

AGENDA

Greenwood City Council Meeting

7pm, Wednesday, July 3, 2013
20225 Cottagewood Road, Deephaven, MN 55331



The public is invited to address the council regarding any item on the regular agenda. If your topic is not on the agenda, you may speak during Matters from the Floor. Comments are limited to 3 minutes. Agenda times are approximate.

- 7:00pm 1. CALL TO ORDER ~ ROLL CALL ~ APPROVE AGENDA
- 7:00pm 2. CONSENT AGENDA
Council members may remove consent agenda items for discussion. Removed items will be put under Other Business.
- A. Approve: 06-05-13 City Council Meeting Minutes
 - B. Approve: May Cash Summary Report
 - C. Approve: June Verifields, Check Register, Electronic Fund Transfers
 - D. Approve: July Payroll Register
- 7:05pm 3. MATTERS FROM THE FLOOR
This is an opportunity for the public to address the council regarding matters not on the agenda. The council will not engage in discussion or take action on items presented at this time. However, the council may ask for clarification and may include items on a future agenda. Comments are limited to 3 minutes.
- 7:10pm 4. PRESENTATIONS, REPORTS, GUESTS & ANNOUNCEMENTS
- A. City Engineer Dave Martini:
 - 2013 Road Project Bids
 - County Aid to Municipalities Application
 - Excelsior Blvd. Project (Sanitary Sewer Forcemain, Watermain, Street / Trail)
 - B. Announcement: Night to Unite, Tuesday, 08-06-13
 - C. Announcement: Budget Worksession, 6pm, Wednesday 08-07-13 (before council meeting)
- 7:20pm 5. PUBLIC HEARINGS
- A. None
- 7:20pm 6. UNFINISHED BUSINESS
- A. Discuss: Draft of Uniform Animal Ordinance
- 7:30pm 7. NEW BUSINESS
- A. Consider: Tobacco License Application, Greenwood Market, 21380 Christmas Lake Road
 - B. Consider: Resolution 17-13 Findings for Variance Request (hardcover), Conditional Use Permit Request (grade alteration), Chip & Kathy Fisher, 5185 Greenwood Circle
 - C. Consider: Resolution 18-13, Conditional Use Permit Findings (impervious surface), Dr. Mark Hope, 21450 State Highway 7 and Bridgewater Bank, 21500 State Highway 7
 - D. Consider: Deephaven-Greenwood 2014-2016 Service Contract Agreement
 - E. Consider: Resolution 19-13 Supporting Long-Term Viability of the Lake Minnetonka Communications Commission
 - F. Consider: Potential Comments Regarding Minnehaha Creek Watershed District 10-Year Capital Improvement Program
- 8:30pm 8. OTHER BUSINESS
- A. None
- 8:30pm 9. COUNCIL REPORTS
- A. Cook: Planning Commission
 - B. Fletcher: Lk Mka Comm Commission, Fire, Xcel Project, Lake Improvement District
 - C. Kind: Police, Administration, Mayors' Meetings, Website
 - D. Quam: Roads & Sewer, Minnetonka Community Education
 - E. Roy: Lake Minnetonka Conservation District, Lake Improvement District
- 8:45pm 10. ADJOURNMENT



Agenda Item: Consent Agenda

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

Council Action: Required. Possible motion ...

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

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

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

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Description	GL Account	Amount
07/01/13	PC	07/01/13	7011301	COOK, WILLIAM B.	37		001-10101	184.70
07/01/13	PC	07/01/13	7011302	Fletcher, Thomas M	33		001-10101	84.70
07/01/13	PC	07/01/13	7011303	Kind, Debra J.	34		001-10101	277.05
07/01/13	PC	07/01/13	7011304	Quam, Robert	32		001-10101	184.70
07/01/13	PC	07/01/13	7011305	ROY, ROBERT J.	38		001-10101	184.70
Grand Totals:								<u>915.85</u>

Check Issue Date(s): 06/01/2013 - 06/30/2013

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
06/13	06/10/2013	10834	808	ADVANTAGE SIGNS & GRAPHICS INC	101-20100	3,341.64
06/13	06/10/2013	10835	51	BOLTON & MENK, INC.	502-20100	4,676.38
06/13	06/10/2013	10836	9	CITY OF DEEPHAVEN	101-20100	6,987.14
06/13	06/10/2013	10837	818	EXC/LAKE MTKA CHAMBER COMMERCE	101-20100	1,400.00
06/13	06/10/2013	10838	68	GOPHER STATE ONE CALL	602-20100	97.15
06/13	06/10/2013	10839	3	KELLY LAW OFFICES	101-20100	1,748.00
06/13	06/10/2013	10840	99	LAKE MTKA CONSERVATION DISTRIC	101-20100	1,612.50
06/13	06/10/2013	10841	255	LMC INSURANCE TRUST	101-20100	126.00
06/13	06/10/2013	10842	105	METRO COUNCIL ENVIRO SERVICES	602-20100	2,497.36
06/13	06/10/2013	10843	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	14,754.00
06/13	06/10/2013	10844	817	STOLZ FAMILY LLC	101-20100	1,666.67
06/13	06/10/2013	10845	136	Sun Newspapers	101-20100	90.93
06/13	06/10/2013	10846	745	Vintage Waste Systems	101-20100	1,628.25
06/13	06/10/2013	10847	145	XCEL ENERGY	602-20100	662.78
06/13	06/24/2013	10848	808	ADVANTAGE SIGNS & GRAPHICS INC	101-20100	115.21
06/13	06/24/2013	10849	761	DEBRA KIND	101-20100	7.21
06/13	06/24/2013	10850	819	FINANCE & COMMERCE INC	101-20100	115.51
06/13	06/24/2013	10851	751	Hennepin County Treasurer	101-20100	270.00
06/13	06/24/2013	10852	742	Marco, Inc.	101-20100	856.39
06/13	06/24/2013	10853	820	SHOREWOOD TRUE VALUE	101-20100	94.67
06/13	06/24/2013	10854	136	Sun Newspapers	101-20100	116.92
Totals:						<u>42,864.71</u>

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

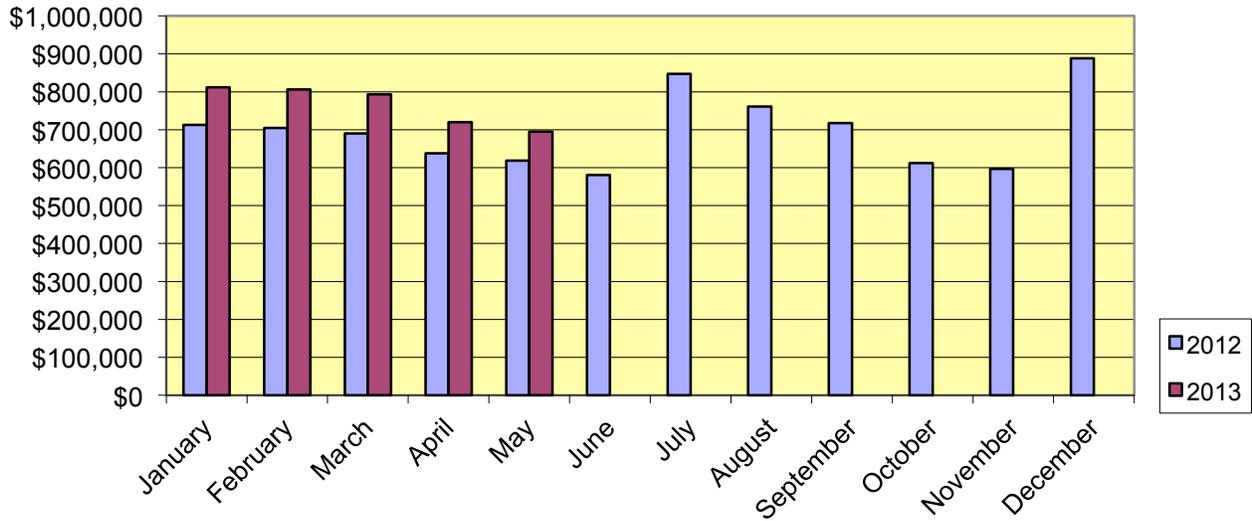
Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
ADVANTAGE SIGNS & GRAPHICS INC					
808	ADVANTAGE SIGNS & GRAPHICS I	00018869	SIGNS	05/31/2013	3,341.64
		00019983	SIGNS	06/11/2013	115.21
Total ADVANTAGE SIGNS & GRAPHICS INC					3,456.85
BOLTON & MENK, INC.					
51	BOLTON & MENK, INC.	0156887	EXC BLVD DRAINAGE IMPROV	05/30/2013	67.50
		0156888	WATERMAIN FEASIBILITY REPORT	05/30/2013	839.00
		0156889	2013 DEVELOPMENT REVIEW	05/30/2013	202.50
		0156890	2013 I & I PROJECT	05/30/2013	684.00
		0156891	2013 STREET IMPROVEMENTS	05/30/2013	2,583.50
		0156892	2013 MISC ENGINEERING	05/30/2013	60.00
			STM WTR ENGINEERING FEES		239.88
Total BOLTON & MENK, INC.					4,676.38
CITY OF DEEPHAVEN					
9	CITY OF DEEPHAVEN	MAY 2013	RENT & EQUIPMENT	05/31/2013	542.95
			Postage		43.26
			COPIES		102.40
			BIKE PATH		168.36
			STREETS		336.72
			WEED/TREE/MOWING		925.98
			Clerk Services		3,237.00
			SWEEPING DISPOSAL (51 TONS)		1,020.00
			ZONING		610.47
Total CITY OF DEEPHAVEN					6,987.14
DEBRA KIND					
761	DEBRA KIND	061713	FEDEX - CODE BOOK PRINTING	06/17/2013	7.21
Total DEBRA KIND					7.21
EXC/LAKE MTKA CHAMBER COMMERCE					
818	EXC/LAKE MTKA CHAMBER COMM	061013	JULY 4TH CONTRIBUTION	06/10/2013	1,400.00
Total EXC/LAKE MTKA CHAMBER COMMERCE					1,400.00
FINANCE & COMMERCE INC					
819	FINANCE & COMMERCE INC	740960554	CONSRUCTION BID	06/11/2013	115.51
Total FINANCE & COMMERCE INC					115.51
GOPHER STATE ONE CALL					
68	GOPHER STATE ONE CALL	71898	Gopher State calls	05/31/2013	97.15
Total GOPHER STATE ONE CALL					97.15
Hennepin County Treasurer					
751	Hennepin County Treasurer	1000031671	Room & Board/Work Release	06/17/2013	270.00
Total Hennepin County Treasurer					270.00
KELLY LAW OFFICES					
3	KELLY LAW OFFICES	6110	GENERAL LEGAL	05/28/2013	1,138.50
		6111	LAW ENFORCE PROSECUTION	05/28/2013	609.50

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total KELLY LAW OFFICES				1,748.00
LAKE MTKA CONSERVATION DISTRIC					
99	LAKE MTKA CONSERVATION DIST	052013	3rd QTR LEVY PMT	05/20/2013	1,612.50
	Total LAKE MTKA CONSERVATION DISTRIC				1,612.50
LMC INSURANCE TRUST					
255	LMC INSURANCE TRUST	25258	Worker's Comp. Ins.	06/03/2013	126.00
	Total LMC INSURANCE TRUST				126.00
Marco, Inc.					
742	Marco, Inc.	500-0156281-000	Copier lease	06/10/2013	856.39
	Total Marco, Inc.				856.39
METRO COUNCIL ENVIRO SERVICES					
105	METRO COUNCIL ENVIRO SERVIC	0001019009	Monthly wastewater Charge	06/05/2013	2,497.36
	Total METRO COUNCIL ENVIRO SERVICES				2,497.36
SHOREWOOD TRUE VALUE					
820	SHOREWOOD TRUE VALUE	14646	PRESSER WASHER RENTAL	06/18/2013	94.67
	Total SHOREWOOD TRUE VALUE				94.67
SO LAKE MINNETONKA POLICE DEPT					
38	SO LAKE MINNETONKA POLICE DE	JUNE 2013	2013 OPERATING BUDGET EXP	06/01/2013	14,754.00
	Total SO LAKE MINNETONKA POLICE DEPT				14,754.00
STOLZ FAMILY LLC					
817	STOLZ FAMILY LLC	061013	LIQUOR LICENSE REFUND	06/10/2013	1,666.67
	Total STOLZ FAMILY LLC				1,666.67
Sun Newspapers					
136	Sun Newspapers	1164275	Legal Notice	05/23/2013	38.97
		1165541	Legal Notice	05/30/2013	51.96
		1166657	Legal Notice	06/06/2013	58.46
		1166658	Legal Notice	06/06/2013	58.46
	Total Sun Newspapers				207.85
Vintage Waste Systems					
745	Vintage Waste Systems	052813	City Recycling Contract	05/28/2013	1,628.25
	Total Vintage Waste Systems				1,628.25
XCEL ENERGY					
145	XCEL ENERGY	052313	LIFT STATION #1	05/23/2013	37.67
			LIFT STATION #2		38.87
			LIFT STATION #3		25.70
			LIFT STATION #4		35.88
			LIFT STATION #6		76.49
			Sleepy Hollow Road *		9.67
			4925 MEADVILLE STREET *		9.65

<u>Vendor</u>	<u>Vendor Name</u>	<u>Invoice No</u>	<u>Description</u>	<u>Inv Date</u>	<u>Net Inv Amt</u>
			SIREN		3.92
			Street Lights *		424.93
	Total XCEL ENERGY				<u>662.78</u>

Total Paid: 42,864.71
Total Unpaid: -
Grand Total: 42,864.71

City of Greenwood Monthly Cash Summary



Month	2012	2013	Variance with Prior Month	Variance with Prior Year
January	\$712,814	\$812,019	-\$76,100	\$99,205
February	\$704,873	\$805,692	-\$6,327	\$100,819
March	\$690,422	\$793,435	-\$12,257	\$103,013
April	\$637,990	\$720,170	-\$73,265	\$82,180
May	\$618,262	\$694,987	-\$25,183	\$76,725
June	\$580,578	\$0	-\$694,987	-\$580,578
July	\$846,897	\$0	\$0	-\$846,897
August	\$760,682	\$0	\$0	-\$760,682
September	\$717,852	\$0	\$0	-\$717,852
October	\$611,894	\$0	\$0	-\$611,894
November	\$597,127	\$0	\$0	-\$597,127
December	\$888,119	\$0	\$0	-\$888,119

Bridgewater Bank Money Market	\$427,082
Bridgewater Bank Checking	\$4,580
Beacon Bank CD	\$240,000
Beacon Bank Money Market	\$23,225
Beacon Bank Checking	\$100
<hr/>	
	\$694,987

ALLOCATION BY FUND

General Fund	\$107,628
General Fund Designated for Parks	\$27,055
Bridge Capital Project Fund	\$78,613
Stormwater Special Revenue Fund	\$7,287
Sewer Enterprise Fund	\$425,821
Marina Enterprise Fund	\$48,583
<hr/>	
	\$694,987



Agenda Number: **4A**

Agenda Date: 07-03-13

Agenda Item: City Engineer Dave Martini:
2013 Road Project Bids
County Aid to Municipalities Application
Excelsior Blvd. Sanitary Sewer Forcemain, Street, and Watermain Improvements

Summary: 2013 Road Project Bids – Based on council direction, bids have been secured for 2013 road projects. The bid results are attached. Dave attend the 07-03-13 council meeting to answer questions. Note: The budget for 2013 road projects is \$110,000 for construction costs and \$20,000 for engineering costs.

County Aid to Municipalities Application – In 1957 the county established a County Aid to Municipalities program to provide financial assistance for roadways and bridges to cities with populations under 5,000. Typically the funding is between \$1,000 and \$3,000 per year. Per the attached letter, this year's CAM apportionment is \$1800. The city must submit a project approval form to receive the funds.

Excelsior Blvd. Sanitary Sewer Forceman, Street, and Watermain Improvements – Attached is the updated project timeline. The council will discuss next steps at the 07-03-13 council meeting.

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

1. I move the council approves the \$_____ bid from _____ (company) to be paid from the general fund for the following 2013 road projects:
 - a. Resurfacing the south leg of Byron Circle.
 - b. Bituminous patching on Lodge Lane, Lyman Court, and Woods Court.
 - c. Mill and overlay of St. Alban's Bay Bridge deck.
2. I move the council approves the \$_____ bid from _____ (company) to be paid from the general fund for crack sealing and sealcoating on Lodge Lane, Lyman Court, and Woods Court.
3. I move the council directs the city clerk to work with the city engineer to complete the project approval form to receive CAM funds for the city's 2013 road projects.



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June 25, 2013

City of Greenwood
Attn: Bob Quam
20225 Cottagewood Road
Deephaven, MN 55331

RE: Bid Abstract for 2013 Street Improvements

Dear Mr. Quam:

Enclosed is the bid abstracts for the 2013 Street Improvements Project. The following is a summary of the bids:

	<u>Base Bid</u>	<u>Alternate Bid</u>	<u>Total Bid</u>
Barber Construction, Inc.	\$93,375.00	\$15,500.00	\$108,875.00
GMH Asphalt	\$106,645.00	\$8,647.50	\$115,292.50
Northwest Asphalt	\$114,831.50	\$16,340.00	\$131,171.50
Bituminous Roadways	\$149,395.00	\$17,950.00	\$167,345.00

As directed by the Council, the scope of the project included resurfacing the south leg of Byron Circle and bituminous patching on Lodge Lane, Lyman Court, and Woods Court. The project also included an alternate bid for milling and overlaying the bridge deck.

The low bid was submitted by Barber Construction in the amount of \$108,875.00, which included the alternate bid.

I will be at the City Council meeting on July 3rd to discuss the bids with the Council. Please let me know if you have questions or need additional information.

Sincerely,
BOLTON & MENK, INC.

David P. Martini, P.E.
Principal Engineer



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June 25, 2013

City of Greenwood
Attn: Bob Quam
20225 Cottagewood Road
Deephaven, MN 55331

RE: Bid Abstract for 2013 Seal Coating Project

Dear Mr. Quam:

Enclosed is the bid abstracts for the 2013 Seal Coating Project. The following is a summary of the bids:

	<u>Total Bid</u>
Allied Blacktop	\$18,434.00
Caldwell Asphalt	\$39,290.00

As directed by the Council, the scope of the project included crack sealing and seal coating on Lodge Lane, Lyman Court, and Woods Court.

The low bid was submitted by Allied Blacktop in the amount of \$18,434.00, which included the alternate bid.

I will be at the City Council meeting on July 3rd to discuss the bids with the Council. Please let me know if you have questions or need additional information.

Sincerely,
BOLTON & MENK, INC.

David P. Martini, P.E.
Principal Engineer

ABSTRACT OF BIDS

2013 STREET IMPROVEMENTS
 CITY OF GREENWOOD, MINNESOTA
 BMI PROJECT NO. C13.106046

ITEM NO.	BID ITEM	APPROX. QUAN.	UNIT	1		2		3		4	
				BARBER CONSTRUCTION St. Bonifacius, MN	GMH ASPHALT Chaska, MN	NORTHWEST ASPHALT Shakopee, MN	BITUMINOUS ROADWAYS Mendota Heights, MN				
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
BASE BID											
1	MOBILIZATION	1	LS	\$5,000.00	\$5,000.00	\$5,100.00	\$5,100.00	\$2,600.00	\$2,600.00	\$7,000.00	\$7,000.00
2	TRAFFIC CONTROL	1	LS	\$4,000.00	\$4,000.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
3	SAW CUT BITUMINOUS PAVEMENT	470	LF	\$10.00	\$4,700.00	\$4.00	\$1,880.00	\$3.50	\$1,645.00	\$3.50	\$1,645.00
4	REMOVE BITUMINOUS PAVEMENT	2,800	SY	\$4.00	\$11,200.00	\$2.15	\$6,020.00	\$4.00	\$11,200.00	\$5.00	\$14,000.00
5	STREET BASE/SUBGRADE EXCAVATION (EV)	78	CY	\$2.00	\$156.00	\$25.00	\$1,950.00	\$27.50	\$2,145.00	\$50.00	\$3,900.00
6	SUBGRADE PREPARATION	2,800	SY	\$1.00	\$2,800.00	\$2.25	\$6,300.00	\$1.25	\$3,500.00	\$2.00	\$5,600.00
7	GEOTEXTILE FABRIC	150	SY	\$0.10	\$15.00	\$1.50	\$225.00	\$2.00	\$300.00	\$4.00	\$600.00
8	FURNISH AND PLACE CLASS 5 AGGREGATE BASE (100% CRUSHED LIMESTONE)	300	TONS	\$15.00	\$4,500.00	\$25.20	\$7,560.00	\$25.00	\$7,500.00	\$30.00	\$9,000.00
9	BITUMINOUS BASE COURSE, TYPE LV3, PAVER PLACED	230	TONS	\$85.00	\$19,550.00	\$88.90	\$20,447.00	\$88.65	\$20,389.50	\$92.00	\$21,160.00
10	1-1/2" BITUMINOUS WEAR COURSE, TYPE LV4, PAVER PLACED	1,700	SY	\$7.10	\$12,070.00	\$8.70	\$14,790.00	\$8.50	\$14,450.00	\$11.00	\$18,700.00
11	BITUMINOUS BASE COURSE, TYPE LV3, MANUAL PLACED	160	TONS	\$85.00	\$13,600.00	\$110.00	\$17,600.00	\$145.20	\$23,232.00	\$156.00	\$24,960.00
12	1-1/2" BITUMINOUS WEAR COURSE, TYPE LV4, MANUAL PLACED	1,100	SY	\$7.10	\$7,810.00	\$12.85	\$14,135.00	\$12.50	\$13,750.00	\$16.00	\$17,600.00
13	TOPSOIL BORROW (LV)	27	CY	\$12.00	\$324.00	\$30.00	\$810.00	\$35.00	\$945.00	\$140.00	\$3,780.00
14	SEEDING WITH 270 RT SEED MIX AND TYPE 5 HYDROMULCH (3884)	400	SY	\$2.00	\$800.00	\$3.17	\$1,268.00	\$4.25	\$1,700.00	\$5.00	\$2,000.00
15	ADJUST STORM MANHOLE CASTING AND REPLACE ADJUSTING RINGS	2	EACH	\$350.00	\$700.00	\$300.00	\$600.00	\$475.00	\$950.00	\$830.00	\$1,660.00
16	ADJUST SANITARY MANHOLE CASTING, REPLACE ADJUSTING RINGS AND INSTALL EXTERNAL CHIMNEY SEAI	12	EACH	\$500.00	\$6,000.00	\$530.00	\$6,360.00	\$700.00	\$8,400.00	\$1,250.00	\$15,000.00
17	SILT FENCE, ORANGE PREASSEMBLED	30	LF	\$1.00	\$30.00	\$2.00	\$60.00	\$7.50	\$225.00	\$11.00	\$330.00
18	BITUMINOUS BERM CURB	40	LF	\$3.00	\$120.00	\$1.00	\$40.00	\$10.00	\$400.00	\$24.00	\$960.00
	TOTAL BASE BID:				\$93,375.00		\$106,645.00		\$114,831.50		\$149,395.00
ALTERNATE BID											
A1	TRAFFIC CONTROL	1	LS	\$2,000.00	\$2,000.00	\$300.00	\$300.00	\$1,850.00	\$1,850.00	\$400.00	\$400.00
A2	REMOVE BITUMINOUS PAVEMENT BY MILLING	450	SY	\$12.00	\$5,400.00	\$2.15	\$967.50	\$12.70	\$5,715.00	\$17.00	\$7,650.00
A3	3" BITUMINOUS WEAR COURSE FOR BRIDGE OVERLAY, TYPE LV4	450	SY	\$18.00	\$8,100.00	\$16.40	\$7,380.00	\$19.50	\$8,775.00	\$22.00	\$9,900.00
	TOTAL ALTERNATE BID:				\$15,500.00		\$8,647.50		\$16,340.00		\$17,950.00
	TOTAL - BASE BID PLUS ALTERNATE BID:				\$108,875.00		\$115,292.50		\$131,171.50		\$167,345.00

ABSTRACT OF BIDS
 2013 SEAL COATING PROJECT
 CITY OF GREENWOOD, MINNESOTA
 BMI PROJECT NO. C13.106046

ITEM NO.	BID ITEM	APPROX. QUAN.	UNIT	1		2	
				ALLIED BLACKTOP Maple Grove, MN		CALDWELL ASPHALT Hawick, MN	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
BASE BID							
1	MOBILIZATION	1	LS	\$1,550.00	\$1,550.00	\$5,800.00	\$5,800.00
2	CRACK SEALING	3,500	LF	\$1.20	\$4,200.00	\$4.50	\$15,750.00
3	BITUMINOUS SEAL COATING	5,800	SY	\$1.98	\$11,484.00	\$2.80	\$16,240.00
4	STREET SWEEPING	1	LS	\$1,200.00	\$1,200.00	\$1,500.00	\$1,500.00
			TOTAL BASE BID:		\$18,434.00		\$39,290.00



Hennepin County Public Works

Transportation Department
Public Works Facility
1600 Prairie Drive

Medina, MN 55340-5421

Phone: 612-596-0300

Web:
www.co.hennepin.mn.us

June 20, 2013

Gus Karpas, City Clerk
City of Greenwood
20225 Cottagewood Rd.
Excelsior, MN 55331

RE: 2013 Hennepin County Aid to Municipalities (CAM) Apportionment

Dear Mr. Karpas:

Hennepin County is now releasing the 2013 CAM apportionments. This year's apportionment for the City of Greenwood is \$ 1,800.

A brochure is enclosed that explains the CAM program. To request reimbursement, simply submit the attached Project Approval Form. We will review and approve the request, and then ask you to submit receipts or invoices showing the expenditures for the project. A map is also included with this letter showing the streets in your municipality that are designated on the CAM street system, and thus are eligible for reimbursement. Please review this map and let us know if any changes or corrections are needed.

If you have any questions, please contact either myself, at 612-596-0354 or Jim Gay, at 612-596-0357.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert H. Byers', written in a cursive style.

Robert H. Byers, P.E.
Senior Professional Engineer

RHB: sew

Attachments: Project Approval Form
Municipal CAM map
CAM Information Brochure

cc Jim Grube, Director, Transportation Department
Tom Johnson, Transportation Planning Engineer
Jim Gay, Senior Engineering Technician

PROPOSED CAM IMPROVEMENT PROJECTS

REQUEST FOR COUNTY APPROVAL

Municipality _____

Name of Road, Street, or Avenue _____

Location* : From _____ To _____

Type of Improvement / Project Scope _____

*Attach Project Location Map

Estimated Cost \$ _____

<p><input type="checkbox"/> This project is on a currently designated County Aid route.</p> <p><input type="checkbox"/> This project is not on a currently designated County Aid route but the city would like the route to be added to the County Aid system (provide information at right).</p>	<p>Proposed Route Changes & Justification:</p>
---	--

SIGNATURE: _____ **Date:** _____

CITY OFFICIAL: _____ **Phone:** _____

Title

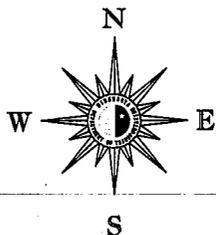
Request Approved: Robert H Byers, P.E.: _____ Date: _____
Senior Professional Engineer

Remarks: _____

- Project consists of eligible items
- CAM funds are available
- Project is on CAM system
- Verified Project Completion (photo taken)

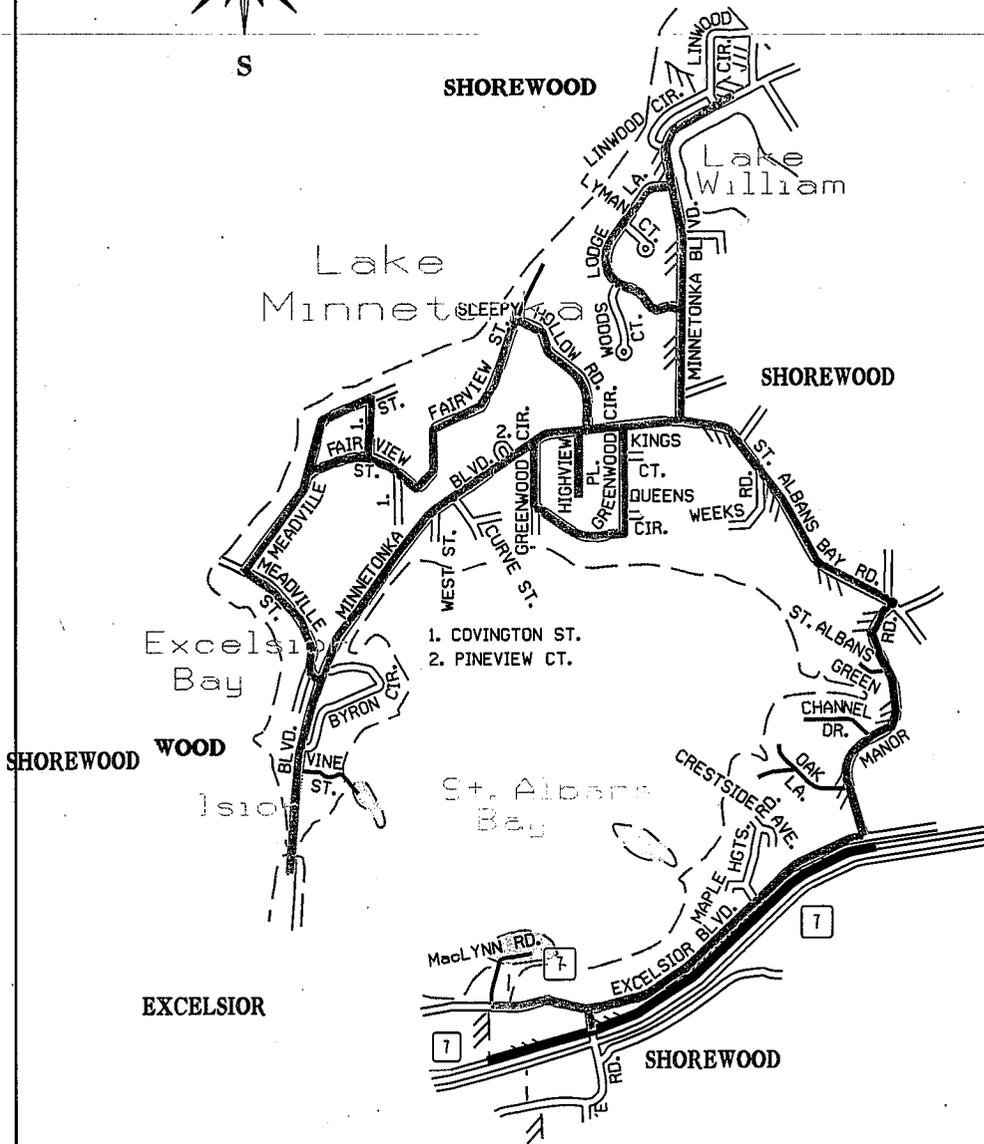
County-Aid System

March, 2013



DEEPHAVEN

SHOREWOOD



1. COVINGTON ST.
2. PINEVIEW CT.

GREENWOOD

HENNEPIN COUNTY

2011 POP. 688

LEGEND

Municipal Limits	— / / / — / / /
County Aid	— — — —
Existing County or State Road	— — — —
Private Road	— — — —

Excelsior Blvd. Watermain Project Timeline

Updated 04-24-13

1	Petition received from GW Excelsior Blvd. residents	6/13/12
2	GW resolution declaring adequacy of petition and ordering preparation of feasibility report	7/5/12
3	Publish resolution declaring adequacy of petition.	4/11/13
4	GW preliminary feasibility report completed for Option 1 (see footnote)	10/3/12
5	Feasibility report reviewed by GW planning commission for compliance with comp plan	10/17/12
6	GW deadline to submit public hearing notice for Option 1 to Sun-Sailor (Thursday before publication)	12/13/12
7	GW publishes notice of hearing for Option 1 (Form 6). Per statute, the city clerk must cause notice thereof to be given by TWO publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. The two publications must be a week apart, and the hearing must be at least three days after the second publication. NOTE: Typically, cities assess all properties abutting or bordering on the improvement, but the council may wish to levy assessments against adjacent, non-abutting properties if the properties benefit from the improvement. In that event the Notice of Hearing must include the following statement: "The area proposed to be assessed for such improvement is"	12/20/12 and 12/27/12
8	GW affidavit of mailing notice to affected property owners for Option 1 . Not less than ten days before the hearing, notice of the hearing must also be mailed to the owner of each parcel within the area proposed to be assessed and must contain a statement that a reasonable estimate of the impact of the assessment will be available at the hearing, but failure to give mailed notice or any defects in the notice does not invalidate the proceedings.	12/21/12
9	GW public hearing for Option 1 . Minutes of public hearing showing testimony and findings. NOTE: Council action is required within 6 months of the public hearing date.	1/2/13
10	Deadline for drafts of EX-GW cooperative agreement for the Option 1 watermain project (including pricing) and agreement for water service for all GW users. Draft created by GW city attorney.	2/6/13
11	GW reviews EX-GW cooperative agreements for submitting to EX.	2/6/13
12	GW considers resolution ordering improvement and preparation of plans (Forms 7, 7A, 8).	2/6/13
13	Deadline to post notice for 2/20 special meeting (72 hours notice required).	2/15/13
14	GW considers resolution approving plans. NOTE: MCES will be advertising for bids.	2/20/13
15	GW considers resolution approving cooperative agreement with MCES to include the Excelsior Blvd. watermain project, sidewalk improvements, and tree replacement plan.	2/20/13
16	MCES advertizes for bids.	3/4/13
17	EX reviews EX-GW cooperative agreements.	3/4/13
18	GW reviews EX edits of EX-GW cooperative agreements.	3/6/13
19	Petition 2 received from next 6 properties.	3/15/13
20	GW considers resolution declaring adequacy of Petition 2 and ordering preparation of feasibility report.	4/3/13
21	Publish resolution declaring adequacy of Petition 2 to start 30-day appeal clock ticking.	4/11/13
22	GW preliminary feasibility report completed for Petition 2 Area .	4/11/13
23	GW considers resolution receiving feasibility report and ordering public hearing for Petition 2 Zone (after previously scheduled 6pm Local Board of Appeal meeting)	4/11/13
24	GW deadline to submit public hearing notice for Petition 2 Area to Sun-Sailor (Thursday before publication)	4/11/13
25	GW publishes notices (2 consecutive weeks) of public hearing for Petition 2 Area . See line 6 above.	4/18 & 4/25
26	GW affidavit of mailing notice to affected property owners for Petition 2 Area . See line 7 above.	4/19/13
27	GW public hearing for Petition 2 Area . See line 8 above.	5/1/13
28	GW approves water <i>expansion</i> and water <i>service</i> agreements with city of Excelsior.	5/1/13
29	GW considers resolution ordering Petition 2 Area improvement and preparation of plans.	5/1/13
30	GW signs cooperative agreement with MCES	5/2/13
31	MCES opens bids.	Done
32	GW go / no-go decision (per co-op agreement with MCES).	6/10/13
33	MCES starts construction.	6/20/13
34	Construction substantially complete. Determine \$\$ amount to be assessed.	
35	GW orders assessment roll. (Forms 12, 13)	9/4/13
36	GW resolution for hearing on proposed assessment. (Form 14)	10/2/13
37	GW affidavit of publication of notice of hearing. (Form 15)	10/10/13
38	GW affidavit of mailing notice to affected property owners. (Form 15A)	10/10/13
39	Public hearing.	11/6/13
40	GW resolution adopting assessment. (Form 16)	11/6/13
41	GW notice of final assessment (only needed if amount changed from initial notification).	11/8/13
42	Deadline for GW certification of assessment to county auditor. (Form 18, 18A)	11/22/13

GW = Greenwood, EX = Excelsior, **Option 1** = 21380 - 21170 Excelsior Blvd, **Petition 2 Zone** = 21150 - 21030 Excelsior Blvd.



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June 10, 2013

Dan Fick, P.E.
Metropolitan Council Environmental Services
390 Robert Street North
St. Paul, MN 55101

RE: Excelsior Interceptor 7017 – MCES Project No. 802850
Greenwood Watermain Extension

Dear Dan:

On behalf of the City of Greenwood, we would like to formally request that watermain be extended along Excelsior Boulevard from approximately the west City limits of Greenwood to Maple Heights as part of MCES Project No. 802850. The proposed watermain will be owned and operated by the City of Excelsior. I have attached a figure showing the limits of the proposed improvements for your information.

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

Sincerely,

BOLTON & MENK, INC.

David P. Martini, P.E.
Principal Engineer

cc: Morgan Dawley, WSB & Associates, Inc.



Agenda Item: Discuss Draft of Uniform Animal Ordinance

Summary: In May 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 department. Attached is a memo outlining the process for drafting the ordinance and the final draft of the ordinance that was approved by the coordinating committee for consideration by the 4 city councils. City Attorney Mark Kelly was instrumental in providing input during the draft process for the uniform animal ordinance. His memo regarding the final draft is attached for the council's consideration. These items have not changed from what was included in the 06-05-13 council packet.

At the 06-05-13 council meeting, the city council "continued" discussion regarding the ordinance pending input from other cities and authorized the mayor to send a letter to Chief Litsey to let him and the other cities know that the Greenwood council is supportive of a unified ordinance and is open to considering changes that the other cities would like to make. A copy of the mayor's letter to Chief Litsey is attached.

As of the July council packet deadline, no new information has been received by the city regarding action taken by the cities of Excelsior, Shorewood, or Tonka Bay.

If the Greenwood city council desires to move forward with the ordinance, here is the timeline:

07-03-13	Council approval to draft the ordinance
08-07-13	1st reading at regular council meeting
09-04-13	2nd reading at regular city council meeting
09-05-13	Submission to the Sun-Sailor
09-12-13	Publication in the Sun-Sailor – ordinance goes into effect on this date

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

1. I move the council directs that the uniform animal ordinance be formatted for a 1st reading to be considered at the 08-07-13 city council meeting.
2. I move the council directs that the uniform animal ordinance be formatted for a 1st reading to be considered at the 08-07-13 city council meeting, with the following changes: _____.
3. Do nothing or other motion ???

Greenwood code section 1215 requires 2 readings of all ordinances prior to adoption. The 2nd reading shall be within 3 months of the 1st reading. There may be changes between the 1st and 2nd readings. Ordinances go into effect once they are published in the city's official newspaper. The planning commission must hold a public hearing and make a recommendation to the city council regarding any changes to the zoning code chapter 11.

From: Debra Kind <dkind100@gmail.com>
Subject: Animal Ordinance
Date: June 19, 2013 6:37:10 PM CDT
To: Bryan Litsey <blitsey@southlakepd.com>
Cc: Gus Karpas <guskarpas@mchsi.com>, Dana Young <danayoung@mchsi.com>

Bryan --

I almost forgot to tell you. At the 06-05-13 Greenwood council meeting, we did not take action on the animal ordinance. Our council supports the concept of a uniform animal ordinance, but would like to wait to adopt it until we know what changes (if any) the other three member cities propose. In other words, we are open to considering changes to the ordinance if another city would like to make revisions. Please pass along this information to the other coordinating committee members and administrators.

Thanks!

Deb

DEBRA J. KIND
Mayor, City of Greenwood
20225 Cottagewood Road
Deephaven, MN 55331
www.greenwoodmn.com
Main: 952.474.6633
Direct: 612.718.6753

KELLY LAW OFFICES

Established 1948

351 SECOND STREET
EXCELSIOR, MINNESOTA 55331

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

(952) 474-5977
FAX 474-9575

MEMORANDUM

TO: Greenwood Mayor and City Council Members

FROM: Mark W. Kelly, Greenwood City Attorney

DATE: May 28, 2013

RE: Final Draft Uniform Animal Ordinance

Introduction

For some months now, a committee has been preparing a Uniform Animal Control Ordinance on which my office has had opportunity, from time to time, to comment in writing. The final iteration has now been circulated for your consideration.

Comment

I have reviewed the final iteration and find that it largely carries forward the ordinance text as last reviewed March 4th. At that time, I issued written comments thereon. See copy of memo attached.

A review of the current iteration finds my March 4th comments on the third draft of the proposed Animal Control Ordinance not to have been implemented.

While I believe those comments still have merit, some of the implementation thereof redrafting that would highlight earlier drafting choices that are not streamlined.

Action

The City Council has the authority to join with its fellow cities in adopting this common Animal Control Ordinance and in so doing, the law enforcement will have a common ordinance and methodology in which to act when dealing with animals.

The City should carefully consider formatting and consider the Permitted Non-domestic Animal language.

KELLY LAW OFFICES

Established 1948

351 SECOND STREET
EXCELSIOR, MINNESOTA 55331

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

(952) 474-5977
FAX 474-9575

MEMORANDUM

TO: Greenwood Mayor and City Council Members

FROM: Mark W. Kelly

DATE: March 4, 2013

RE: 3rd Draft proposed Animal Control Ordinance

Introduction

A 3rd draft of the Animal Control Ordinance has been circulated for comment. My comments follow, by section.

Purpose Comment: Text is good

Definitions –

City – Comment: Text is good

DOMESTICATED (DOMESTIC) ANIMAL. Comment: Text is good

NON-DOMESTICATED (NON-DOMESTIC) ANIMAL.
Comment: See suggested edits below

Animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be

inherently dangerous to the health, safety, and welfare of people.
Unless otherwise defined, such animals shall include:

- (1.) Any member of the cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;
- (2.) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;
- (3.) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;
- (4.) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;
- (5.) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and,
- (6.) Insert: Bear, deer, buffalo, moose, monkeys, apes, camels and other common zoo animals not subject to domestication. Delete: Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subsection, including but not limited to bears, deer, monkeys and game fish

Public Nuisance – Dog

Comment: It is suggested that the title of this definition be revised to Public Nuisance and the following definition adopted:

Any animal that (1) violates a prohibition of this ordinance (2) habitually, threatens, chases or molests persons travelling peaceably on a public road or persons off the premises of its owner, (3) frequents public grounds, parks, or beaches, or property of a person other than the owner unaccompanied by its owner or a custodian, (4) chases vehicles, (5) chases, molests, threatens or bites any person if the person is not on the property of the owner or custodian of the animal, (6) destroys any public or private property or (7) defecates upon public property or the private property of another without permission without the owner immediately removing the deposit

If the foregoing is adopted, then Animal Nuisances should also be revised (see below)

Restraint – Comment: Text is good

Definitions General Comments: The following definitions would be useful:

"Barking and Excessive barking: As used in this ordinance "barking" means barking, whining, howling, baying, crying, or the making of other noise by the animal. "Excessive barking" means to bark excessively, continuously, or untimely Delete: includes, but is not limited to, barking, whining, howling, baying, crying, or making other noise excessively, such that the creation of the noise by any single or combination of dogs can be heard (1) by any person, including a law enforcement officer or animal control officer, (2) from a location outside of the building or premises where the dog is being kept Delete: and (3) which noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period, and (4) which a reasonable person would consider to excessive, continuous, or untimely. For purposes of this definition, "Untimely" means Delete: includes, but is not limited to, the barking Delete: noise which occurs repeatedly over a two-minute period of time with one-minute or less lapse of time between each animal noise during the two-minute period, between 10:00 p.m. and 7:00 a.m.

"Person: As used in this ordinance, "person" means any individual, firm, partnership, corporation or similar entity." Then remove all references to person, firm, or corporation in favor of "person".

Registration and Licensing Requirement – Comment: Text of Subd 1, 3, 4, & 5 are good.

Subd. 2: Reference to *appendix* should be changed to read "The license period shall be that specified from time to time by resolution."

Permitted Domesticated Animals Comment: Text is good

Permitted Non- Domesticated Animals – Comment: This provision imposes a prohibition. Therefore its title would be better stated as: Non-Domesticated Animal Regulation. The text should then read: It is illegal to possess any "non-domesticated animal" as defined herein.

Impoundment Authority – Comment: See suggested edits below.

The animal enforcement officer shall have authority to take into custody and impound those animals, found at large within the city. If the animal enforcement officer is unable to take an animal into custody the officer may, where possible, follow the animal to the property of its owner, and may issue a citation to the owner for violation of this ordinance. The officer shall not

Delete: be authorized to take into custody an animal once it is upon the property of its owner except:

- (a) Where the officer finds no one present upon the property and custody is necessary to prevent the animal from further running at large; or
- (b) The animal is previously declared as a dangerous dog or dangerous animal; or
- (c) Is a non-domesticated animal Insert: prohibited hereunder or which is inherently dangerous and if left uncontrolled poses a danger to public health, safety or welfare.

Animal Nuisances – Comment: See suggested edits below.

Subd. 1. It shall be unlawful for any owner to fail to exercise reasonable Delete: proper care and control of Delete: his or her Insert: their animals to prevent them from becoming a public nuisance.

Subd. 2. It is unlawful for an animal to bark excessively or to be a public nuisance. Delete: shall be considered a nuisance for any animal to bark excessively, continuously or untimely, to frequent school grounds, parks, or public beaches, to chase vehicles, to chase, molest, annoy or bite any person if the person is not on the property of the owner or custodian of the animal, to molest, defile or destroy any property, public or private, or to defecate in or upon public property or the property of another without being cleaned up immediately by the person in charge of the animal. The person having custody of the animal is responsible for disposing of the animal feces in a sanitary manner. Failure on the part of the owner or custodian to prevent his animals from committing an act of nuisance shall subject the owner or custodian to the penalty hereinafter provided.

Delete: Subd. 3. The phrase "to bark excessively, continuously, or untimely" includes, but is not limited to, barking, whining, howling, baying, crying, or making other noise excessively, such that the creation of the noise by any single or combination of dogs can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the dog is being kept and which noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period. "Untimely" includes, but is not limited to, the noise which occurs repeatedly over a two-minute period of time with one-minute or less lapse of time between each animal noise during the two-minute period, between 10:00 p.m. and 7:00 a.m.

Subd. 34. No person when in the immediate custody of an animal in or on any public trail, sidewalk, city park, street, public right-of-way, or on any other property, public or private, not the premises of owner or custodian of the animal, shall have in their possession a device for removal of feces. The person having immediate custody of the animal is responsible for immediate

removal and sanitary disposal of the animal's feces deposits. A violation of this subdivision is a misdemeanor.

Subd. 45. No person shall allow any domesticated animal on any public swimming beach or any public grounds where any prohibitory sign is posted, except a recognized animal for life assistance.

Potentially Dangerous Dogs – Comment: I suggest the following edits:

The animal control authority shall issue Delete: make such a declaration of Potentially Dangerous Dog upon a finding that ...

And

.... In making such a determination, the animal enforcement officer may rely upon statements of describing events or facts meeting the above definition of potentially dangerous dog found in any or all of the following:

Dangerous Animals; Declaration -- Comment: I suggest the following edits:

DANGEROUS ANIMALS; DECLARATION

The animal control authority shall issue Delete: make such a declaration of Dangerous Dog upon a finding that....

And

.....In making such a determination, the animal enforcement officer may rely upon statements of describing events or facts meeting the above definition of dangerous dog found in any or all of the following:

Confiscation -- Comment Text is good

SOUTH LAKE MINNETONKA POLICE DEPARTMENT
24150 Smithtown Road
Shorewood, Minnesota 55331

Bryan T. Litsey
Chief of Police



Office (952) 474-3261
Fax (952) 474-4477

Uniform Animal Ordinance Proposal - General Timeline

- May 9, 2012: SLMPD Coordinating Committee informed that SLMPD staff will be renewing efforts to create a uniform animal ordinance.
- June 20, 2012: First draft presented to SLMPD Coordinating Committee members at the budget work session. Coordinating Committee requests that SLMPD staff send draft to city representatives for review and comment.
- June 26, 2012: First draft sent to city representatives for review prior to first work session.
- July 25, 2012: Work session – Attended by SLMPD staff and city representatives. Issues discussed at this session are incorporated into draft 2.
- September 12, 2012: Draft 2 is completed and sent to city representatives and Attorney Karen Marty, who has extensive experience and expertise in animal regulation issues, for review in preparation for next work session. Comments and suggestions received from them are incorporated into draft 3.
- October 30, 2012: Work session – Attended by SLMPD staff, city representatives, and Attorney Karen Marty. Several issues as highlighted by Ms. Marty and Greenwood City Attorney Mark Kelly were discussed and will be incorporated into draft 4, which is currently in progress. The City of Greenwood did not have a representative at this session.
- February 26, 2013: General discussion meeting – Attended by SLMPD Chief Litsey, Deputy Chief Dave Pierson, Support Services Manager David Hohertz, Shorewood Mayor Scott Zerby, and Shorewood City Inspector Brad Nielson.
- April 15, 2013: Work session - Attended by SLMPD staff, city representatives, and Attorney Karen Marty. Several issues as highlighted by Ms. Marty and Greenwood City Attorney Mark Kelly were discussed and incorporated into final draft.
- May 7, 2013: Final draft completed and sent electronically to city representatives and Attorney Karen Marty.



Uniform Animal Ordinance Proposal

for cities of

Excelsior, Greenwood, Shorewood, and Tonka Bay

Section

- _____ Purpose
- _____ Definitions
- _____ Registration and licensing requirements
- _____ Permitted Domesticated Animals
- _____ Permitted Non-Domesticated Animals
- _____ Limitations on number of dogs
- _____ Limitations on number of cats
- _____ Animal breeders
- _____ Running at large
- _____ Impoundment authority
- _____ Animal nuisances
- _____ Confinement of certain animals
- _____ Impounded animal redemption
- _____ Rabies control
- _____ Abuse/neglect of animals
- _____ Dangerous animals and potentially dangerous animals
- _____ Penalties for violation
- _____ Enforcement
- _____ Appendices

1 **PURPOSE.**

2 To preserve the public health, safety and welfare, and guard against public
3 nuisances, the ownership and possession of animals must be regulated.

4 **DEFINITIONS.**

5 For the purpose of this ordinance, the following definitions shall apply unless the
6 context clearly indicates or requires a different meaning.

7 **ANIMAL CONTROL AUTHORITY.** An agency of the state, county, municipality
8 or other governmental subdivision of the state which is responsible for animal
9 control operations in its jurisdiction.

10 **ANIMAL ENFORCEMENT OFFICER.** The designated law enforcement
11 personnel charged by the City with enforcement of this ordinance.

12
13 **ANIMAL SHELTER.** Any premises designated by the City Council or the SLMPD
14 for the purpose of impounding and caring for animals held under the authority of
15 this ordinance.

16
17 **AT LARGE.** An animal is at large when it is off the premises of the, person, firm,
18 corporation, organization, or department possessing, harboring, keeping,
19 having an interest in, or having care, custody, or control of the animal, and
20 the animal is not under restraint.

21
22 **BARKING.** The phrase “to bark excessively, continuously, or untimely” includes,
23 but is not limited to, barking, whining, howling, baying, crying, or making other
24 noise excessively, such that the creation of the noise by any single or
25 combination of dogs can be heard by any person, including a law enforcement
26 officer or animal control officer, from a location outside of the building or
27 premises where the dog is being kept and which noise occurs repeatedly over at
28 least a five minute period of time with one minute or less lapse of time between
29 each animal noise during the five minute period. “Untimely” includes, but is not
30 limited to, the noise which occurs repeatedly over a two-minute period of time
31 with one-minute or less lapse of time between each animal noise during the two-
32 minute period, between 10:00 p.m. and 7:00 a.m.

33
34 **BODILY HARM.** Physical pain or injury, illness, or any impairment of physical
35 condition.

36
37 **SUBSTANTIAL BODILY HARM.** Bodily injury which involves a temporary but
38 substantial disfigurement, or which causes a temporary but substantial loss or
39 impairment of the function of any bodily member or organ, or which causes a
40 fracture of any bodily member.

41
42 **GREAT BODILY HARM.** Bodily injury which creates a high probability of death,
43 or which causes serious permanent disfigurement, or which causes a permanent
44 or protracted loss or impairment of the function of any bodily member or organ or
45 other serious bodily harm.

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CITY. The City of _____ .

COMMERCIAL KENNEL. A kennel used for boarding and breeding or selling dogs for a profit.

DANGEROUS ANIMAL. An animal, including dangerous dogs as defined in Minnesota Statutes, Section 347.50, as amended, which has:

(a) without provocation, inflicted substantial bodily harm on a human being on public or private property; or

(b) killed a domestic animal without provocation while off the owner's property; or

(c) been found to be potentially dangerous, and after the owner has received notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

DEALER. A public or private agency, person, society, or corporation that sells or transfers dogs or cats to corporations, institutions or to other dealers who sell or transfer to corporations or institutions.

ANIMAL WASTE DEVICE. A device for sanitary removal of animal feces.

DOMESTICATED (DOMESTIC) ANIMAL. Such animals as dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar domesticated animals.

NON-DOMESTICATED (NON-DOMESTIC) ANIMAL. Animals which are naturally wild and not naturally trained or domesticated, or which are inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

(1.) Any member of the cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;

(2.) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;

(3.) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;

(4.) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and,

(5.) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subsection, including but not limited to bears, deer, monkeys and other species non-indigenous to Minnesota.

1 (6.) Any animal defined as livestock by Minnesota Department of Agriculture rule
2 1515.3100.

3
4 **OWNER.** Any person, firm, corporation, organization, or department
5 possessing, harboring, keeping, having an interest in, or having care,
6 custody, or control of an animal.

7 **POTENTIALLY DANGEROUS ANIMAL.** Any animal, including a potentially
8 dangerous dog as defined in Minnesota Statutes, Section 347.50, as amended,
9 that:

10
11 (a) When unprovoked, inflicts bites on a human or domestic animal on public or
12 private property; or

13
14 (b) when unprovoked, chases or approaches a person, including a person on a
15 bicycle, upon the streets, sidewalks, or any public or private property, other than
16 the animal owner's property, in an apparent attitude of attack; or

17
18 (c) has a known propensity, tendency, or disposition to attack unprovoked,
19 causing injury or otherwise threatening the safety of humans or domestic
20 animals; or

21
22 (d) Has been declared a potentially dangerous dog or potentially dangerous
23 animal by any lawful authority of this or any other state or subdivision thereof.
24

25 **PREMISES.** A building, structure, shelter, or land where a dog or other
26 domesticated or non-domesticated animal is kept or confined, and specifically
27 excludes all public rights-of-way, sidewalks, and streets.

28 **PROPER ENCLOSURE.** Securely confined indoors or in a securely enclosed
29 and locked pen or structure suitable to prevent the animal from escaping and
30 providing protection from the elements for the animal. A proper enclosure
31 does not include a porch, patio, or any part of a house, garage, or other
32 structure that would allow the animal to exit of its own volition, or any house
33 or structure in which windows are open or in which door or window screens
34 are the only obstacles that prevent the animal from exiting.
35

36 **PROVOCATION.** An act that an adult could reasonably expect may cause an
37 animal to attack or bite. With regard to an animal other than a dog, provocation
38 also means an act that an adult could reasonably expect may cause an animal of
39 that species to attack or bite.
40

41 **PUBLIC NUISANCE - ANIMAL.** Any animal that habitually worries, chases or
42 molests persons travelling peaceably on a public road or off the premises of its
43 owner, or violates a prohibition of this ordinance, is a public nuisance. It shall be
44 considered a nuisance for any animal to bark excessively, continuously or
45 untimely; to frequent school grounds, parks, or public beaches; to chase
46 vehicles; to chase, molest, annoy or bite any person if the person is not on the
47 property of the owner or custodian of the animal; to molest, defile or destroy any
48 property, public or private; or to defecate in or upon public property or the

1 property of another without being cleaned up immediately by the person in
2 charge of the animal. The person having custody of the animal is responsible for
3 disposing of the animal feces in a sanitary manner. Failure on the part of the
4 owner or custodian to prevent his animals from committing an act of nuisance
5 shall subject the owner or custodian to the penalty hereinafter provided.

6 **RESTRAINT.** An animal is considered to be under restraint, provided that:

7 (1) It is on the premises of the person, firm, corporation, organization, or
8 department possessing, harboring, keeping, having an interest in, or
9 having care, custody, or control of the animal; or

10

11 (2) It is in a private motor vehicle or camper, with secured windows and
12 doors, of a person, firm, corporation, organization, or department
13 possessing, harboring, keeping, having an interest in, or having care,
14 custody, or control of the animal; or

15

16 (3) In all other locations, other than animals in a designated "off-leash" park, it
17 is on a secure leash.

18

19 **SLMPD.** The South Lake Minnetonka Police Department.

20 _____ **REGISTRATION AND LICENSING REQUIREMENTS.**

21 Subd. 1. *Licensure required.* All dogs over the age of six months kept in this
22 city, including those allowed by multiple dog license, shall be licensed and
23 registered by the owner with the city. The fee for the license and registration
24 shall be set by resolution of the City Council. License applications shall be
25 made at the office of the City Clerk on city forms setting forth the name and
26 address of the owner; the name, breed, age, color, and gender of the dog; and
27 such other information as may be considered necessary by the city.

28 Applicants shall provide proof that each dog has current vaccination against
29 rabies. License tags, if issued at the election of the city, shall be securely
30 attached around the dog's neck at all times during the license term. If the tag is
31 lost or stolen, the owner may obtain a duplicate license and tag upon payment
32 of a fee set by resolution of the City Council.

33 Subd. 2. *Term of license.* The license period shall be that specified by the city in
34 appendix.

35 Subd. 3. *New residents of city.* Any person who moves into and becomes a
36 resident of the city and who owns a dog within the city shall cause the same to
37 be registered and licensed as provided hereinbefore within a period of not more
38 than 30 days after becoming a resident of the city.

39 Subd. 4. *Transfer of license.* The license of any dog, licensed by the city, may be
40 transferred to a new owner of the licensed dog for the duration of that license.
41 The transfer is when the information regarding the new owner is filed with the city
42 clerk. The fee for license transfers shall be set by resolution of the City Council.

43 Subd. 5. *Revocation.* Any person making any false statement on any license
44 application required by this section shall be guilty of a misdemeanor. The city

1 clerk/treasurer shall revoke any license issued under this section if the owner has
2 made any false statement on the license application. No refund of any fees shall
3 be due to the licensee whose license has been revoked.

4 Subd. 6. *Reinstatement.* Any person whose license has been revoked under this
5 section may reapply for such license after all deficiencies have been corrected.
6 Any person making application after any revocation shall follow the procedures
7 set out for the initial issuance of the license and shall pay the fees in the full
8 amount that would be required for an original license.

9 _____ **PERMITTED DOMESTICATED ANIMALS**

10 Any person may own, keep, harbor, or maintain any of the various domesticated
11 animals, including but not limited to dogs and cats, adapted so as to live with
12 humans in a tame condition.

13 _____ **PERMITTED NON-DOMESTICATED ANIMALS**

14 No person may own, keep, harbor, or maintain any non-domestic animal within
15 the city limits.

16 *Individual cities may address exceptions in an appendix*

17 _____ **LIMITATIONS ON NUMBER OF DOGS.**

18 Within the limits of the city, no person may own, keep, harbor, or maintain more
19 than 2 dogs over the age of 6 months unless a multiple dog license is first
20 obtained from the city.

21 _____ **LIMITATIONS ON NUMBER OF CATS.**

22 Within the limits of the city, an owner or household may not own, keep, harbor, or
23 maintain more than 3 cats over the age of 6 months.

24 _____ **ANIMAL BREEDERS AND DEALERS.**

25 No person, firm, or corporation shall establish, maintain, conduct, or operate
26 a commercial kennel or operate as a breeder or dealer of any animal within
27 this city without first obtaining approval by the city council.

28 _____ **RUNNING AT LARGE.**

29 No owner of any animal shall permit such animal to run or move at large at any
30 time within the city. The finding of any animal running at large shall be prima
31 facie evidence of violation of this section by the owner of the animal.

32 _____ **IMPOUNDMENT AUTHORITY.**

33 The animal enforcement officer shall have authority to take into custody and
34 impound those animals, found at large within the city. If the animal enforcement
35 officer is unable to take an animal into custody the officer may, where possible,

1 follow the animal to the property of its owner, and may issue a citation to the
2 owner for violation of this ordinance. The officer shall not take into custody an
3 animal once it is upon the property of its owner except:

4
5 (a) Where the officer finds no one present upon the property and custody is
6 necessary to prevent the animal from further running at large; or
7

8 (b) The animal is previously declared as a dangerous dog or dangerous
9 animal; or

10 (c) Is a prohibited non-domesticated animal or which is inherently dangerous
11 and if left uncontrolled poses a danger to public health, safety or welfare.

12 _____ **ANIMAL NUISANCES.**

13 Subd. 1. It shall be unlawful for any owner to fail to exercise reasonable care and
14 control of his or her animals to prevent them from becoming a public nuisance.

15 Subd. 2. The person having custody of the animal must have in their possession
16 a device for removal of animal feces when in or on any public trail, sidewalk, in
17 any city park, or along any public right-of-way (for example, along roadways and
18 streets), or any other property, public or private, which is not the premises of the
19 person owning, keeping, harboring, or maintaining the animal.

20 Subd. 3. No person having custody or control of a domesticated animal shall
21 allow such animal on any public swimming beach or any public grounds where
22 any sign is posted prohibiting animals in that area, except a recognized animal
23 for life assistance.

24 _____ **CONFINEMENT OF CERTAIN ANIMALS.**

25 Every female animal in heat shall be confined in a building or other secure
26 enclosure in such manner that such female animal cannot come into contact with
27 another animal, except for planned breeding.

28 _____ **IMPOUNDED ANIMAL REDEMPTION.**

29 Subd. 1. *Pound.* The city shall provide an adequate pound or facilities where
30 animals taken into custody by an animal enforcement officer shall be kept and
31 properly fed and cared for until disposed of according to the provisions of this
32 ordinance.

33 Subd. 2. *Notice of impoundment.* Within 24 hours of taking an animal into
34 custody, the Animal Enforcement Officer shall give notice of the animal
35 impoundment to the last known owner(s) and/or custodian(s) of the animal. If no
36 address is available from police records, city license records, or available
37 microchip identification, notice shall be given to the residence with which the
38 animal was last associated. The notice shall reasonably describe the animal and
39 advise that in the event the animal is not redeemed within five regular business
40 days after a stated date the animal may be destroyed.

41 Subd. 3. *Redemption by owner.* The owner of any animal seized pursuant to this

1 section may retrieve the animal from the city's animal impound shelter, provided
2 that the owner purchases the appropriate license within seven days if the animal
3 is not already properly licensed, pays all impound fees to cover the cost of
4 apprehending the animal, boarding fees to cover the cost of sheltering the
5 animal, any veterinary costs incurred by the animal control authority, and any
6 other costs incurred by the animal control authority. Any owner who fails to
7 comply with these requirements within five regular business days shall be
8 deemed to have forfeited any property right to the animal and the animal control
9 authority may dispose of it pursuant to subdivision 5 of this section. In
10 determining the impounding fee, the city may establish a schedule of fees based
11 on the number of times an animal has been impounded. Boarding fees shall be
12 according to a schedule adopted and maintained by the SLMPD. License fees
13 shall be adopted by the city council by resolution.

14 Subd. 4. *Disposition of unclaimed or injured animals.* Upon expiration of the five
15 regular business day period, an animal in the custody of the animal enforcement
16 officer may be surrendered to the Animal Humane Society or euthanized.
17 Nothing in this ordinance shall prevent the animal enforcement officer from
18 causing the animal to be euthanized in less than the five regular business days
19 waiting period as aforesaid where the animal is injured and, in the opinion of the
20 animal enforcement officer or a veterinarian, the only humane act would be one
21 of euthanization.

22 Subd. 5. *Records kept.* The animal enforcement officer shall keep an accurate
23 account of all animals received at the pound and all animals euthanized or
24 released there from.

25 _____ **RABIES CONTROL.**

26 Subd. 1. Rabies Vaccination Required.

27 It is unlawful for any person to own, keep, harbor, or maintain any animal over
28 the age of six months which is susceptible to rabies unless that animal is
29 vaccinated against rabies.

30 Subd. 2. Quarantine of biting animals.

31 a) Upon a written report being filed with the animal control authority stating
32 that a animal has bitten a human being and setting forth the name of the
33 animal, if known, and the name and address of the owner or custodian, if
34 known, the name of the person bitten and when and where the incident
35 occurred, the animal enforcement officer shall order the animal
36 quarantined for a period of ten days. During quarantine, the animal shall
37 be securely confined and kept from contact with any other animals.
38

39 b) At the discretion of the animal enforcement officer, the quarantine may
40 be on the premises of the owner. If the animal enforcement officer so
41 requires, the owner shall, at his or her own expense, place the animal in
42 a veterinary hospital for the period of confinement or surrender the
43 animal to the animal enforcement officer for confinement. The animal
44 shall not be released from confinement until the animal control officer
45 has determined that the animal is free from rabies and until the owner

1 has paid the costs of any veterinary tests made upon the animal as well
2 as the costs of any confinement on premises other than that of the
3 owner.

4
5 c) If the costs are not paid by the owner or custodian within ten days
6 following written notice to the owner or custodian that the animal is
7 available for release, the animal enforcement officer shall forthwith
8 cause the animal to be surrendered to the Animal Humane Society or to
9 be euthanized.

10
11 d) Any person who shall fail to deliver to the animal enforcement officer any
12 animal which has bitten a human being and against which a sworn,
13 written complaint has been filed shall be guilty of a misdemeanor. Each
14 day's neglect or failure to comply with the provisions of this subdivision
15 shall be deemed a separate offense.

16
17 e) A dog or other animal displaying symptoms of being rabid, may be
18 seized at any place or time and shall be confined in the city impounding
19 facility at the expense of the owner until found to be free from rabies.

20
21 f) If a dog or other animal appears to be diseased, vicious, dangerous,
22 rabid, or has been exposed to rabies, and the dog or other animal
23 cannot be impounded without serious risk of personal injury, the dog or
24 other animal may be destroyed if reasonably necessary for the safety of
25 any person or person.

26 Subd. 3. Rabies in city, proclamation.

27 The city adopts Minnesota statute 35.68 and 35.69 and any revisions thereof
28 regarding rabies proclamations.

29 _____ **ABUSE/NEGLECT OF ANIMALS.**

30 Subd. 1. *Improper care.*

31 *Food.* Animals must be provided with food of sufficient quantity and quality to
32 allow for normal growth and maintenance of body weight.

33 *Water.* Animals must be provided with clean, fresh water in sufficient quantity to
34 satisfy the animal's needs or supplied by free choice. Snow or ice is not an
35 adequate water supply.

36 *Shelter.* Animals must be provided with proper shelter and protection from the
37 weather. A person in charge or control of any animal which is kept outdoors
38 or in an unheated enclosure shall provide the animal with shelter and bedding
39 as prescribed in this section as a minimum. The shelter shall include a
40 moisture proof and wind proof structure of suitable size to accommodate the
41 animal and allow retention of body heat. It shall be made of durable material
42 with a solid, moisture-proof floor or a floor raised at least two inches from the
43 ground. Between November 1 and March 31 the structure must have a
44 windbreak at the entrance. The structure shall be provided with a sufficient
45 quantity of suitable bedding material consisting of hay, straw, cedar shavings,

1 blankets, or the equivalent, to provide insulation and protection against cold
2 and dampness and promote retention of body heat. Shade from the direct
3 rays of the sun, during the months of May to October shall be provided.

4 *Sanitation.* It shall be unlawful for any person to allow food and water
5 receptacles, kennels, yards, or the premises where the animal is kept to be or to
6 remain in an unhealthy, unsanitary, or obnoxious condition, or to permit the
7 premises to be in such condition that obnoxious odors can be plainly detected on
8 adjacent public or private property.

9 *Veterinary Care.* The owner or custodian of a domesticated or non-
10 domesticated animal shall provide adequate health care, including parasite
11 and pest control, and care needed to prevent suffering.

12 *Cruelty to animals.* It shall be unlawful for any owner to beat, cruelly ill-treat,
13 torment or otherwise abuse or neglect any animal. A person may not inflict
14 cruelty on a pet or companion animal by the use of a cruel training or
15 handling device or method.

16 *Interpretation of Terms.* A dispute as to the meaning of abuse, cruelty,
17 neglect or adequate healthcare shall be resolved by an expert opinion.

18 *Animals in motor vehicles.* A person may not leave an animal unattended in a
19 standing or parked motor vehicle in a manner that endangers the animal's health
20 or safety. Animals carried in open vehicles, including trucks, boats, motorcycles,
21 dirt bikes, trailers, etc., must be restrained in a crate or carrier or restrained by a
22 chain or cable to prevent the animal from leaving the vehicle or being tossed out.

23 *Subd. 2. Removal of animals.* A peace officer, animal enforcement officer, or a
24 volunteer or professional member of a fire or rescue department of a political
25 subdivision may use reasonable force to enter a motor vehicle and remove an
26 animal which has been left in the vehicle in violation of this section. A person
27 removing an animal under this subdivision shall use reasonable means to contact
28 the owner of the animal to arrange for its return home. If the person is unable to
29 contact the owner, the person may take the animal to an animal shelter.

30 _____ **DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS.**

31 The city is authorized pursuant to Minnesota statute section 347.53 to regulate
32 potentially dangerous and dangerous dogs or other animals.

34 **POTENTIALLY DANGEROUS ANIMALS; DECLARATION**

35
36 The animal control authority shall make such declaration upon a finding that the
37 animal in question has:

38
39 (a) When unprovoked, inflicts bites on a human or domestic animal on public or
40 private property; or

41
42 (b) when unprovoked, chases or approaches a person, including a person on a
43 bicycle, upon the streets, sidewalks, or any public or private property, other than
44 the animal owner's property, in an apparent attitude of attack; or

45

1 (c) has a known propensity, tendency, or disposition to attack unprovoked,
2 causing injury or otherwise threatening the safety of humans or domestic
3 animals; or
4

5 (d) Has been declared a potentially dangerous animal by any lawful authority of
6 this or any other state or subdivision thereof.
7

8 In making such a determination, the animal enforcement officer may rely upon
9 any or all of the following:
10

11 (a) Citizen complaint from an identified member of the public;
12

13 (b) Police or citizen reports of running at large or other public nuisance;
14

15 (c) Citation or convictions of an ordinance or statutory violation independent of
16 site of violation involving the animal in question with the exception of a charge of
17 failure to license;
18

19 (d) Determination by any state or subdivision thereof that the animal in question
20 is a potentially dangerous animal.
21

22 **POTENTIALLY DANGEROUS ANIMALS; REQUIREMENTS**

23

24 *Microchip Identification.* The owner of a potentially dangerous animal must have
25 a microchip implanted in the animal for identification, and the name of the
26 microchip manufacturer and identification number of the microchip must be
27 provided to the animal control authority. If the microchip is not implanted by the
28 owner, it may be implanted by the animal control authority. In either case, all
29 costs related to purchase and implantation of the microchip must be borne by the
30 animal's owner. It is a misdemeanor to remove a microchip from a dangerous or
31 potentially dangerous animal.
32

33 *Confinement.* All potentially dangerous animals shall be securely confined
34 indoors or in a securely enclosed and locked pen, kennel, or fenced yard except
35 when leashed as required. Confinement does not include a porch, patio,
36 unfenced yard, "invisible fence" or any part of a house, garage, cage, or other
37 structure that would allow the animal to exit of its own volition or any house or
38 structure in which screens are the only obstacles to preventing the animal from
39 exiting.
40

41 *Impoundment.* Any potentially dangerous animal found off the premises of the
42 owner, harborer, keeper, or custodian of same, is subject to immediate seizure
43 and impoundment.
44

45 **DANGEROUS ANIMALS; DECLARATION**

46

47 The animal control authority shall make such declaration upon a finding that the
48 animal in question has:
49

50 (a) without provocation, inflicted substantial bodily harm on a human being on
51 public or private property; or
52

- 1 (b) killed a domestic animal without provocation while off the owner's property; or
2
3 (c) been found to be potentially dangerous, and after the owner has notice that
4 the animal is potentially dangerous, the animal aggressively bites, attacks, or
5 endangers the safety of humans or domestic animals.
6

7 In making such a determination, the animal enforcement officer may rely upon
8 any or all of the following:
9

- 10 (a) Citizen complaint from an identified member of the public;
11
12 (b) Police or citizen reports of running at large or other public nuisance;
13
14 (c) Citation or convictions of an ordinance or statutory violation independent of
15 site of violation involving the animal in question with the exception of a charge of
16 failure to license;
17
18 (d) Determination by any state or subdivision thereof that the animal in question
19 is a dangerous animal.
20

21 **DANGEROUS ANIMALS; REGISTRATION** 22

23 *Subd 1. Requirement.* No person may own a dangerous animal in the city unless
24 the animal is registered as provided in this section.
25

26 *Subd. 2. Registration.* The animal control authority shall issue a certificate of
27 registration to the owner of a dangerous animal if the owner presents sufficient
28 evidence that:
29

30 (1) a proper enclosure exists for the dangerous animal and a posting on the
31 premises with a clearly visible warning sign that there is a dangerous animal on
32 the property, including a warning symbol to inform children;

33 (2) a policy of liability insurance issued by an insurance company authorized
34 to conduct business in this state in the amount of at least \$1,000,000.00 insuring
35 the owner for any personal injuries inflicted by the dangerous animal;

36 (3) the owner has paid an annual fee to the SLMPD, in addition to any
37 regular licensing fees, to obtain a certificate of registration for a dangerous
38 animal under this section; and

39 (4) the owner has had microchip identification implanted in the dangerous
40 animal.
41

42 *Subd. 2a. Warning symbol.*

43 If the animal control authority issues a certificate of registration to the owner of a
44 dangerous animal pursuant to subdivision 2, the animal control authority must
45 provide, for posting on the owner's property, a copy of a warning symbol to
46 inform children that there is a dangerous animal on the property. The warning
47 symbol must be the uniform symbol provided by the Minnesota Commissioner of
48 Public Safety. The animal control authority may charge the registrant a

1 reasonable fee to cover its administrative costs and the cost of the warning
2 symbol.

3 *Subd. 3. Dangerous animal designation review.*

4 Beginning six months after an animal is declared dangerous, an owner may
5 request annually that the designating animal control authority review the
6 designation. The owner must provide evidence that the animal 's behavior has
7 changed due to age, neutering, environment, completion of obedience training
8 that includes modification of aggressive behavior, or other factors. If the animal
9 control authority finds sufficient evidence that the animal 's behavior has
10 changed, the authority may rescind the dangerous animal designation.

11 *Subd. 4. Law enforcement; exemption.*

12 The provisions of this section do not apply to dogs used by law enforcement
13 officials for police work.

14 *Subd. 5. Exemption.*

15 Animals may not be declared dangerous if the threat, injury, or damage was
16 sustained by a person:

17 (1) who was committing, at the time, a willful trespass or other tort upon the
18 premises occupied by the owner of the animal;

19 (2) who was provoking, tormenting, abusing, or assaulting the animal or who
20 can be shown to have repeatedly, in the past, provoked, tormented, abused, or
21 assaulted the animal; or

22 (3) who was committing or attempting to commit a crime.

23 *Subd. 6. Tag.*

24 A dangerous animal registered under this section must have a standardized,
25 easily identifiable tag identifying the animal as dangerous and containing the
26 uniform dangerous animal symbol, affixed to the animal 's collar at all times.

27

28 **DANGEROUS ANIMALS; REQUIREMENTS**

29

30 (a) An owner of a dangerous animal shall keep the animal, while on the
31 owner's property, in a proper enclosure. If the animal is outside the proper
32 enclosure, the animal must be muzzled and restrained by a substantial
33 chain or leash and under the physical restraint of a responsible adult. The
34 muzzle must be made in a manner that will prevent the animal from biting
35 any person or animal but that will not cause injury to the animal or
36 interfere with its vision or respiration.

37 (b) The owner of a dangerous animal must have a microchip implanted in the
38 animal for identification, and the name of the microchip manufacturer and
39 identification number of the microchip must be provided to the animal
40 control authority. If the microchip is not implanted by the owner, it may be
41 implanted by the animal control authority. In either case, all costs related
42 to purchase and implantation of the microchip must be borne by the
43 animal 's owner. It is a misdemeanor to remove a microchip from a
44 dangerous or potentially dangerous animal.

1 (c) An owner of a dangerous animal must renew the registration of the animal
2 annually until the animal is deceased. If the animal is removed from the
3 jurisdiction, it must be registered as a dangerous animal in its new jurisdiction.

4 (d) An owner of a dangerous animal must notify the animal control authority in
5 writing of the death of the animal or its transfer to a new location where the
6 animal will reside within 30 days of the death or transfer, and must, if requested
7 by the animal control authority, execute an affidavit under oath setting forth either
8 the circumstances of the animal 's death and disposition or the complete name,
9 address, and telephone number of the person to whom the animal has been
10 transferred or the address where the animal has been relocated.

11 (e) An animal control authority shall require a dangerous animal to be sterilized at
12 the owner's expense. If the owner does not have the animal sterilized within 30
13 days, the animal control authority shall seize the animal and have it sterilized at
14 the owner's expense.

15 (f) A person who owns a dangerous animal and who rents property from another
16 where the animal will reside must disclose to the property owner prior to entering
17 the lease agreement and at the time of any lease renewal that the person owns a
18 dangerous animal that will reside at the property.

19
20 *Right to hearing.* The owner of any animal declared dangerous has the right to a
21 hearing concerning the dangerous dog or dangerous animal declaration and,
22 if applicable, prior potentially dangerous dog or potentially dangerous
23 animal declarations for the animal. The animal owner must make the request in
24 writing, on a form provided by the SLMPD, within 14 days of receiving notice of
25 the declaration. Failure to do so within 14 days of the date of receiving the notice
26 will terminate the owner's right to a hearing under this section.

27
28 Any hearing must be held within 14 days of the request to determine the validity
29 of the declaration. The hearing officer must be an impartial person retained by
30 the city or by the SLMPD to conduct the hearing. In the event that the declaration
31 is upheld by the hearing officer, actual expenses of the hearing up to a maximum
32 of \$1,000 will be the responsibility of the animal's owner. The hearing officer shall
33 issue a decision on the matter within ten days after the hearing. The decision
34 must be delivered to the animal's owner by hand delivery or registered mail as
35 soon as practical and a copy must be provided to the animal control authority.

36
37 *Requirements during appeals process.*

38
39 (a) While awaiting final disposition of an appeal of a dangerous animal
40 declaration, the owner of the animal shall keep the animal, while on the owner's
41 property, in a proper enclosure. If the animal is outside the proper enclosure, it
42 must be muzzled and restrained by a substantial chain or leash and under the
43 physical restraint of a responsible person. The muzzle must be made in a
44 manner that will prevent the animal from biting any person or animal but that will
45 not cause injury to the animal or interfere with its vision or respiration. A person
46 who transfers ownership of a dangerous dog or dangerous animal must
47 notify the new owner that the animal control authority has identified the
48 animal as dangerous. The current owner must also notify the animal control
49 authority in writing of the transfer of ownership and provide the animal

1 control authority with the new owner's name, address, and telephone
2 number.

3
4 **CONFISCATION**

5
6 Subd. 1. *Seizure.*

7
8 (a) The animal control authority having jurisdiction shall immediately seize
9 any dangerous animal if:

10
11 (1) after 14 days after the owner has notice that the animal is dangerous, the
12 animal is not validly registered under this section; or

13
14 (2) after 14 days after the owner has notice that the animal is dangerous, the
15 owner does not secure the proper liability insurance or surety coverage as
16 required under this section; or

17
18 (3) The animal is not maintained in the proper enclosure; or

19
20 (4) The animal is outside the proper enclosure and not under physical
21 restraint of a responsible person as required in the previous section.

22
23 (5) The animal is not sterilized within 30 days.

24
25 (b) If an owner of an animal is convicted of a crime for which the animal was
26 originally seized, the court may order that the animal be confiscated and may
27 be disposed of in a manner permitted by law, and that the owner pay the
28 costs incurred in confiscating, confining, and destroying the animal.

29
30 Subd. 2. *Animals reclaimed.* A dangerous animal seized under subdivision 1
31 may be reclaimed by the owner of the animal upon payment of impounding
32 and boarding fees, and presenting proof to the animal control authority that
33 the requirements of the previous section will be met. An animal not reclaimed
34 under this subdivision within seven days may be surrendered to the Animal
35 Humane Society or humanely euthanized and the owner is liable to the
36 animal control authority for costs incurred in confining and disposing of the
37 animal.

38
39 **DESTRUCTION OF ANIMALS IN CERTAIN CIRCUMSTANCES**

40
41 Subd. 1. *Circumstances*

42
43 An animal may be destroyed in a proper and humane manner by the animal
44 control authority if the animal:

45
46 (1) Inflicted substantial or great bodily harm on a human on public or private
47 property without provocation; or

48
49 (2) Inflicted multiple bites on a human on public or private property without
50 provocation; or

51
52 (3) Bit multiple human victims on public or private property in the same attack

1 without provocation; or

2

3 (4) Bit a human on public or private property without provocation in an attack
4 where more than one animal participated in the attack.

5

6 Subd. 2. *Right to hearing.*

7

8 The animal control authority may not destroy an animal until the animal owner
9 has had the opportunity for a hearing before an impartial hearing officer
10 designated by the animal control authority. The animal owner must request a
11 hearing within 14 days after the animal control authority provides notice that it
12 intends to destroy the animal.

13

14 **PENALTIES**

15

16 (a) A person who violates a provision of this ordinance is guilty of a
17 misdemeanor.

18 **_____ ENFORCEMENT.**

19 Citations are issued for certain violations. The animal control officer or police
20 officer is authorized to issue a citation to any person, firm, or entity for any
21 alleged violations of this ordinance and any other ordinances or statutes
22 which provide the basis for prosecution of violations of this ordinance. Nothing
23 within this ordinance shall be construed to limit the authority of animal control
24 officers or police officers to enforce any provisions of this ordinance or related
25 statutes or ordinances.

26 **APPENDIX**

April 24, 2013



Agenda Number: **7A**

Agenda Date: 07-03-13

Agenda Item: Tobacco License Application, Greenwood Market, 21380 Christmas Lake Road

Summary: The city received a tobacco license application from Akshay Patel, owner of the new Greenwood Market (former Lakeshore Market). A copy of the license is attached. Per code section 470.00 a criminal background check must be completed. Per code section 415.03 subd. 2 the council must approve the license.

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

1. I move the council approves a 2013 tobacco license for Akshay Patel, owner of Greenwood Market, 21380 Christmas Lake Road pending a clean report from the South Lake Minnetonka Police Department, and authorizes the city clerk to sign the tobacco license.
2. Do nothing or other motion ???



Tobacco License Application

(this form is not a permit)

Person completing form: Business Owner Officer Partner

If you prefer to complete this form electronically, it is available for downloading at www.greenwoodmn.com.

Date application completed	
Applicant (first name, full middle name, last name)	Akshay Shantibhai Patel
Business name	greenwood Market
Business address	21380 Christmas Lake Rd
Home address	7400 Narcissus LN N, Maple Grove
Cell phone	612-226-2030
Email address	patelakshay12@gmail.com
MN tax ID number	46-2962594

Have you ever been convicted or cited with a Tobacco Violation? Yes No

If yes, please state the county where the violation occurred: _____

The undersigned hereby makes this application for a TOBACCO LICENSE and acknowledges the following:

- I certify information submitted on this form is true and correct to the best of my knowledge. I understand that giving false information on this application constitutes cause for the immediate revocation of any license issued hereunder.
- I am familiar with the provisions of Greenwood's tobacco ordinance 415 (attached) and agree to operate in accordance with the ordinances of the city of Greenwood (available for viewing at city hall and at www.greenwoodmn.com), and with the laws of the state of Minnesota.
- I certify that tobacco products will be sold over the counter only (Greenwood tobacco ordinance section 415.07).
- I hereby grant my informed consent and authorization for the South Lake Minnetonka Police Department (SLMPD) to conduct any and all inquiries they deem necessary to process this application and furnish this information to the city of Greenwood. This may include, but is not limited to, criminal history inquiries, internal records check, jail records, and warrants. I hereby release the SLMPD from any and all liability for disclosing this public, private, and/or confidential information about myself to the city of Greenwood.

The annual tobacco license fee is \$50 (non-refundable) and must be submitted at the time of application.

Signature of applicant Akshay Patel Date: 6-23-13

For Office Use Only	Approved By: <u>[Signature]</u>	Fee Paid: <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Check	Amount \$ <u>50⁰⁰</u>	Approval Date: <u>6/24/13</u>
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Form Updated 05.30.13



Agenda Item: Consider: Resolution 17-13 Findings for Variance Request (hardcover), Conditional Use Permit Request (grade alteration), Chip & Kathy Fisher, 5185 Greenwood Circle

Summary: The planning commission considered the applicant's comments, application materials, staff report, city code variance standards, city code conditional use permit standards, and public comments when making their recommendation and conditions. See the planning commission motion below and the FYI section of the council packet for a copy of planning commission minutes. For the city council's reference, copies of the staff report, variance standards, CUP standards, and application are attached. A resolution with findings of fact drafted by the city attorney also is attached.

In addition, section 630.05 of the city code requires a permit for public right-of-way use. The "permit" essentially is a cooperation and use agreement between the city and the property owner. Section 510 of the code states that the permit must be approved by the council and the fee is to be determined by the city council based on the proposed intensity of use.

Planning Commission Action:

1. Motion by Commissioner Paeper to recommend that the city council approve the application of Chip & Kathy Fisher for a **variance** of Greenwood ordinance code section 1176.04(3)(3) to permit the construction of a new driveway with retaining walls as presented. The proposed impervious surface area is in keeping with the spirit and intent of the zoning ordinance, would permit the property to be used in a reasonable manner and would not alter the essential character of neighborhood. Beal seconded the motion. Motion carried 4-0.
2. Motion by Commissioner Conrad to recommend the city council approve the application of Chip & Kathy Fisher for a **conditional use permit** to exceed the maximum permitted grade alteration of 1 vertical foot as presented. The proposal complies with the criteria outlined in section 1150.20. Beal seconded the motion. Motion carried 4-0.

Key Dates:	05-21-13	Application complete
	06-06-13	Notice of the public hearing published in Sun-Sailor
	06-19-13	Public hearing held by the planning commission
	07-03-13	City council consideration
	07-20-13	60-day deadline

Council Action: The city council must take action by 07-20-13 unless the council exercises its authority to extend the deadline by up to an additional 60 days. Suggested motions ...

1. I move the city council approves resolution 17-13 **approving** the variance and conditional use application of Chip & Kathy Fisher as presented (or with the following revisions: _____). I further move the council directs the city clerk to mail a copy of the findings to the applicant and the DNR, and place an Affidavit of Mailing for each of the mailings in the property file.
2. I move the city council directs city staff to exercise the city's option to take 60 additional days to process the variance and conditional use application of Chip & Kathy Fisher by mailing written notice and placing an Affidavit of Mailing in the property file. The written notice shall state the reason for the extension is to give the city attorney time to draft "findings for **denial**," so the council may weigh options and consider both "findings for approval" and "findings for denial" at the 08-07-13 city council meeting.
3. I move the city council authorizes the following:
 - A. Authorizes the cost of the **Public Right-of-Way Use Permit** be set at \$_____ to cover attorney fees and in consideration of the intensity of use.
 - B. Authorizes the city attorney to draft and execute a **Cooperation and Use Agreement** with Chip & Kathy Fisher.
 - C. Authorizes the mayor and city clerk to sign the agreement.

MN statute 15.99 requires a council decision within 60 days. If the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).

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

Variance Application

Applicant is (circle one) Owner Developer Contractor Architect Other _____

Property address for which variance is requested 5185 Greenwood Circle

Applicant (individual or company name): Reuter Walton Construction

Contact for Business: Patrick McElroy Title: Project Manager

Address: 2919 Knox Ave South #200 City: Minneapolis State: MN Zip: 55408

Wk Phone: 612-325-9436 Hm Phone: _____

Email address: ~~patrick~~ patrick@reuterwalton.com Fax: 612-823-7059

Present use of property: _____

Property acreage: _____

Existing Variances: Yes _____ No _____

If yes, please explain _____

Describe Request: Build New Add On _____ Remodel _____ Replace _____

What is the Variance being requested for: _____

Variance for:

	Required	Proposed
Side Yard	_____ feet	_____ feet
Front Yard	_____ feet	_____ feet
Rear Yard	_____ feet	_____ feet
Lake setback	_____ feet	_____ feet
Building height	_____ feet	_____ feet
Structure height	_____ Feet	_____ feet
Wetland	_____ feet	_____ feet
Impervious Cover	_____ sq ft	_____ Sq ft
Shoreland	_____ feet	_____ feet
Massing	_____ volume	_____ volume
Other	_____ feet	_____ feet
If other, please explain		

MAKING YOUR CASE FOR THE GRANT OF A VARIANCE

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

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

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

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

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

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

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

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

Establishing Practical Difficulty:

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

Without the requested variance the access required on the site would create an unsafe situation that would adversely affect the entire neighborhood and would not be a practical reasonable way for the landowners to access their property

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

The situation was created as a result of negotiations between the landowner & the city as to the most appropriate use of the property during the variance process that culminated in last November's approval by the City Council. In attempt to meet the cities desires the problem with the driveway was created and not noticed until the house structure was in place.

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

The variance allows the practical, safe use of a residential property by allowing an appropriate access to the site.

Practical difficulty:

1. Without the requested variance the access required on the site would create an unsafe situation that would adversely affect the entire neighborhood and would not be a practical reasonable way for the landowner to access their property.
2. The situation was created as a result of negotiations between the landowner and the City as to the most appropriate use of the property during the variance process that culminated in last November's approval by the City Council. In an attempt to meet the City's desires the problem with the driveway was created that was not noticed until the house structure was in place. Clearly had the City or the Landlord realized that the house that was approved back in November created the driveway problem both parties would have jointly addressed the issue to resolve it during that variance process. The landowner is simply returning to the City for their approval to resolve this issue as a continuation of their variance requests to build a house that complies with the City's intended variance objectives.
3. The variance will not alter the locality in a negative way. It will create a safer and more practical entrance to and from the subject property.

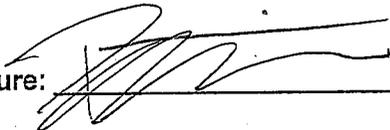
The requested variance will create a much safer situation that will positively impact the entire neighborhood and any others who use the right of way.

The undersigned also acknowledges that she/he understands that before this request can be considered and/or approved, all required information and fees, including any deposits, must be paid to the City, and if additional fees are required to cover costs incurred by the City, the City has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees.

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

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

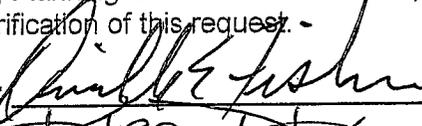
I am the authorized person to make this application and the fee owner has also signed this application.

Applicant's Signature:  Date: 5/21/13

Signature: _____ Date: _____

Owner's Acknowledgement & Signature(s)

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

Owner's Signature:  Date: 5/17/13

Owner's Signature:  Date: 5/17/13

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

ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (WE) Christine Bible Henry Bible of 5175 Greenwood Circle
(print name(s)) (print address)

have reviewed the plans for the proposed improvements or proposed use of the property located at 5175 Greenwood Circle.

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

Christine M. Bible 5/19/13
Property owner's signature Date
Henry Bible 5/19/13
Property owner's signature Date

I (WE) _____ of _____
[print name(s)] [print address]

have reviewed the plans for the proposed improvements or proposed use of the property located at _____.

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

Property owner's signature Date

Property owner's signature Date

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

ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM

I (WE) William B. Cook
Leticia A. Cook of 5195 Greenwood Circle
[print name(s)] [print address]

have reviewed the plans for the proposed improvements or proposed use of the property located at 5195 Greenwood Circle.

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

W.B. Cook
Property owner's signature

5-20-13
Date

Leticia A. Cook
Property owner's signature

5/20/13
Date

see comments attached in email

I (we) _____ of _____
[print name(s)] [print address]

have reviewed the plans for the proposed improvements or proposed use of the property located at _____.

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

Property owner's signature

Date

Property owner's signature

Date

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

Gus Karpas

From: WILLIAM COOK <billandtishcook@msn.com>
Sent: Monday, May 20, 2013 8:17 PM
To: Patrick McGlynn
Cc: gusk@cityofdeephaven.org; guskarpas@mchsi.com
Subject: RE: Fishers driveway acknowledgement
Attachments: Acknowledgement060.pdf

Attached is a scan of the acknowledgement.

The following are my comments on the grading/site plan.

1. The angled driveway places more hardcover on the property and the grading shows that hard cover to be drained across my property. I expect the grading to change to reflect drainage of the driveway through the Fisher property.
2. The perpendicular attachment of the new retaining wall to the existing is not appropriate. The existing retaining wall needs to be removed and the transition into the existing retaining wall on my property needs to run east west to its current location.
3. The retaining wall on my property has failed due the construction activity above the retaining wall. We need to discuss mitigation of that retaining wall damage at your convenience. I would suggest we wait until you have the bids for the current landscaping and add the repair and improvements on my property to that work.

I have talked to Chip about all of these items and I believe we are in basic agreement.

As always, we are in support of Chip and Katie's project and want to see it completed to the benefit of Chip and Katie and the neighborhood.

From: Patrick@reuterwalton.com
To: billandtishcook@msn.com
Subject: Re: Fishers driveway acknowledgement
Date: Mon, 20 May 2013 21:15:00 +0000

Thanks Bill!

Patrick McGlynn
Sent from my iPhone

On May 20, 2013, at 4:09 PM, "billandtishcook" <billandtishcook@msn.com> wrote:

I will get Tish's signature tonite and email this PM

Sent via the Samsung Galaxy Note® II, an AT&T 4G LTE smartphone

----- Original message -----

From: Patrick McGlynn <Patrick@reuterwalton.com>

Gus Karpas

From: WILLIAM COOK <billandtishcook@msn.com>
Sent: Tuesday, June 04, 2013 9:14 AM
To: Chip Fisher; gusk@cityofdeephaven.org; WILLIAM COOK
Subject: RE: Driveway and water drainage and Electrical Lines etc.

Thanks for the drawing. It still shows your runoff from your driveway on our property. In addition, the drawing now shows grading for a swale on my property. If we are going to work together on this we need to work together on this. To use my property, you need to get a site plan that includes my property so we don't screw up due to conditions off the page. You also need my approval and I have some concerns. Lets discuss this with your designer and contractor.

I was talking to your building contractor last weekend about the retaining wall for the driveway and he (Josh) infomed me that you were having the walls built outside of his contract and you were working with a landscaper on that work. When you are ready to talk about landscaping, lets do it, I don't want to miss the opportunity to fix my wall problems as well. He also assured me that drainage would not be directed on our property.

I was thinking about the electrical service and I wondered what would happen to the Cable TV and telephone lines. Are they being undergrounded as well or do the poles stay up to hold those lines. Just wanted you to be thinking about all of the wires.

Lets schedule a meeting soon to make sure these issues don't impact your project schedule. You will need some topographic information up to my house line. Tish and I will be gone the weekend of the 15th.

Thanks for keeping us in the loop.

From: cfisher@ghf.net
To: billandtishcook@msn.com
Subject: Driveway and water drainage
Date: Mon, 3 Jun 2013 15:13:18 +0000

Bill,
Here is a revised plan from the Surveyor showing the correct drainage flow of water run off through our property. Let me know if you have any further questions or suggestions.

Chip

From: Mark [<mailto:markg@gronbergassoc.com>]
Sent: Thursday, May 30, 2013 1:48 PM
To: 'Gus Karpas'; Chip Fisher; patrick@reuterwalton.com
Subject: Fisher

Here is the revised drawing showing a swale along the west lot line and an outlet for the french drain in order to divert water from the neighboer to the west. We have also shown the location of the power/light pole north of the east line. Let me know your comments.

May 18, 2013

Hardcover Calculations
For CHIP FISHER
In Lot 10, Block 16, MINNETONKA MANOR
Hennepin County, Minnesota

Lot Area	=	6478+- s.f.
House	=	1401
Boathouse	=	168
Drive	=	370
Front Walk	=	21
Front Porch	=	89
Lake Porch/Patio	=	150
West Steps	=	137
East Walls, Steps	=	145
Driveway Walls	=	40
Total	=	2521 = 38.92%

GRONBERG & ASSOCIATES, INC.
445 N. WILLOW DR.
LONG LAKE, MN 55356



BOLTON & MENK, INC.[®]

Consulting Engineers & Surveyors

2638 Shadow Lane, Suite 200 • Chaska, MN 55318-1172

Phone (952) 448-8838 • Fax (952) 448-8805

www.bolton-menk.com

June 25, 2013

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

RE: 5185 Greenwood Circle
Driveway Review

Dear Gus:

As requested, I have reviewed the proposed driveway at 5185 Greenwood Circle. According to the plan, the proposed driveway will have a grade of approximately 15%, which is very steep for a driveway. Typically, I would not recommend a grade steeper than 10%. However, due to the existing conditions at this location, this may be the flattest grade that can be achieved.

As proposed, a portion of the driveway and retaining walls will be constructed on City right of way. The proposed retaining walls are less than 4' in height; therefore, they are not required to be designed by a professional engineer.

In lieu of the recommended traffic barrier, the property owner is proposing boulders along the top of the retaining wall. Boulders are not considered a traffic barrier and in fact should be considered a road side hazard. Also, depending on the size the boulders may not provide adequate protection of the drop-off. The slope coming off the edge of the road to the top of the wall is steeper than 6:1. Therefore, an approved traffic barrier is recommended.

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

Sincerely,

BOLTON & MENK, INC.

David P. Martini, P.E.
Principal Engineer

REFERENCE: CONDITIONAL USE PERMIT STANDARDS & CONDITIONS

GREENWOOD ORDINANCE CODE, CHAPTER 11

The following subdivisions are from:

Conditional Use Permits. Section 1150.20. Determination.

Subd. 1. The planning commission shall make findings and recommendations to the city council. The council may then authorize a conditional use by resolution provided the evidence presented is such as to establish:

- (a) That the proposed use will comply with the regulations specified in this ordinance for the district in which the proposed use is to be located.
- (b) That the use is one of the conditional uses permitted for the district in which it is to be located.
- (c) The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city.
- (d) The use will be harmonious with the objectives of the comp plan.
- (e) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (f) The use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
- (g) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (h) The use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (i) The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
- (j) The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
- (k) The use will not depreciate surrounding property values.

Subd. 2. The council may impose such **conditions** and safeguards upon the premises benefited by a conditional use permit as may be necessary to prevent injurious effects therefrom upon other properties in the neighborhood. Examples of conditions are: controlling size and location of use, regulating ingress and egress, controlling traffic flow, regulating off-street parking and loading areas, location of utilities, berming, fencing, screening, landscaping, and compatibility of appearance. Violation of such conditions and safeguards, when made part of the terms under which the conditional use permit is granted, shall be deemed a violation of this ordinance and punishable under section 1180 et seq.

REFERENCE: VARIANCE STANDARDS & CONDITIONS

GREENWOOD ORDINANCE CODE, CHAPTER 11

The following subdivisions are from:

Section 1155.10. Requests for Variances from the Literal Provisions of the Ordinance

Subd. 3. Variance Standard. A variance to the requirements of the zoning code, shoreland management district ordinance, wetland ordinance and other related zoning controls shall only be permitted when they are in harmony with the purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

Subd. 4. Practical Difficulties Standard. "Practical difficulties," as used in connection with the granting of a variance, means:

- (a) that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) the plight of the landowner is due to circumstances unique to the property and not created by the landowner;
- (c) and the variance, if granted, will not alter the essential character of the locality

Economic considerations alone shall not constitute practical difficulties.

Subd. 5. Findings. The board, in considering all requests for a variance, shall adopt findings addressing the following questions:

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

Subd. 6. Additional Requirements for Grants of Variance Requests. The board, in considering all requests for a variance, shall determine that the proposed variance, if granted, will not:

- (a) Impair an adequate supply of light and air to adjacent property.
- (b) Unreasonably increase the congestion in the public street.
- (c) Increase the danger of fire or endanger the public safety.
- (d) Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.

Subd. 7. Conditions. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Conditions required by section 1176.07.05 of the shoreland management district ordinance must also be imposed. Violation of such conditions and/or safeguards shall be a violation of the zoning code and subject to the enforcement provisions thereof. (REVISED MAR. 2013 ORD. 214)

RESOLUTION NO. 17-13

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

APPROVING

IN RE: The Application of Chip and Kathy Fisher for Variance to 1176:04 (impervious surface), and Conditional Use Permit under Section 1140:19(5) (grade alteration) to permit the construction of a new home on an existing lot.

WHEREAS, Chip and Kathy Fisher are the owners of property commonly known as 5185 Greenwood Circle, Greenwood, Minnesota 55331 (PID No. 26-117-23-42-0040); and

WHEREAS, application was made for variance to Section 1176:04, and 1140:18 to permit construction of a new home on an existing lot; and

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

WHEREAS, public comment was taken at the Public Hearing before the Planning Commission on June 19, 2013; and

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

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

FINDINGS OF FACT

1. That the real property located at 5185 Greenwood Circle, Greenwood, Minnesota 55331 (PID No. 26-117-23-42-0040) is a single family lot of record located within the R-1A Single Family Residential District.
2. That on November 7, 2012 Applicants were granted variances to

Greenwood Ordinance Code Sections 1120:15, 1140.18, and 1176.04, as follows:

- A. A variance to Section 1120:15 permitting a west side yard encroachment of thirteen feet, (13') into the required west side yard setback should be granted.
- B. A variance to Section 1120:15 permitting a front yard encroachment of twenty-six feet (26') into the required front yard setback should be granted.
- C. A variance to Section 1120:15 permitting a lake side yard encroachment of two feet six inches (2'6") into the required 50 foot lake side setback should be granted.
- D. A variance to Section 1176:04 permitting the impervious surface to exceed maximum permitted impervious surface of 30% by 6.3% should be granted.
- E. That a variance to Section 1140:18 permitting maximum structural volume to exceed permitted structural volume of 32,390 cubic feet by 2,556 cubic feet, on conditions,

in conjunction with plans to demolish an existing non-conforming house and construct a new home thereon which due to lot area (6,478 square feet) and required side yard setbacks and planned hardcover requires variances.

- 2. Applicant commenced construction and later discovered an architectural error: The elevation of the garage floor (as built) sat approximately 4.9 below the grade of Greenwood Circle, but with the garage door being only 28 feet back from the edge of the road, the resulting grade was 17.5%; too steep for safe year-round use by vehicles and also creating a blind-spot/safety issue when vehicles departing the property back up the incline on to Greenwood Circle.
- 3. To resolve the issue, Applicant proposes a re-routing of the driveway (as illustrated on Exhibit A) to the West for added length and reduced grade (approximately 8.2%). The proposal would require the installation of a boulder retaining wall (as illustrated on Exhibit A) constructed upon the public right of way of Greenwood Circle as well as excess paving of public right of way for personal use.
- 4. The original variance grant permitted maximum hardcover of 36.3%; a variance of 6.3% to Section 1176.04. The added driveway surface requires an increase in the variance for hardcover of 2.62%; for a maximum permitted hardcover of 38.92%.

5. The proposal would also necessitate a change in grade greater than 1 foot in 100square feet from per-existing grade. Applicant seeks a CUP under Section 1140.19(5) to permit a three (3) foot grade change.
6. The applicant advises that the variance, if granted, will be keeping with the spirit and intent of the zoning code because the new driveway design will be in keeping with the existing character of the neighborhood in terms of materials, scale and landscape amenities, and the density of the proposed improvements. The variance, if granted, will not allow a driveway greater in size than others in the neighborhood.
6. The applicant advises the property cannot be put to a reasonable use if used under the conditions allowed by the official controls due to the lot being only 6,478 square feet and the site being more than a story (14-1/2 feet) below street level, and the architectural conundrum above described.
7. The applicant advises that the plight of the owner is due to circumstances unique to the property and not created by the landowner because of engineering error which does not lend itself to economical correction without demolition of recent new improvements at a cost in excess of \$100,000 dollars.
8. The applicant advises the variance, if granted, will not alter the essential of the locale because the structure has been made as low and small as possible at the street front yard setback and is designed to complement the character of adjacent properties in terms of size and materials against the use of the property.
9. The applicant represents that the variance, if granted, will not affect the neighboring properties to light, air, contribute to traffic congestion or danger of fire or create a danger to public safety, and if granted, the property to be built as proposed will not adversely impact surrounding property values.
10. The Planning Commission discussed the proposed plan and recommended approval of the proposed plan for the reason that the default grade creates a practical difficulty in that it is unserviceable due to its steep incline. The planning commission also concluded that the grade alteration permit was minimal and appropriate all things considered. All things considered the proposal will not alter the essential character of the neighborhood.
11. Section 1155.10, Subd. 4, 5 & 6 provide:

“Subd. 4. Practical Difficulties Standard. “Practical difficulties,” as used in connection with the granting of a variance, means:

- (a) that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) the plight of the landowner is due to circumstances unique to the property and not created by the landowner;
- (c) and the variance, if granted, will not alter the essential character of the locality

Economic considerations alone shall not constitute practical difficulties.

Subd.5 Findings. The board, in considering all requests for a variance, shall adopt findings addressing the following questions:

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

Subd. 6. Additional Requirements for Grants of Variance Requests. The board, in considering all requests for a variance, shall determine that the proposed variance, if granted, will not:

- (a) Impair an adequate supply of light and air to adjacent property.
- (b) Unreasonably increase the congestion in the public street.
- (c) Increase the danger of fire or endanger the public safety.
- (d) Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this ordinance.”

- 12. Based upon the foregoing, the City Council determines that the variance to Section 1176.04 (3) to increase impervious surfacing by 2.62% for added driveway surface, if granted, would be in harmony and keeping with the spirit and intent of the Zoning Code because it will maintain the character of the neighborhood while resolving a traffic safety issue. The variance, if granted, will be consistent with the Comprehensive Plan’s guiding use for the subject property in the applicable zone because the character of the proposed use is consistent with the applicable zoning.
- 13. The property owner’s proposed manner of use of the property, although not permitted under the Zoning Code in a lot of this size without a variance, is reasonable because the planned home is of modest and appropriate size for an R1 zoned property in this neighborhood.

14. That the plight of the land owner/applicant is due to circumstances unique to the property and not created by the landowner, but by a third-party engineering error, which because the property's geometry, the elevation difference between garage floor and street level create a traffic safety issue and a functional utility issue for all future owners of the home.
15. The variance, if granted, will not alter the essential character of the locality, that the proposed single-family home is consistent with the locality. The variance, if granted, will not impair an adequate supply of light and air to adjacent property, unreasonably increase congestion on public street, increase danger of fire or endanger public health, safety, and welfare or unreasonably diminish or impair established property values in the neighborhood.
16. That in addition to the variance and CUP grants, a permit under Section 630.05 to use public right of way and supported by a use/access agreement between Applicant and City is needed.
17. The foregoing variance being deemed appropriate, the grant of variance to exceed the maximum permitted impervious surface area of 30% by and additional 2.62% under Section 1176.04(3) is appropriate and should be granted; and the CUP for maximum grade alteration of 3 feet from pre-construction grade under Section 1140:19(5) is appropriate and also should be granted.
18. That the following conditions should be imposed on any variance grant:
 - A. The project must be completed according to the specifications and design requirements in the submitted plans.
 - B. A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the City of Greenwood before any permits may issue or the project commence.
 - C. Applicant must purchase a Section 630.05 Public Right of Way Use permit and enter into a supporting cooperation and use agreement with the City that will run with the property title and govern the installation and maintenance of the retaining wall and excess driveway use of the public street. The city attorney shall draft the cooperation and use agreement at Applicant's expense. No permits shall issue until said agreement is of record in the Office of the County Recorder and proof of filing provided the City Clerk.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, The City Council acting as the Board of Appeals makes the following Conclusions of Law:

1. The applicant has made an adequate demonstration of facts meeting the standards of Section 1155.10 necessary for the grant of the following variance to Section 1176.04 and CUP under Section 1140.19(5):
 - A. A variance to Section 1176:04 permitting the impervious surface to exceed maximum permitted impervious surface of 30% by 8.92% should be granted. A variance to Section 1120:15 permitting a west side yard encroachment of thirteen feet, (13') into the required west side yard setback should be granted.
 - B. A Conditional Use Permit under Section 1140.19(5) to permit a maximum grade alteration of three (3) feet from pre-construction grade should be granted.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments:

That the application of Chip and Kathy Fisher for variance to Greenwood Ordinance Code Section 1176.04 and CUP under Section 1140.19(5) are granted as follows:

- A. A variance to Section 1176:04 permitting the impervious surface to exceed maximum permitted impervious surface of 30% by 8.92% should be granted. A variance to Section 1120:15 permitting a west side yard encroachment of thirteen feet, (13') into the required west side yard setback should be granted.
- B. A Conditional Use Permit under Section 1140.19(5) to permit a maximum grade alteration of three (3) feet from pre-construction grade should be granted.

on the following conditions:

1. The project must be completed according to the specifications and design requirements in the submitted plans.
2. A certified copy of this resolution shall be filed by the applicants with the Hennepin County Register of Titles and proof of filing provided to the City of Greenwood before any permits may issue or the project

commence.

3. Applicant must purchase a Section 630.05 Public Right-of-Way Use permit and enter into a supporting cooperation and use agreement with the City that will run with the property title and govern the installation and maintenance of the retaining wall and excess driveway use of the public street. The city attorney shall draft the cooperation and use agreement at Applicant's expense. No permits shall issue until said agreement is of record in the Office of the County Recorder and proof of filing provided the City Clerk.

PASSED THIS ____ DAY OF JULY, 2013 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

____ Ayes, ____ Nays

CITY OF GREENWOOD

ATTEST:

By _____
Debra J. Kind, Mayor

Gus Karpas, Clerk/Administrator

GREENWOOD CIRCLE

REMOVE EXISTING
 & EXTEND NEW
 PROTECT WALL
 PINE

TW=948.8
 BW=948.5

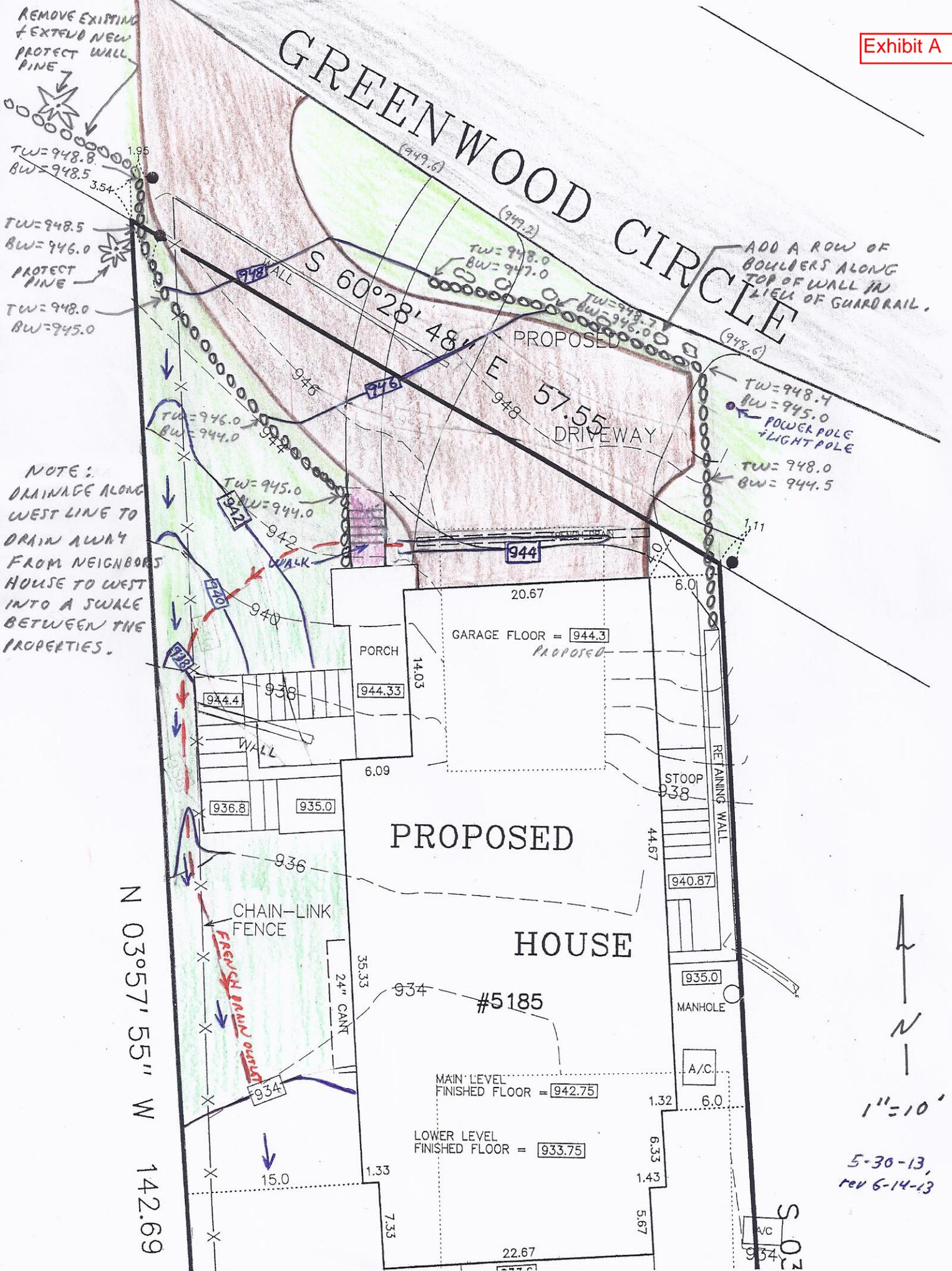
TW=948.5
 BW=946.0

PROTECT PINE

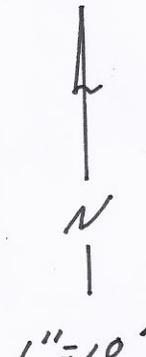
TW=948.0
 BW=945.0

ADD A ROW OF
 BOULDERS ALONG
 TOP OF WALL IN
 LIEU OF GUARDRAIL.

NOTE:
 DRAINAGE ALONG
 WEST LINE TO
 DRAIN AWAY
 FROM NEIGHBORS
 HOUSE TO WEST
 INTO A SWALE
 BETWEEN THE
 PROPERTIES.



N 03°57' 55" W 142.69



5-30-13,
 REV 6-14-13



Agenda Item: Dr. Mark Hope, 21450 State Highway 7 and Bridgewater Bank, 21500 State Highway 7
Resolution 18-13, Conditional Use Permit Findings, (impervious surface)

Summary: The planning commission considered the applicant's comments, application materials, staff report, city code conditional use permit standards, and public comments when making their recommendation and conditions. See the planning commission motion below and the FYI section of the council packet for a copy of the planning commission minutes. For the city council's reference, copies of the staff report, CUP standards, and application are attached. A resolution with findings of fact drafted by the city attorney is also attached.

Planning Commission Action: Motion by Commissioner Beal to recommend the city council approve the application of Dr. Mark Hope and Bridgewater Bank for a conditional use permit for a combined impervious surface area of 66.72% as presented. The proposal would reduce the overall impervious surface area on the property, the drainage plan has been approved by the city engineer and MCWD and the parking will be brought into compliance with the city ordinances. Commissioner Paeper seconded the motion. Motion carried 4-0.

Key Dates:	05-21-13	Application complete
	06-06-16	Notice of the public hearing published in Sun-Sailor
	06-19-13	Public hearing held by the planning commission
	07-03-13	City council consideration
	07-20-13	60-day deadline

Council Action: The city council must take action by 07-20-13 unless the council exercises its authority to extend the deadline by up to an additional 60 days. Suggested motions ...

1. I move the city council approves resolution 18-13 **approving** the conditional use application of Dr. Mark Hope and Bridgewater Bank as presented (or with the following revisions: _____). I further move the council directs the city clerk to mail a copy of the findings to the applicant and the DNR, and place an Affidavit of Mailing for each of the mailings in the property file.
2. I move the city council directs city staff to exercise the city's option to take 60 additional days to process the conditional use application of Dr. Mark Hope and Bridgewater Bank by mailing written notice and placing an Affidavit of Mailing in the property file. The written notice shall state the reason for the extension is to give the city attorney time to draft "findings for **denial**," so the council may weigh options and consider both "findings for approval" and "findings for denial" at the 08-07-13 city council meeting.

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



***Agenda Item: Consider Conditional Use Permit Request,
Dr. Marc Hope, 21450 State Highway 7 and Bridgewater Bank, 21500 State Highway 7***

Summary: Dr. Marc Hope and Bridgewater Bank are requesting a conditional use permit for a permitted impervious surface area of 66.72% on their combined property at 21450 and 21500 State Highway 7.

The applicants propose to reconfigure the existing parking area by removing a driveway that connects their two parking lots. Doing so will increase the overall number of parking stalls on the properties by four. A private easement agreement determines the number of parking spaces for each business and the reconfigurations adds at parking to each site. The proposal reduces the overall impervious surface area on the property by 156 square feet.

Section 1176.04 outlines the zoning provisions in the Shoreland Management District.

Section 1176.04(b) states "Impervious surface coverage in all commercial districts, expressed as a percentage of the lot area, shall not exceed 30%, provided that because of the additional hardcover required for typical commercial developments, the maximum impervious surface in commercial districts may be increased to a maximum of 75% with a conditional use permit first obtained under sections 1150 and 1176.07 of this code, supported by an applicant prepared stormwater management plan meeting the approval of the city engineer. The city engineer, planning commission, and/or city council may require an applicant to implement stormwater management practices deemed necessary to control and minimize or control stormwater and off site runoff, including by not limited to, rain gardens, holding pond, reductions in proposed impervious surfaces, and other accepted stormwater management techniques and methods."

- **The applicants are seeking a conditional use permit for a permitted impervious surface area of 66.72%.**

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

Conditional Use Application → CHIRO PRACTICE SITE

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

Applicant is (circle one) Owner Developer Contractor Architect Other ADJACENT PROPERTY OWNER

Property address for which Conditional Use is requested: 21450 STATE HIGHWAY 7
GREENWOOD, MN. 55331

Applicant (individual or company name): BRIDGEWATER PROPERTIES GREENWOOD, LLC.

Contact for Business: JERRY BAACK Title: SECRETARY

Address: 3800 AMERICAN BLVD. WEST
SUITE 100 City: BROWNINGTON State: MN Zip: 55331

Wk Phone: 952-893-6868 Hm Phone: N/A

Email address: JERRY@BRIDGEWATERBANKMN.COM Fax: 952-893-6850

Present use of property: OFFICE / MEDICAL

Property acreage: 14,781 SF = .34 ACRES

Describe Request: Build New Add On Remodel Replace

What is the Conditional Use being requested: RECONFIGURED PARKING LOTS TO
ADD 7 STALLS AND REDUCE IMPERVIOUS AREA BY 156 SF.

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

 LMCD # 952-745-0789 Watershed District # 952-471-0590

Applicant's Acknowledgement & Signature(s)

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

The undersigned also acknowledges that she/he understands that before this request can be considered and/or approved, all required information and fees, including any deposits, must be paid to the City, and if additional fees are required to cover costs incurred by the City, the City has the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees.

An incomplete application will delay processing and may necessitate a re-scheduling of the review time frame. The application time line commences once an application is considered complete when all required information and fees are submitted to the City. The applicant recognizes that

he/she is solely responsible for submitting a complete application being aware that upon failure to do so, the staff has no alternative but to reject it until it is complete or to recommend the request for denial regardless of its potential merit.

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

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

Applicant's Signature: [Signature] Date: 5/21/13

Signature: _____ Date: _____

Owner's Acknowledgement & Signature(s)

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

Owner's Signature: [Signature] Date: 5/21/13

Owner's Signature: _____ Date: _____

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



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May 21, 2013

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

**RE: BRIDGEWATER BANK
APPLICATION FOR VARIANCE and CUP**

Gus,

We are proud to submit our application for review and consideration by your legislative bodies. We are submitting two applications for adjacent properties for a single parking lot modification due to the nature of the existing property line configurations. We are also proposing new awnings to be mounted to the Bank building to allow for a more enjoyable work environment within the building. The modifications proposed on the two submittals will only add to the aesthetics and success of these businesses within your City and we are confident that they will not diminish the rights of adjacent property owners.

DESCRIPTION OF REQUEST:

We are requesting 1) a Major Site Plan Review, 2) a sideyard setback Variance for two (2) 2'-0" deep Awnings proposed to be mounted to the west facade of the Bank building, 3) a sideyard setback Variance to allow for three (3) 3'-6" deep awnings to be mounted to the east facade of the Bank building constructed over the property line, 4) and a Conditional Use Permit (CUP) to increase the Impervious Surface Area to a maximum of 75% for two separate parcels.

ESTABLISHING THAT THE REQUESTED VARIANCE/CUP, IF GRANTED, WILL BE IN KEEPING WITH THE SPIRIT AND INTENT OF THE ZONING CODE:

WEST AWNINGS: The west awnings will complete the look of the building while allowing for full use of the offices during the afternoon sun. The awnings will help shade the interior of the offices, and not require the interior blinds to be closed during the afternoon. The existing windows are very attractive from the exterior, but with the excessive size (they extend to 10' above the finished floor), the afternoon sun makes for a very unpleasant and hot experience on

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the interior of these offices. The front of the building currently has awnings and the proposed awnings would allow the sides of the building match the front.

EAST AWNINGS: The east awnings will complete the look of the building while allowing for unencumbered use of the offices during the morning sun. The awnings will help shade the interior of the offices, and not require the interior blinds to be closed during this time of the morning. The front of the building currently has awnings, and these proposed awnings would make the sides of the building match the front.

IMPERVIOUS COVER: Currently, two distinct parking areas exist on the two parcels. The existing parking lot located solely on the Bank parcel (Tract C) consists of 4 parking stalls, and the existing parking lot located solely on the Chiropractor parcel (Tracts A&B) consists of 17 stalls. The larger parking lot, located on the Chiropractor parcel is shared between the two parcel owners through an Amended and Restated Declaration of Easement dated October 19, 2005. The agreement between the parcel owners identifies that 17 total parking stalls shall be shared and that the Chiropractor parcel shall have rights to 5 stalls and the Bank building shall have rights to 12 stalls. The proposed re-configuration of the shared parking lot would add four (4) stalls to the total shared amount. The revised, Amended and Restated Declaration of Easement, (forthcoming), between the owner of the Bank parcel and the owner of the Chiropractor parcel states that the owner of the Chiropractor parcel shall have rights to 6 stalls and the owner of the Bank parcel shall have rights to 15 stalls. The cost of maintenance to the newly re-configured parking lot has been re-negotiated and is included in the agreement between the two parcel owners. In addition, the re-configured parking lot located solely on the Bank parcel is proposed to have a total of seven (7) parking stalls, which is an addition of three stalls to the existing conditions.

The current Greenwood Zoning Code for the existing zoning classification (C-1, Commercial District) of this lot limits the amount of impervious coverage to the total lot surface area to 30% of the entire lot area, unless a CUP is sought. A CUP allows for Impervious Surface Area to be 75% maximum of the lot area with a Stormwater Management Plan approved by the City Engineer. The existing Impervious Surface Area for the Bank parcel (Tract C) is 9,453 sf (67.23% of Tract C site area) and the existing Impervious Surface Area for the Chiropractor parcel (Tracts A&B) is 9,923 sf (67.13% of Tracts A&B site area). The combined lots total Impervious Surface Area is 67.18%.

The proposed, re-configured site plan increases parking stalls by seven (7) and reduces the Total Impervious Surface Area by 156 sf which equates to 66.72% Total Impervious Surface Area through use of more efficient parking and drive aisles. A Stormwater Management Plan along with supporting data has been submitted with this application for CUP.

ESTABLISHING PRACTICAL DIFFICULTY:

- 1. THE LANDOWNER'S (APPLICANT'S) PROPERTY CANNOT BE PUT TO A REASONABLE USE IF USED UNDER CONDITIONS ALLOWED BY THE OFFICIAL CONTROLS BECAUSE:**

WEST AWNINGS: The awnings tend to be closed during most of the day due to the excessive glare from the sun and heat gain into the offices. With the addition of the awnings, the sun can

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be controlled better, and the users of the offices will be able to have the blinds open for extended periods of time.

EAST AWNINGS: The awnings tend to be closed during most of the day due to the excessive glare from the sun and heat gain into the offices. With the addition of the awnings, the sun can be controlled better, and the users of the offices will be able to have the blinds open for extended periods of time.

IMPERVIOUS COVER: Currently, the Bank has empty offices and due to it's success within the community, would like to occupy those offices. The parking lot simply cannot accommodate the number of existing employees, proposed employees, and potential guests along with the shared parking condition of the thriving Chiropractor's office next door. On several occasions, parking has been at capacity in the lots. The Bank is trying to alleviate a potential problem by adding 7 parking stalls to the existing lots by creatively re-organizing the shared parking lots.

2. THE PLIGHT OF THE LANDOWNER (APPLICANT) IS DUE TO CIRCUMSTANCES UNIQUE TO THE PROPERTY NOT CREATED BY THE LANDOWNER PROPERTY BECAUSE:

WEST AWNINGS: The original developer of the property re-designed the building for a new use as an office building several years ago. The original use as an automotive parts store did not require sun control as most of the building was dedicated for parts storage. Sun control is a typical feature designed into most Class A Office buildings to allow for natural light and the unencumbered views to the outdoors. The existing building was placed upon the site close to the property lines during it's original construction many years ago. The new use as an office building cannot change the property lines nor the close proximity of the setbacks. The western awnings have been redesigned from the previous Variance submittal in 2006, to be shallower (2'-0" deep in lieu of 3'-6" deep), but will cover the windows more, thus still controlling the sun and heat entering the offices.

EAST AWNINGS: During the last re-development of the site, the property lines were re-platted to divide the Chiropractor site from the Office building site. The property lines were drawn extremely close to the Office building (nearly touching the building at the northeast corner). The ability for the Office Building to add awnings to the east of the building was hindered when the property line was established. The Owner would like to add awnings to the east side of the building in order to control the sun. They have approached the adjacent property owner (Chiropractor) and the adjacent property owner has agreed to allow for awnings to be built over the property line (see attached letter from adjacent property owner and revised Cross Access Easement agreement).

IMPERVIOUS COVER: The current Landowners are not increasing the amount impervious. They are adding seven (7) parking stalls and reducing the amount of impervious surface area by 156 sf. Through creative re-design of the parking lots, and elimination of a dangerous drive-thru area, the design team was able to create a separate Guest Parking area for the bank (7 total stalls), and increase the shared parking lot by 4 stalls for a total of 21 parking stalls, all while reducing the impervious surface area by 156 sf and creating a very desirable landscaped garden at the front of the Bank building.

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The current Landowners of the Bank parcel and Chiropractor parcels purchased these buildings from previous owners who re-developed these two parcels. The Amended and Restated Declaration of Easement was in place and is tied to the deeds of the parcels. The current Owners are simply trying to create more efficient infrastructure to their facilities to make the viable for future employees and clients while not congesting the local roads with unwanted street parking.

3. THE VARIANCE/CUP, IF GRANTED, WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE LOCALITY BECAUSE:

WEST AWNINGS: The awnings will complete the appearance of the building by having matching awnings on all public sides of the building.

EAST AWNINGS: The awnings will complete the appearance of the building by having matching awnings on all public sides of the building.

IMPERVIOUS COVER: Granting the CUP would not alter the character of the locality. Granting the variance allows for additional landscaping to be placed at the front of the Bank building, which only improves the character of the locality.

ESTABLISHING THE VARIANCE/CUP, IF GRANTED, WILL NOT ADVERSELY IMPACT THE RIGHTS OF OTHERS:

A. DESCRIBE THE EFFECT OF THE VARIANCE/CUP, IF GRANTED, ON NEIGHBORING PROPERTIES AND ON THE NEIGHBORHOOD IN GENERAL:

WEST AWNINGS: The addition of the awnings will not affect neighboring properties or the neighborhood. In general, the building will be more attractive.

EAST AWNINGS: The addition of the awnings will not affect neighboring properties. In general, the building will be more attractive.

IMPERVIOUS COVER: Currently, the Chiropractor has an agreement with a neighboring property owner to park two vehicles on a separate parcel. The granting of this CUP would allow the Chiropractor to park all employees on the site in which they work. In addition, the Bank would be able to hire more employees and fully utilize the building as originally intended.

B. DESCRIBE THE EFFECT OF THE VARIANCE/CUP, IF GRANTED, ON SUPPLY OF LIGHT AND AIR TO ADJACENT PROPERTIES:

WEST AWNINGS: The addition of the awnings will not affect the supply of light and air to neighboring properties.

EAST AWNINGS: The addition of the awnings will not affect the supply of light and air to neighboring properties.

IMPERVIOUS COVER: Granting this CUP would not impact the amount of light or air to adjacent property owners.

C. DESCRIBE THE EFFECT OF THE VARIANCE/CUP, IF GRANTED, ON TRAFFIC CONGESTION IN THE PUBLIC STREET:

WEST AWNINGS: The addition of the awnings will not affect traffic in the public street.

EAST AWNINGS: The addition of the awnings will not affect traffic in the public street.

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IMPERVIOUS COVER: Granting this CUP would encourage more vehicles to the site, but would allow for proper parking for the use within the buildings. In addition, access to arterial and major highways is extremely close and would not be adversely affected by the addition of seven parking stalls.

D. DESCRIBE THE EFFECT OF THE VARIANCE/CUP, IF GRANTED, ON THE DANGER OF FIRE:

WEST AWNINGS: The addition of the awnings will not create an adverse fire danger.

EAST AWNINGS: The addition of the awnings will not create an adverse fire danger.

IMPERVIOUS COVER: Granting this CUP will not impact the danger of fire to the surrounding neighbors. The Fire Department can still fight any potential fires from the same, safe distance as previously planned.

E. DESCRIBE THE EFFECT OF THE VARIANCE/CUP, IF GRANTED, ON THE DANGER TO PUBLIC SAFETY:

WEST AWNINGS: The addition of the awnings will not affect the public safety.

EAST AWNINGS: The addition of the awnings will not affect the public safety.

IMPERVIOUS COVER: Granting this CUP will not impact the danger to Public Safety. The proposed parking areas have back-in turn-arounds and through traffic onto the Frontage Road. The elimination of the drive-through has increased the safety of the Public, by eliminating the potential of vehicular and pedestrian confrontation at the entry to the Bank building. All pedestrian traffic is directed to the proposed landscaped area.

F. DESCRIBE THE EFFECT OF THE VARIANCE/CUP, IF GRANTED, ON ESTABLISHED PROPERTY VALUES IN THE SURROUNDING AREA:

WEST AWNINGS: The addition of the awnings will only make the building more attractive. There will be no effect on surrounding property values in the neighborhood.

EAST AWNINGS: The addition of the awnings will only make the building more attractive. There will be no effect on surrounding property values in the neighborhood.

IMPERVIOUS COVER: Granting the CUP would not reduce the property values in the surrounding area. Granting the variance allows for additional landscaping to be placed at the front of the Bank building, reduces congestion in the parking lots, and allows the Bank and Chiropractor to serve more clients within the community. When businesses thrive within their community, they re-invest in their infrastructure and appearance of their facilities, which only improves property values of the surrounding neighbors.

G. DESCRIBE THE EFFECT OF THE VARIANCE/CUP, IF GRANTED, ON THE IMPAIRMENT OF THE PUBLIC HEALTH, SAFETY OR WELFARE:

WEST AWNINGS: The addition of the awnings will not affect the public health, safety, or welfare. It will make for a more pleasant working environment.

EAST AWNINGS: The addition of the awnings will not affect the public health, safety, or welfare. It will make for a more pleasant working environment.

IMPERVIOUS COVER: Granting the CUP would not impair the Public Health, Safety, and Welfare. The proposed parking lot renovation increases the ability of guests to find safe parking stalls,

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and alter the character of the locality. Granting the variance allows for additional landscaping to be placed at the front of the Bank building, which only improves the character of the locality.

We appreciate your review of this application and as always, are available to meet with you to discuss any issues that you may have concerns with. Please feel free to call to discuss any of the items for further clarification.

Sincerely,

Momentum Design Group, LLC.

Jeff Wrede, Architect
Partner

MOMENTUM DESIGN GROUP, LLC.

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KELLY LAW OFFICES

Established 1948

351 SECOND STREET
EXCELSIOR, MINNESOTA 55331

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

(952) 474-5977
FAX 474-9575

June 19, 2013

Greenwood City Clerk
20225 Cottagewood Road
Deephaven, MN 55331

**Re: Proposed Amended and Restated Declaration of Easement
Serving 21500 and 21450 Highway 7, Greenwood, Minnesota**

Dear Mr. Karpas:

You have been provided a copy of a proposed Amended and Restated Declaration of Easement governing Bridgewater Properties, Greenwood, LLC's 21500 and Wolfie Management, LLC's 21450 Highway 7, Greenwood, Minnesota. The document follows the original declaration (Registrar of Titles Document No. 3106800). A copy of that document has been reviewed in considering the present proposal.

Largely, the amended declaration carries forward the terms of the original, but specifically deletes original document paragraph 4; a paragraph which granted Wolfie Management the right to reconfigure the parking lot as long as it paid the cost and provided that the parking spaces remain not less than 17 spaces to Bridgewater. The present plan closes a cross boundary lone driveway access, but adds spaces to the Wolfie lot.

The original easement declaration was to have referenced an Exhibit "C" parking lot diagram. For reasons unknown, that Exhibit was omitted from the recorded original. Still, the undefined term "parking lot" continues to be used in the recitals and paragraphs 1 and 2 of the proposed agreement.

The site plan separately provided shows a reconfigured parking lot. (It should be noted that the parcel numbers referenced on the site plan are reversed from those referenced in the amended declaration). The Bridgewater parcel shows 7 parking spaces plus one handicap space. The Wolfie parcel shows 21 spaces including a handicap. The Zoning Administrator has advised that to be code compliant 21450 Highway 7 requires 5 parking spaces and 21500 requires 18.

The proposed amended declaration would grant the Bridgewater property 15 of 21 available Wolfie spaces with the remaining 6 being assigned to the Wolfie

property. When these are combined with spaces on the Bridgewater property, 21500 will have available 21 spaces and be code compliant. The Wolfie parcel with 6 spaces, will also be code compliant.

The following edits and adjustments should be made to the proposed amended declaration:

- The fourth “Whereas” clause and ¶1 & 2 – the reference to “parking lot” needs to be defined by attached illustration. The exhibit must conform with the application submitted to the City for zoning, code compliance approval.
- The fifth “Whereas” clause should read in part:
“Whereas”, the owners desire to amend ...”
- The “Now, therefore” paragraph should be edited to read:
“Now, therefore, the owners do ...”
- Paragraph 1 references to ‘70%’ and ‘30%’ should be replaced by ‘15 parking spaces’ and ‘6 parking spaces’, respectively. (The use of percentages to apportion expenses in paragraph 3 of the agreement is acceptable.)
- A drafting statement must be added in order to allow the document to be filed of record.

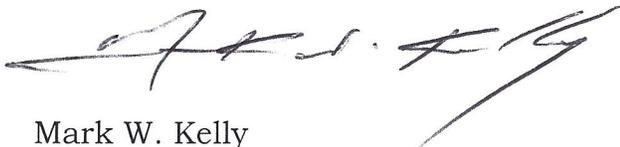
No opinion is hereby expressed by the undersigned as to the legal adequacy of the text of the proposed Amended and Restated Declaration of Easement vis-à-vis the legal interests of the two parties thereto. The undersigned does not represent either Bridgewater Properties Greenwood, LLC nor Wolfie Management, LLC and has not consulted with either party regarding their desires or interests hereon.

Provided I receive a *revised* Amended and Restated Declaration of Easement meeting my approval, I anticipate this matter can move forward in the zoning approval process.

When the zoning application for approval of amended declaration is approved, the City must require that the amended declaration be filed of record and proof of recording provided to the City Clerk.

I welcome any questions you have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark W. Kelly', with a long, sweeping underline that extends to the right.

Mark W. Kelly
MWK/tas

AMENDED AND RESTATED DECLARATION OF EASEMENT

This AMENDED AND RESTATED DECLARATION OF EASEMENT is made this ___ day of June 2013, by Bridgewater Properties Greenwood, LLC, a Minnesota Limited Company (hereinafter referred to as "Owner of Parcel 1") and Wolfie Management, LLC, a Minnesota Limited Liability Company "Owner of Parcel 2" and collectively referred to as "Owners".

WITNESSETH:

WHEREAS, the Owner of Parcel 1 is the owner of that certain parcel of real estate located in the City of Greenwood, County of Hennepin, State of Minnesota, legally described on the attached Exhibit A (hereinafter referred to as "Parcel 1"); and

WHEREAS, the Owner of Parcel 2 is the owner of that certain parcel of real estate located in the City of Greenwood, County of Hennepin, State of Minnesota, legally described on the attached Exhibit B (hereinafter referred to as "Parcel 2"); and

WHEREAS, Parcel 1 and Parcel 2 may sometimes be collectively referred to herein as "Parcels"; and

WHEREAS, the Owner, as successor in interest to T.F. James Company, an Iowa corporation, previously provided for a reciprocal easement for use of the parking lot and spaces located on Parcel 2, as the same may be reconfigured from time to time ("Parking Lot") for the benefit of Parcel 1, as set forth in that certain Declaration of Easement dated January 7, 1999 and recorded in the Office of the Registrar of Titles for Hennepin County, Minnesota as Document No. 3106800 (the "Original Declaration"); and

WHEREAS, the Owner desires to amend and restate the Original and Amended Declaration in its entirety as hereinafter set forth, and the Original Declaration shall have no further force and effect from and after the date hereof. For purposes hereof, this Amended and Restated Declaration shall be referred to herein as this "Declaration."

NOW, THEREFORE, the Owner does hereby declare that the Parcels shall be held, transferred, sold; conveyed and occupied subject to the following easement, covenants, conditions and restrictions hereinafter set forth, the burdens and benefits of which shall run with title to both Parcels and shall be binding upon the successors and assigns and shall be appurtenant to the Parcels:

1. The Owner of Parcel 2 hereby creates a perpetual nonexclusive right, privilege and easement over, across and under the Parking Lot for the purpose of access, ingress and egress, and parking of motor vehicles and pedestrian traffic, provided that the Owner of Parcel 1 shall always have the right to the use of at least 70% of the parking spaces and the Owner of Parcel 2 shall always have the right to the use of 30% of the parking spaces.

2. The Parking Lot shall at all times be kept in a good and safe state of repair and maintenance and in a clean and orderly condition including, but not limited to, the prompt collection and removal of all rubbish, water and debris, the prompt removal of snow, ice and surface waters, and the prompt replacement and repair of all paving including seal coating. The cost and expense of such

maintaining, repairing and replacing of the Parking Lot and the cost and expense of insuring against personal injury, death or property damage upon the Parking Lot, shall constitute common expenses (hereinafter referred to as "Parking Lot Expenses"). The Owner of Parcel 1 and the Owner of Parcel 2 shall each pay a share of the cost of Parking Lot Expenses with the Owner of Parcel 1 responsible for payment of 70% of such expenses, and the Owner of Parcel 2 responsible for payment of 30% of such expenses. It is understood and agreed that the Owner of Parcel 1 shall arrange and contract for such services or items to be included as Parking Lot Expenses on behalf of both Parcels. The Owner of Parcel 1 shall bill the Owner of Parcel 2 for its respective proportionate share of the Parking Lot Expenses. The Owner of Parcel 2 shall pay to the Owner of Parcel 1 its share of the Parking Lot Expenses within 10 days of their billed therefor.

3. In the event that any Owner of Parcel 2 shall fail to pay its share of the Parking Lot Expenses when due, then the Owner of Parcel 1 may send written notice to the defaulting owner setting forth the alleged default. In the event such default is uncured for a period of thirty days after receipt of such notice, the Owner of Parcel 1 may proceed to cure such default. In the event the Owner of Parcel 1 shall cure a default hereunder, the defaulting Owner of Parcel 2 shall be obligated to reimburse the Owner of Parcel 1 total costs and expenses of said cure, plus interest at the rate of 12% per annum, on demand, together with any attorney's fees or other costs incurred in connection with collecting the same. If the defaulting Owner of Parcel 2 shall fail to pay such sums upon demand, the Owner of Parcel 1 shall have a lien against Parcel 2 to secure the payment of such indebtedness, which may be foreclosed in the manner for foreclosing mechanic's liens in the State of Minnesota, provided, however, any such lien or liens shall be subordinate to any first mortgage placed on such Parcel.

4. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Parking Lot for public use, it being the intention of the parties hereto that the easement granted herein shall be strictly limited to and for the purpose herein expressed.

5. This Declaration may only be modified or amended, in whole or in part, with the consent of each of the owners of the Parcels, by declaration in writing, executed and acknowledged by each of said owners.

6. Nothing contained in this Declaration shall be deemed or construed to create the relationship of a principal and agent, partnership, joint venture, or of any association between all of the owners of the Parcels, except with respect to the Owner of Parcel 1 's right to contract for performances of services for the Parking Lot as set forth above.

EXHIBIT A

DESCRIPTION OF PARCEL 1

Tract C, Registered Land Survey No. 830, pursuant to said Registered Land Survey recorded or registered in the offices of the Registrar of Titles, County of Hennepin, State of Minnesota.

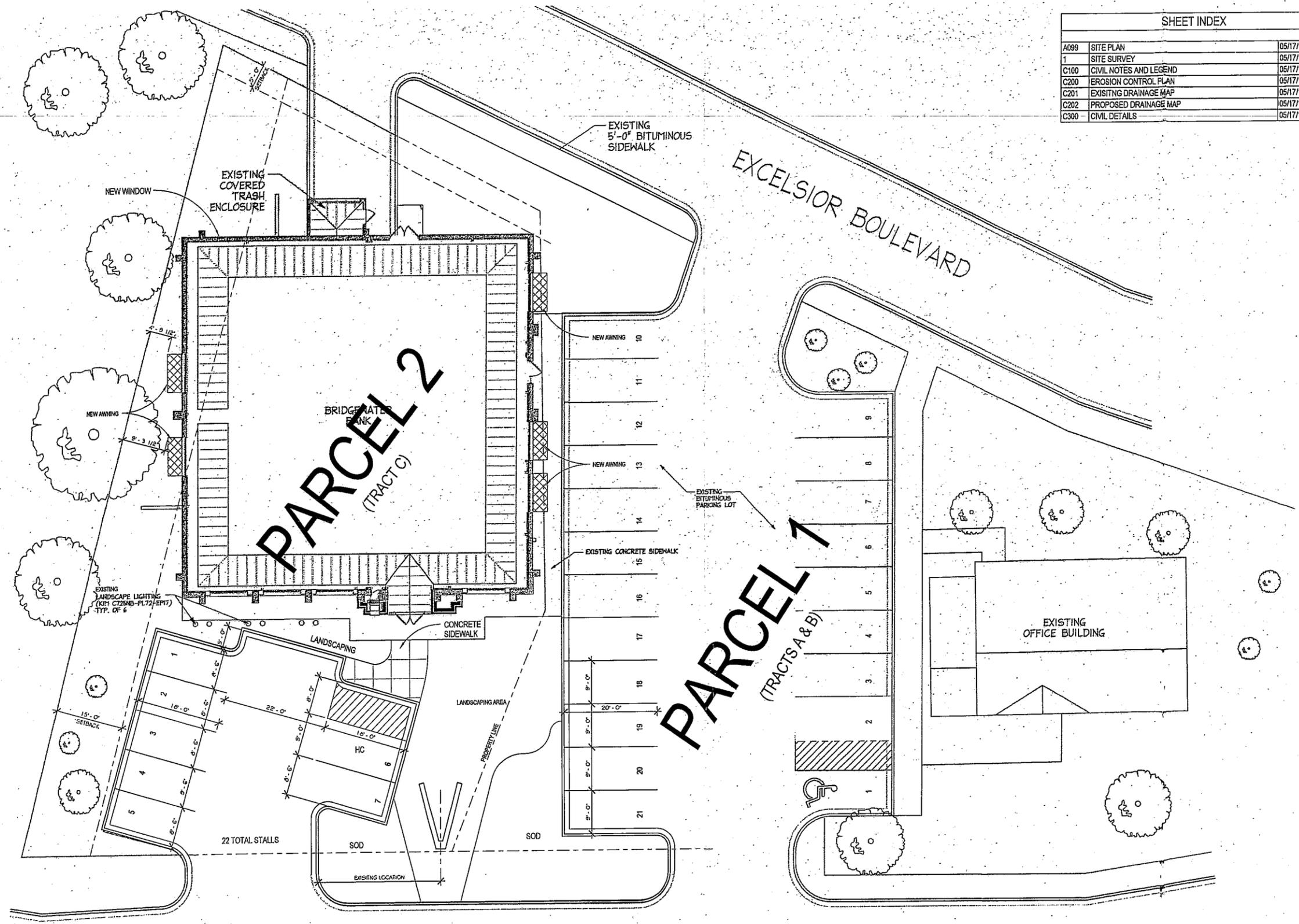
EXHIBIT B

DESCRIPTION OF PARCEL 2

Tracts A and B, Registered Land Survey No. 830, pursuant to said Registered Land Survey recorded or registered in the offices of the Registrar of Titles, County of Hennepin, State of Minnesota.

Subject to the building restrictions contained in deed recorded in Book 682 of Deeds, page 449, but free from any right of forfeiture or re-entry.

SHEET INDEX		
A099	SITE PLAN	05/17/13
1	SITE SURVEY	05/17/13
C100	CIVIL NOTES AND LEGEND	05/17/13
C200	EROSION CONTROL PLAN	05/17/13
C201	EXISTING DRAINAGE MAP	05/17/13
C202	PROPOSED DRAINAGE MAP	05/17/13
C300	CIVIL DETAILS	05/17/13



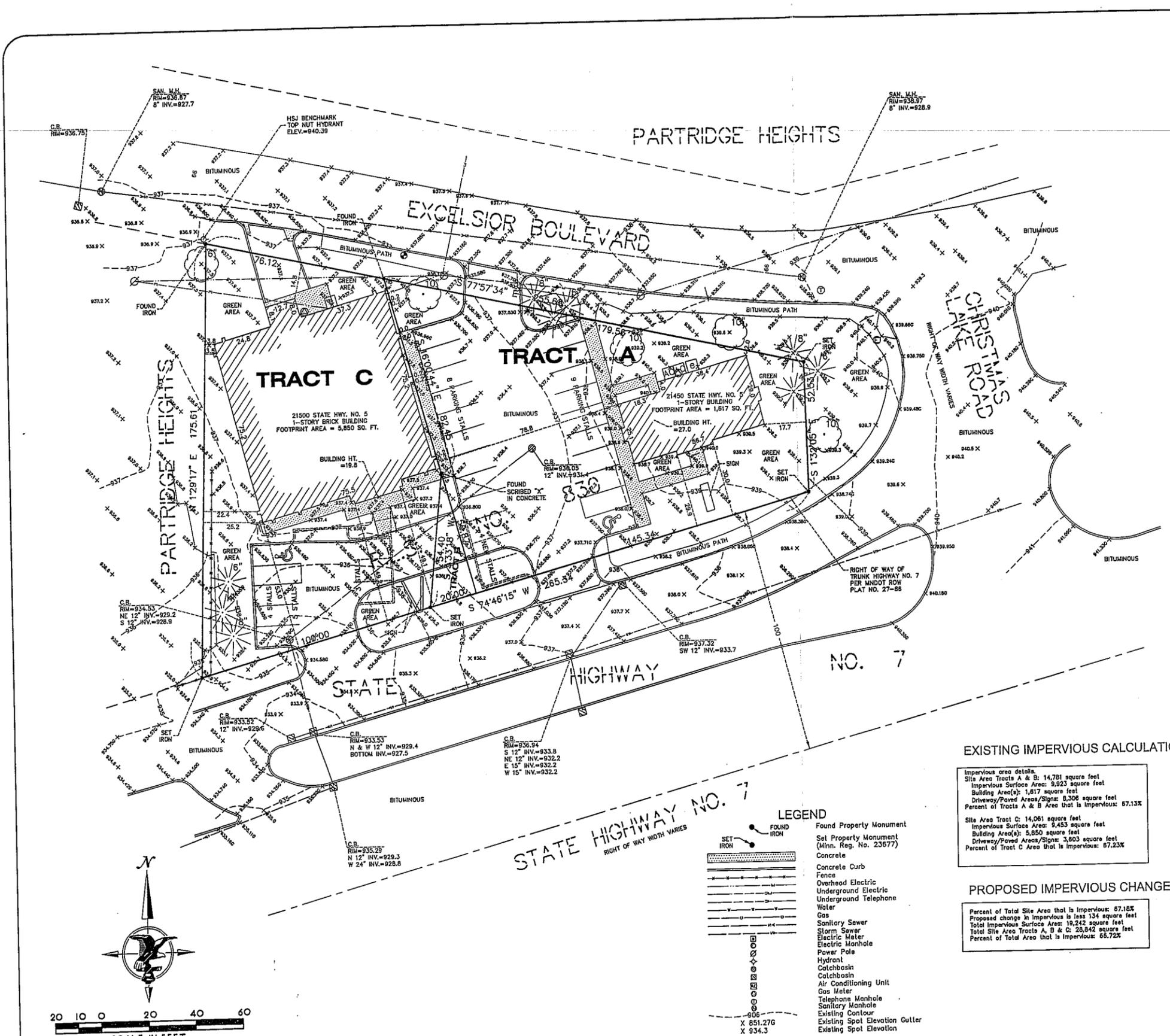
1 PROPOSED SITE PLAN
SCALE 1" = 10'-0"

Date	05/17/13
Project Architect	TBD
Permit Submit Date	TBD
Project Number	13002

Project Name

SITE PLAN

A099



LEGAL DESCRIPTION

Tracts A and B, Registered Land Survey No. 830, subject to highway, Hennepin County, Minnesota.

AND

Tract C, Registered Land Survey No. 830, subject to highway, Hennepin County, Minnesota.

GENERAL NOTES:

- The bearing system used is assumed.
- The location of the underground utilities shown hereon, if any, are approximate only. PURSUANT TO MSA 218D CONTACT GOPHER STATE ONE CALL AT (612) 454-0002 PRIOR TO ANY EXCAVATION.
- Site areas:
Tracts A and B, Registered Land Survey No. 830, subject to highway, Hennepin County, Minnesota. 14,781 square feet = 0.338 acres.
Tract C, Registered Land Survey No. 830, subject to highway, Hennepin County, Minnesota. 14,061 square feet = 0.323 acres.
- This survey was made on the ground.
- No current title work was furnished for the preparation of this survey, legal description, recorded or unrecorded easements and encumbrances are subject to revision upon receipt of current title work.
- Elevation datum is based on NAVD 88 date.
HS-Benchmark is located Top Nut Hydrant (AS SHOWN ON SURVEY)
Elevation = 940.39

LOT CERTIFICATE SURVEY
WITH ELEVATIONS
for:
BRIDGEWATER BANK
SITE: 21450 & 21500 STATE HWY. NO. 7
GREENWOOD, MINNESOTA

EXISTING IMPERVIOUS CALCULATIONS:

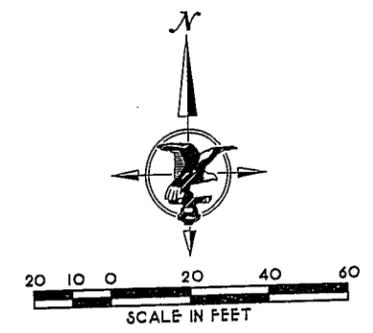
Impervious area details:
Site Area Tracts A & B: 14,781 square feet
Impervious Surface Area: 9,923 square feet
Building Area(s): 1,617 square feet
Driveway/Paved Areas/Signs: 8,306 square feet
Percent of Tracts A & B Area that is Impervious: 67.13%

Site Area Tract C: 14,061 square feet
Impervious Surface Area: 9,453 square feet
Building Area(s): 8,850 square feet
Driveway/Paved Areas/Signs: 3,603 square feet
Percent of Tract C Area that is Impervious: 67.23%

PROPOSED IMPERVIOUS CHANGES:

Percent of Total Site Area that is Impervious: 67.18%
Proposed change in Impervious is less 134 square feet
Total Impervious Surface Area: 19,242 square feet
Total Site Area Tracts A, B & C: 28,842 square feet
Percent of Total Area that is Impervious: 66.72%

- LEGEND**
- Found Property Monument
 - Set Property Monument (Minn. Reg. No. 23677)
 - Concrete
 - Concrete Curb
 - Fence
 - Overhead Electric
 - Underground Electric
 - Underground Telephone
 - Water
 - Gas
 - Sanitary Sewer
 - Storm Sewer
 - Electric Meter
 - Electric Manhole
 - Power Pole
 - Hydrant
 - Catchbasin
 - Catchbasin
 - Air Conditioning Unit
 - Gas Meter
 - Telephone Manhole
 - Sanitary Manhole
 - Existing Contour
 - Existing Spot Elevation
 - Existing Spot Elevation



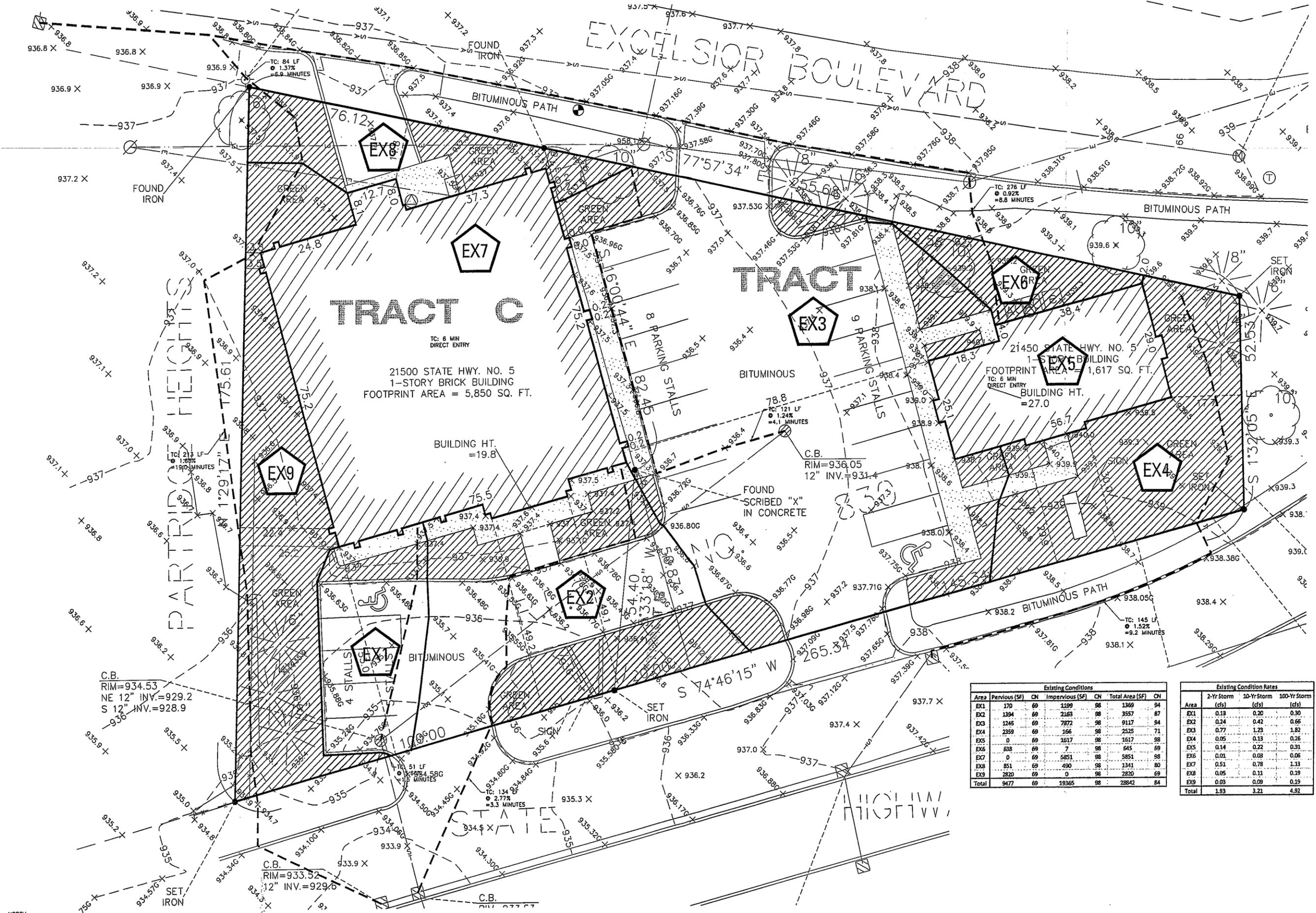
HARRY S. JOHNSON CO., INC.
LAND SURVEYORS
CONSULTANTS
BLOOMINGTON, MINNESOTA
PHONE: 952-884-5341 FAX: 952-884-5344

CERTIFICATION:
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Date: May 7, 2013
Thomas E. Hodoff
Minn. Reg. No. 23677

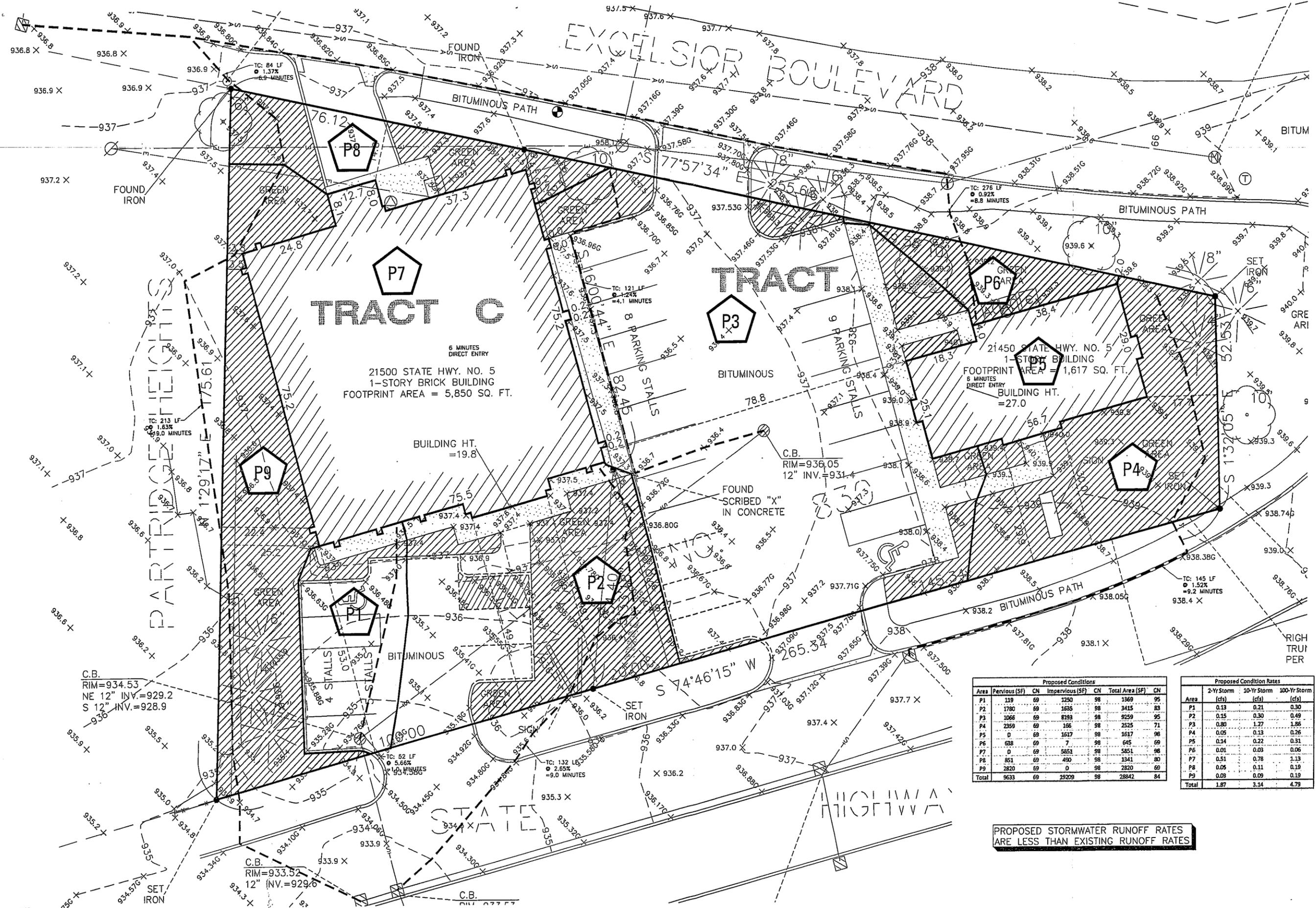
Sheet No. 1 OF 1
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1-3-8534T

CAO FILE 2013167.01
Page 2 of 2013167.01



Area	Existing Conditions		Existing Condition Rates	
	Pervious (SF)	CN	Impervious (SF)	CN
EX1	170	69	1199	98
EX2	1394	69	2169	98
EX3	1245	69	7872	98
EX4	2359	69	166	98
EX5	0	69	1517	98
EX6	638	69	7	98
EX7	0	69	5851	98
EX8	851	69	490	98
EX9	2820	69	0	98
Total	9477	69	19365	98

Area	Existing Condition Rates		
	2-Yr Storm (cfs)	10-Yr Storm (cfs)	100-Yr Storm (cfs)
EX1	0.13	0.20	0.30
EX2	0.24	0.42	0.66
EX3	0.77	1.23	1.82
EX4	0.05	0.13	0.26
EX5	0.14	0.22	0.31
EX6	0.01	0.03	0.06
EX7	0.51	0.78	1.13
EX8	0.05	0.11	0.19
EX9	0.03	0.09	0.19
Total	1.93	3.21	4.92



Proposed Conditions					
Area	PerVIOUS (SF)	CN	ImperVIOUS (SF)	CN	Total Area (SF)
P1	119	69	2250	98	1369
P2	1780	69	1636	98	3415
P3	1066	69	8199	98	9265
P4	2359	69	166	98	2525
P5	0	69	1617	98	1617
P6	638	69	7	98	645
P7	0	69	5851	98	5851
P8	851	69	490	98	1341
P9	2820	69	0	98	2820
Total	9633	69	19209	98	28842

Proposed Condition Rates			
Area	2-Yr Storm (cfs)	10-Yr Storm (cfs)	100-Yr Storm (cfs)
P1	0.13	0.21	0.30
P2	0.15	0.30	0.49
P3	0.80	1.27	1.86
P4	0.05	0.13	0.26
P5	0.14	0.22	0.31
P6	0.01	0.03	0.06
P7	0.51	0.78	1.13
P8	0.05	0.11	0.19
P9	0.03	0.09	0.19
Total	1.87	3.14	4.79

PROPOSED STORMWATER RUNOFF RATES ARE LESS THAN EXISTING RUNOFF RATES

REFERENCE: CONDITIONAL USE PERMIT STANDARDS & CONDITIONS

GREENWOOD ORDINANCE CODE, CHAPTER 11

The following subdivisions are from:

Conditional Use Permits. Section 1150.20. Determination.

Subd. 1. The planning commission shall make findings and recommendations to the city council. The council may then authorize a conditional use by resolution provided the evidence presented is such as to establish:

- (a) That the proposed use will comply with the regulations specified in this ordinance for the district in which the proposed use is to be located.
- (b) That the use is one of the conditional uses permitted for the district in which it is to be located.
- (c) The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or city.
- (d) The use will be harmonious with the objectives of the comp plan.
- (e) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (f) The use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, sewer, schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
- (g) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (h) The use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (i) The use will have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
- (j) The use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
- (k) The use will not depreciate surrounding property values.

Subd. 2. The council may impose such **conditions** and safeguards upon the premises benefited by a conditional use permit as may be necessary to prevent injurious effects therefrom upon other properties in the neighborhood. Examples of conditions are: controlling size and location of use, regulating ingress and egress, controlling traffic flow, regulating off-street parking and loading areas, location of utilities, berming, fencing, screening, landscaping, and compatibility of appearance. Violation of such conditions and safeguards, when made part of the terms under which the conditional use permit is granted, shall be deemed a violation of this ordinance and punishable under section 1180 et seq.

RESOLUTION NO. 18-13

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

APPROVING

IN RE: The Application of Dr. Marc Hope and Bridgewater Bank for Conditional Use Permit Under Greenwood Ordinance Code Section 1176.04(b) to Permit Change of Hardcover to a Maximum of 66.72% in a Commercial Development

WHEREAS, Dr. Marc Hope acting on behalf of Wolfie Management, LLC, owner of 21450 Highway 7, Greenwood, Minnesota, and Bridgewater Bank, acting on behalf of Bridgewater Properties, Greenwood, LLC, owner of 21500 Highway 7, Greenwood, Minnesota, have made application to reconfigure their common parking lot, shared between the bank and the chiropractic building and governed by Declaration of Easement filed of record in the Office of the Registrar of Titles, Hennepin County, as Document No. 3106800 on January 7, 1999; and

WHEREAS, the parties have submitted an Amended and Restated Declaration of Easement for city review and approval. Said Amended Declaration would grant Bridgewater Properties 15 of 21 available parking spaces on the Wolfie Management Property with the remaining 6 spaces being assigned to the chiropractic office thereon. After parking lot reconfiguration, Bridgewater Property would continue to have 7 parking spaces, plus 1 handicap space for a total of 22 available spaces; and

WHEREAS, the Amended and Restated Declaration of Easement follows the original declaration in form and function; and

WHEREAS, the City Attorney has reviewed the proposed Amended and Restated Declaration of Easement and applicant is prepared to meet the City Attorney's requested edits; and

WHEREAS, the Zoning Administrator advises that Greenwood Ordinance Code, Section 1176.04(b) permits maximum, impervious service in commercial districts to be increased to up to 75% on a Conditional Use Permit first obtained, supported by a storm water management plan meeting with the approval of the City Engineer; and

WHEREAS, the reconfigured driveway easement between the properties will remove hardcover and add ponding, and the applicant's storm water management plan associated will direct water to rain gardens, holding ponds, or other areas intended to receive parking lot runoff.

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

FINDINGS OF FACT

1. The applicant's proposed Amended and Restated Declaration of Easement conforms to the earlier agreement and its proposed modifications meet with the approval of the City Attorney and are in the interest of the City.
2. The applicant's plan removes hardcover and adds rain gardens or holding ponds which are expected to meet with the approval of the City Engineer by reducing overall hardcover.
3. The Amended and Restated Declaration of Easement, if approved by the City and filed of record will supercede the previous Declaration and be binding on the subject properties, their successors and assigns.
4. The parking lot reconfiguration does not create traffic problems, but rather increases available parking to the two properties while decreasing hardcover. It is in the interest of the applicants and City that the requested CUP under the 1176.04(b) should be granted on the following conditions:
 - A. Project be completed according to the specification and designs in the submitted plans.
 - B. The Amended and Restated Declaration of Easement in final form be submitted to the City Attorney for approval, and when approved, filed of record against the title to both parcels, to run with the title of both parcels.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, The City Council acting as the Board of Appeals and Adjustments makes the following Conclusions of Law:

1. The applicants have made an adequate demonstration of facts meeting the standards of Section 1176.04(b) for a Conditional Use

Permit allowing impervious surface in a Commercial District of up to 66.72% on the combined properties of 21450 State Highway 7 and 21500 State Highway 7, Greenwood, Minnesota.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenwood, Minnesota acting as the Board of Appeals and Adjustments:

That the application of Dr. Marc Hope, acting on behalf of Wolfie Management, LLC and Bridgewater Bank, acting on behalf of Bridgewater Properties, Greenwood, LLC for a Conditional Use Permit under Section 1176:04(b) is granted as follows:

1. The applicants have made an adequate demonstration of facts meeting the standards of Section 1176.04(b) for a Conditional Use Permit allowing impervious surface in a Commercial District to 66.72% on the combined properties of 21450 State Highway 7 and 21500 State Highway 7, Greenwood, Minnesota,

on the following conditions:

A. Project be completed according to the specification and designs in the submitted plans.

B. The Amended and Restated Declaration of Easement in final form be submitted to the City Attorney for approval, and when approved, filed of record against the title to both parcels, to run with the title of both parcels.

C. A certified copy of the Amended Declaration as filed of record shall be provided to the City Clerk.

PASSED THIS ____ DAY OF JULY, 2013 BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA ACTING AS THE BOARD OF APPEALS AND ADJUSTMENTS FOR THE CITY OF GREENWOOD, MINNESOTA.

____ Ayes, ____ Nays

CITY OF GREENWOOD

ATTEST:

By _____
Debra J. Kind, Mayor

Gus E. Karpas, Clerk/Administrator



Agenda Number: **7D**

Agenda Date: 07-03-13

Agenda Item: Deephaven-Greenwood 2014-16 Service Contract Agreement

Summary: When the Greenwood city clerk resigned in May 2010, the city of Greenwood contracted for administrative services from the city of Deephaven. The arrangement proved to be beneficial for both cities, so the cities entered into a 3-year contract for 2011-13 that is set to expire on 12-31-13. To ensure that an agreement is in place for 2014 budget planning, the administrative committee (Mayor Kind and Councilman Tom Fletcher) met in May with Deephaven city administrator Dana Young to discuss a new 2014-16 contract. Mayor Kind and Deephaven Mayor Paul Skrede also had two follow-up meetings in June to discuss the contract. Attached is a letter from Dana that summarizes the agreement we are recommending that our respective city councils approve. Also attached is the agreement itself and supporting exhibits.

The content of the 2014-16 agreement is substantially the same as the 2011-13 agreement. The changes are as follows:

1. EXHIBIT A – Instead of building in flat annual increases for public works and zoning administrator salaries, the agreement states that the cost increase will be based on actual salaries. Note: Since the clerk function is completed by several people at different salary levels, that rate is set at a flat 3% annual increase with a base rate that is lower than it would be if a true blending of salaries was used.
2. EXHIBIT A – The monthly city hall rental and meeting fees have been combined into one monthly charge of \$425. The 2011-13 contract was \$475 per month for these items.
3. EXHIBIT E – Since the city no longer has its own copier, a per copy rate of 10 cents has been added to the agreement. For the council's reference, FedEx Kinko's charges 14 cents per copy, and Office Max charges 10 cents per copy.

Council Action: Action required. Possible motions ...

1. I move the council approves the Deephaven-Greenwood 2014-16 Service Contract Agreement as presented and authorizes the mayor and city clerk to sign the agreement.
2. Other motion ???

June 25, 2013

To: Honorable Mayor Deb Kind & Greenwood City Council
From: Dana H. Young, Deephaven City Administrator
Re: Proposed 2014 - 2016 Contract for Services

I am delighted to present this summary of the proposed 2014 - 2016 Contract for Services between the City of Deephaven and the City of Greenwood for your review. The 2014 - 2016 contract proposes to provide services in the following five areas:

- Clerical Services.
- Zoning Coordinator Services
- Building Inspection Services
- Public Works Services
- Equipment & Building Rent.

Clerical Services

Deephaven would propose to provide clerical services from 2014 – 2016 for 20 hours per week according to the rate schedule shown in Exhibit A and the scope of clerical services proposed in Exhibit B. Please note that any proposed additions or deletions to the scope of clerical services could have an impact on the negotiated hours per week and would have to be further negotiated to the satisfaction of both cities.

The proposed annual cost to Greenwood 2014 – 2016 for clerical services is as follows:

<u>Year</u>	<u>Hourly Rate</u>	<u>Hours/Week</u>	<u>Annual Fee</u>
2014	\$33.34	20	\$34,673.60
2015	\$34.34	20	\$35,713.60
2016	\$35.37	20	\$36,784.80

This represents a 3% annual fee increase.

Zoning Coordinator Services

Deephaven proposes an initial 10.9% increase in the hourly fee for Zoning Coordinator Services in 2014 to reflect actual 2014 hourly salary and benefits for the Zoning Coordinator position. The hourly fee in 2015 and 2016 for Zoning Coordinator Services would continue to be adjusted each year to reflect actual hourly salary and benefits. The rate schedule for Zoning Coordinator Services is shown in Exhibit A.

Zoning Coordinator responsibilities are defined in Exhibit C. The proposed annual cost to Greenwood will vary according to the number of hours provided. A summary of historic costs to Greenwood for this service is shown in Exhibit F.

Building Inspection Services

Deephaven proposes to pay for all costs relating to Building Inspection Services including Deephaven's staff time and the cost of Minnetonka's plan review & inspections. The following building permit formula is proposed to remain unchanged for 2014 - 2016:

- 69% of Greenwood Building Permit Fees is kept by the City of Deephaven and 31% is kept by the City of Greenwood.

The purpose and design of the building permit formula is to enable Deephaven to recover two costs relating to the administration of building permits. The costs include:

1. The cost of Minnetonka's plan review & inspection services provided on behalf of the City of Greenwood, which has averaged \$10,330 per year over the last five years.
2. Greenwood Building Permit fees also reimburse Deephaven for additional staff costs required to administer and process the permits.

A summary of historic Building Permit Fees paid to the City of Deephaven is shown in Exhibit F. The Building Permit fees are shown after deducting the fees paid to the City of Minnetonka for plan review and inspection services for the City of Greenwood.

Public Works Services

Deephaven proposes an initial 4.3% annual increase in the hourly labor fee in 2014 to reflect actual hourly salary and benefit costs. The hourly fee in 2015 and 2016 for Public Works Services would be adjusted in each of these years to reflect actual hourly salary and benefits. In addition, Deephaven proposes a 3% annual increase in the hourly vehicle fee. The proposed 3% increase in the annual vehicle fee is reflective of anticipated increases in gasoline costs, vehicle maintenance costs and vehicle depreciation costs. The rate schedule for Public Works Services is shown in Exhibit A. The proposed annual cost to Greenwood for Public Works Services varies according to the number of hours provided, as shown in the summary of historic public works costs in Exhibit F.

Equipment & Building Rent

Deephaven proposes a 0% annual increase in the monthly fee for the rent of storage and office space at City Hall and for the use of equipment provided by the City of Deephaven. The \$50.00 monthly meeting charge has been discontinued. The only significant change in the equipment usage fee is that Greenwood plans to end its copier lease agreement and has indicated a preference to use the City of Deephaven's copier. The applicable per copy fee, rent charge and equipment usage fees are shown in Exhibit A.

The rent of storage and office space is set at a fixed rate of \$425.00 per month would proposed to remain at this rate from 2014 – 2016.

The use of equipment provided by the City of Deephaven is described in Exhibit E. This fee is based on Greenwood's use of the postage machine, copier and audio equipment – all equipment that is owned by the City of Deephaven. The monthly fee for the postage machine and audio equipment would be fixed at \$62.45 per month for the next three years and the copier fee would vary depending on monthly usage.

Summary

On behalf of the City of Deephaven, I would like to thank the Greenwood City Council for the many years of cooperative service between our two communities and look forward to continuing to provide Greenwood and her residents with exceptional service from 2014 - 2016.

Attached Exhibits

- Exhibit A - 2014 – 2016 Schedule of Fees
- Exhibit B - Clerical Services Responsibilities
- Exhibit C - Zoning Coordinator Responsibilities
- Exhibit D - Street Maintenance Responsibilities
- Exhibit E - Office Equipment Rental Fees
- Exhibit F - Historical Cost Summary
- Exhibit G - Service Agreement

EXHIBIT A

2014 – 2016 SCHEDULE OF FEES

Services	2011 Historical Rates	2012 Historical Rates	2013 Historical Rates	Annual % Increase 2014-2016	2014 Proposed Rates	2015 Proposed Rates	2016 Proposed Rates
<u>Public Works</u>							
Labor Cost per Hour	\$31.46	\$32.40	\$33.37	Actual	\$34.96	Actual	Actual
Vehicle Cost per Hour	\$46.98	\$48.86	\$50.81	3.0%	\$52.33	\$53.90	\$55.52
<u>Zoning Coordinator</u>							
Labor Cost per Hour	\$33.85	\$34.87	\$35.91	Actual	\$39.82	Actual	Actual
<u>City Hall Rental Fee</u>							
Monthly Cost	\$425.00	\$425.00	\$425.00	0.00%	\$425.00	\$425.00	\$425.00
<u>Equipment Rental Charge</u>							
Monthly Cost	\$88.44	\$88.44	\$67.95	0.00%	\$62.45	\$62.45	\$62.45
<u>Building Permit Fees</u>							
Deephaven %	69.00%	69.00%	69.00%	0.00%	69.00%	69.00%	69.00%
Greenwood %	31.00%	31.00%	31.00%		31.00%	31.00%	31.00%
<u>Clerical Service Fees</u>							
Labor Hourly Rate	\$30.52	\$31.43	\$32.37	3.00%	\$33.34	\$34.34	\$35.37
Weekly Hours	20	20	20		20	20	20
Total Weekly Fee	\$610.40	\$628.60	\$647.40		\$666.80	\$686.80	\$707.40

Greenwood's share of the costs of materials and supplies shall be billed at 110% of the cost to Deephaven for all materials and supplies purchased by Deephaven to perform the above described services described within Greenwood or for its benefit and which materials and supplies are necessary to perform said services.

EXHIBIT B

GREENWOOD CLERICAL SERVICES

- A. Services to be performed.** The City of Deephaven will perform the following services on behalf of the City of Greenwood.
1. Deephaven will provide the appropriate clerical staff to work, on average, 20 hours per week in performing the services described in this Exhibit.
 2. Deephaven will maintain a physical City office to which residents of Greenwood may come for assistance and to obtain all the necessary licenses, applications, homestead exemptions, utility billing payments and building permits required by the City of Greenwood.
 3. Provide personal and telephone assistance during normal business hours for the citizens of Greenwood.
 4. Keep available forms for applications for permits and licenses to be issued by the City of Greenwood, including applications for building permits, and provide routine clerical assistance to individuals in completing such applications.
 5. Perform the utility billing based upon the individual charges for utility service, including the preparation and mailing of statements and receipt of an accounting for payments from Greenwood residents.
 6. Perform routine bookkeeping services for the City of Greenwood, including bank deposits, preparation of payables, the General Ledger, and monthly and annual financial reports.
 7. Assist the designated City Auditor in preparing the annual audit of City financial statements.
 8. Administration of City marina waiting lists, marina revenue and marina leases.
 9. Administrate local, state and federal elections for the City of Greenwood.
 10. Provide the appropriate meeting space in which to conduct monthly meetings of the Greenwood City Council and other meetings when appropriate.
 11. Preparation of Council material and packets.
 12. Administration of liquor licenses.

13. Attend all Regular City Council meetings. Attendance will not include Special City Council meetings or the recording of Council minutes.
14. Development and administration of administrative policies, resolutions and ordinances.
15. Represent the City of Greenwood as their City Clerk on matters pertaining to the state and federal governments and other governmental units or agencies, but not as their legal representative.
16. Perform any additional duties, tasks or responsibilities as directed by the Mayor or City Council, subject to the approval of the Deephaven City Administrator and Mayor of the City of Deephaven.
17. Maintain all records of the City of Greenwood as recommended by the Record Retention Program provided by the Minnesota Department of Administration.

EXHIBIT C

ZONING COORDINATOR SERVICES

Primary Objective of Position

This position will provide services to the cities of Deephaven, Greenwood and Woodland. The objective is to ensure practical application of the zoning, subdivision, shoreland, wetland, nuisance and sign ordinances.

Major Areas of Accountability

- Assist persons to comply with the zoning ordinances, special use permits, variances, wetland development regulations, shoreland management regulations and subdivision regulations.
- Review permit applications and conduct plan reviews
- Investigate inquiries regarding ordinance requirements
- Interpret and explain zoning ordinances
- Review all plans to determine compliance
- Research complaints of violations and enforce zoning related issues
- Issue written reports and orders as necessary
- Maintain complete and accurate records
- Develop written policies on ordinance interpretation
- Coordinate activities with other staff as necessary
- Present reports to Planning Commissions and City Councils as necessary
- Meet with property owners, contractors, residents and other interested parties to explain requirements, investigate complaints and determine appropriate action for issue resolution
- Monitor and enforce accumulation of construction debris, construction noise complaints and other similar issues
- Investigate and monitor nuisance complaints and issue orders or citations as necessary.
- Ensure compliance with sign ordinances
- Review sign permit application, issue permits and conduct inspections.
- Periodically survey communities to determine compliance and take appropriate action
- Coordinate activities with other staff as needed
- Keep cities informed and up to date on problems and issues related to this position.
- Recommend ordinance, fee and policy changes as necessary.

EXHIBIT D

PUBLIC WORKS SERVICES

- A. Street Maintenance.** Deephaven shall perform the following street maintenance service on behalf of Greenwood:
1. Repairing of potholes and broken portions of the existing roadways.
 2. Cleaning of obstructions, debris and trash from ditches and culverts on public property only.
 3. Repairing of holes, cuts, washouts and other damage to roadway shoulders.
 4. Painting, repair and installation of existing or new dead-end barriers.
 5. Repairing and/or replacing street signs.
 6. Grass cutting along the public road right-of-way and tree trimming on an emergency basis due to hazardous conditions.
- B. Snow Removal and Ice Control.** Deephaven shall perform the following snow removal and ice control service on behalf of Greenwood:
1. Provide all labor, material, supplies, tools and equipment necessary for snow removal and ice control with respect to public streets and roads located with Greenwood, including trucks, plows, sanders, gasoline, oil and repairs in connection with snow removal and the spreading of sand and salt.
 2. Provide supervisory personnel necessary for the supervision, direction and control of the above described work.
- C. Sewer Maintenance.** Deephaven shall perform the following routine sanitary sewer maintenance services on behalf of Greenwood.
1. Check lift stations daily except weekends and holidays, and performing minor day-to-day maintenance such as removing foreign objects from pumps, replacing light bulbs, fuses changing malfunctioning check valves and reading and recording meter readings.
 2. Annual station maintenance:
 - a. Checking rotation of pumps.
 - b. Checking mechanical seals.
 - c. Inspecting wear ring.
 - d. Inspecting impeller.

- e. Checking oil.
 - f. Checking cable entry.
 - g. Examining cables for cracks, cuts or wear.
 - h. Checking cables with meter for breakdown.
 - i. Examining station walls for infiltration.
 - j. Checking liquid level sensors.
 - k. Tightening all electrical connections.
3. Inspecting sewer lines and manholes, one per year, and flush as needed.
 4. Furnishing vehicles, equipment and tools for the foregoing items.
 5. Answering questions which residents of Greenwood may have regarding their public sewer system.
 6. Making sewer connection inspections.
 7. Investigating and responding to notification of sanitary sewer problems and emergencies.
 8. Contracting at the bequest of the Greenwood City Council for sanitary sewer repair or maintenance other than that described above.

D. Other Services. Deephaven shall perform the following other services on behalf of Greenwood.

1. Provide all labor, materials, supplies, tools and equipment necessary to maintain signs, storm sewers, parks, tennis courts, bike paths, and the City's marina.
2. Provide supervisory personnel necessary for the supervision, direction and control of the above described work.

EXHIBIT E**OFFICE EQUIPMENT RENTAL FEES**

Equipment	Replacement Cost	Replacement Schedule	Annual Rental Fee	Monthly Rental Charge
Copier Usage (\$0.10 per copy)				\$0.10 per copy
Postage Meter Machine Lease Payment (1/3 of Postage Meter Lease of \$1,283.44)	427.81	Annual	427.81	35.65
Audio Equipment (1/2 Audio Equipment Cost of \$5,068)	2,534.00	10 years	253.40	21.12
Subtotal			681.21	56.77
10% Overhead			68.12	5.68
Total Charges			749.33	62.45

EXHIBIT F

**CITY OF GREENWOOD
HISTORIC COST SUMMARY
2005-2012**

Services	2005	2006	2007	2008	2009	2010	2011	2012
Public Work Fees	\$62,829	\$50,453	\$52,516	\$59,442	\$37,643	\$48,715	\$49,658	\$29,598
Zoning Coordinator Fees	\$2,268	\$3,619	\$4,572	\$4,796	\$2,880	\$1,443	\$3,148	\$3,033
City Hall Rental / Equipment Fee	\$10,371	\$10,574	\$10,832	\$11,496	\$10,888	\$10,264	\$6,761	\$6,761
Building Permit Fees Minus Payment to Minnetonka	\$33,612	\$19,807	\$17,544	\$3,758	\$582	(\$701)	\$15,533	\$22,652
Clerical Service Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$19,555	\$31,557	\$32,442
Total	\$109,080	\$84,453	\$85,464	\$79,492	\$51,993	\$79,276	\$106,657	\$94,486

DEEPHAVEN / GREENWOOD

SERVICE CONTRACT

2014 – 2016

AGREEMENT

THIS AGREEMENT, made and entered into as of this _____ day of _____, 2013, by and between the CITY OF GREENWOOD, a municipal corporation under the laws of the State of Minnesota (hereinafter called "Greenwood") and the CITY OF DEEPHAVEN, a municipal corporation under the laws of the State of Minnesota (hereinafter called "Deephaven").

WITNESSETH THAT:

WHEREAS, Greenwood and Deephaven, hereinafter sometimes collectively referred to as "Cities", each have certain powers common to both Cities, including the power and authority to: (a) perform certain clerical tasks, functions and services in connection with the operation of their city; (b) maintain and repair public streets and roads within their city; (c) provide for snow removal and ice control on public streets and roads; and (d) operate and maintain a sanitary sewer system servicing their city; and

WHEREAS, Greenwood and Deephaven are each of such a size that certain economies of scale could be achieved if the Cities jointly and cooperatively exercised the above-described powers with respect to both Cities rather than exercising them independently; and

WHEREAS, Minnesota Statutes, Section 471.59 provides that two cities, by agreement entered into through action of their city councils, may jointly or cooperatively exercise any power common to the Cities, including those which are the same except for the territorial limits within which they may be exercised; and

WHEREAS, Minnesota Statutes, Section 471.59 further provides that an agreement for such joint exercise of powers may provide for the exercise of such powers by one of the Cities on behalf of both Cities; and

WHEREAS, it is the desire and intention of the parties hereto to set forth in writing their agreements and understandings relative to the joint and cooperative exercise of the above-described powers and to set forth the methods by which such powers shall be exercised and the costs thereof share; and

WHEREAS, the city councils of Greenwood and Deephaven have each determined that it will be in the best interests of their respective Cities to jointly and cooperatively exercise such powers in the manner provided for therein, and that the same shall be for a mutual benefit of both Cities; and

WHEREAS, it is the desire and intention of the Cities to appoint of joint board to: (a) administer this agreement and the powers and services to be provided hereunder; (b) attempt to resolve any dispute between the Cities in relation to this agreement; (c) represent both of the Cities for the joint and cooperative exercise of such powers and for the mutual benefit of both Cities; and (d) administer the disposition of any property acquired as a result of such joint or cooperative exercise of powers in accordance with Minnesota Statutes, Section 471.59, Subdivision 5;

NOW THEREFORE in consideration of the mutual covenants herein contained, Greenwood and Deephaven agree as follows:

1. **Administrative Committee.** An Administrative Committee consisting of the mayor of each municipality shall administer this Agreement. The Committee shall be responsible for reviewing all matters pertaining to this Agreement, and making recommendations for any changes or modifications of the Agreement to their respective city councils.

2. **City Clerk and Clerical Services.** Deephaven shall provide Greenwood with City Clerk – Treasurer Services and clerical personnel working under the direction of the City Clerk at weekly fee described in Exhibit A and with the scope of Clerical services defined in Exhibit B.

3. **Zoning Coordinator Services.** Deephaven shall provide Greenwood with Zoning Coordinator Services to administer all zoning matters, shoreland ordinance compliance issues, building permit applications, and nuisance complaints unrelated to building permit applications at an hourly rate described in Exhibit A and with the scope of Zoning Coordinator Services defined in Exhibit C.

4. **Building Permit Inspections.** Deephaven shall contract with the City of Minnetonka to provide plan review and inspection services for Greenwood. Deephaven shall pay Minnetonka for the costs attributable for providing plan review and inspection services for Greenwood and will administer and process all Greenwood building permit applications. Greenwood shall reimburse Deephaven at the rate described in Exhibit A for this service.

5. **Office and Storage Space.** Deephaven shall lease to Greenwood the appropriate office and storage space within Deephaven City Hall. Greenwood shall reimburse Deephaven at the rate described in Exhibit A for this service.

6. **Monthly Equipment Usage Charge.** Deephaven shall provide Greenwood with office equipment to store files and to conduct business. Greenwood will pay Deephaven an Equipment Usage Charge at a monthly cost described in Exhibit A for the usage of equipment shown in Exhibit E. Greenwood may elect to purchase such office equipment as it deems necessary to own outright. The appropriate adjustments will be made to the Monthly Equipment Usage Charge for each piece of equipment that Greenwood decides to purchase.

7. **Street Maintenance.** The Cities hereby agree that Deephaven and its public works and street maintenance personnel shall exercise the powers and perform the street maintenance services set forth in Exhibit D attached hereto and made a part hereof on behalf of both Cities. The parties hereto further agree that Greenwood shall share in the cost of such services and in the cost of exercising such powers, and that Greenwood's share of such costs are described in Exhibit A.

8. **Snow Removal and Ice Control.** The Cities hereby agree that Deephaven and its public works and street maintenance personnel shall exercise the powers and perform the snow removal and ice control services set forth in Exhibit D attached hereto and made a part hereof on behalf of both Cities. The parties hereto further agree that Greenwood shall share in the cost of such services and in the cost of exercising such powers, and that Greenwood's share of such costs are described in Exhibit A.

9. **Sewer Maintenance.** The Cities hereby agree that Deephaven and its public works and street maintenance personnel shall exercise the powers and perform the sewer maintenance services set forth in Exhibit D attached hereto and made a part hereof on behalf of both Cities. The parties hereto further agree that Greenwood shall share in the cost of such services and in the cost of exercising such powers, and that Greenwood's share of such costs are described in Exhibit A.

10. **Cost Sharing in Conjunction with Public Works.** The methods of sharing and allocating the costs for the services to be performed by Deephaven for the joint and cooperative exercise of powers for the mutual benefit of both Cities is set forth in Appendix A. It is hereby agreed that the manner of accounting for and determining Greenwood's share of such costs, as set forth in Exhibit A, has been determined by the City Council of each City to be a fair and reasonable method of sharing such costs. Deephaven shall keep accurate records of the time spent and the materials used in providing those services within or without the territorial limits of the City of Greenwood on behalf of the City of Greenwood for which Greenwood's share of the cost is based on actual time spent and materials used, and will provide the Greenwood City Council with a complete and accurate invoice detailing costs and materials on a monthly basis.

11. **Performance of Services.** The services to be performed under this agreement shall be performed in substantially the same manner in which they are presently performed in and for Deephaven, and shall be performed with the existing Deephaven personnel and equipment, except Deephaven may choose to employ additional personnel and acquire additional equipment. It is not expected that any such services, except snow removal and ice control, shall require the payment of overtime wages. If it is necessary for Deephaven to pay overtime wages for the performance of emergency services other than snow plowing and ice control, each City shall pay the additional overtime cost for such services as are performed for its benefit. The exercise by Deephaven of the powers herein described on behalf of Greenwood, and the municipal services to be provided by Deephaven to Greenwood in accordance with this agreement, may be inspected by Greenwood to determine whether the same are being exercised and performed satisfactorily. If Greenwood determines that Deephaven or any of its employees are not performing such services satisfactorily, then Greenwood may, after 30 days' prior written notice to Deephaven and the Joint Municipal Services Board specifying the alleged deficiencies noted, request authorization from the Board to terminate this agreement upon 180 days' prior written notice from the Board to the Cities, which shall be Greenwood's sole remedy.

12. **Indemnification.** Deephaven agrees to indemnify and defend Greenwood, its Councilmember's, officers and employees and to save and keep them harmless from all claims, losses and expenses incurred or alleged as a result of any claim, demand, action or cause of action arising out of Deephaven's performance or failure to perform the work covered by this agreement and to be performed within Greenwood or for its benefit by Deephaven or its employees, or otherwise arising in connection with this agreement, including reasonable attorneys' fees, subject to the limits of liability under Minnesota Statutes, Chapter 466. Deephaven shall not be required to pay on behalf of itself and other parties any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. This Section shall survive termination of this agreement.

13. **Employees.** No employee or official of Greenwood or Deephaven shall at any time or in any manner be deemed to be an employee or official of the other municipality by reason of the performance of work or the providing of services within the territorial limits of the other municipality or on behalf of the other municipality in accordance with this agreement.

14. **Insurance.** During the entire term of this agreement, Greenwood shall maintain comprehensive general liability insurance in reasonable amounts and in no event less than that maintained by Deephaven for its own benefit, protecting Greenwood and Deephaven from liability with respect to risk or losses occurring within the territorial limits of Greenwood or arising directly or indirectly out of the performance by Deephaven of any services on behalf of Greenwood, and for injuries or deaths or claims arising out of any risks or losses related to said services.

15. **Disbursement of Funds.** Greenwood agrees that public funds may be disbursed to Deephaven in the manner provided in this agreement to carry out the purposes hereof. Any contract let or purchase made in connection with the matters covered by this agreement shall conform to the requirements applicable to contracts and purchases of each of the Cities independently. Deephaven shall strictly account for all funds disbursed with respect to matters covered by this agreement for which Greenwood's share of the cost is based on actual time spent and materials used, and shall include all receipts and disbursements relating to such matters within its monthly invoice for services.

16. **Assignment.** This agreement may not be assigned by either party hereto without the other's prior written consent; provided, however, that Deephaven may contract with other parties and may employ individuals to perform the services to be performed by it hereunder.

17. **Modification.** This agreement embodies the entire agreement between the Cities with respect to the subject matter hereof, and all prior discussions, negotiations and agreements are merged herein. This agreement may be amended or modified only by an agreement in writing by the City Councils of both Cities and executed on behalf of both Cities.

18. **Payment for Services.** Deephaven shall provide a monthly invoice to the Greenwood City Council detailing actual time spent and materials used to provide service to the City of Greenwood. All payments for services will be paid monthly to the City of Deephaven.

19. **Terms of Agreement.** The term of the agreement shall be three years commencing January 1, 2014 and expiring on December 31, 2016.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____, 2013.

CITY OF GREENWOOD

By _____
Debra J. Kind, Mayor

And _____
Gus Karpas, City Clerk

CITY OF DEEPHAVEN

By _____
Paul A. Skrede, Mayor

And _____
Dana H. Young, City Administrator



Agenda Number: **7E**

Agenda Date: 07-03-13

Agenda Item: Resolution 19-13 Supporting Long-Term Viability of the Lake Minnetonka Communications Commission

Summary: On 05-08-13 the city of Medina gave notice of withdrawal from the Lake Minnetonka Communications Commission (LMCC). Other cities also are considering withdrawing from the LMCC. On 05-14-13 the city of Victoria sent a letter with a list of their priorities to the LMCC. In response to the Victoria letter, LMCC representatives and city administrators from Victoria, Minnetrista, and Greenwood met to see if there is a middle ground that will keep a core group of cities in the LMCC to fund basic services. Based on the discussion, the attached resolution was drafted for the LMCC member cities to consider.

Council Action: None required. Possible motions ...

1. I move the council approves resolution 19-13 supporting the long-term viability of the Lake Minnetonka Communications Commission.
2. Other motion ???

CITY OF _____
RESOLUTION NO. _____

**RESOLUTION IN SUPPORT OF LONG-TERM VIABILITY OF
THE LAKE MINNETONKA COMMUNICATIONS COMMISSION**

WHEREAS, the Lake Minnetonka Communications Commission (LMCC) provides the following valued services to the member cities within its Joint Powers Association (JPA):

1. Expertise in franchise negotiations.
2. Expertise in the production of public cable TV programming.
3. Enforcing the terms of the negotiated contract with Mediacom.
4. Dealing with resident complaints about Mediacom.

WHEREAS, the above is better accomplished by keeping a majority of the current LMCC cities in the LMCC JPA.

NOW THEREFORE, BE IT RESOLVED that city council of the city of _____, Minnesota supports the that following items be established with a majority vote of the current weighted votes by those present at a meeting of the full LMCC board:

1. Top priority: Full build-out of Orono by 12-31-14, and full build-out of all other cities by 12-31-16.
2. Designate 25% of franchise fees to stay with the LMCC to cover administration, franchise management, and franchise audits.
3. Designate 75% of franchise fees be sent to the cities to be used for technology updates or whatever each individual city deems appropriate. Cities can elect on a city-by-city basis to have reduced franchise fees for their residents / businesses.
4. 100% of PEG fees stay with the LMCC with a priority for the money to be spent on council meeting programming. Any additional PEG fees may be used for general programming if funds are available.
5. Cities pay \$250 per meeting first from PEG fees collected from each city's subscribers, then the balance from the franchise fees collected from that city's subscribers. For example, Greenwood has 1 meeting per month, which equals a \$3,000 annual meeting cost. Greenwood's PEG fees are estimated to be \$2,146, so Greenwood would pay the \$854 difference from the 75% of franchise revenues that they would otherwise receive.
6. Pay a member city to provide LMCC administrative services (to be determined via a bid process of interested cities).

MAY IT BE FURTHER RESOLVED that city council of the city of _____, Minnesota supports that the following changes be made to the LMCC JPA with approval of all LMCC member city councils:

1. Change rules for appointing each city's 2 board representatives to reflect state statute (no limitations on qualifications for the 2nd city representative).
2. Change voting rules so that 1 representative may cast the votes of an absent representative from the same city. If no representative is present at the meeting, the city has no votes.
3. Clarify rules so that a city may leave the JPA by giving 2-plus year's notice prior to December 31. For example, if a city gives notice on September 30, 2014, the city will stay a member of the JPA through December 31, 2016.
4. Disband executive committee and have board meetings 4 times per year.
5. Change rules so the JPA may be changed in the future with approval of 4/5ths of the LMCC member city councils.

MAY IT BE FURTHER RESOLVED that city council of the city of _____, Minnesota directs the city clerk to email a copy of this resolution the LMCC executive director for distribution to the LMCC board, and to the other LMCC JPA city administrators and mayors for consideration by their respective councils with the recommendation that this or a similar resolution be approved by July 12, 2013, so the LMCC executive board can take action at their July 16, 2013 meeting, and direct the LMCC attorney to draft JPA changes for consideration at the LMCC full board meeting on August 20, 2013.

ADOPTED by the city council of the city of _____, Minnesota this ____ day of _____, 2013.

____ AYES ____ NAYS

CITY OF _____

By: _____
XXX, Mayor

Attest: _____
XXX, City Clerk



Agenda Number: **7F**

Agenda Date: 07-03-13

Agenda Item: Minnehaha Creek Watershed District 10-Year Capital Improvement Program

Summary: The Minnehaha Creek Watershed District is seeking comments from cities regarding their 10-Year Capital Improvement Program. A copy of the email requesting city input is attached. If the city council wishes to weigh in on this topic, the attached memo format needs to be fleshed out.

Council Action: None required. Potential motions ...

1. I move the council authorizes _____ to draft and send a memo from the Greenwood City Council to the Minnehaha Creek Watershed District regarding their 10-year capital improvement program.
2. Do nothing or other motion ???

From: Debra Kind <dkind100@gmail.com>
Subject: Fwd: Annual Review of MCWD Capital Improvement Program
Date: June 21, 2013 10:41:04 PM CDT

2 Attachments, 271 KB

From: Becky Houdek <BHoudek@minnehahacreek.org>
Subject: Annual Review of MCWD Capital Improvement Program
Date: June 21, 2013 10:46:13 AM CDT

Dear Interested Parties,

As it does each year at this time, the Minnehaha Creek Watershed District (MCWD) is distributing its revised 10-year Capital Improvement Program (CIP) for your review and comment. Our original CIP was developed with considerable input from our communities and contains several projects identified by city and county staff. Over time, local priorities may change so your input on our revised Draft CIP is valuable in helping us identify changed or new opportunities to partner with you on cleaning up polluted water and protecting our natural resources.

The revised Draft CIP reflects a shift in the District's approach to investigating and implementing projects that is more regionally focused. It has transitioned from individual dispersed projects as scheduled in the original CIP to larger subwatershed-scale strategic implementation. This approach allows for a greater understanding of issues and opportunities throughout the system as well as an improved ability to integrate our work with city projects and land use planning.

Using this approach, the District has partnered with cities and landowners throughout the Minnehaha Creek corridor to develop a series of projects that will treat thousands of acres of previously untreated stormwater before it enters the creek and downstream Lake Hiawatha, both of which are on the state's impaired waters list.

Similarly in the Six Mile Creek Subwatershed, the District recently completed a comprehensive diagnostic that identified the interactions between the numerous lakes and wetlands in the system and the role rough fish, invasive vegetation, and internal loading play in the water quality of those lakes. The District will use these findings to develop a strategic implementation plan for the area in coordination with the cities, townships, counties, and Three Rivers Park District.

As reflected in the Draft CIP, the District will continue to emphasize implementation in the Minnehaha Creek and Six-Mile Creek Subwatersheds in 2014 and 2015. Also in 2015, the District plans to initiate a comprehensive diagnostic of the Painter Creek Subwatershed that will enable strategic implementation of projects that best address the system's needs.

The Draft CIP is attached and can also be found on the District website at: <http://www.minnehahacreek.org/CIP>. You are invited to submit comments on the proposed Draft CIP as well as suggestions for how the District can better integrate its water resource improvement efforts with project and land use planning in your community. Comments received will be compiled and presented to the MCWD Board of Managers for review prior to approval of the CIP. Please submit comments to me via mail or email no later than July 22, 2013.

Beginning in July, the District will be scheduling its annual meetings with each city which will provide another opportunity to discuss upcoming projects and partnership opportunities. Please feel free to contact me with any questions.

Thank you,

Becky Houdek
MCWD Planner
18202 Minnetonka Blvd.*
Deephaven, MN 55391
952-641-4512
www.minnehahacreek.org

*New address on July 1: 15320 Minnetonka Blvd., Minnetonka, MN 55345

Missing Plug-in

Subwatershed	Project Name*	Estimated Cost**	Project Status
2007			
District-Wide	Land Conservation Program		Ongoing
Gleason Lake	Gleason Lake Pond at Lake Inlet		Completed
Gleason Lake	Gleason Curly Leaf Pond Weed - Chemical Application		Completed
Lake Minnetonka	Stubbs Bay Swan Lake Pond Excavation		Completed
Lake Minnetonka	Lake Minnetonka Shoreline Restoration		Completed
Lake Minnetonka	Lost Lake/Langdon Lake/Cooks Bay		Completed
Long Lake Creek	Mooney Lake Emergency Pumping Infrastructure		Completed
Minnehaha Creek	Reach 8 Channel Restoration and Reconstruction		Completed
Painter Creek	Hwy 26 Pond		Completed
Painter Creek	Painter Drive Culvert		Completed
2008			
District-Wide	Land Conservation Program		Ongoing
District-Wide	MCWD Opinion Survey		Completed
District-Wide	MCWD Water Quality Index		Completed
Lake Minnetonka	Big Island Wetland Restoration		Completed
Minnehaha Creek	Volume and Load Reduction Study		Completed
Minnehaha Creek	Browndale Dam Scour Repair		Completed
Painter Creek	Painter Creek Carp Gate		Completed
Six Mile Marsh	Parley Tributary Wetland Restoration		Cancelled based on feasibility study
2009			
District-Wide	Land Conservation Program		Ongoing
Langdon Lake	Langdon Lake Infiltration LL-2		Cancelled based on feasibility study
Minnehaha Creek	Minnehaha Falls/Glen Restoration		Completed
2010			
District-Wide	Land Conservation Program		Ongoing
2011			
District-Wide	Land Conservation Program		Ongoing
Dutch Lake	Dutch Lake Infiltration DL-5		Cancelled based on feasibility study
Langdon Lake	Langdon Lake Alum Injection System*		Cancelled based on feasibility study
Langdon Lake	Langdon Lake Wet Detention Pond		Cancelled based on feasibility study
Long Lake Creek	Long Lake Wetland Restoration Project #2		Cancelled based on feasibility study
2012			
District-Wide	Land Conservation Program		Ongoing
District-Wide	First-order Stream Inventory		Completed
District-Wide	Update Stream Assessment Reports		Completed
Dutch Lake	Dutch Lake Wetland Restoration		Completed
Dutch Lake	Dutch Lake Infiltration DL-3		Completed
Gleason Lake	Gleason Lake Detention Pond Upstream of CR 6		Completed
Gleason Lake	Gleason Lake Infiltration GL-4		Completed
Lake Minnetonka	Lake Minnetonka Direct Infiltration NA-LM		Cancelled based on feasibility study
Lake Minnetonka	Lake Minnetonka Direct Infiltration GB-LM		Cancelled based on feasibility study
Langdon Lake	Langdon Lake Infiltration LL-3		Completed
Minnehaha Creek	Reach 19-21 Channel Restoration and Reconstruction		Completed
Six Mile Marsh	Steiger Lake Wet Detention Pond		Completed
2013			
District-Wide	Land Conservation Program	\$ 2,500,000	Ongoing
Lake Minnetonka	Halsted's Bay Wetland Restoration	\$ 540,000	Six Mile Marsh Prairie Restoration completed spring 2013.
Lake Minnetonka	Lake Minnetonka Direct Infiltration SL-LM	\$ 14,800	Feasibility study completed in 2011. Working with Excelsior to implement stormwater treatment practices along with redevelopment.
Long Lake Creek	Long Lake Creek Channel Restoration & Reconstruction	\$ 103,071	Phase I of Long Lake Creek Corridor Project - Streambank and wetland restoration elements to be constructed fall 2013.
Minnehaha Creek	Reach 14 Channel Restoration and Reconstruction	\$ 264,011	Streambank improvement project in Edina. Construction to be completed summer-fall 2013.
Minnehaha Creek	Taft-Legion Lake Regional Volume and Load Reduction	\$ 2,700,000	Collaboration with Richfield to treat 1,500 acres of stormwater runoff. Funded upfront through Richfield bond sale with 20 year term.
2013 Total		\$ 6,121,882	
2014			
District-Wide	Land Conservation Program	\$ 2,500,000	Ongoing
Dutch Lake	Dutch Lake Infiltration DL-7		Project not recommended for ordering based on results of feasibility study.
Lake Minnetonka	Lake Minnetonka Direct Infiltration CLC-2		Project not recommended for ordering based on results of feasibility study.
Lake Virginia	Lake Virginia Infiltration LV-5	\$ 47,000	Feasibility study completed in 2012. Project opportunities are being pursued through District's cost-share program.
Long Lake Creek	Long Lake Creek Infiltration LLC-8		Project not recommended for ordering based on results of feasibility study.
Long Lake Creek	Long Lake Wetland Restoration Project #1	\$ 561,029	Phase II of Long Lake Creek Corridor Project - Collaboration with MCES to restore former Long Lake Wastewater Treatment Pond.
Minnehaha Creek	Minnehaha Creek Regional Volume and Load Reduction:		
	MC-99,132,135,169,183 (MPRB Projects)	\$ 1,526,470	Collaboration with MPRB to treat 413 acres of stormwater runoff for volume and load reduction.
	MC-61,64,65 (Powell Road Drainage Diversion)	\$ 1,133,100	Collaboration with St. Louis Park to divert 217 acres of stormwater runoff for volume and load reduction.
Painter Creek	Painter Creek Infiltration PC-2		Project postponed following feasibility study. Will be revisited as part of Painter Creek Comprehensive Diagnostic Study and Implementation Plan (beginning 2015).
Painter Creek	Ponds PC-6 & PC-7		
2014 Total		\$ 6,267,599	
2015			
District-Wide	Land Conservation Program	\$ 2,500,000	Ongoing
Lake Minnetonka	Halsted's Bay Tributary Alum Injection System	\$ 3,247,300	Feasibility study underway in collaboration with Minnetrista to reduce nutrient loading from Six Mile Creek and internal loading in Halsted's Bay. Project will be funded jointly and through pursuit of grants.
Lake Minnetonka	Halsted's Bay Internal Load Management	\$ 538,400	
Minnehaha Creek	Minnehaha Creek Regional Volume and Load Reduction:		
	MC-59,60 (Lake St Drainage Diversion)	\$ 199,750	Collaboration with Hopkins to divert 30 acres of stormwater for volume and load reduction.
Six Mile Marsh	Six Mile Marsh Infiltration SMC-1	\$ 788,600	The comprehensive Six Mile Creek Diagnostic Study was completed in spring 2013 and will guide implementation activities for the next several years. The projects and budgets listed are placeholders from the CIP and may be adjusted through a future plan amendment as project scopes and budgets are refined.
Six Mile Marsh	Turbid/Lunsten Laketown Rd Wetland Restoration	\$ 496,300	
Six Mile Marsh	Wasserman Phase I Culvert/Stream/Wetland Restoration	\$ 721,300	
Six Mile Marsh	Six Mile Marsh Infiltration SMC-11	\$ 689,200	
2015 Total		\$ 9,180,850	
2016			
District-Wide	Land Conservation Program	\$ 2,500,000	Ongoing
Minnehaha Creek	Minnehaha Creek Regional Volume and Load Reduction:		
	MC-60,61,64,65 (325 Blake Rd)	\$ 2,328,500	Implementation of treatment practices to accept 268 acres of runoff from Powell Rd and Lake St. stormwater diversions.
Painter Creek	Jennings Bay Wet Detention Pond	\$ 291,700	A comprehensive diagnostic study will be initiated in 2015 for the Painter Creek Subwatershed. The projects and budgets listed are placeholders from the CIP and may be adjusted through a future plan amendment as project scopes and budgets are refined.
Painter Creek	Jennings Bay Internal Load Management Project	\$ 1,995,200	
Six Mile Marsh	Turbid/Lunsten Hwy 5 Wetland Restoration	\$ 2,069,914	The comprehensive Six Mile Creek Diagnostic Study was completed in spring 2013 and will guide implementation activities for the next several years. The projects and budgets listed are placeholders from the CIP and may be adjusted through a future plan amendment as project scopes and budgets are refined.
Six Mile Marsh	Wasserman Phase II Stream/Wetland Restoration	\$ 687,500	
Six Mile Marsh	Parley Lake Internal Load Management	\$ 231,600	
2016 Total		\$ 10,104,414	

*Projects are listed under the expected year of implementation.

**Cost estimates listed do not represent actual budgets for these years. Estimates are refined through feasibility studies and design and may include funding from grants and project partners.



Date: June __, 2013

To: Organization Name
Contact Person's Name, Title
Contact Person's Email Address

From: Greenwood City Council

Re: **Comments Regarding** _____

At our 06-05-13 meeting the Greenwood city council reviewed and discussed _____. The following outlines our comments:

1. _____.
2. _____.
3. _____.
4. _____.

Thank you for the opportunity to comment on this topic. If you have any questions regarding our comments, please contact Mayor Deb Kind, 952.401.9181, dkind100@gmail.com.



Agenda Number: **9A-E**

Agenda Item: Council Reports

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

Council Action: None required.



Agenda Number: **FYI**

Agenda Item: FYI Items in Council Packet

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

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



Date: May 30, 2013

To: The Honorable Ann C. O'Reilly
Office of Administrative Hearings
RouteComments.OAH@state.mn.us

From: City of Greenwood

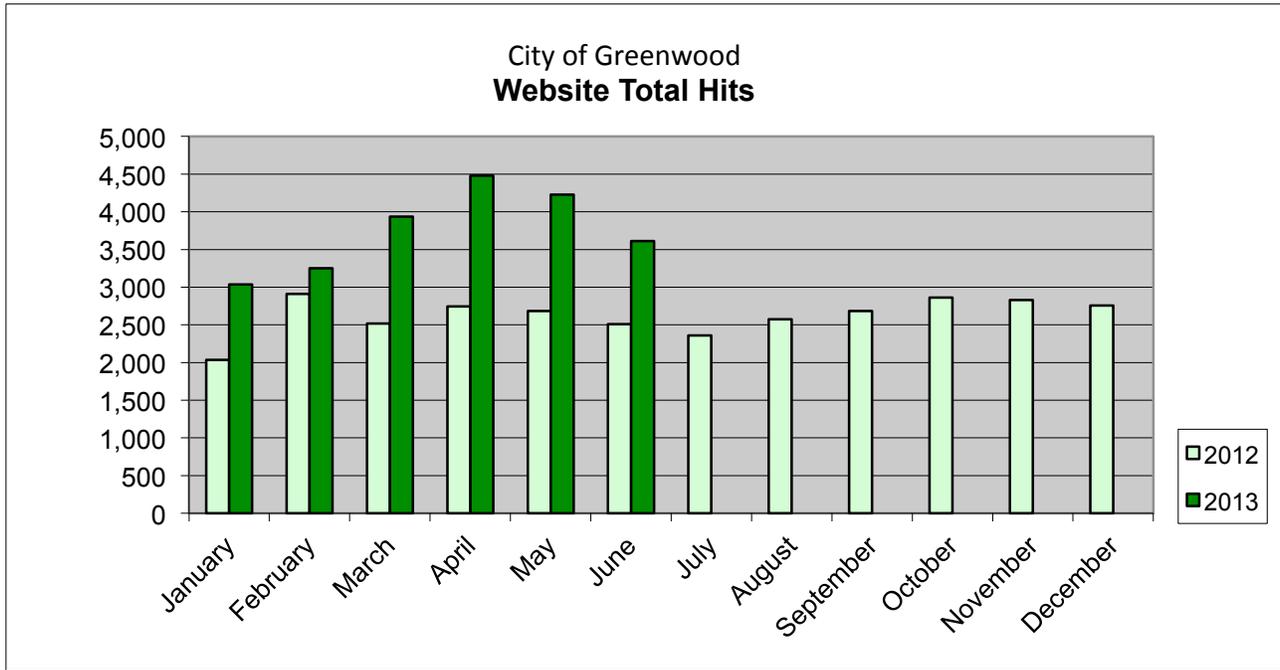
Re: **Comments Regarding Routing of the Xcel Energy Scott County Bluff Creek to Westgate Transmission Upgrade Project – PUC Docket Numbers E002/CN-11-332 and E002/TL-11-948 and OAH Docket Number 16-2500-22873**

The city of Greenwood strongly supports the Revised Hwy. 5 System Alternative as presented by Xcel Energy because:

1. It utilizes existing infrastructure and is the most cost-effective solution for upgrading the system with a \$0.176 NPV cost per MW served as compared to \$0.23 for the Original System Alternative.
2. The Revised Hwy. 5 System Alternative route is shorter, more direct route than the Original System Alternative route with correspondingly lower public and environmental impacts. Xcel stated at the end of the second May 16 public hearing that the Revised Hwy. 5 System Alternative budget includes the cost to underground half of the new Hwy. 5 distribution line. Apparently it would only add \$600,000 to the budget to underground the entire line. Thus, there clearly are cost-effective options for dealing with potential environmental and public impacts of the proposed 34 kV distribution line along the entire Hwy. 5 corridor. Similar options would be cost prohibitive for the much larger 115 kV transmission line through Greenwood in the Original System Alternative.
3. The Revised Hwy. 5 System Alternative places the new infrastructure in the area where demand is increasing. According to Xcel data in their certificate of need filing, the Excelsior and Deephaven substation loads decreased by 11.2% from 59.90 MW in 2004 to 53.2 MW in 2010. By comparison the substation loads for the substations along and south of Hwy. 5 increased by 13.2% from 244.3 MW in 2004 to 276.5 MW in 2010. There is no reason to expect that these trends will not continue in the future, since the areas served by the Excelsior and Deephaven substations are fully developed, whereas the areas along and south of Hwy. 5 have substantial room for future development.

We appreciate the efforts of Xcel Energy, the Minnesota Department of Commerce, and our neighboring cities to work together to develop this revised alternative that appears to have the support of all affected parties. We are pleased that the public discussions regarding the proposed project appear to be leading to a more cost-effective and environmentally sensitive solution for the Southwest Twin Cities' power transmission needs.

If you have any questions regarding our comments, please contact Mayor Deb Kind, 952.401.9181, dkind100@gmail.com.



<u>Month</u>	<u>2012</u>	<u>2013</u>	<u>Variance with Prior Month</u>	<u>Variance with Prior Year</u>	<u>Bulk Email List</u>
January	2,034	3,038	280	1,004	134
February	2,911	3,252	214	341	136
March	2,516	3,936	684	1,420	137
April	2,746	4,478	542	1,732	138
May	2,682	4,229	-249	1,547	138
June	2,509	3,613	-616	1,104	140
July	2,361		-3,613	-2,361	
August	2,574		0	-2,574	
September	2,682		0	-2,682	
October	2,860		0	-2,860	
November	2,828		0	-2,828	
December	2,758		0	-2,758	
AVERAGE	2,622	3,758			

POPULATION: 688
EMAIL ADDRESSES % OF POPULATION: 20.06%

Site Statistics

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

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

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

Begin Date	5/15/2013
End Date	6/15/2013
Report Name	Page Views (Default)
<input type="button" value="Get Report"/>	

Page Views by Section

Section	Page Views	Percent of Total
Default Home Page	1555	43.04%
Agendas, Packets & Minutes	272	7.53%
Planning Commission	119	3.29%
City Departments	110	3.04%
Budget & Finances	104	2.88%
Mayor & City Council	96	2.66%
Code Book	84	2.32%
Watercraft Spaces	82	2.27%
Swiffers NOT Flushable	73	2.02%
Assessments & Taxes	72	1.99%
Xcel Project Update!	71	1.97%
Welcome to Greenwood	68	1.88%
Forms & Permits	63	1.74%
RFPs & Bids	62	1.72%
Links	58	1.61%
Comprehensive Plan & Maps	54	1.49%
Search Results	51	1.41%
Garbage & Recycling	48	1.33%
Milfoil Project	45	1.25%
Photo Gallery	45	1.25%
What's New?	45	1.25%
Lake Minnetonka	39	1.08%
Meetings	35	0.97%
Email List	34	0.94%
Animal Services	33	0.91%
Events	33	0.91%
Spring Clean-Up Day	33	0.91%
Old Log Community Events	32	0.89%
Well Water	28	0.77%

Quick Tips

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

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

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

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

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

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

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

Well Water	20	0.77%
Health & Safety	27	0.75%
Meetings on TV	27	0.75%
Elections	26	0.72%
Public Safety	26	0.72%
Community Surveys	19	0.53%
Southshore Center	18	0.5%
Crime Alert!	16	0.44%
Planning & Zoning Workshop	8	0.22%
Unsubscribe	2	0.06%
TOTAL	3613	100%

Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	496	34.93%
Agendas, Packets & Minutes	99	6.97%
City Departments	72	5.07%
Mayor & City Council	55	3.87%
Code Book	41	2.89%
Welcome to Greenwood	41	2.89%
Planning Commission	40	2.82%
Links	34	2.39%
Xcel Project Update!	32	2.25%
Watercraft Spaces	32	2.25%
Comprehensive Plan & Maps	31	2.18%
Photo Gallery	30	2.11%
Milfoil Project	30	2.11%
What's New?	27	1.9%
Forms & Permits	27	1.9%
RFPs & Bids	25	1.76%
Swiffers NOT Flushable	24	1.69%
Assessments & Taxes	23	1.62%
Lake Minnetonka	23	1.62%
Garbage & Recycling	19	1.34%
Email List	19	1.34%
Animal Services	18	1.27%
Search Results	17	1.2%
Spring Clean-Up Day	16	1.13%
Budget & Finances	16	1.13%
Meetings	16	1.13%
Well Water	15	1.06%
Old Log Community Events	14	0.99%
Elections	13	0.92%
Public Safety	13	0.92%
Events	13	0.92%
Meetings on TV	10	0.7%
Community Surveys	10	0.7%
Health & Safety	9	0.63%
Southshore Center	9	0.63%
Crime Alert!	5	0.35%
Planning & Zoning Workshop	4	0.28%
Unsubscribe	2	0.14%
TOTAL	1420	100%

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

Done

GREENWOOD PLANNING COMMISSION
WEDNESDAY, June 19, 2013
7:00 P.M.

1. CALL TO ORDER/ROLL CALL

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

Members Present: Chairman Lucking and Commission members John Beal, Kristi Conrad (7:05) and David Paeper

Absent: Commissioner Douglas Reeder

Others Present: Council Liaison Bill Cook, City Attorney Kelly and Zoning Administrator Gus Karpas.

2. APPROVE AGENDA

Commissioner Paeper moved to accept the agenda for tonight's meeting. Commissioner Beal seconded the motion. Motion carried 3-0.

3. MINUTES – May 15, 2013

Commissioner Beal moved to approve the minutes of May 15, 2013 as presented. Commissioner Paeper seconded the motion. Motion carried 3-0.

JOINT MEETING MINUTES – May 15, 2013

Commissioner Beal moved to approve the joint meeting minutes of May 15, 2013 as presented. Commissioner Paeper seconded the motion. Motion carried 3-0.

4. PUBLIC HEARING

Chip and Kathy Fischer, 5185 Greenwood Circle - variance and conditional use permit requests to exceed the maximum permitted impervious surface area and maximum permitted grade alteration to construct a new driveway to access the garage at their new single family structure. The applicants are also seeking a city permit to construct retaining walls within the city right of way.

Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The applicant is seeking a variance to exceed the maximum permitted impervious surface area by 8.92%.

Section 1140.19(5) limits the alteration of pre-grading permit topography to one vertical foot in a one hundred foot area. An exception to this standard may be granted by conditional use permit. The applicant is seeking a conditional use permit to exceed the maximum grade alteration by three (3') feet.

Section 630.05 requires a permit granted by the city for any use of the public right-of-way outside of the primary purpose of public travel. The proposed retaining walls located within the city right-of-way require a city permit and the payment of a permit fee.

Zoning Administrator Karpas summarized the request. Chip and Katie Fisher are requesting a variance and conditional use permit to exceed the maximum permitted impervious surface and maximum permitted grade alteration to construct a new driveway to access the garage at their new single family structure at 5185 Greenwood Circle. The applicants are also seeking a city permit to construct retaining walls within the city right of way.

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Chip Fisher said they didn't initially realize there was an issue with the grade of the driveway. They first noticed it in February when the garage floor was poured and at that time was told by the contractor that everything would be ok once the final grading was completed. He said it became clear this was not going to be the case and he contacted the city engineer because of his safety concerns. He said together they developed a plan that would allow access to the garage through alteration of the grade, but it would require retaining walls and additional paved area on city property.

Chairman Lucking asked if there was anyone from the public who would like to comment on the request. Hearing no comments, Chairman Lucking closed the public hearing.

Commissioner Paeper asked if the applicant has considered any other alternatives. Mr. Fisher there aren't many available, but they did look at accessing the garage from the east, but there wasn't enough land. Paeper asked if they considered raising the garage. Mr. Fisher said that was cost prohibitive since there was a room under the garage that would also have to be demolished.

Chairman Lucking asked if there was a reason why Mr. Fisher didn't seek legal action against his contractor. Mr. Fisher said that wouldn't be practical. He said he still has access to his garage, it's just not safe access. Mr. Fisher said if he'd known about this issue from the beginning he would have included it in his original variance request. Lucking said some of the issue was caused when the house was pushed further from the lake. Mr. Fisher said that and when the house was shrunk.

Commissioner Beal confirmed the slope is being reduced by traveling diagonally. Mr. Fisher confirmed that and the addition of retaining walls.

Commissioner Conrad asked what the additional cost would be to reconstruct the garage and room below. Mr. Fisher said the proposal is only about ten to fifteen percent of that cost. Conrad asked if this proposal would fix the problem. Mr. Fisher said it would.

Chairman Lucking asked if there were any reason why the applicant would have to stop the turn-around portion of his driveway at the property line. City Attorney Kelly said the city permit driveway access to public right-of-way, but the request is not a onetime event. The request is multi-faceted, including the driveway, retaining walls and a heating element for the driveway. All of these will need to be included in an easement agreement with the city.

Commissioner Paeper said the city engineer should determine if lateral load of the retaining wall is sufficient.

Chairman Lucking commented he didn't like the idea of having a guardrail along the road. Zoning Coordinator Karpas pointed out the plan indicates the guardrail has been replaced with boulders on top of the retaining wall.

Commissioner Paeper said this request is difficult since it is a circumstance the city had little to do with and he has trouble with approving a variance for an circumstance caused by the property owner's consultant's, which he believes is contrary to the variance criteria. Commissioner Beal agrees, noting those who made the error aren't even here to defend it.

Commissioner Conrad feels the proposal is a good fix, but it doesn't seem to be a final fix since it's still a tight area. She's worried about the impact on the road in terms of parking. She doesn't believe the city is setting a precedent since the issue was not caused by the city. Conrad is still concerned there could be unforeseen issues.

Motion by Commissioner Conrad to recommend the city council approve the application of Chip and Katie Fisher for a conditional use permit to exceed the maximum permitted grade alteration

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of one vertical foot as presented. The proposal complies with the criteria outlined in Section 1150.20. Beal seconded the motion. Motion carried 4-0.

Motion by Commissioner Paeper to recommend that the city council approve the application of Chip and Katie Fisher for a variance of Greenwood Ordinance Code section 1176.04(3)(3) to permit the construction of a new driveway with retaining walls as presented. The proposed impervious surface area is in keeping with the spirit and intent of the zoning ordinance, would permit the property to be used in a reasonable manner and would not alter the essential character of neighborhood. Beal seconded the motion. Motion carried 4-0.

Dr. Mark Hope, 21450 State Highway 7 and Bridgewater Bank, 21500 State Highway 7 - conditional use permit for a permitted impervious surface area of 66.72% on their combined property to reconfigure the existing parking area through the removal of a driveway that connects their two parking lots

Section 1176.04 outlines the zoning provisions in the Shoreland Management District.

Section 1176.04(b) states "Impervious surface coverage in all commercial districts, expressed as a percentage of the lot area, shall not exceed 30%, provided that because of the additional hardcover required for typical commercial developments, the maximum impervious surface in commercial districts may be increased to a maximum of 75% with a conditional use permit first obtained under sections 1150 and 1176.07 of this code, supported by an applicant prepared stormwater management plan meeting the approval of the city engineer. The city engineer, planning commission, and/or city council may require an applicant to implement stormwater management practices deemed necessary to control and minimize or control stormwater and off site runoff, including by not limited to, rain gardens, holding pond, reductions in proposed impervious surfaces, and other accepted stormwater management techniques and methods."

Zoning Administrator Karpas summarized the request. He said the applicants are requesting a conditional use permit for a permitted impervious surface area of 66.72% on their combined property at 21450 and 21500 State Highway 7.

The applicants propose to reconfigure the existing parking area by removing a driveway that connects their two parking lots. Doing so will increase the overall number of parking stalls on the properties by four. A private easement agreement determines the number of parking spaces for each business and the reconfigurations adds at parking to each site. The proposal reduces the overall impervious surface area on the property by 156 square feet.

Chairman Lucking asked if there was anyone from the public who would like to comment on the request. Hearing no comments, Chairman Lucking closed the public hearing.

Jeff Wrede, Momentum Design Group, discussed the proposal noting it will reduce the overall impervious surface area and increase the number of parking stalls for each business. He said the proposal has been reviewed by the city engineer and is currently being reviewed by the Minnehaha Creek Watershed District for the issuance of a storm water management permit.

Commissioner Paeper asked if the parking area would have surmountable curbing. Mr. Wrede said it would.

Zoning Coordinator Karpas noted the properties have a parking easement agreement which has been reviewed by the city attorney. City Attorney Kelly confirmed he has reviewed the document and commented the plan makes sense.

Motion by Commissioner Beal to recommend the city council approve the application of Dr. Mark Hope and Bridgewater Bank for a conditional use permit for a combined impervious surface area of 66.72% as presented. The proposal would reduce the overall impervious surface area on the

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property, the drainage plan has been approved by the city engineer and MCWD and the parking will be brought into compliance with the city ordinances. Commissioner Paeper seconded the motion. Motion carried 4-0.

Bridgewater Bank, 21500 State Highway 7 - variance requests to install awnings above the windows along the east and west sides of their building which would encroach into the minimum required side yard setbacks.

Section 1120:15 of the Zoning Ordinance requires a minimum west side yard setback of fifteen (15) feet. The applicant proposes a west side yard setback of four feet, nine inches (4'-9") for the closest proposed awning encroachment. The proposal requires a ten foot, three inch (10'-3") variance of the west side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum east side yard setback of fifteen (15) feet. The applicant proposes an east side yard setback of zero (0) feet for the proposed awnings. The proposal requires a fifteen (15) foot variance of the east side yard setback.

Zoning Administrator Karpas summarized the request.

Chairman Lucking noted the planning commission discussed essentially this same request a number of years ago. He said the proposed awnings would serve no purpose other than aesthetics.

Jeff Wrede, Momentum Design Group, said the structure has ten foot tall windows and, due to the sun, the blinds are drawn all the time. He said the proposed awnings are smaller than those previously requested, decreasing the proposed encroachment into the west side yard setback. He said the city could not approve the east awnings the last time since they crossed the property line. The bank now has an easement with the adjacent property owner permitting an encroachment for the awnings.

Chairman Lucking doesn't believe the proposed awnings will reduce the sun infiltration into the building. Commissioner Conrad agreed the proposed level, given the height of the windows would do little to help. Mr. Wrede said the design could be changed to cover more of the window at a steeper pitch, which would also decrease the encroachment.

City Attorney Kelly said it appears they are looking to match the front of the building. He said the city could not find a basis to approve the previous request for a variance on the west side encroachment and didn't have the authority to grant approval to cross the property line on the east side. Chairman Lucking commented that even though the criteria is no longer "hardship", he can't find a "practical difficulty" for the proposal.

Mr. Wrede said he will remove the west awnings from the variance request and asks the planning commission to continue the public hearing to the July 17th meeting to allow him time to work with the bank to develop a plan on the east side of the building.

Motion by Commissioner Beal to accept the applicant's withdrawal of the ten foot, three inch (10'-3") variance of the west side yard setback minimum west side yard setback for the proposed awnings and to continue the public hearing on the variance request to encroach into the minimum required east side yard setback for proposed awnings. Commissioner Paeper seconded the motion. Motion carried 4-0.

5. OLD BUSINESS

Discuss – Creation of R-1C District – Amendment of Greenwood Zoning Ordinance Code, Chapter 11, Creating an R-1C District which would encompass the current Old Log property,

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allowing the current permitted principal, accessory and conditional uses and reestablish the current uses of the property (Theatre, Restaurant, Event Center) as conditional uses.

Zoning Administrator presented his staff memo to the Commission. He said the adoption of Ordinance 216 removed Theaters as a conditional use within the R-1A District. By doing so, Theater uses, the most notable being the Old Log Theater, have now become a legal nonconforming use which are regulated by Section 1145 of the city code. Due to the unique and varied use of the Old Log property, the Council felt it would be appropriate to investigate the creation of a new zoning district that would address the specific uses currently employed on the property. The result was a draft ordinance creating the R-1C district which would allow all the current permitted and conditional uses in the R-1A district, but more closely defined "Theater." The proposed district would include only that property currently owned by the Old Log Theater.

The Planning Commission and Council discussed the first draft of the new ordinance at their May meeting and the joint meeting with the Council which immediately followed that meeting. Minutes from both meetings are included in the packet.

A second draft of the proposed ordinance has been included in the packet for the Commission's review. The only change to the ordinance was the creation of a definition for "Theater Entertainment Center" which encompasses a theater, restaurant and event center and permits the use as a conditional use. It replaces the term "Theater" from the previous draft.

The commission discussed the potential use of the property and if there has been any clarification on what may happen. Zoning Coordinator Karpas said the removal of the property as a conditional use permits it to operate as an existing non-conforming use. Basically, it can operate as it currently does and may not expand in any way and the city cannot legally authorize any expansion of use, unless it is placed back in the ordinance as a permitted or conditional use.

Commissioner Conrad said she's concerned about the property's future use as an event center. She understands there are events currently held on the site, but she wouldn't want to see a noticeable expansion of that use.

Council Liaison Cook said he helped develop the current definition for Theater Entertainment District, but would still like to work on it. City Attorney Kelly said the term "Entertainment" may also have to be defined.

Zoning Coordinator Karpas questioned the need to create a separate ordinance if the uses are the same in the R-1C as they are in the R-1B, unless the intent was to create additional conditions that would be placed on the proposed Theater Entertainment Center. Karpas asked if the current conditions in Section 1150 of the city code were comprehensive enough to cover the proposed theater use.

City Attorney Kelly discussed the process used in redrafting the C-2 district. He said the city worked with the developer to draft an ordinance that worked with, not conformed to, his business plan. The ordinance created a set of performance standards that were required. Commissioner Beal said one of the problems of what the city wants is we know what we don't want and we find ourselves trying to draft an ordinance to protect ourselves by listing our wants.

Commissioner Beal said, given the notoriety of the Old Log Theater, this may be the most important piece of legislation this body will ever work on.

The planning commission discussed the process. They agreed they would like to look at some performance standards as they were included in the C-2 district and directed staff to bring the ordinance back with those standards included for the commission's review.

LIAISON REPORT

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, June 19, 2013
7:00 P.M.**

Council Liaison Cook informed the commission that the council approved a special events permit to include a property on Meadville Street in the Luxury Home Tour, that the council unanimously approved the variance requests of Jim Pastor which included the removal of the detached south garage and a two stall attached garage on the north side of the home, he said the council approved their portion of funding for the 4th of July fireworks and have been reviewing a uniform animal control ordinance that would be enforced in south lake cities.

6. ADJOURN

Motion by Commissioner Paeper to adjourn the meeting. Commissioner Beal seconded the motion. The meeting was adjourned at 8:55 pm.

Respectively Submitted
Gus Karpas - Zoning Administrator



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MEMORANDUM

Date: June 24, 2013
To: David Martini
From: Bob Bean
Subject: Flood Insurance Study (FIS) Report and Flood Insurance Rate Map (FIRM) Updates
Deephaven, Greenwood, and Woodland, MN

On December 31, 2005, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) provided communities in Hennepin County with preliminary copies of the revised FIS Report and FIRM. Due to updates in watershed modeling in various areas, additional revisions were made, and the most current versions of the FIS Report and FIRM were provided on August 30, 2012 and February 28, 2013.

The FIS Report and FIRM, when finalized, will become the basis for floodplain management measures that Hennepin County communities must adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). For your information, Deephaven, Greenwood, and Woodland currently are included in Hennepin County's Multi-Jurisdictional All-Hazards Mitigation Plan and have NFIP policy coverage.

Before the FIS Report and Firm are finalized, communities have been given 90 days, from April 1, 2013 to June 29, 2013, to review the documents and provide comments. Therefore, I have reviewed the FIS Report and FIRM as it relates to Deephaven, Greenwood, and Woodland. No revisions to the Special Flood Hazard Areas (SFHAs) have been proposed for these communities, no NFIP-recognized repetitive loss properties have been identified, nor does any road, bridges, or streams adjacent to SFHAs need to be corrected. Since the updates do not affect these communities, I do not have any issues regarding the revised FIS Report and FIRM, and we should not need to submit any comments to FEMA.

Please distribute this memo to your client cities as you deem necessary. If you have any questions or comments, please contact me to discuss.