember from Shorewood was advocating that the salaries be brought up to or at least close to market average. She thought it was the right and responsible thing to do. Some Boardmembers and / or Operating Committee Members suggested using excess reserves to help bring the salaries more in line with the market average. A committee was formed to discuss salaries and it will come back to the EFD Board with a recommendation on what the salaries should be.

Kind stated if reserves are used to fund salary increases for 2014 then it will establish a new budget baseline for future years. Fletcher noted that was discussed during the EFD Board meeting.

Cook asked what the purpose of the EFD operating fund reserves is. Fletcher stated the reserves help maintain an adequate level of fund balance to provide for cash flow requirements and contingency needs because municipal contributions are received quarterly. Cook then asked what percent the reserves should be. Fletcher explained the target is 30 percent of the upcoming year's operating budget expenditures. Fletcher stated the EFD operating fund reserves were \$339,821 or 39.9 percent of the 2013 budgeted expenses.

Fletcher noted the EFD auditor has stated that reserves of 30 percent of the upcoming years budgeted expenses is adequate.

Discussion temporarily moved to Item 9.D on the agenda and when that discussion was concluded it returned to this item.

Quam departed the meeting at 9:00 P.M.

**Mayor Kind recessed the meeting at 9:00 P.M.**

**Mayor Kind reconvened the meeting at 9:07 P.M.**

Fletcher explained the EFD Board and the EFRA Board are going to have a work session this summer to discuss the EFRA per-year-of-service benefit. There has been an informal agreement between the EFD Board and the EFRA Board that the EFRA will not ask for an increase in the benefit until the fund for pensions is 110 percent funded. The EFD Board has to approve an increase and once the benefit level is set the EFD Board cannot reduce it. There can only be one level of the benefit. Over the more than 100 hundred year existence of the EFRA the cities have had to make required contributions to the fund only a few times. Mainly the fund is self-funding through investments. The EFRA does receive state aid which comes from a 2% surcharge added on to residential and commercial hazard insurance premiums. When the fund goes below 100% funded, cities are required to make contributions until the fund again becomes 100% funded. He noted when a firefighter decides to collect on their pension it is a lump-sum payout.

Fletcher asked the other Councilmembers if they have any comments regarding the EFD's operating fund reserves.

Kind stated she wants to keep reserves at a minimum and noted she has the same philosophy for the City.

Roy stated from his perspective salary increases should be funded through the budgeting process and not through reserves. He commented he thought the firefighters are given a wonderful gift with the per-year-of-service benefit when compared to the private industry. He stated he would not be in favor of increasing the benefit dramatically.

Fletcher stated the EFD community gets a great deal of benefit from the firefighters. He noted that for April the two firefighters who live in Greenwood responded to 100% of the calls for Station 2. He stated the pension is a motivator for firefighters. He then stated that it helps to have longer tenured firefighters because they have an understanding of how things work and they have experience.

Kind stated with a paid-on-call fire department the pension is the carrot. The call pay is not very much. She then stated an increase in the per-year-of-service benefit does not have to be exorbitant. Fletcher stated he does not think they will be asking for an exorbitant increase.

Kind stated she agrees with Roy that the salary increase should be part of the budget process; reserves should not be used to fund them. She asked Roy if he thought the reserves should be returned to the member cities.

Roy asked if there are needs for one-time purchases. Fletcher stated from his perspective there were none.

Fletcher reiterated the EFD could have a pension reserve fund that would be used to help mitigate a significant budget increase when a mandatory contribution is required.

Roy stated he thought the excess reserves should be sent back to the member cities and then the cities would be responsible for funding a larger budget increase when a mandatory contribution is required.

Kind stated she prefers the excess reserves be sent back to the member cities.

Cook stated he thought the reserves should be at 30 percent. He then stated the EFRA fund for pensions is a separate fund and it should be funded appropriately and salaries should be funded appropriately.

Fletcher recapped that Council wants to have the approximately 10% in excess reserves sent back to the member cities, salary increase should be part of the operating budget, and that the EFRA pension is a separate discussion.

Fletcher stated in 2023 the bonded debt for the two facilities are paid off. That is a big part of the budget. He recommends pushing out capital purchases toward 2023. He noted that he does not agree that there will have to be substantial maintenance done to the facilities starting in 2023.

With regard to the Xcel Energy Transmission Line Upgrade Project, Fletcher stated there were two public hearings held on May 16. The Highway 5 option which does not require an upgrade to the power line that goes through Greenwood is gaining momentum. He explained that the Cities of Chanhassen and Chaska are no longer speaking in opposition of the Highway 5 option. Another letter was sent to Xcel restating Greenwood's preference. If Xcel needs to underground the power along Highway 5 it would still be more cost effective than it would be to upgrade the power line that runs through Greenwood.

With regard to lake improvement districts, Fletcher stated he and Roy met with Hennepin County Commissioner Jan Callison, her aide Dave Nuckols, and Lake Minnetonka marina owner Gabriel Jabbour about this. Nuckols informed them after the meeting that cities can establish such districts without involving the County. Therefore residents in Greenwood and Excelsior could get together and petition their respective cities to establish a district for St. Alban's Bay.

Kind clarified that the residents would petition to the two City Councils and the Councils would be the agencies to approve it, but the Cities would not be responsible for managing the district. She asked how many signatures are needed on the petition. Roy stated 51 percent of the residents. Fletcher stated he did not think it would be prudent to do it with only 51 percent. Kind stated she would want a super majority.

Cook asked if there are demographics on what percentage of the residents of the City live next to Lake Minnetonka. Kind stated the district would include people whose properties front the lake and people who have like rights. Fletcher stated as part of the process the area in the district would be defined.

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

With regard to the South Lake Minnetonka Police Department (SLMPD), Kind explained she attended the SLMPD Coordinating Committee held on May 21. A new records management system from Law Enforcement Technology Group (LETG) had been implemented. The Committee was given a demonstration of it. The Crime Fund (a locally based non-profit organization) is paying for a smart board for the police station and door hangers with friendly reminders to keep doors locked. There will be an emergency preparedness seminar for elected officials on June 12. The 2012 year-end financial audit showed a \$43,000 surplus due primarily to a vacancy.

With regard to administration, Kind stated the meeting packet contains a copy of a letter sent to all rental property owners in the City informing them that the City adopted Ordinance 219 amending City Code Section 320 (the City's Rental Ordinance). It also contains a copy of a letter dated May 29, 2013, sent to the owner of the 21850 Fairview Street property informing him that advertising of the rental property is in violation of the amended rental ordinance. The property owner was given until June 10 to bring the advertising into compliance. She noted that she checked the property's advertising website and it appears that it has been brought into compliance.

She received a copy of a letter from the Metropolitan (Met) Council asking if the City agrees that Greenwood's population and household estimates after April 1 are in agreement with what it estimates. Met Council's estimates the population to be 698 and the households to be 292. If the City wants to comment on that it has to respond by June 24.

The City received a request from residents near Greenwood Park to clean up the tennis court. The 2013 budget has earmarked \$1,000 to do tennis court maintenance.

**Cook moved, Fletcher seconded, authorizing maintenance of the tennis court in Greenwood Park. Motion passed 4/0.**

Fletcher stated the City's contract with the City of Deephaven for a variety of services and the use of Deephaven City Hall expires the end of 2013. He and the mayor met with Deephaven Administrator Young. Young submitted a proposal for a contract renewal based on a certain percent. Questions were sent back to Young about possibly considering a cost basis. He commented that the City of Woodland has its contract with Deephaven up for its Council discussion on June 10.

Kind stated the contract with Deephaven will be on the July 3 Council agenda.

Fletcher noted that he will not be at the July 3 Council meeting.

Kind stated at the Meadville boat launch area there are two 10 foot by 20 foot sailboat slips. The City Code anticipates people will put in a boat lift in the slip. Currently there is a lift in one of the areas. Slip holders are expected to furnish their own boatlift. She presented an idea of installing a section of unused City dock at each slip so that people did not have to wade through the water to get to their slip/boat. She stated when speaking with Judd at the Lake Minnetonka Conservation District (LMCD) earlier in the day she learned that those two slips are not restricted to sailboats. They could be rented for powerboats. She noted the Code would have to be amended to allow for powerboats.

Fletcher stated there are residents on a St. Alban's Bay waiting list to rent a powerboat slip from the City. He thought it prudent to let them rent a slip at the Meadville site.

Kelly stated the LMCD has its own code regulations for dock setbacks from adjacent lot lines. Kind stated the LMCD allows the City to have two slips at the Meadville location. The question is how much, if any dock, there can be. She explained a lot of people have been dissuaded from renting the slips because they had been told they had to pull their boat onto land rather than having a lift. The person who manages the slip rentals for the City is going to notify people currently on a waiting list for sailboat slip rentals and clarify things. Council consensus was to leave the slips for sailboats if there are people who want the slips for that purpose.

Kind stated the City received an email from the Board of Review regarding training. The training is on November 19. Cook asked to be signed up to go.

With regard to a mayors' meeting, Kind stated she received an invitation from Wayzata Mayor Wilcox for the City of Greenwood to participate in a Lake Minnetonka regional scenic byway initiative. The intent would be to post signage along the byway route identifying it as well points of interest. Kind stated at this time there are two sites listed as points of interest in Greenwood – the Greenwood Marina and the Old Log Theater. Cook stated the Georgetown Manor is close to where the old St. Alban's Bay Hotel was. She stated she thought the byway initiative was a good idea and that signs posted in Greenwood could be posted on existing posts below existing signs. She read the list of the byway's benefits from Mayor Wilcox's letter: an official byway makes it easier to argue for preserving natural, scenic and historical resources; State and National byways increase the visibility of a road corridor, the communities connected, and the resources available; byways connect communities and promote the importance of historical sites, and the richness of natural, scenic and recreation resources; byways encourage partnering; and, byways boost economic development. Fletcher stated he does not like the thought of more signs in the City. But, doing something like this conveys that the area around Lake Minnetonka is a very open area. There was no objection to Kind participating in the scenic byway initiative.

Kind noted that residents can contribute to the herbicide treatment of St. Alban's Bay by going to the City's website [www.greenwoodmn.com](http://www.greenwoodmn.com)

#### **D. Quam: Roads & Sewer, Minnetonka Community Education**

This Item was discussed part way through Item 9.B.

With regard to roads and sewers, Quam stated Council discussed sewers earlier this evening and the bids for roadway improvements will be on the July 3, 2013, meeting for approval. Improvements to the outside of Byron Circle and patching along Lyman Lodge and St. Alban's Bay Bridge are being proposed.

Discussion returned to part way through Item 9.B.

#### **E. Roy: Lake Minnetonka Conservation District**

With regard to the Lake Minnetonka Conservation District (LMCD), Roy stated Council has already discussed the biggest issue before the LMCD and that is its 2014 budget.

Roy noted the herbicide treatment of St. Alban's Bay has been postponed until June 14 due to the lack of growing weather.

### **10. ADJOURNMENT**

**Roy moved, Cook seconded, adjourning the City Council Regular Meeting of June 5, 2013, at 9:52 P.M. Motion passed 4/0.**

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