

AGENDA

Greenwood City Council Meeting

Wednesday, March 6, 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: 02-06-13 Council Meeting Minutes
B. Approve: 02-20-13 Special Meeting Minutes
C. Approve: January Cash Summary Report
D. Approve: February Verifieds, Check Register, Electronic Fund Transfers
E. Approve: March 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. None
- 7:10 pm 5. PUBLIC HEARINGS
A. Annual Public Hearing for City's Stormwater Pollution Prevention Program
- 7:15pm 6. UNFINISHED BUSINESS
A. Excelsior Blvd. Watermain Project
Consider: Greenwood / Excelsior Agreement for Water Service Expansion
Consider: Greenwood / Excelsior Agreement for Water Service
B. 2nd Reading: Ordinance 214, Regarding Hardcover Rules (prohibiting illegal nonconforming hardcover properties from trading landscaping hardcover to increase structural hardcover)
Resolution 11-13 Summary of Ordinance 214 for Publication
C. 2nd Reading: Ordinance 215, Regarding Building Volume Regulations (relaxing the volume standard for lots 7,500 sq. ft. or less)
- 7:45pm 7. NEW BUSINESS
A. Consider: Resolution 10-13 Planning Commission Appointments, Pat Lucking (B-1), Kristi Conrad (B-2), Vacant (Alt-2)
- 7:50 pm 8. OTHER BUSINESS
A. None
- 7:50pm 9. COUNCIL REPORTS
A. Cook: Planning Commission
B. Fletcher: Lake Minnetonka Communications Commission, Excelsior Fire District, Xcel Project
C. Kind: Police, Administration, Mayors' Meetings, Website
D. Quam: Roads & Sewer, Minnetonka Community Education
E. Roy: Lake Minnetonka Conservation District
- 8:15pm 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, February 6, 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 and Roy

Others Present: City Attorney Kelly (departed the meeting at 9:49 P.M.), City Zoning Administrator/City Clerk Karpas, City Engineer Martini (departed the meeting at 8:15 P.M.)

Members Absent: None

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

2. CONSENT AGENDA

Mayor Kind reviewed the items on the consent agenda.

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

- A. January 2, 2013 City Council Meeting Minutes**
- B. December 2012 Cash Summary Report**
- C. January 2013 Verifieds, Check Register, Electronic Fund Transfers**
- D. February 2013 Payroll Register**

Motion passed 5/0.

3. MATTERS FROM THE FLOOR

There were no matters from the floor presented this evening.

4. PRESENTATIONS, GUESTS & ANNOUNCEMENTS

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

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

Deputy Chief Pierson noted that Lieutenant Neururer, who is in charge of the investigative unit, is also in attendance this evening to talk about investigations in 2012. He highlighted some incident statistics and citation statistics in Greenwood for 2012. (A copy of that information was included in the meeting packet). He stated he was pleased that 19 people in Greenwood called the SLMPD about suspicious activities in 2012 and noted that resident vigilance deters crime.

Lieutenant Neururer mentioned the burglaries that occurred in Greenwood in January 2012 as well as the one that occurred in the City of Tonka Bay. The individual responsible for the burglaries was also responsible for numerous burglaries in multiple jurisdictions. That individual was arrested on February 6, 2012. That individual is currently spending time in the Minnesota Correctional Facility located in Lino Lakes and he will be there until 2017. There were also other burglaries in the SLMPD community in 2012 but they were in other SLMPD member cities. One of those also involved multiple jurisdictions. He highlighted that case. There were also two individuals involved in seven burglaries in May 2012 in the SLMPD area. Those three cases took up a lot of time. He noted the SLMPD is in the process of closing out its 2012 cases. All jurisdictions have to do that. He stated he anticipates the SLMPD's clearance rate will again be very high for 2012. He explained there are some cases that won't be solved because there are no leads and stolen property for them has not shown up in pawn shops. He stated that 2012 was a relatively busy year for investigations in the SLMPD community.

Mayor Kind asked Lieutenant Neururer what the SLMPD's clearance rate for the year was. Neururer stated he thought it was 75 to 78 percent but wasn't sure, and he noted it was the highest in the Lake Minnetonka area. Kind stated the SLMPD's clearance rate is very impressive and that she thought it was one of the highest in the State of Minnesota.

Lieutenant Neururer stated that Patrol Officer Michael O'Keefe served a one-year stint in the rotating detective position from July 1, 2011 to June 30, 2012. Patrol Officer Christina Olson rotated into that position effective July 1, 2012.

In response to a comment from Mayor Kind, Lieutenant Neururer explained that one of the burglars he talked about earlier sold some of the gold he stole to places that buy jewelry that people no longer want. The investigators went to a number of jewelers asking if they purchased any gold from the burglar. Kind asked if purchaser is out the money when law enforcement confiscates things that had been purchased from a burglar. Neururer stated that varies based on the ordinance, but most likely the purchaser (e.g., a pawn shop) would be out the money. Neururer noted he would like the SLMPD member cities to have an ordinance that requires businesses to hold on to merchandise they purchased for some defined period of time. Kind stated there is currently is not a business in Greenwood that buys gold. Councilmember Fletcher stated he would support having such an ordinance in place. Kind asked Neururer to email the model ordinance to Zoning Administrator/Clerk Karpas.

Councilmember Quam asked Lieutenant Neururer to tell Council how the investigators were able to catch the burglar in February 2012. Neururer stated a notice was sent out to other jurisdictions that were investigating similar crimes. The Edina investigative unit called because of similar crimes. A number of jurisdictions established surveillance on the most likely suspect. The suspect was allowed to commit another crime so there was a reason to arrest him and charge him. After he was charged, law enforcement searched his house and found other stolen items.

Quam then asked if people were cited for the barking dog offenses listed on the report in the council packet. Lieutenant Neururer stated that he was not sure, but that it was unlikely that citations were issued for barking dogs.

Councilmember Fletcher asked if there is anything else the SLMPD wants Greenwood to consider. Deputy Chief Pierson stated it would be an immense help to the SLMPD if Greenwood would approve a social host ordinance. Pierson explained parties seem to move from community to community. The ordinance would help in educating people and in holding them accountable. Fletcher stated he is not a fan of having feel-good ordinances. Fletcher asked if the SLMPD could provide Council with examples of

where it was helpful to have a social host ordinance in terms of prosecution or deterrence. Pierson stated the SLMPD would do that. Pierson stated the City of Chaska has such an ordinance and it has proven to be helpful. Mayor Kind asked if Fletcher was asking for examples in the SLMPD's jurisdictional area or from other cities such as Chaska. Fletcher stated he would be interested in examples from Chaska, and if there are examples for Greenwood or the other SLMPD member cities that would be even better. Councilmember Quam stated he would be interested in knowing how many people were charged and convicted in Chaska because it has a social host ordinance. Pierson noted that the City of Minnetonka also has a social host ordinance. Quam stated he would be interested in information about Minnetonka as well.

Deputy Chief Pierson stated the social host ordinance is not so much about punishment as it is deterrence. It would also give the SLMPD something to use when under age people repeatedly drink alcohol at the same residence.

Deputy Chief Pierson stated a final draft of the common animal control ordinance should be ready for review in the near future.

B. 2013 Inflow / Infiltration Grant Application

Mayor Kind stated Council is being asked to consider if it wants to continue the application process for the Metropolitan (Met) Council grant program to complete the City's Inflow / Infiltration (I/I) project in 2013.

Engineer Martini stated the City has an opportunity to apply for another I/I grant from the Met Council to help fund storm sewer improvements. He explained that the City has been informed it is eligible for up to \$19,728 but no more than 50 percent of the eligible costs. The eligible amount is a little less than 50 percent of the projected costs. If Council decides it would like to move forward with the I/I project in 2013 and accept the grant funds, the City has to submit a signed grant agreement to Met Council by March 2, 2013. He noted the meeting packet contains a copy of a draft resolution authorizing that.

Quam moved, Fletcher seconded, Adopting RESOLUTION NO. 04-13, "A Resolution Authorizing Application to the Metropolitan Council for a Grant from the Municipal Infiltration / Inflow Grant Program for the City of Greenwood's 2013 Sewer Improvements Project." Motion passed 5/0.

5. PUBLIC HEARING

A. None

6. UNFINISHED BUSINESS

A. Excelsior Boulevard Watermain Project

I. Greenwood / Excelsior Agreement for Watermain Option 1

Mayor Kind explained on June 6, 2012, the City received a petition from several Excelsior Boulevard residents requesting to hook up to the City of Excelsior's municipal water system as part of the upcoming Metropolitan Council Environmental Services (MCES) sanitary sewer forcemain project. As a result of the petition the Council ordered a feasibility report prepared by the City Engineer for a watermain project to the petition zone (Option 1). The report was reviewed by the Planning Commission and found to be in compliance with the City's Comprehensive Plan. During its January 1, 2013, meeting Council held a public hearing for Option 1. Everyone who spoke during the public hearing was in favor of the project.

Kind noted the meeting packet contains a copy of an updated timeline showing the next steps in the process. She explained to keep on track with the timeline, during this meeting Council needs to consider approval of two Excelsior / Greenwood Agreements (a copy of the agreements were included in the meeting packet). One is a Municipal Water Service Agreement for municipal water service provided by Excelsior to Greenwood. The other is a Water Service Expansion Agreement which is more specific to this water system expansion. Council must also consider approval of a resolution to order the Option 1 improvement and preparation of plans (a copy was included in the packet).

Kind explained the Option 2 project which would have extended watermain along Excelsior Boulevard to interconnect the Excelsior and the City of Shorewood municipal water systems has been taken off the table. Shorewood Staff determined there are other lower-cost options to create that interconnection. Therefore, the Shorewood Council decided not to pursue Option 2. Because of that, Council needs to determine two things.

1. What the size of the watermain that serves the Option 1 residential properties should be. The current feasibility study calls for an 8-inch diameter watermain. The cost to increase the watermain from 8-inch diameter to a 12-inch diameter is estimated to be approximately \$21,190. According to the City Engineer, 12-inch watermain will be needed if the system were to be expanded in the future. Therefore, the City's policy could be that any new watermain shall be 12-inch with costs to be paid by the benefitting property owners as the line is extended. If Council decides to have that policy the draft Resolution 05-13 will need to be amended accordingly. (A copy of the draft resolution was included in the meeting packet.)
2. Dan Fick with MCES has related that full-width road reconstruction may not be needed without the watermain extension going all the way to the Shorewood border. Mr. Fick wants to know if the City wants to pay to extend the concrete curb and gutter to the east of Maple Heights Road. The cost to add curb and gutter is estimated to be \$15,000. In the past the City's policy has been to add concrete curb and gutter only if it is requested and paid for by the abutting property owners. In this situation, a case could be made that the continuing curb and gutter would provide continuity of the curb and gutter MCES will be installing. If the Council decides to extend the concrete curb and gutter to the east of Maple Heights Road, the decision can be made by a motion.

Engineer Martini stated for the potential Option 2 interconnect project it was determined the watermain would have to be 12 inches in diameter. If the watermain for Option 1 were to be extended in the future it is possible there would be fire flow issues if the watermain is only 8-inch. He noted that an 8-inch watermain is sufficient to serve the petition zone. What is not known is when that watermain would be extended, if ever. Depending on the length of the extension it may require that the 8-inch watermain be upsized to 12-inch. He stated it is up to Council to decide if it wants to take a longer term view of watermain extension.

Councilmember Quam stated the first thing Council needs to determine states "... 12-inch watermain will be needed if the system were to be expanded in the future. Therefore, the City's policy could be that any new watermain shall be 12-inch with costs to be paid by the benefitting property owners as the line is extended." He asked what that means. Mayor Kind explained it means that if Council decides the watermain needs to be 12-inch for the petition zone, the benefitting properties in the petition zone would pay for the 12-inch watermain. If there is future extension of that watermain, those benefitting properties would pay for 12-inch watermain. The City's policy would be if watermain is going to be extended it would be extended with a 12-inch watermain. Quam noted that the petitioners have been quoted the cost

for 8-inch watermain. Kind stated they were given a quote for 12-inch in the beginning. Engineer Martini clarified the feasibility study is for 8-inch watermain. Quam asked what size watermain was discussed during the public hearing for Option 1. Kind stated it was 8-inch because that is what is included in the feasibility study.

Mayor Kind noted that the public hearing was not for assessments. That still needs to occur.

Councilmember Fletcher stated that as part of the Option 1 project that portion of Excelsior Boulevard will be reconstructed in 2013/2014. He then stated as part of any watermain extension project the part of the roadway disturbed needs to be reconstructed. He asked what the projected life of the 2013/2014 reconstructed Excelsior Boulevard is. Engineer Martini responded at the end of the project that segment of Excelsior Boulevard would have a minimum life of 20 years with proper maintenance. Fletcher stated from that the next likely time Excelsior Boulevard would be torn up in that vicinity would be about 30 years from now. Therefore, it does not make sense to him to install a 12-inch watermain as part of this project for a future watermain expansion 30 years into the future.

Mayor Kind asked who should pay for the upsizing to 12-inch watermain for the petition zone if the all of the properties in Greenwood were to eventually to have access to municipal water.

Councilmember Fletcher noted that the owners of the properties past the petition zone did not have any interest in extending watermain.

Engineer Martini stated that if the 8-inch watermain that is needed to serve the petition zone is installed as part of this project and then if it needs to be upsized to a 12-inch watermain to extend it in the future that cost to upsize it would be assessed as part of that watermain extension to those future benefitting properties. That added cost for the upsizing will dictate in part what size of an extension project there would have to be to make it feasible.

Mayor Kind stated if Council is forward thinking she thought it should make sure the watermain is the size it wants it to be now so that it will not be cost prohibitive to extend the watermain in the future.

Engineer Martini explained that typically a developer is required by a city to extend watermain all the way through the to-be-developed property so it is available for the next developer to extend from. There would be a requirement to have the appropriate size watermain installed. That cost is reimbursed through connection charges going forward. Each subsequent developer would have a similar burden to provide for future development.

Councilmember Fletcher noted that land past the petition area is already developed.

Engineer Martini stated if the watermain is going to be extended in the future, from his perspective 12 inches would be the appropriate size.

Councilmember Cook stated he is not a big fan of burying something into the ground just because it may be needed 20 to 30 years from now. The 8-inch diameter watermain serves the needs of the petitioners. He then stated if watermain were to be extended one more block in the future, the 8-inch watermain would probably be sufficient. If it were to again be extended a larger distance it should be upsized at that time.

Councilmember Fletcher stated that the upsize cost would be about \$1,500 to \$1,800 for residential properties in the petition zone. He is not sure what the additional cost would be for the commercial properties.

Mayor Kind stated the 12-inch watermain cost is what the petitioners signed on for with their original petition.

Councilmember Cook stated if the petitioners will not be surprised, he recommends installing a 12-inch watermain. If the additional cost would jeopardize the petition zone project he recommends installing an 8-inch watermain.

In response to a question from Councilmember Quam, Engineer Martini stated the petitioners initially stated they would be willing to be assessed for up to a 12-inch watermain.

Councilmember Fletcher explained the City Attorney advised that the petition need to be resubmitted to indicate that the petitioners were supportive of installing up to 12-inch watermain. The first petition did not include that. He stated it is his understanding that the petitioners would prefer installing 8-inch watermain because that is all that is needed to serve the petition area.

Councilmember Quam asked if there is any justification for the City paying some of that upsizing cost being the City would like to have 12-inch watermain installed for future development. Mayor Kind stated she did not think there is. Kind then stated she thought residents would come before Council and question why they should be paying for watermain extension when they are not getting any water. Quam stated maybe they would.

Quam asked if the watermain could go down Maple Heights Road so it could serve all of the properties along Maple Heights Road.

Councilmember Fletcher stated earlier on when this was being considered he did do a survey of property owners along Maple Heights Road. At that time there was no interest in having municipal water made available to them.

There was agreement that the watermain would have to be 12 inches if it went down Maple Heights Road.

Councilmember Quam stated from his vantage point extending watermain down Maple Heights Road would be more likely than extending it east of Maple Heights along Excelsior Boulevard.

Attorney Kelly explained the feasibility study provides a price for the extension of 8-inch watermain. The petition indicates the property owners are willing to entertain up to 12-inch watermain. He noted the public hearing was held on the cost of 8-inch watermain. He stated either the City has to start over [modify the feasibility report for 12-inch watermain and then hold another public hearing on it] or go with the 8-inch watermain. Kelly stated property owners are entitled to know what the estimated cost within reason will be. He then stated it is one thing to have change orders that don't materially affect the cost. Upsizing to 12-inch watermain would be a material change.

Mayor Kind stated she does not think there is time to start over and maintain the timeline.

Councilmember Cook stated from his perspective he did not think 8-inch versus 12-inch watermain is all that serious for this small segment of extension. If a decision is made to extend watermain further in the future, what is serious is that how big that should be and how long the extension is. Having an 8-inch

segment of watermain in the middle will not affect what size watermain a future extension should be. He explained if the hydraulics work the future watermain extension could be a larger size than the proposed to be installed 8-inch watermain.

Engineer Martini stated at such time there is consideration to extend watermain further there would have to be an evaluation of what size would be needed.

Mayor Kind stated from her perspective the question about watermain size has been answered. It needs to be 8 inches in order to stay on track with the MCES timeline.

Kind then stated the next decision Council needs to make is if the City should extend curb and gutter to the east of Maple Heights Road for continuity of the curb and gutter MCES will be installing.

Engineer Martini explained when the watermain extension along Excelsior Boulevard all the way to the Shorewood boarder was being considered all of that segment of Excelsior Boulevard would have been reconstructed. Now that the watermain will not be extended that far, MCES may not have to tear up the full-width of the roadway to install forcemain. MCES will completely reconstruct the south side of the roadway including curb and gutter. He stated from his perspective having curb and gutter on both sides of the roadway would make sense. He anticipates the cost to install only curb and gutter would be closer to \$10,000. He explained that would be a City cost.

Councilmember Fletcher asked if there is an engineering benefit to having curb and gutter or would constructing it in that gap area be for cosmetic purposes. Engineer Martini stated curb and gutter helps to control stormwater runoff. It would also provide an aesthetic value and a uniform look. Councilmember Quam asked if there is a strip in that area where there are no homes and stormwater runs off the roadway and flows into Lake Minnetonka. Martini stated there would be an opportunity to control how the stormwater flows rather than it letting it just free flow. Martini explained Staff is working with the Minnesota Department of Transportation (MnDOT) to shape the roadway so it redirects stormwater flow towards the State Highway 7 ditch and reduces some of the erosion issues.

Fletcher then asked if there are currently stormwater issues along the segment of roadway from Maple Heights Road to the City limits that curb and gutter could help mitigate. Engineer Martini responded the majority of issues being focused on are west of Maple Heights Road where there are residential properties. There have been no stormwater issues east of Maple Heights Road that have been brought to Staff's attention.

Councilmember Cook expressed concern that this is being somewhat piecemealed with MCES. He suggested working with MCES on a cooperative agreement. He asked if the City has received a draft of an agreement. Engineer Martini stated he has seen a draft cooperative agreement and that he passed it on to Mayor Kind. Martini explained the Option 1 versus Option 2 decision had to be made before the cooperative agreement could be finalized. MCES is working on the costs and the breakout for the local units of government. Those costs will be included in the agreement. Martini noted the cooperative agreement is scheduled to be finalized by the end of February. Mayor Kind noted that the timeline to finalize the agreement is February 22 so a special Council meeting will be necessary to consider it.

Mayor Kind expressed her support for extending curb and gutter so there is a look of continuity on both sides of Excelsior Boulevard. Councilmember Cook agreed with that and stated curb and gutter define the edge of the roadway and it holds the edge of the roadway where it is. Councilmembers Quam and Roy expressed their support for curb and gutter. Councilmember Fletcher stated that he is ambivalent about it.

Councilmember Fletcher stated if curb and gutter is constructed in that gap area he thought it should be funded out of the roadway fund. Mayor Kind agreed.

Mayor Kind suggested Attorney Kelly walk Council through the two Agreements he drafted between Greenwood and Excelsior.

Attorney Kelly explained some properties in the City already receive municipal water service from Excelsior but no one can find any type of written agreement about that. Therefore, he drafted a general agreement [the Municipal Water Service Agreement] addressing Excelsior providing water service to Greenwood residents/properties. The second agreement [the Water Service Expansion Agreement] addresses the watermain expansion Council has been discussing. That Agreement anticipates attaching the feasibility study as an exhibit to define the project. Once the project is paid for most of the Expansion Agreement evaporates in favor of the Service Agreement. He noted Excelsior has not signed the Agreements. He explained the Service Agreement allows for Greenwood to ask for watermain extensions in the future provided Excelsior's water system can sustain the expansion and provided Greenwood bears the cost. One reason that provision was included is Excelsior has a static system. Excelsior does not have big water projects planned.

Kind asked if Greenwood is going to be paying MCES or Excelsior for the watermain extension. Engineer Martini stated Excelsior will pay MCES for the extension because it is Excelsior's water system and the City will pay Excelsior for its share of the costs. Martini stated it's his understanding Excelsior has other watermain costs associated with the MCES project. There was consensus to leave the language about Greenwood paying Excelsior in the Expansion Agreement at this time.

Kind stated page 2 paragraph 12 stipulates triggers that will require properties abutting the service expansion area (SEA) to hookup to the watermain. She noted she favors having no triggers. Councilmember Fletcher stated there is a similar clause in the Municipal Water Service Agreement Item 10.

Attorney Kelly stated he thought these needed to be considered. He explained the Municipal Water Service Agreement anticipates that to the extent that the EMWP is expanded [per Greenwood's request] there is an expectation that the abutting property owners must connect. That has been a basic premise of sewer and water expansion. That helps fund the cost for extending water service.

Mayor Kind stated if Greenwood pays for the watermain expansion upfront there is no need for Excelsior to recoup any costs.

Councilmember Cook stated he would anticipate Excelsior to object to not having a hookup timeframe in the Agreement because it would be losing monthly revenue. That revenue helps pay the cost of managing and maintaining Excelsior's system. He recommended that requirement be consistent in the two Agreements.

Mayor Kind stated from her perspective if that language stays in the Agreement then Council needs to agree to what the hookup trigger points are. She noted that she does not agree with drawing a building permit being a trigger point. The private well trigger point makes sense to her. Councilmember Fletcher suggested changing the end hookup date to May 1, 2033, from May 1, 2023.

Councilmember Quam stated Excelsior is going to want to collect water revenues.

Attorney Kelly suggested inserting the last sentence in the Municipal Water Service Agreement which states *“In conjunction with any expansion of water service, Greenwood shall by ordinance establish deadlines for abutting properties to connect to the water main and become a paying customer of the EMPW system.”* in the Expansion Agreement. There was Council consensus to replace the triggers statement with this statement.

Councilmember Fletcher stated it is very possible the final Agreements will be different than what Council has this evening. He assumes Council is being asked to conceptually approve the Agreements this evening. He noted there are blanks that need to be filled in in the Expansion Agreement. Mayor Kind stated some of the blanks need to be filled in by the City Engineer before the Expansion Agreement is forwarded to Excelsior for review and comment.

Councilmember Quam noted that the final Agreement could be considered by Council during the upcoming special meeting.

Fletcher moved, Cook seconded, approving conceptually the Excelsior-Greenwood Water Service Expansion Agreement Option 1 for Excelsior Boulevard, Greenwood, subject to changing 12-inch watermain to 8-inch watermain, replacing *“Greenwood shall by ordinance require all properties abutting the SEA to Connect to the EMPW upon either (1) drawing of a building permit related to the abutting property, for any reason, (2) private well failure necessitating drilling of a new ground water well, or (3) May 1, 2023, which every comes first, whereupon abutting properties shall connect to the EMPW watermain and become customers of the EMPW system”* with *“In conjunction with any expansion of water service, Greenwood shall by ordinance establish deadlines for abutting properties to connect to the water main and become a paying customer of the EMPW system.”* and the City Engineer filling in the blanks. Motion passed 5/0.

II. Greenwood / Excelsior Agreement for Water Services

This was discussed as part of the previous item Excelsior-Greenwood Water Service Expansion Agreement Option 1 for Excelsior Boulevard, Greenwood.

Fletcher moved, Quam seconded, approving conceptually the Excelsior-Greenwood Municipal Water Service Agreement as presented. Motion passed 5/0.

III. Ordering Excelsior Boulevard Watermain Project Option 1 Improvement and Preparation of Plans

This was also discussed as part of Item 7.A.I Excelsior-Greenwood Water Service Expansion Agreement Option 1 for Excelsior Boulevard, Greenwood.

Fletcher moved, Cook seconded, Adopting RESOLUTION NO. 05-13, “A Resolution Ordering Improvement and Preparation of Plans for Excelsior Boulevard Watermain Project Option 1.” Motion passed 5/0.

Cook moved, Quam seconded, authorizing the City Engineer to include the extension of concrete curb and gutter to the east of Maple Heights Road to the City border in the Metropolitan Council Environmental Services’ (MCES) plans as part of the road restoration after the completion of the sanitary sewer forcemain project, with the City paying the extra cost out of the 2013 roadway improvements budget. Motion passed 5/0.

It was noted that February 22, 2013, is a Friday and there is need for a special Council meeting that day to finalize the cooperative agreement with MCES and the two Agreements with Excelsior. There was ensuing discussion about when to hold the special meeting. The special meeting will be scheduled for February 20 or 27 and Zoning Administrator/Clerk Karpas will let the Council know which date is chosen after consulting with Mayor Kind.

Engineer Martini departed the meeting at 8:15.

7. NEW BUSINESS

A. First Reading: Ordinance 214, Amending Code Section 1155 Variances and Section 1176 Shoreland Management District Regarding Impervious Surface Requirements

Mayor Kind stated Ordinance 214 and Ordinance 215 (the next item on the agenda) will be discussed together.

Kind explained the meeting packet contains a copy of the original draft of Ordinance 214 presented to the Planning Commission, a copy of the revised Ordinance showing the original and modified text, and lastly a clean copy of the revised Ordinance regarding impervious surface requirements. The packet also contains similar copies of Ordinance 215. The packet also contains a copy of a memorandum from Attorney Kelly regarding impervious surface. She explained that during the recent GTS Seminar the City hosted it was learned that cities cannot demand that applicants abandon a legal nonconforming use as a condition to obtaining a variance. However, cities can require applicants to remove *illegal* nonconforming uses. Kelly's memo addresses the differences between those two things. The packet contains language proposed by Kelly as well as language proposed by Mayor Kind. She noted her proposed language would apply to illegal nonconforming hardcover with any variance application; not just to a hardcover variance application.

Councilmember Quam suggested the statement in Mayor Kind's proposed language "... *or by showing the excess was approved by the City*" be included in whatever language is adopted.

Attorney Kelly stated during the discussion at the GTS Seminar attention was drawn to the fact that if a person has a grandfathered use the City cannot force them to give it up as a condition to something that the person might otherwise be entitled to. If a person has a use that is not grandfathered, it is an illegal use which is what much of the plastic hardcover probably is, the City can require the person to give that up as a condition to obtaining a variance. It makes sense to impose a standard where the applicant needs to show clear evidence that the illegal use was in place before the shoreland management ordinance was established (which established impervious surface regulations in the city), or show that the City approved the excess hardcover.

Councilmember Roy stated when he and his wife applied for a permit to remodel their home they submitted their landscaping plans with their permit application. That included putting down plastic ground cover. He questioned if he just heard that plastic landscaping ground cover is illegal. Mayor Kind stated it is only illegal if it results in exceeding the maximum amount of hardcover allowed. Zoning Administrator/Clerk Karpas clarified that woven plastic is considered pervious.

Councilmember Quam asked how someone could prove the impervious surface coverage was in place before 1992. 1992 is a benchmark in time when impervious surface regulation went into effect. If the coverage was in place before then, it is grandfathered in. Attorney Kelly explained that if applicant is asking for a variance, and they exceed the maximum hardcover allowed (30 percent), then it is up to the

applicant to prove the plastic ground cover was in place prior to 1992 (grandfathered in) or the City had approved the exception. If neither can be proved, the applicant will have to come into compliance with the hardcover restriction by removing the plastic ground cover. It can be replaced with woven plastic.

Mayor Kind stated the proposed amendment is being considered to address situations where property owners want to expand their structure hardcover to an amount equal to their current structure hardcover plus their plastic ground cover.

Councilmember Cook stated Attorney Kelly's proposed language appears to have a different definition of structural hardcover than the proposed Ordinance amendment. Kelly has driveways as structural hardcover. Kelly noted the City requires driveways to be a hard surface, noting Class 5 rock is considered hard surface. Kelly explained that he put driveways in parenthesis and in italics to encourage Council to think about that. Cook explained the amended Ordinance the Planning Commission is recommending has driveways as non-structural. Zoning Administrator/Clerk Karpas explained the Commission was trying to separate building permit and non-building permit items. Cook explained the Planning Commission was attempting to address the desire not to build buildings where solid plastic ground cover, sidewalks and driveways are located. Cook stated there needs to be a way to characterize different types of hardcover.

Zoning Administrator/Clerk Karpas stated the Planning Commission did not want at-grade hardcover to be exchanged for structural (above-grade) hardcover with regard to variances. Councilmember Quam asked why not. Councilmember Quam noted the hardcover Ordinance is about stormwater runoff not about what the building looks like. Karpas stated that at-grade impervious surface is different than above-grade impervious surface and that people are wanting to, for example, remove a portion of their driveway and expand their home by the amount of the driveway surface removed. He explained that it could have a visual impact based on where the new hardcover will be located.

Mayor Kind noted this issue is about nonconforming hardcover, and clarified that if a property owner complies with the hardcover regulation, this ordinance would not apply.

Councilmember Fletcher stated a person can have as much plastic ground cover as they want provided they do not exceed 30 percent impervious surface.

Councilmember Quam questioned if this ordinance would mean that no landscaping hardcover could be exchanged for house hardcover.

Zoning Administrator/Clerk Karpas clarified the ordinance is only for properties that are over the 30 percent maximum hardcover.

Zoning Administrator/Clerk Karpas stated in the not too distant past the City granted conditional use permits (C.U.P.) to have hardcover up to 40 percent. He asked if that property would be grandfathered in if they requested another variance. Mayor Kind stated that would be a *legal* nonconforming impervious surface because it was approved by the City.

Attorney Kelly stated in the redlined copy of the Ordinance the words "Nonstructural hardcover" are stricken yet they are found in two other places. Mayor Kind suggested changing "nonstructural hardcover" to "impervious landscaping" in all cases.

There was Council consensus to change "nonstructural hardcover" to "impervious landscaping."

Mayor Kind suggested changing in Subd. 4.1 which reads “*Variance applicants with existing nonconforming impervious surface coverage (hardcover) shall be required to reduce the amount of hardcover by 1.5% for each 1% of hardcover added.*” and replacing it with either her or Attorney Kelly’s proposed language or variation thereof. Councilmember Fletcher stated he would prefer to use the language proposed by Kind.

There was Council consensus to replace Subd. 4.1 with the language proposed by Mayor Kind for the second reading of the Ordinance. [Variance applicants with impervious surface coverage (hardcover) in excess of 30% shall have the burden of proof to establish that the excess is a *legal* nonconforming use by showing evidence that the hardcover has been in existence since before the shoreland management ordinance was adopted (December 1992) or by showing the excess was approved by the city. If no such evidence exists, then the hardcover in excess of 30% shall be deemed an *illegal* nonconforming use, and the city council may require the property owner to reduce hardcover as a condition of variance approval.]

Mayor Kind explained that the Planning Commission deleted “*reduction of plastic landscaping.*” She asked what the rationale for doing that was.

Councilmember Cook said the Planning Commission questioned why there is a need to identify the conditions in the Ordinance that might be imposed when a variance is granted. Attorney Kelly noted that Council has broad authority. Cook stated based on that broad authority Subd. 4.3 could be deleted entirely.

There was Council consensus to delete Subd. 4.3.

Fletcher moved, Cook seconded, adopting the first reading of Ordinance 214 amending Code Section 1155 Variances and Section 1176 Shoreland Management District regarding impervious surface requirements which was presented during a public hearing and recommended by the Planning Commission subject to replacing Subd. 4.1 with “Variance applicants with impervious surface coverage (hardcover) in excess of 30% shall have the burden of proof to establish that the excess is a *legal* nonconforming use by showing evidence that the hardcover has been in existence since before the shoreland management ordinance was adopted (December 1992) or by showing the excess was approved by the city. If no such evidence exists, then the hardcover in excess of 30% shall be deemed an *illegal* nonconforming use, and the city council may require the property owner to reduce hardcover as a condition of variance approval.”; in Subd. 4.2 replacing “nonstructural hardcover” with “impervious landscaping”; and deleting Subd. 4.3. Motion passed 5/0.

B. First Reading: Ordinance 215, Amending Code Chapter 11 Regarding Rules for Small Lots

Mayor Kind explained the meeting packet contains a copy of the original draft of Ordinance 215 presented to the Planning Commission, a copy of the revised Ordinance showing the original and modified text, and a clean copy of the revised Ordinance.

Zoning Administrator/Clerk Karpas stated the Planning Commission did not like the idea of alleviating the pressures on smaller residential lots by having a sliding scale for setbacks and impervious surface based on lot area. The Commission did like the increase in the amount of volume. The Commission believes the variance process works. The Commission felt the Fisher requests demonstrated that it works. There was reasonable negotiation during that variance process.

Councilmember Cook stated the Planning Commission was concerned about unintended consequences.

Councilmember Fletcher stated he thought it would be better to set reasonable expectations up front for property owners of small lots.

Zoning Administrator/Clerk Karpas stated State Statute sets the expectation. The footprint is protected. A person can rebuild what is already there. He then stated the City can't adjust its ordinances to deal with every situation. He noted that he would not be able to give property owners accurate information about what they could do because the City does not have lot area sizes for all residential properties in the City. He stated he would prefer to have something specific to tell people. He then stated he thought the City is very generous with its 30 percent impervious surface regulation.

Mayor Kind stated in 1992 the City restricted impervious surface to 40 percent. It then changed it to 30 percent with an additional 10 percent by conditional use permit (CUP). About eight years ago it limited it to 30 percent with overages by variance. She wondered if the Council should consider going back to allowing 40% with a CUP.

Zoning Administrator/Clerk Karpas stated that the change to 30 percent was because people were putting swimming pools in. Councilmember Quam asked what was wrong with that.

Attorney Kelly explained that a CUP by definition means a person is entitled to it. The City could not say no.

Mayor Kind stated maybe it could be backed down to 35 percent with a CUP.

Councilmember Quam stated if the Ordinance had been the way it was proposed to the Planning Commission initially he asked how many property owners could have avoided applying for a variance.

Zoning Administrator/Clerk Karpas stated the City receives a small number of variance applications for expansion or physical alteration of houses when compared to all the building permits it receives. He then stated some lots are so small there are practical difficulties that have to be addressed.

Councilmember Quam stated he thought the sliding scale approach was to reduce the need for variances for smaller lots. Mayor Kind concurred.

Zoning Administrator/Clerk Karpas stated he and the Planning Commission believe property owners should be able to know what they can build on their lot. The City can't provide that. Councilmember Quam stated it could be provided if the sliding scale approach was used. Karpas stated the owners of the smaller properties still won't be able to pull a building permit because they won't be able to meet the setback requirements. They will still need a variance.

Councilmember Quam asked Zoning Administrator/Clerk Karpas if there are not any lots where the relaxed regulations would eliminate the need for a property owner to obtain a variance. It was noted there are some. Attorney Kelly stated a good 50 percent will still need a variance. Quam stated that would eliminate the other 50 percent. Mayor Kind stated from her perspective relaxing the regulations would be worthwhile because of that.

Councilmember Fletcher stated if a person has a survey it would not be difficult to figure if the property owner can comply with the hardcover regulations based on what they would like to build. He stated for 10,000 square-foot lots in the City he asked how many of them have more than 30 percent hardcover for

structures (not including things like plastic sheeting). Zoning Administrator/Clerk Karpas stated he believed all of them exceed hardcover.

Fletcher talked about a scenario where a person wants to buy a 10,000 square-foot lot in the City. The property owner would have to come before the Planning Commission and Council for a variance, for example, 35 percent hardcover which is what everyone else already has. He questioned if it may be prudent to continue this item to the next Council meeting to allow more time to think about this.

Attorney Kelly noted the R1-A zoning district contains a variety of different lot sizes. Meadville has several small “shotgun” lots. Also along Meadville is the Old Log Theater and other larger lots. He stated when the City’s Zoning Code was first created and as it evolved it was never changed to accommodate the properties that front Lake Minnetonka because of their size, predominant styles and shape. He then stated if properties were to be rezoned and regulated based on the lots as they are, especially those that front the Lake, the regulations don’t have to compete with lots on the other side of the street. Creating a district for those lots that front the Lake could make things more predictable.

Mayor Kind stated the draft Ordinance presented to the Planning Commission contains an idea of Councilmember Fletcher’s which increases the setback requirements and the impervious surface requirements as the lot size increases for each 500 square feet over 10,000 square feet and 15,000 square feet respectively.

Councilmember Roy noted there are odd ball sized lots all over the City. He stated based on the discussion he understands the Planning Commission to be comfortable with the current Ordinance and the ability to resolve issues. He asked if the intent of the revised draft sent to the Planning Commission was to help prospective property owners to know what they can build on a lot. He questioned how that could be done because there could be all kinds of issues. He stated it is called buyer beware. If a person wants to buy property and then tear down and rebuild on that lot they need to have their questions answered before they close on property. He recommended leaving the Ordinance the way it is.

Councilmember Fletcher stated he agrees it is buyer beware. He then stated the downside is when a current property owner in the City puts their property on the market. Current and future property owners know or can find out that the allowable hardcover is 30 percent. It’s apparent that the 10,000 square-foot lots have at least 35 percent hardcover. The prospective property owners will have to request a variance to exceed 30 percent. The prospective property owner will devalue the property somewhat because of the uncertainty. Mayor Kind stated that affects the value of current property owners that don’t have their property on the market as well.

Councilmember Cook clarified that earlier in the discussion he was talking about the Planning Commission’s perspective. He stated he now wants to convey his personal perspective. The Planning Commission has a lot of tools to use. From his vantage point this discussion is about micro managing things. He noted that one tool is a property owner has their current footprint grandfathered in. He explained that if the lot currently has 33 percent hardcover, that is grandfathered in. If the property owner wants to try and have more they will have to apply for a variance. He commented that the property owner will have to come before the Commission for just about any fix-up project. He noted he thought Council is trying to attack the wrong things. He stated if a prospective buyer, a seller and the Planning Commission know that the footprint is grandfathered in that is the starting point. He then stated a total redo of the zoning map is a different topic.

Mayor Kind stated she is not in favor of a total redo of the zoning map. She is in favor of the sliding scale. From her personal experience, every foot would make a difference.

Councilmember Fletcher expressed reticence to include the sliding scale recommendation in the revised Ordinance if it gets approved by Council on a 3/2 vote.

Councilmember Quam stated he still does not have enough data to make a decision on this. He reiterated his question which was about how many people would have avoided the variance process for setbacks or hardcover if the setback and hard cover regulations were tweaked to have a sliding scale.

Attorney Kelly clarified that earlier he was trying to say that over one-half of the City's lots end up in a variance process. He stated what this is really about is can a property owner with a reasonable request know that they will get a reasonable outcome when it comes to the variance process. Councilmember Quam stated it's more about the prospective purchaser knowing that. Kelly stated it's about a reasonable predictable outcome. Kelly then stated from his perspective he thought the Council was pretty good reaching a reasonable outcome.

Councilmember Quam stated new members of the Council may not be so reasonable.

Attorney Kelly stated one of the reasons this works pretty well is the Planning Commission does a very good job assessing variance requests and getting the applicants involved. He then stated for the Fisher variance the Commission took the time to understand the problem created by the volume regulation for the Fishers. He went on to state from his perspective the process is working. He noted that he understands why people can be frustrated because they don't know what they will get.

Councilmember Quam stated he is also reticent to have Council approve an Ordinance on a 3/2 vote. He noted that Council will have another opportunity to review the Ordinance at the second reading.

Councilmember Fletcher stated the amended Ordinance recommended by the Planning Commission needs some cleanup work. He explained the way the amended Ordinance is written a 7500 square-foot lot would be able to have more volume than an 8000 square-foot lot.

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

Kind reconvened the meeting at 9:08 P.M.

Fletcher moved, Cook seconded, adopting the first reading of Ordinance 215 amending Code Chapter 11 regarding rules for small lots which was presented at the Public Hearing on the Ordinance subject to amending Section 1140.18 Subd. 3(2) to read "*Lots between 7500 square feet and 15,000 square feet in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 42,000 cubic feet ...*" and Section 1140.18 Subd. 3(3) to read "*Lots greater than 15,000 square feet in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 75,000 cubic feet ...*". Motion passed 5/0.

C. Potential City Contribution to Eurasian Watermilfoil and Curly Leaf Pondweed Treatment of St. Alban's Bay

Councilmember Roy stated in 2011 all of St. Alban's Bay was chemically treated for Eurasian Watermilfoil (milfoil) and Curly Leaf Pondweed (CLP). At the beginning of 2012 the survey showed a minimal amount of milfoil in the bay. The final survey in 2012 showed a lot of milfoil. Based on that it appears milfoil would have to be chemically treated every other year and CLP on an as needed basis. The

cost for treatment in 2013 would be approximately \$60,000. He is asking the City to contribute \$5,000 toward the 2013 treatment. That is the same amount the City contributed toward the full-bay 2011 treatment.

Mayor Kind noted that amount has been included in the 2013 budget.

Roy moved, Quam seconded, approving the payment of \$5,000 from the Marina Fund towards the 2013 milfoil treatment of St. Alban's Bay and directing the City Treasurer to send the funds to the Lake Minnetonka Association, managers of the treatment program, by March 1, 2013. Motion passed 5/0.

Councilmember Cook asked if personal donations needed to be in by March 1 as well. Councilmember Roy responded they do not, but they should be in by April 15. Mayor Kind stated that information for donating to the project will be on the city website and included in the next city newsletter.

D. Hennepin County Recycling Grant Application, Reports and Activities

Mayor Kind noted the City has done what it was supposed to have done with regard to residential recycling. She stated the meeting packet contains a copy of two reports from Vintage Waste, the City's recycling services provider, which Vintage is required to provide per the City's agreement with Vintage. The packet also contains a copy of a Residential Recycling Grant Agreement with Hennepin County that needs to be renewed and updated annually. Council needs to authorize the City Clerk to do that.

Fletcher moved, Cook seconded, directing the City Clerk to submit an updated Hennepin County Recycling Program grant application by February 15, 2013, consisting of the Re-TRAC web-based report and the planning document that describes the programs and activities the City has implemented to increase recycling and make progress toward the County's goals. The updated grant application also shall include copies of two reports from Vintage Waste – an October household participation report and a 2012 year-end report including types of recycling and tonnage.

Councilmember Fletcher asked if the City is going to carry out the education activities.

Mayor Kind stated in 2012 Hennepin County did not have a menu of items for the City to do so the County waived it in 2012. The City kept asking for it but never received it. The City will ask for it again in 2013 and do it if the County sends it.

Motion passed 5/0.

E. Potential Comments Regarding Reorganization of Watershed Districts

Mayor Kind stated when Hennepin County Commissioner Jan Callison attended the January 2, 2013, Council meeting she requested Council provide her with its perspective regarding County Commissioner Jeff Johnson's idea to reorganize the watershed management organizations (WMOs) within the County. She noted the meeting packet contains a copy of a summary of the reorganization concept as well as a draft of a possible response for Council's discussion.

Councilmember Cook suggested Council convey it would support a consolidation, but not necessarily from eleven to three as stated in the draft proposed response and as proposed by Commissioner Johnson.

Councilmember Quam asked if the consolidation would mean the result of fewer commissioners. Mayor Kind responded Item 3 in the response indicates support for capping the number of managers on a WMO at 5 to 7. She explained those numbers are based on the experience that having too many is cumbersome as proven with the Lake Minnetonka Communications Commission and the Lake Minnetonka Watershed District.

Councilmember Fletcher stated he has heard that for some existing WMOs the head of the public works department may serve as a WMO manager. Mayor Kind stated the proposed response indicates elected officials or city staff would serve as managers on a WMO. Councilmember Cook agreed with the concept of having a mixture of people who are accountable to the public and people who know what they are talking about.

There Council consensus to change the first sentence in the opening paragraph in the response to read *"The Greenwood City Council reviewed and discussed the concept to reorganize and optimize watershed management."*

Cook moved, Roy seconded, directing the City Clerk to revise the Council's comments regarding the reorganization and optimization of the watershed organizations as discussed and to email the comments to the Hennepin County Board Administrator for distribution to the Hennepin County Commissioners. Motion passed 5/0.

Councilmember Roy stated he hoped that this is just the beginning of reorganization of all government agencies not just the WMOs.

F. Updating Appointments and Assignments (alternate to the Lake Minnetonka Communications Commission)

Mayor Kind stated this evening Council is being asked to appoint an alternate to the Lake Minnetonka Communications Commission (LMCC). LMCC member cities are allowed to appoint an alternate. She then stated during Council's January 2, 2013 meeting the Council appointed an alternated to the Lake Minnetonka Conservation District (LMCD) Board. But the LMCD by-laws do not allow that. Therefore the draft resolution included in the meeting packet removes Councilmember Fletcher as the alternate to the LMCD Board.

Councilmember Roy offered to serve as the alternate to the LMCC. Council accepted that offer.

Fletcher moved, Cook seconded, Adopting RESOLUTION NO. 06-13, "A Resolution Updating the Appointment and Assignments for 2013 to Designate Councilmember Roy as the Alternate to the Lake Minnetonka Communications Commission and to Un-designate Councilmember Fletcher as the Alternate to the Lake Minnetonka Conservation District Board. Motion passed 5/0.

G. Lake Minnetonka Communications Commission Membership / Franchise Renewal

Mayor Kind stated Councilmember Fletcher, the City's designee to the Lake Minnetonka Communications Commission (LMCC), asked that the topic of the LMCC membership and franchise renewal be placed on the agenda.

Councilmember Fletcher stated the draft resolution in the meeting packet in support of exclusive representation by the LMCC in cable television negotiations and in support of franchise fee disbursements to LMCC member cities came about because of a discussion between Mayor Kind,

Woodland Mayor Doak and himself. He explained that draft resolution was based on that discussion.

Fletcher explained the LMCC is in negotiations with Mediacom which is the current cable television provider in the LMCC area. Mediacom has been in contact with the Cities of Medina, Orono and Victoria all of which are somewhat underserved. Mediacom has been telling representatives from those cities that if they are not part of the LMCC, that Mediacom would give them some of the franchise revenues collected from cable television subscribers in their respective cities. Mediacom has told those Cities that they could turn around and give the franchise fees back to Mediacom to help pay for the build-out of the cable infrastructure. The concept of the resolution is to be proactive and put out an option that all LMCC would get some of the franchise fees back in hope of keeping LMCC cities together. The proposed resolution also conveys that the LMCC member cities want the LMCC to drive the negotiations for the LMCC.

Fletcher noted that the City of Minnetrista passed the resolution.

Mayor Kind distributed a spreadsheet of the LMCC votes and estimated per-city revenue from franchise fees and PEG fees. She stated she received a letter from the Executive Director of the LMCC stating the LMCC Franchise Renewal Committee asked for clarification as to what LMCC member cities the Committee is representing in negotiations. Therefore the LMCC is asking the LMCC member cities to pass a resolution similar to what was included in the meeting packet, but shorter. She distributed a copy of that resolution.

In response to a question from Mayor Kind, Councilmember Fletcher stated he voted against the shorter version of the resolution.

Councilmember Fletcher noted the resolution the LMCC distributed does not include anything about giving LMCC member cities some portion of the franchise fees paid by cable subscribers. He commented the LMCC has seventeen member cities and a thirty-four person Board because State Statute requires each member city have two representatives.

Fletcher went on record supporting that LMCC exclusively represent the city in franchise negotiations with Mediacom. He noted that he is going to abstain from the vote because he is the Chair of the Franchise Renewal Committee and he is the Treasure of the LMCC.

Councilmember Quam stated he thought it prudent to rely on Councilmember Fletcher's expertise with this matter.

Councilmember Fletcher stated from his vantage point the franchise renewal negotiations are somewhat political and that he thought some of the LMCC member cities might stay as part of the group if they were to get some of the franchise fees back.

Mayor Kind stated she finds it appealing to get some of the franchise fees back. And, that if that is what it takes to keep members in the LMCC she thinks it is prudent to do that.

Councilmember Fletcher stated he is fine with the longer resolution which supports giving some of the franchise revenues back to the LMCC member cities. He noted the short version does not prohibit that. He reiterated he thought it prudent to give the LMCC exclusive representation in the negotiations. Mayor Kind concurred.

Roy moved, Cook seconded, Adopting RESOLUTION NO. 07-13, “A Resolution in Support of Exclusive Representation by the Lake Minnetonka Communications Commission in Cable TV Franchise Negotiations and Support of Franchise Fee Disbursements to Cities.” Motion passed 5/0.

H. Potential Comments Regarding Bow-Fishing Regulations on Lake Minnetonka

Mayor Kind noted the meeting packet contains a copy of a letter from Lake Minnetonka Conservation District (LMCD) Executive Director Greg Nybeck regarding bow-fishing regulations on Lake Minnetonka (the Lake). Mr. Nybeck is requesting feedback from the LMCD member cities regarding this matter. The meeting packet also includes a copy of a draft memorandum outlining possible comments for the Council’s consideration and discussion this evening.

Councilmember Roy stated this was discussed during the February 4, 2013, LMCD Public Safety Committee meeting, noting he serves on the Committee. It was also discussed at the last LMCD Board meeting. He explained there are three options to consider. Option 1 – Continue current operations per state law and city ordinances. Option 2 – Prohibit bow-fishing entirely on Lake Minnetonka. Option 3 – Consider an ordinance with restrictions that make is more restrictive than state law. He noted from his personal perspective he thought the state law and City ordinance work well. He stated Zoning Administrator/Clerk Karpas would be the City’s contact for questions regarding bow-fishing regulations.

Councilmember Quam noted that Mr. Nybeck wants each LMCD member city to provide the LMCD with its ranking for the three options Councilmember Roy just highlighted as well documentation on each city’s respective ordinance.

Councilmember Roy stated his ranking would be Option 1, Option 3 and Option 2.

Councilmember Quam questioned why the member cities are being asked to rank the Options. He stated from his perspective it sounds like a way to “cook the books.”

Mayor Kind stated she supports anything that encourages removing rough fish from the Lake.

Councilmember Fletcher stated Council discussed this topic during its August 1, 2012, meeting and at that time the LMCD was talking about a restriction of a 300-foot setback (the length of a football field) from a swimming beach or swimmer and a 50-foot tethered line restriction (which is more restrictive than State Statute). At that time former Councilmember Rose, a bow-fisher, thought those restrictions were reasonable.

Councilmember Roy noted the City of Mound prohibits bow-fishing entirely. The Greenwood Ordinance does not contain anything about bow-fishing.

Attorney Kelly stated member cities and the LMCD are competing jurisdictions. There is a question about how they dovetail. He noted there was a time when the LMCD was trying to tell the City what it could zone on shore.

Councilmember Quam stated he thought the Hennepin County Sherriff’s Water Patrol is the law enforcement on Lake Minnetonka. Mayor Kind added so is the Minnesota Department of Natural Resources (MN DNR). Kind noted that both agencies have indicated that it would be each member city’s responsibility to enforce its own ordinance(s) for bow-fishing on Lake Minnetonka.

Zoning Administrator/Clerk Karpas stated cities riparian rights are up to 150 feet from the shoreline.

Mayor Kind stated there is no way for the City to enforce a bow-fishing ordinance should the City approve one.

Attorney Kelly stated the City has basically seeded regulatory authority of the surface of Lake Minnetonka to the LMCD.

Mayor Kind noted she drafted the proposed response letter that is included in the meeting packet. The comments included the letter are basically as follows.

1. Greenwood does not have a specific bow-fishing ordinance. The City does have an ordinance (Section 900.25, Subd. 1(1) that prohibits the reckless handling of a dangerous weapon that endangers the safety of another. But, the City has no way to enforce the ordinance on the waters of Lake Minnetonka.
2. The Greenwood Council's collective rankings of the three options in the letter are – 1) consider an ordinance that more restrictive than state law, but less than a total prohibition; 2) continue to operate as we currently do per state law and local city ordinances; and 3) prohibit bow-fishing entirely on Lake Minnetonka.
3. The Greenwood Council supports a lake-wide ordinance to offer clarity to lake users who are unfamiliar with which of the fourteen member cities they are in as they fish around Lake Minnetonka.
4. The Greenwood Council supports a lake-wide ordinance that is enforceable by the MN DNR and Hennepin County Water Patrol – the only enforcement agencies with jurisdiction on the waters of Lake Minnetonka.
5. The Greenwood Council supports the removal of rough fish from Lake Minnetonka, so it would like to see very few (if any) restrictions added to State Statute.

Councilmember Fletcher recommended notifying the LMCD that Council does not support prohibiting bow-fishing on Lake Minnetonka. He also recommended changing number 5 above to convey that Council supports a restriction of a 300-foot setback (the length of a football field) from a swimming beach or swimmer and a 50-foot tethered line restriction.

Councilmember Roy noted that he does not like municipal restrictions that are stricter than State Statute.

Councilmember Cook stated he thought it prudent to encourage bow-fishing and the removal of rough fish. He then stated he thought that an ordinance that is more restrictive than state law but less than a total prohibition and continue to operate as we currently do per state law and local city ordinances should both be ranked as 1. He expressed his agreement that bow-fishing should not be prohibited on Lake Minnetonka.

Mayor Kind stated from her perspective the main question is whether or not Council supports a lake-wide ordinance (comments 3 and 4 above).

Councilmember Cook stated he would support a lake-wide ordinance because of the enforcement and bow-fisher people not knowing what rules are in place for each place they may fish on Lake Minnetonka.

Councilmember Fletcher suggested conveying to the LMCD that the City's number one preference is for a lake-wide ordinance that is not too restrictive.

There was Council consensus to rank the options as follows. Option 1 – approve a lake-wide ordinance. Option 2 – continue to operate as we currently do per state law and local city ordinances. And, to inform the LMCD that Greenwood does not support prohibiting bow-fishing entirely on Lake Minnetonka.

Fletcher moved, Cook seconded, directing the City Clerk to revise the Council's comments letter regarding bow-fishing on Lake Minnetonka as discussed and to email the letter to Lake Minnetonka Conservation District Executive Director Greg Nybeck for distribution to the LMCD Board. Motion passed 5/0.

8. OTHER BUSINESS

A. None

9. COUNCIL REPORTS

A. Cook: Planning Commission

Councilmember Cook noted the Planning Commission's February 2013 meeting has been cancelled.

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

With regard to the Lake Minnetonka Communications Commission (LMCC) activities, Councilmember Fletcher stated there is nothing additional to report on.

With regard to the Excelsior Fire District (EFD), Fletcher stated he attended the EFD Board meeting on January 23, 2013. He noted that the EFD Board appoints a representative to the Excelsior Firefighters Relief Association (EFRA) Board. That person is usually the Chair of the EFD Board and that is Excelsior Councilmember Miller. Because Miller travels a lot he will sit in as his replacement at meetings because he is the Vice-Chair for the EFD Board. One of the topics for the EFRA Board is the EFRA's investments and firefighter pensions.

Fletcher explained that firefighters receive a per-year-of-service pension benefit. They must work a minimum of ten years before they are entitled to collect their pension. The EFD Board has to approve any increase in the per-year-of-service benefit and the EFRA has agreed not to ask for an increase unless the fund for pensions is at least 110 percent funded. He stated when the fund for pensions is less than 100 percent funded the EFD member cities must make a required contribution. He stated he does not have an issue with that. As paid-on-call firefighters they receive a nominal amount of money for responding to calls.

With regard to the Xcel Energy (Xcel) Transmission Line Upgrade Project, Fletcher stated representatives from Xcel had a meeting with cities about the Project yesterday. Representative from the Cities of Chanhassen, Deephaven, Eden Prairie, Excelsior, Greenwood, and Minnetonka were in attendance. The Department of Commerce has recommended to the Public Utilities Commission (PUC) that Xcel consider the Highway 5 alternative (upgrading the transmission line) which would keep the current transmission line that serves Greenwood at its current level.

On January 9, 2013, Xcel wrote a letter to the PUC stating that it found the Highway 5 alternative a reasonable option. There is a substation near the Chanhassen High School. If the Highway 5 alternative is chosen another substation will have to be constructed across the border in Chaska. It would be located in

a commercial/industrial area. The current transmission line goes through some Chanhassen residents back yards. If the additional substation is not built, the size of the Chanhassen transmission line will need to increase. Chanhassen officials stated they do not want a new substation near the commercial/industrial area. Which basically means they would prefer the transmission line to be upgraded in their resident's backyards. Excelsior had some concern that the substation in Excelsior will not be screened if the transmission line that runs through Excelsior is not upgraded. He encouraged Council to send a letter to Xcel stating that Greenwood strongly supports the Highway 5 alternative.

Quam moved, Cook seconded, authorizing Mayor Kind to write a letter to Xcel Energy informing Xcel that Greenwood strongly supports the Highway 5 alternative. Motion passed 5/0.

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

With regard to the South Lake Minnetonka Police Department (SLMPD), Mayor Kind noted the next meeting of the SLMPD Coordinating Committee is scheduled for 5:00 P.M. on February 7.

With regard to administration, Kind stated Greenwood Night at the Old Log Theater was held on January 11. The turnout was good. Minnetonka Cub Foods donated cookies for the event. Greenwood hosted a Planning and Zoning workshop on January 12 at the Southshore Community Center. The workshop was well attended. There was a lot of positive feedback received.

Councilmember Fletcher thanked Mayor Kind for organizing the workshop.

Mayor Kind stated Zoning Administrator/Clerk Karpas will be drafting a home occupation ordinance based on what was learned at the workshop. Karpas will also research how group homes are referenced in the conditional use permit section of the City Code Book.

Zoning Administrator/Clerk Karpas stated permitted uses will also be reviewed as required by State Statute.

Councilmember Fletcher stated during the workshop people learned that a municipality could have a permitted use that could have a sunset clause. He thought that could be useful to have. Zoning Administrator/Clerk Karpas stated consideration would have to be given to what a sunset clause would be used on. Mayor Kind stated the City can't sunset a use that is already there.

Mayor Kind stated the sump pump program is going well. Inspections have begun. Letters were sent to property owners who requested an inspection. A representative from Bolton & Menk is performing the inspections. In one home he found an illegal connection and hopefully that will be removed. If the connection is not removed that property owner will be charged a penalty and a fee for discharging from their sump pump into the City's sanitary sewer system. The goal is to perform all of the requested inspections by February 18.

Kind noted the Save-the-Lake banquet is scheduled for February 21. She stated if a quorum of the Council is going to be there that Zoning Administrator/Clerk Karpas will need to post a notice.

Kind then noted she attended a Lake Minnetonka Communications Commission (LMCC) meeting for mayors of the LMCC member cities on January 10. She attended the Minnetonka School District lunch for mayors in the District earlier in the day. She learned that there is a new Advantage program where business leaders and mentors will be brought to the Minnetonka High School for advanced placement economics courses. That program will be expanded to other fields in the future. A cafeteria / multi-

purpose room is being added to the Excelsior Elementary School. Upgrades or additions are being made to other schools as well. She noted 23 percent of the enrollment in the District is open enrollment.

Kind stated the City of Minnetonka is doing major improvements to Highway 101 between Highway 62 and Highway 7 this year. Minnetonka's City Attorney and Fire Chief are retiring. The City of Victoria hopes to start construction on a new city hall and public works facility this year. It installed rumble strips on Highway 5 in the centerline. It has created quite a stir with its residents because they can hear it from their homes. The City of Chanhassen has some road projects coming up. The City of Excelsior is looking at allowing pedi-cabs this year. The Excelsior Council will make a decision about the hotel request on February 19.

Kind stated the City is reaching about one-third of the households in the City with its email blasts.

D. Quam: Roads & Sewer, Minnetonka Community Education

With regard to Minnetonka Community Education (MCE), Councilmember Quam noted MCE will host a youth triathlon on May 4.

With regard to roads and sewers, Quam stated Council will discuss possible road and sewer projects during its April meeting.

E. Roy: Lake Minnetonka Conservation District

Councilmember Roy stated he attended the Lake Minnetonka Conservation District (LMCD) Public Safety Committee that was held on February 4. The bow-fishing topic was discussed during the meeting. Hennepin County Sheriff Stanek reported there have been fifteen instances of motorized vehicles going through the ice on Lake Minnetonka. The vehicle operators have been ignoring the small, reflective warning flags near channels. The Sheriff's Office has installed warning flags for thin ice on St. Alban's Bay. Even though the ice is about 24 inches thick on the rest of the lake, vehicle operators should not cross ridges or channels where the ice never is safe. He noted that he will attend the LMCD Aquatic Invasive Species Task Force meeting on February 8.

10. ADJOURNMENT

Roy moved, Cook seconded, Adjourning the City Council Regular Meeting of February 6, 2013, at 10:10 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,
Christine Freeman, Recorder

**Greenwood City Council
Special Minutes**

6:00 pm, Wednesday, February 20, 2013
Deephaven City Hall ~ 20225 Cottagewood Avenue ~ Deephaven, MN 55331

1. Call to Order/Roll Call/Approval Agenda

Mayor Kind called the meeting to order at 6:30 pm.

Council members present: Cook, Kind, Fletcher, and Quam

Others present: City Attorney Kelly, City Engineer Martini, City Clerk Karpas and Dan Fick, Metropolitan Council Environmental Services (MCES)

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

Mayor Kind summarized the items on the agenda which included the plans for the Excelsior Boulevard Watermain and Land Acquisition, Design, and Construction Cooperation Agreement between the City of Greenwood and the Metropolitan Council (Met Council) for the upcoming watermain project. Kind said the agreement has been reviewed by the City Attorney and his comments have been included in the packet.

2. Consider: Resolution 08-13 Approving Excelsior Boulevard Watermain Plans

Mayor Kind said an item for discussion prior to diving into the plans is a recent conversation she had with a resident along Excelsior Boulevard who was not on the original petition wondering if it was too late to be included in the project. She said John Lang, 21120 Excelsior Boulevard, lives two homes down from the end of the proposed watermain and has asked what the process would be to be included in the project.

City Engineer Martini said the feasibility study would have to be amended and the process, including the public hearings would need to be started over again. Mayor Kind said if the properties between Mr. Lang and the end of the pipe agreed to the extension there would be 100% support. In that case would the process be required? City Attorney Kelly said it would, though it would politically be easier and could be expedited.

Dan Fick, MCES, said if the homeowners are sure they want to participate they can be added at a later date as a change order. Councilmember Fletcher asked what the cost would be. Mr. Fick said that would be based on what the bid unit cost was. Mayor Kind asked if the homeowners could just pay the change order cost without going through the process. City Attorney Kelly said there still needed to be a process. City Engineer Martini noted the change order could also raise the per unit cost on the other properties based on the length of the additional watermain needed. Kelly said the homeowners could go into the process with the understanding they would be responsible for 100% of the up charge on the change order.

Councilmember Fletcher said there may still be some savings to those homeowners on the "soft costs." City Attorney Kelly said the cost of the change order needs to be calculated up front and included in the petition before the Council so the cost doesn't have to be recalculated later and the assessment spread out over all the properties included in the project. City Engineer Martini agreed and said it should be considered a separate project. Councilmember Cook agreed that keeping this request as a separate project was the best approach.

John Lang, 21120 Excelsior Boulevard, addressed the Council. He said he has had contact with both of the neighbor on either side of his property both have shown some interest in participating in the project. One has said they are definitely interested while the other would still

like to know the specific numbers. Mayor Kind she was not interested in adding on a project unless all of the neighbors along the extension were interested. Councilmember Quam agreed and clarified what was needed from the neighbors. City Attorney Kelly said a petition would be needed from the homeowners. Mr. Lang said his only concern now, from the discussion that has taken place, is the potential change in his anticipated cost which was based on the numbers in the original feasibility study. City Engineer Martini said the cost would be based on the extension of the watermain divided by three. He doesn't expect it to double the cost or anything like that, but is unwilling to guess what that cost would be. Councilmember Cook feels it is appropriate for the Council to direct the City Engineer to calculate the anticipated expense to the homeowners and that the amount be included in their petition to the city. Martini recommended that the city determine the "stopping point," so the city does not have to face another situation where the next property owner wants to add on.

Cook moved, Quam seconded, directing the City Engineer to calculate the expenses required to extend the proposed watermain from its current end point to the "stopping point" once it is determined and provide the number to the City Clerk so the number can be given to Mr. Lang for inclusion on a petition to extend the watermain further. Motion passed 4/0.

Mayor Kind focused the discussion on the MCES plans distributed by the City Engineer. Mr. Martini said the plans are from the 95% plan submittal and have been reviewed by his office and their comments have been submitted to the Met Council for consideration in their final plan. Mr. Martini noted that the Met Council has been very patient with the city throughout the whole process.

Dan Fick Fink, MCES, said once the work has been completed the city will get a complete set of as-built plans for all work done in the city. Mayor Kind noted the plan shows concrete aprons on all driveways. City Engineer Martini said all driveways will get concrete aprons, even if they don't have them now. Mayor Kind asked about tree replacement. Mr. Fick said the largest extent of impacted trees in Greenwood would be near Christmas Lake Road and Manor Road. He said steps have been taken to minimize the impact by digging as shallow as possible in that area, but also the Met Council will prepare a landscaping plan to address any replacement needs. Kind said she could not find any mention of that in the agreement. Mr. Fick said it isn't in the current agreement but could be added. Kind said she would like tree replacement language added along with some language regarding sign replacement. Mr. Fick said sign replacement is included in the agreement. Kind said the issue is with the type of sign post used by the city and making sure the replacement posts are consistent. Martini said this would also be a good time to evaluate the need for the number of signs the city has along Excelsior Boulevard, noting there may be too many.

Councilmember Quam asked if there would be a crosswalk at Christmas Lake Road. Dan Fick, MCES, said there is not one shown on the current plan but it could be added. He said there are two designs, parallel lines or blocks. After some discussion the Council decided on a crosswalk with two parallel lines at Christmas Lake Road. Mr. Fick noted the City of Shorewood wanted a stop bar at the intersection of Excelsior Boulevard and Manor Road and asked if Greenwood would want the same. The Council said they would.

Mayor Kind asked if there were any further questions regarding the plans. Councilmember Cook said he wanted to hear the City Engineer say he reviewed the plans and they are acceptable. Mr. Martini said he has reviewed the plans and submitted his comments to the Met Council. He said the plans are consistent with standard watermain construction plans. Councilmember Fletcher asked if the Met Council has received the engineer's comments. Mr. Fick said they have and will incorporate the changes. It was noted that the MCES will be including the watermain project in its advertisement for bids for the total project.

Fletcher moved, Cook seconded, adopting RESOLUTION NO. 08-13, “A Resolution Approving Plans and Specifications and Ordering Advertisement for Bids for Excelsior Boulevard Watermain Option 1 Project. Motion passed 4/0.

3. Consider: Resolution 09-13 Approving Metropolitan Council Environmental Service (MCES) Agreement

Mayor Kind said the City Attorney and City Engineer reviewed the document and submitted their comments for the Council's consideration. Councilmember Quam asked if the city has the responsibility to raise issues but no authority to address them. Dan Fick, MCES, said that the city does not have any contractual authority, so that all construction issues would go through the MCES. In discussing the agreement, the city council agreed to the following changes:

Add the E and F paragraphs to I. PURPOSE OF THE AGREEMENT AND OBLIGATIONS:

- E. The Met Council will, at its own expense, replace trees, replace City signage, and repair City property disturbed during construction of the Total Project.
- F. Construction activities within the City of Greenwood shall be limited to one construction season (i.e. May 1, 2013 to November 31, 2013).

Strike and add text to Exhibit B-3, Services Provided, Reimbursable services provided by the City to the Council: Per this agreement, City staff and professional consultants ~~and the City's engineer~~ will provide services to Council for which the City will be reimbursed.

Add text to Exhibit B-3, Construction Phase: The total reimbursement shall be reasonable and based on invoices from the City. Amount is estimated to be \$ 25,000 based on 180 construction days.

Add new bullet to Exhibit B-3, Non-reimbursable services provided by the Council to the City, The Council will provide services to the City described below at no cost to the City:

- Change order fees for watermain extension to the following addresses: 21150 Excelsior Blvd., 21120 Excelsior Blvd., 21110 Excelsior Blvd., _____.

Quam moved, Fletcher seconded, adopting RESOLUTION NO. 09-13, “A Resolution Approving Cooperation Agreement Between Greenwood and Metropolitan Council Environmental Services for the MCES Excelsior Improvements Project #802850 with the changes as discussed. Motion passed 4/0.

4. Adjournment

Quam moved to adjourn. Second by Fletcher. Meeting adjourned at 7:12 pm.

Respectfully submitted
Gus Karpas
City Clerk

Check Issue Date(s): 02/01/2013 - 02/28/2013

Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
02/13	02/11/2013	10770	9	CITY OF DEEPHAVEN	101-20100	5,076.89
02/13	02/11/2013	10771	68	GOPHER STATE ONE CALL	602-20100	23.20
02/13	02/11/2013	10772	813	GTS EDUCATIONAL EVENTS	101-20100	2,048.82
02/13	02/11/2013	10773	3	KELLY LAW OFFICES	101-20100	2,535.75
02/13	02/11/2013	10774	754	Lake Minnetonka Association	605-20100	5,000.00
02/13	02/11/2013	10775	105	METRO COUNCIL ENVIRO SERVICES	602-20100	2,497.36
02/13	02/11/2013	10776	38	SO LAKE MINNETONKA POLICE DEPT	101-20100	14,754.00
02/13	02/11/2013	10777	745	Vintage Waste Systems	101-20100	1,628.25
02/13	02/11/2013	10778	145	XCEL ENERGY	602-20100	238.00
02/13	02/25/2013	10779	51	BOLTON & MENK, INC.	101-20100	7,503.50
02/13	02/25/2013	10780	792	CORNERSTONE INDUSTRIES INC	101-20100	2,121.75
02/13	02/25/2013	10781	99	LAKE MTKA CONSERVATION DISTRIC	101-20100	1,612.50
02/13	02/25/2013	10782	742	Marco, Inc.	101-20100	222.90
02/13	02/25/2013	10783	136	Sun Newspapers	502-20100	42.22
02/13	02/25/2013	10784	145	XCEL ENERGY	101-20100	435.14
02/13	02/11/2013	22644		Void Check	101-20100	.00 V
02/13	02/11/2013	22645		Void Check	602-20100	.00 V
02/13	02/11/2013	22646		Void Check	101-20100	.00 V
02/13	02/11/2013	22647		Void Check	101-20100	.00 V
02/13	02/11/2013	22648		Void Check	605-20100	.00 V
02/13	02/11/2013	22649		Void Check	602-20100	.00 V
02/13	02/11/2013	22650		Void Check	101-20100	.00 V
02/13	02/11/2013	22651		Void Check	101-20100	.00 V
02/13	02/11/2013	22652		Void Check	101-20100	.00 V
Totals:						<u>45,740.28</u>

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
BOLTON & MENK, INC.					
51	BOLTON & MENK, INC.	0154135	2012 MISC ENGINEERING FEES	01/31/2013	30.00
			2012 MISC ENGINEERING FEES		221.00
		0154137	2012 STREET IMPROVEMENT	01/31/2013	230.00
		0154138	EXC BLVD DRAINAGE IMPROV	01/31/2013	3,825.00
		0154139	WATERMAIN FEASIBILITY REPORT	01/31/2013	1,917.00
		0154140	I & I GRANT APPLICATION	01/31/2013	316.00
		0154142	2013 EXC BLVD WATERMAIN	01/31/2013	96.50
		0154143	SUMP PUMP FNDTN DRAIN INS	01/31/2013	868.00
Total BOLTON & MENK, INC.					7,503.50
CITY OF DEEPHAVEN					
9	CITY OF DEEPHAVEN	JANUARY 2013	RENT & EQUIPMENT	01/31/2013	542.95
			Postage		8.74
			COPIES		35.40
			SNOW PLOWING/SANDING/SALT		1,151.93
			STREETS		100.87
			Clerk Services		3,237.00
Total CITY OF DEEPHAVEN					5,076.89
CORNERSTONE INDUSTRIES INC					
792	CORNERSTONE INDUSTRIES INC	1139	SIGN PROJECT	11/01/2012	348.00
		1208	SNOW PLOWING	02/11/2013	1,773.75
Total CORNERSTONE INDUSTRIES INC					2,121.75
GOPHER STATE ONE CALL					
68	GOPHER STATE ONE CALL	61761	Gopher State calls	01/31/2013	23.20
Total GOPHER STATE ONE CALL					23.20
GTS EDUCATIONAL EVENTS					
813	GTS EDUCATIONAL EVENTS	14194	PLANNING/ZONING WORKSHOP	01/28/2013	2,048.82
Total GTS EDUCATIONAL EVENTS					2,048.82
KELLY LAW OFFICES					
3	KELLY LAW OFFICES	6057	GENERAL LEGAL	01/24/2013	833.75
			GENERAL LEGAL		1,587.00
		6058	LAW ENFORCE PROSECUTION	01/24/2013	115.00
Total KELLY LAW OFFICES					2,535.75
Lake Minnetonka Association					
754	Lake Minnetonka Association	020713	St ALBANS MILFOIL PROJECT	02/07/2013	5,000.00
Total Lake Minnetonka Association					5,000.00
LAKE MTKA CONSERVATION DISTRIC					
99	LAKE MTKA CONSERVATION DIST	021213	2nd Quarter Levy	02/12/2013	1,612.50
Total LAKE MTKA CONSERVATION DISTRIC					1,612.50
Marco, Inc.					
742	Marco, Inc.	222171647	Copier lease	02/11/2013	222.90

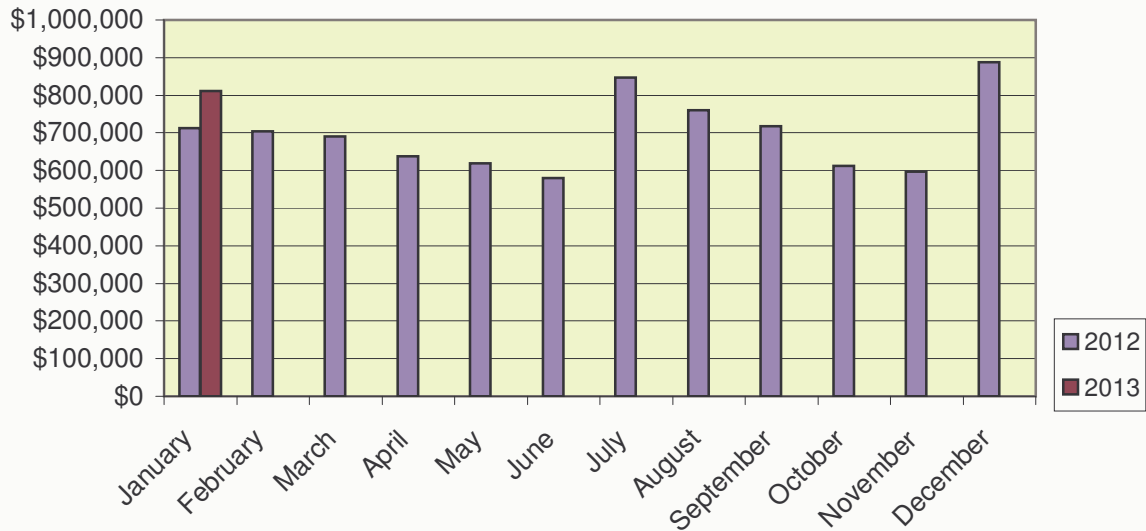
Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
	Total Marco, Inc.				222.90
METRO COUNCIL ENVIRO SERVICES					
105	METRO COUNCIL ENVIRO SERVIC	0001008780	Monthly wastewater Charge	02/07/2013	2,497.36
	Total METRO COUNCIL ENVIRO SERVICES				2,497.36
SO LAKE MINNETONKA POLICE DEPT					
38	SO LAKE MINNETONKA POLICE DE	FEB 2013	OPERATING BUDGET	02/01/2013	14,754.00
	Total SO LAKE MINNETONKA POLICE DEPT				14,754.00
Sun Newspapers					
136	Sun Newspapers	1149437	GRWD SWPPP	02/21/2013	42.22
	Total Sun Newspapers				42.22
Vintage Waste Systems					
745	Vintage Waste Systems	012813	City Recycling Contract	01/28/2013	1,628.25
	Total Vintage Waste Systems				1,628.25
XCEL ENERGY					
145	XCEL ENERGY	012513	Sleepy Hollow Road *	01/25/2013	9.98
			4925 MEADVILLE STREET *		9.88
			SIREN		3.92
			LIFT STATION #1		44.93
			LIFT STATION #2		38.75
			LIFT STATION #3		25.96
			LIFT STATION #4		33.13
			LIFT STATION #6		71.45
		020413	Street Lights *	02/04/2013	435.14
	Total XCEL ENERGY				673.14

Total Paid: 45,740.28

Total Unpaid: -

Grand Total: 45,740.28

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	\$0	-\$812,019	-\$704,873
March	\$690,422	\$0	\$0	-\$690,422
April	\$637,990	\$0	\$0	-\$637,990
May	\$618,262	\$0	\$0	-\$618,262
June	\$580,578	\$0	\$0	-\$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	\$542,782
Bridgewater Bank Checking	\$5,923
Beacon Bank CD	\$240,000
Beacon Bank Money Market	\$23,214
Beacon Bank Checking	\$100
	<u>\$812,019</u>

ALLOCATION BY FUND

General Fund	\$255,809
General Fund Designated for Parks	\$27,055
Bridge Capital Project Fund	\$78,613
Stormwater Special Revenue Fund	\$10,824
Sewer Enterprise Fund	\$413,865
Marina Enterprise Fund	\$25,853
	<u>\$812,019</u>

Pay Per Date	Jrnl	Check Date	Check Number	Payee	Emp No	Amount
03/01/13	PC	03/01/13	3011301	COOK, WILLIAM B.	37	184.70
03/01/13	PC	03/01/13	3011302	Debra J. Kind	34	277.05
03/01/13	PC	03/01/13	3011303	Fletcher, Thomas M	33	84.70
03/01/13	PC	03/01/13	3011304	Quam, Robert	32	184.70
03/01/13	PC	03/01/13	3011305	ROY, ROBERT J.	38	184.70
Grand Totals:						<u>915.85</u>



Agenda Number: **5A**

Agenda Date: 03-06-13

Agenda Item: Stormwater Pollution Prevention Program Annual Public Hearing

Summary: In 2003, all cities in the metropolitan area were required to submit a Stormwater Pollution Prevention Plan (SWPPP) outlining the steps they would take to limit runoff into protected water bodies. This is done through the adoption of Best Management Practices (BMP's) in six categories; Public Education and Outreach on Stormwater Impacts, Public Participation/Involvement, Illicit Discharge Detection and Elimination, Construction Site Stormwater Runoff Control, Post-construction Stormwater Management in New Development and Redevelopment and Pollution Prevention/Good Housekeeping for Municipal Operations.

The MPCA is working on reissuance of the MS4 General Permit, which expired May 2011. The last MS4 General Permit issued was to address the new federal Phase II stormwater regulations for small MS4s. These federal rules identified an iterative process for improved stormwater management where MS4 programs are strengthened with each five-year permit cycle. This permit reissuance will shift from the initial focus on permit program development to measuring implementation. Permit revisions will focus on main issues that have been identified for improvement from the existing permit with efforts to streamline and clarify permit requirements.

In addition, federal rulemaking is currently under way to overhaul the municipal stormwater program; USEPA plans to propose rules to control stormwater from, at minimum, newly developed and redeveloped sites. Final action on this rule was expected by December 2012, but has not yet taken place. The MPCA will need to comply with the new federal rules with the 2016 MS4 General Permit reissuance.

As part of the program the city must hold annual public hearings to collect public input on the program and to document suggestions. The previous hearings have yielded no public comment.

Questions may be directed to city clerk / city zoning administrator Gus Karpas.

Council Action: Council action is required to open and close the public hearing. Otherwise, no other council action is needed.

1. I move the council opens the public hearing.
2. I move the council closes the public hearing.



Agenda Number: 6A

Agenda Date: 03-06-13

Agenda Item: Excelsior Blvd. Watermain Project
Consider: Greenwood / Excelsior Agreement for Watermain Expansion
Consider: Greenwood / Excelsior Agreement for Water Services

Summary: On 06-13-12 the city received a petition from several residents between 21380 and 21170 Excelsior Blvd. requesting to hook up to the Excelsior city water system as part of the upcoming Met Council Environmental Services (MCES) sanitary sewer forcemain project. As a result of the petition the city council ordered a feasibility report prepared by the city engineer for a watermain project to the petition zone (Option 1) and has followed the attached timeline to comply with the state-mandated process and fit the MCES schedule.

The next step in the process is to consider approval of two water agreements between the cities of Greenwood and Excelsior. One agreement is for the water service expansion to add on to the existing watermain. The second agreement is for water services in general for existing and new Greenwood customers of Excelsior water. At the 02-06-13 meeting the Greenwood council reviewed drafts of the agreements created by the city attorney. The drafts were forwarded to the Excelsior city council. Excelsior will review and take action on the agreements at their 03-04-13 meeting (after the Greenwood council packet deadline). Hard copies of the Excelsior-approved water agreements will be available at the 03-06-13 council meeting.

Potential New Petition

At the 02-20-13 special meeting, the council heard from resident John Lang (21120 Excelsior Blvd) who wanted to know if it was too late for the watermain to be extended to his property. Based on the council discussion with the city engineer, city attorney, and Dan Fick (MCES), it was determined that additional watermain footage could be added as a change order if the city receives a petition from Mr. Lang and the property between him and the current end point. Since the 02-20-13 meeting, Mr. Lang has advised the city that it is likely that all 5 homes next in line are interested in signing a new petition. The city engineer suggested that the city determine the "stopping point" before proceeding with creating a cost estimate for any new add-on properties. Therefore, city clerk Gus Karpas sent a letter (attached) to the next property in line (Quackenboss, 21030 Excelsior Blvd.). Once the stopping point is determined, a rough cost estimate will be calculated to be used on the potential petition. If a new petition is received by the city, the timeline will be adjusted to accept the petition, order feasibility report, post public notices, hold the public hearing, etc. for the new petition. The goal is to get both petition zones in sync before assessment hearings are set.

Council Action: Optional. Potential motions ...

1. I move the council approves the Greenwood / Excelsior Agreement for Water Service Expansion as presented and authorizes the mayor and city clerk to sign the agreement.
2. I move the council approves the Greenwood / Excelsior Agreement for Water Services as presented and authorizes the mayor and city clerk to sign the agreement.



February 22, 2013

MICHAEL & CRISTINE QUACKENBOSS
21030 EXCELSIOR BLVD
GREENWOOD MN 55331

RE: Potential extension of watermain along Excelsior Blvd.

Michael & Cristine,

The city received a petition to extend city water services from the city of Excelsior to Greenwood residents along Excelsior Blvd. The petition included properties between 21380 and 21170 Excelsior Boulevard, and the city proceeded with the state mandated process (feasibility study, public notices, public hearing, etc.) to expand water to the petition zone. Recently, the city has received an inquiry from 5 properties east of 21170, the current end point of the proposed watermain, to be included in the project. Because of this, the city council is considering initiating a 2nd process to extend the project to those properties. However, before proceeding with the next steps, the city council would like to know the degree of interest of those properties east of 21080 Excelsior Boulevard, the current end point of the "2nd phase" to determine where the watermain would terminate along Excelsior Blvd. Your property is the next one along the potential new line and the city would like to gauge your interest level in participating in this project, or if it should consider 21080 the end of the watermain.

Please contact me as soon as possible if you are interested in having the watermain extended to your property. The city council likely will not vote to install a watermain serving your property without first receiving a petition from you. Final cost will be determined by the city engineer's feasibility study, but for your information the assessed cost likely will be at least \$10,500 plus connection costs, water meter fees, and future water service fees. If you do not contact the city by March 6, 2013, it will be assumed that you are not interested in having city water extended to your property.

Please call me if you have any questions.

A handwritten signature in black ink that reads "Gus Karpas". The signature is stylized with a large, sweeping initial "G" and a trailing flourish.

Gus E. Karpas
City Zoning Administrator / City Clerk

Excelsior Blvd. Watermain Project Timeline

Updated 02-23-13

		Goal Date	Completion Date
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	GW preliminary feasibility report completed for Option 1 (see footnote)		10/3/12
4	Feasibility report reviewed by GW planning commission for compliance with comp plan	10/17/12	10/17/12
5	GW deadline to submit public hearing notice for Option 1 to Sun-Sailor (Thursday before publication)	12/13/12	12/13/12
6	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	12/20/12 and 12/27/12
7	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	12/13/12
8	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	1/2/13
9	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	1/10/13
10	GW reviews EX-GW cooperative agreements for submitting to EX.	2/6/13	2/6/13
11	GW considers resolution ordering improvement and preparation of plans (Forms 7, 7A, 8).	2/6/13	2/6/13
12	Deadline to post notice for 2/20 special meeting (72 hours notice required).	2/15/13	2/15/13
14	GW considers resolution approving plans. NOTE: MCES will be advertising for bids.	2/20/13	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	2/20/13
16	MCES advertizes for bids.	3/4/13	
13	EX considers approval of EX-GW cooperative agreements.	3/4/13	
14	GW considers approval of EX-GW cooperative agreements.	3/6/13	
17	MCES opens bids.	4/4/13	
18	GW and EX go / no-go decision (per co-op agreements with MCES).	4/8/13	
19	MCES notice to proceed.	6/7/13	
20	MCES starts construction.	Before 7/1	
21	GW preparation of assessment roll. (Forms 12, 13)	TBD	
22	GW resolution for hearing on proposed assessment. (Form 14)	TBD	
23	GW affidavit of publication of notice of hearing. (Form 15)	TBD	
24	GW affidavit of mailing notice to affected property owners. (Form 15A)	TBD	
25	GW minutes of public hearing showing testimony and findings.	TBD	
26	GW resolution adopting assessment. (Form 16)	TBD	
27	GW notice of final assessment. NOTE: This may be an optional step. (See Form 17A)	TBD	
28	GW certification of assessment to county auditor. (Form 18, 18A) NOTE: If annual certification plan is followed, the clerk may wish to include a separate sub-step for each year.	TBD	

GW = Greenwood, EX = Excelsior

Option 1: EX watermain extension to GW petition area only



Agenda Number: 6B

Agenda Date: 03-06-13

Agenda Item: Ordinance 214 Regarding Impervious Surface Requirements

Summary: At the 02-06-13 city council meeting, the council discussed the planning commissions recommendations for ordinance 214 to address the issue where variance applicants propose to trade some of their landscaping hardcover in excess of 30% to increase the size of their home structure to more than the 30% hardcover allowed by code, and then propose to remove some of the remaining landscaping hardcover to claim they are “reducing” their overall hardcover.

The 02-06-13 council discussion focused on the fact that the city cannot require a property owner to reduce *legal* nonconforming landscaping hardcover as a condition of approval for a variance. Based on the discussion, the council approved the first reading of ordinance 214 (attached) with the changes highlighted in red. These changes have been reviewed and approved by the city attorney.

If the council approves the 2nd reading of the ordinance, the council may wish to approve a shorter summary resolution (also attached) for publication. The summary has been reviewed and approved by the city attorney.

City Council Action: Optional. Potential motions ...

1. I move the city council approves the 2nd reading of ordinance 214 regarding impervious surface requirements as presented.
2. I move the city council approves the 2nd reading of ordinance 214 regarding impervious surface requirements with the following revisions: _____.
3. I move the city council approves resolution 11-13 summary of ordinance 214 for publication as presented.
4. I move the city council approves resolution 11-13 summary of ordinance 214 for publication with the following revisions: _____.
5. Do nothing or other motion ???

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ORDINANCE CODE SECTION 1155 VARIANCES AND SECTION 1176 SHORELAND
MANAGEMENT DISTRICT, REGARDING VARIANCE POLICIES, EVALUATION CRITERIA, AND CONDITIONS
RELATING TO IMPERVIOUS SURFACES**

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 1155.10 subd. 7 is amended to read as follows:

“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.”

SECTION 2.

Greenwood ordinance code section 1176 is amended to add the following section:

“Section 1176.07.05. Variances.

Subd. 1. Review Procedure. Variance allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of variances established in section 1155. The following additional policies, evaluation criteria, and conditions apply within the shoreland management district.

Subd. 2. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:

1. The prevention of soil erosion or the possible pollution of public waters, both during and after construction.
2. The visibility of structures and other facilities as viewed from public waters is limited.
3. The site is adequate for water supply.

Subd. 3. Conditions. The city council, upon consideration of the criteria listed above and the purpose of this ordinance, shall attach such conditions to the issuance of variances as it deems necessary to fulfill the purpose of this ordinance. Such conditions may include but are not limited to the following:

1. Increased setbacks from the ordinary high water level.
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
3. Special provisions for the location, design, and use of structures, watercraft and aircraft launching and dock areas, and vehicle parking areas.

Subd. 4. Impervious Surface Policies and Conditions.

1. ~~Variance applicants with existing nonconforming impervious surface coverage (hardcover) shall be required to reduce the amount of impervious surface by 1.5% for each 1% of impervious added added.~~ Variance applicants with total impervious surface coverage in excess of 30% shall have the burden of proof to establish that the excess is a *legal* nonconforming use by showing evidence the excess has been in existence since before the shoreland management ordinance was adopted (December 1992), or by showing the excess was approved by the city. If no such evidence exists, then the impervious surface in excess of 30% shall be deemed an *illegal* nonconforming use, and the city council may require the property owner to reduce impervious surfaces as a condition of variance approval.
2. ~~Impervious landscaping~~ Landscaping related impervious surfaces cannot be exchanged for an increase in structural ~~hardcover~~ related impervious surfaces to obtain a variance. ~~To implement this policy~~ Variance applicants shall provide a certified survey showing separate calculations for structural related impervious surfaces and ~~nonstructural~~ landscaping related impervious surfaces.
 - Structural ~~hardcover~~ related impervious surfaces includes buildings, decks, staircases, etc.
 - ~~Nonstructural hardcover~~ Landscaping related impervious surfaces includes driveways, sidewalks, retaining walls, steps, plastic landscaping sheets, patios, etc.
3. ~~Conditions to the issuance of variances may include but are not limited to the following:~~
 - A. ~~Reduction of decks, patios~~
 - B. ~~Reduction of driveways, turnarounds, parking areas~~

Subd. 5. State Requirements. Variances may only be granted in accordance with Minnesota statutes chapter 462. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record,

the notification of the approved variance required elsewhere in this section also shall include both the planning commission's and the city council's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance."

SECTION 3.

Greenwood ordinance code section 1176.07 subd. 4 is renumbered as follows:

"Section 1176.07.10. Notifications to the Department of Natural Resources.

Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked at least 10 days before the hearing. Notices of hearing to consider proposed subdivisions/plats must include copies of the subdivisions/plat. Upon final action by the city council, a copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under this section must be sent to the commissioner of the Department of Natural Resources and postmarked within 10 days of final action."

SECTION 4.

Greenwood ordinance code section 1176.07 subd. 5 is deleted (note this paragraph is included in the new section 1176.07.05, subd. 5).

SECTION 5.

Greenwood ordinance code section 1176.06 Subd 1 is amended to read as follows:

"Subd. 1. Existing Nonconforming Use of Non-Riparian Lots. Existing legal nonconforming multiple use of non-riparian lots may continue as a nonconforming use under terms of the underlying zoning ordinance and may be upgraded and maintained so long as any upgrade is performed within the allowable height, setback, massing, and impervious coverage requirements of this ordinance."

SECTION 6.

Effective Date. This ordinance shall be effective upon publication according to law.

Enacted by the city council of the city of Greenwood, Minnesota this ____ day of _____, 2012.

____ AYES ____ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: February 6, 2012
Second reading: _____, 2012
Publication: _____, 2012

RESOLUTION 11-13

A RESOLUTION APPROVING PUBLICATION OF ORDINANCE NUMBER 214 BY TITLE AND SUMMARY

WHEREAS, on March 6, 2013 the city council of the city of Greenwood adopted "Ordinance 214 an ordinance of the city of Greenwood, Minnesota amending Greenwood ordinance code section 1155 variances and section 1176 shoreland management district, regarding variance policies, evaluation criteria, and conditions relating to impervious surfaces."

WHEREAS, the city has prepared a summary of ordinance 214 as follows:

1. Applicants seeking variances to exceed impervious surface coverage by 30% shall have the burden of establishing that any excess impervious surface was in existence since before the Shoreland District Management ordinance was adopted in December 1992, or the excess impervious surface shall be deemed an *illegal* nonconforming use, and the city council may require the property owner to reduce hardcover as a condition of any variance approval.
2. Existing landscaping related impervious surfaces cannot be exchanged for an increase in structural related impervious surfaces to obtain a variance.
3. To implement the policy, the ordinance requires variance applicants to provide a certified survey showing separate calculations for structural related impervious surfaces and landscaping related impervious surfaces.

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD:

1. The city council finds that the above title and summary of ordinance 214 clearly informs the public of intent and effect of the ordinance.
2. The city clerk is directed to publish ordinance 214 by title and summary, pursuant to Minnesota statutes, section 412.191, subdivision 4.
3. A full copy of the ordinance is available at the Greenwood city office, 20225 Cottagewood Road, Deephaven, MN 55331.

ADOPTED by the city council of the city of Greenwood, Minnesota this ____ day of _____, 2012.

____ AYES ____ NAYS

CITY OF GREENWOOD

Debra J. Kind, Mayor

Attest: Gus E. Karpas, City Clerk

First reading: _____, 2012

Second reading: _____, 2012

Publication: _____, 2012



Agenda Number: 6C

Agenda Date: 03-06-13

Agenda Item: 2nd Reading Ordinance 215 Regarding Building Volume Regulations

Summary: At the 02-06-13 city council meeting, the council reviewed the planning commission's recommendations for ordinance 215 regarding small lot rules. The intent of the ordinance was to reduce the number and severity of variances granted for small lots. The planning commission recommended relaxing only the building volume standard, and to make no changes to the standards for setbacks and hardcover. At the 02-06-13 meeting, Mayor Kind, Councilman Fletcher, and Councilman Quam stated they were in favor of making changes to the setback and hardcover standards for small lots. Councilman Cook and Councilman Roy favored supporting the planning commission recommendation and leaving the ordinance as is. Councilman Fletcher and Councilman Quam stated that they would not want to change the setback and hardcover ordinances unless there was broad council support. Therefore the council proceeded with changes to the building volume ordinance only. Fletcher noted that a couple numbers needed to be revised in the ordinance, because as it was written a 7500 square-foot lot would be able to have more volume than an 8000 square-foot lot. Fletcher's suggested changes were made to the ordinance and the 1st reading was approved at the 02-06-13 council meeting. The revised ordinance is attached. If the council approves the 2nd reading, the ordinance will go into effect once it is published in the city's official newspaper.

City Council Action: Optional. Potential motions ...

1. I move the city council approves the 2nd reading of ordinance 215 regarding building volume regulations as presented.
2. I move the city council approves the 2nd reading of ordinance 215 regarding building volume regulations with the following revisions: _____.
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.

ORDINANCE NO. 215

**AN ORDINANCE OF THE CITY OF GREENWOOD, MINNESOTA
AMENDING GREENWOOD ORDINANCE ZONING CODE ~~CHAPTER 11 REGARDING RULES FOR SMALL LOTS~~
SECTION 1140.18 REGARDING BUILDING VOLUME**

THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA DOES ORDAIN:

SECTION 1.

Greenwood ordinance code section 1140.18 subd. 3 (1) ~~(2) & (3) is are~~ amended to read as follows:

- "(1) Lots of 7500 square feet or less in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to 6 times the lot area.
- (2) Lots between 7500 square feet and 15,000 square feet in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to ~~37,500~~ 42,000 cubic feet plus a volume of cubic feet equal to a figure 4 times (lot area minus 7500 square feet).
- (3) Lots greater than 15,000 square feet in area may be host to buildings, structures, and accessory structures whose above grade building volume is not greater than a volume equal to ~~67,500~~ 75,000 cubic feet plus a volume of cubic feet equal to a figure 2 times (lot area minus 15,000 square feet)."

SECTION 2.

Effective Date. This ordinance shall be effective upon publication according to law.

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

____ AYES ____ NAYS

CITY OF GREENWOOD

By: _____
Debra J. Kind, Mayor

Attest: _____
Gus E. Karpas, City Clerk

First reading: February 6, 2013
Second reading: _____, 2013
Publication: _____, 2013



Agenda Number: **7A**

Agenda Date: 03-06-13

Agenda Item: Resolution 10-13, Planning Commission Appointments

Summary: Each year three to four of planning commission terms expire. Terms are for two years and there is no limit to the number of terms that may be served. Planning commission members are appointed by the city council at the March council meeting and as needed to fill a vacancy. Notification regarding term expirations was announced at the December council meeting. An article seeking applicants was published in the last edition of the Greenwood Quarterly newsletter. Greenwood residents interested in serving on the planning commission are asked to complete an application available at city hall and on the city website. New applicants also are asked to attend the March council meeting, so the council can conduct a casual "interview." Incumbent applicants typically submit a letter and do not attend the council meeting.

See the list of 2012 planning commissioners in the left column of the attached resolution. The terms of Pat Lucking (seat B-1) and Kristi Conrad (seat B-2) expire in March 2013. The term of the vacant Alternate-2 seat also expires in March. Both Pat Lucking and Kristi Conrad have stated that they are willing to serve another 2-year term and have submitted letters (see attached). As of the council packet deadline, no new applications have been received.

Past protocol has been to reappoint commissioners that are willing to serve again, for alternate members to move up to voting positions that open up on the commission, and for new applicants to fill the alternate positions. Based on this protocol, the new appointments would be as listed in the right column on the attached resolution.

Council Action: Council action required. Potential motion ...

1. I move the council approves resolution 10-13 updating the city's planning commission appointments and directs that the oath of office be administered to the new planning commissioners at the next planning commission meeting.

PLANNING COMMISSION ATTENDANCE - 2012

Commissioner Name	January	February	March	April	May	June	July	August	September	October	November	December
John Beal						Absent		Absent		Absent		
Lisa Christian				*	*	*			Absent			Absent
Kristi Conrad											Absent	
Bill Cook									*	*	*	*
Pat Lucking												
Dave Paeper								Absent		Absent		
Doug Reeder								Absent			Absent	

* Not on the Commission

No Meeting

From: Kristi Conrad <kaconrad@gmail.com>
Subject: Planning Commission
Date: February 25, 2013 8:55:00 AM CST
To: Debra Kind <dkind100@gmail.com>
Cc: Gus Karpas <guskarpas@mchsi.com>

Please accept my request to continue serving on the Greenwood Planning Commission.

Thanks,
Kristi Conrad
21780 Fairview St.
Greenwood, MN 55331

From: Pat Lucking <plucking@idimn.com>
Subject: Planning commision
Date: November 30, 2012 4:57:50 PM CST
To: "Debra Kind (dkind100@gmail.com)" <dkind100@gmail.com>
Cc: "Gus Karpas (guskarpas@mchsi.com)" <guskarpas@mchsi.com>

Please consider this my request to continue serving on the Greenwood planning commission. Please confirm receipt. Thanks

Pat Lucking
Insulation Distributors, Inc.
plucking@idimn.com
952.937-2000 Office
952.937-9809 Fax
952.279-6403 Direct
952.279-6803 Direct Fax
www.idimn.com

Resolution 06-13
City of Greenwood Appointments & Assignments for 2013

Be it resolved that the city council of the city of Greenwood, Minnesota approves the following appointments for Mar. 6, 2013 through Dec. 31, 2013

OFFICE & DESIGNATIONS	2012 HOLDER	2013 HOLDER
Mayor Pro-Tem	Bob Quam	Bob Quam
Administrative Committee	Tom Fletcher, Deb Kind	Tom Fletcher, Deb Kind
Animal Enforcement Officer	South Lake Police Department	South Lake Police Department
Assessor	Hennepin County	Hennepin County
Attorney	Mark Kelly	Mark Kelly
Auditor	CliftonLarsonAllen	CliftonLarsonAllen
Bank Signatures	Kind, Quam, Courtney	Kind, Quam, Courtney
Building Official	Bob Manor	Bob Manor
Clerk	Gus Karpas	Gus Karpas
Depositories	Bridgewater Bank, Beacon Bank	Bridgewater Bank, Beacon Bank
Engineer	Bolton & Menk (Dave Martini)	Bolton & Menk (Dave Martini)
Fire Board Representative – 4th Wed (Jan, Mar, May, Jul, Sep, Nov)	Tom Fletcher, Bob Quam (alt.)	Tom Fletcher, Bob Quam (alt.)
Forester / Tree Inspector	Manuel Jordan	Manuel Jordan
Lake Minnetonka Communications Commission (LMCC) Representative 2 representatives, 1 must be elected official, meets 3rd Tues (Feb, May, Aug, Nov)	Tom Fletcher, Deb Kind	Tom Fletcher, Deb Kind, Rob Roy (alternate)
Lake Minnetonka Conservation District (LMCD) Rep – 2nd and 4th Wed	Kelsey Page	Rob Roy (1/31/14)
Marina Clerk		Deborah Hicks
Minnetonka Community Education (MCE) Representative – 4th Mon	Bob Quam	Bob Quam
Newspapers	Sun-Sailor, Star Tribune (alt.)	Sun-Sailor, Star Tribune (alt.)
Planning Commissioners – 3rd Wed	A-1 Douglas Reeder (3/14)	A-1 Douglas Reeder (3/14)
	A-2 John Beal (3/14)	A-2 John Beal (3/14)
	A-3 Dave Paeper (3/14)	A-3 Dave Paeper (3/14)
	B-1 Pat Lucking (3/13)	B-1 Pat Lucking (3/15)
	B-2 Kristi Conrad (3/13)	B-2 Kristi Conrad (3/15)
	Alt-1 Lisa Christian (3/14)	Alt-1 Lisa Christian (3/14)
	Alt-2 Vacant (3/13)	Alt-2 Vacant (3/15)
Planning Commission Liaison – 3rd Wed	Bill Cook	Bill Cook
Prosecutor	Greg Keller	Greg Keller
Responsible Authority (Govt. Data Practices Act)	Gus Karpas	Gus Karpas
Road and Sewer Liaison	Bob Quam	Bob Quam
South Lake Minnetonka Police Department (SLMPD) Coordinating Committee Representative (Must be mayor, meets quarterly)	Deb Kind, Bob Quam (alternate)	Deb Kind, Bob Quam (alternate)
Treasurer	Mary Courtney	Mary Courtney
Utility Billing Clerk		Deborah Hicks
Weed Inspector (Must be mayor), Assistant Weed Inspector	Deb Kind, Assistant Gus Karpas	Deb Kind, Assistant Gus Karpas
Zoning Administrator	Gus Karpas	Gus Karpas

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENWOOD, MINNESOTA

that any and all commissioners, appointees, representatives, delegates, or other non-elected officials of the city shall hold their official status or membership on a basis subject to resolution, subject to reconsideration, and/or removal at the insistence of the city council. This resolution is enacted pursuant to the codes of the city.

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

There were ____ AYES and ____ NAYS

By: _____
Debra J. Kind, Mayor, City of Greenwood

Attest: _____
Gus E. Karpas, City Clerk, City of Greenwood



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: February 8, 2013

To: Lake Minnetonka Conservation District Board
c/o Greg Nybeck, Executive Director
Email: gnybeck@lmcd.org

From: Greenwood City Council

Re: **Comments Regarding Bow-Fishing Regulations**

At our 02-06-13 meeting the Greenwood city council reviewed and discussed your 01-25-13 letter regarding bow-fishing regulations on Lake Minnetonka. The following outlines our comments:

1. Greenwood does not have a specific bow-fishing ordinance. We do have an ordinance (section 900.25, subd. 1(1) that prohibits the reckless handling of a dangerous weapon that endangers the safety of another. But we have no way to enforce the ordinance on the waters of Lake Minnetonka.
2. The Greenwood city council's collective rankings of the three options in the letter are:
#1 Our first choice is to have a lake-wide ordinance.
#2 Our second choice would be to operate as we currently do per state law and city ordinances.
#3 We do not support prohibiting bow-fishing entirely on Lake Minnetonka.
3. We support a lake-wide ordinance to offer clarity to lake users who are unfamiliar with which of the 14 cities they are in as they fish around Lake Minnetonka.
4. We support a lake-wide ordinance that is enforceable by the DNR and Hennepin County Water Patrol – our only enforcement agencies with jurisdiction on the waters of Lake Minnetonka.
5. We support the removal of rough fish from Lake Minnetonka, so we would like to see very few restrictions added to the state statute. We would consider the following to be reasonable restrictions for a lake-wide ordinance:
 - a. 300 ft. setback from swimming beach, swimmer, or diver
 - b. 50 ft. tether

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



Date: February 8, 2013

To: Hennepin County Commissioners
c/o David J. Hough, Acting County Administrator
Email: david.hough@co.hennepin.mn.us

From: Greenwood City Council

Re: **Comments Regarding Hennepin County Watershed Management Reorganization**

At our 02-06-13 meeting the Greenwood city council reviewed and discussed the concept to reorganize and optimize watershed management organizations (WMOs). The following outlines our comments:

1. Overall we support the concept of consolidation. This will allow the WMOs to take a comprehensive approach to water management and equal the playing field regarding taxing authority. We also would be supportive of funding the WMOs out of city tax levies to provide greater accountability to taxpayers.
2. We support appointing city officials (elected or staff) to the WMO manager positions. We believe city officials will provide "accountability" and a balanced approach to water management. In the past, appointed board members tend to have been "activists" who support water quality issues without accountability to taxpayers. Having city officials as managers also will promote collaboration with local government.
3. We agree with using city officials (elected or staff) from each city to serve on the transition plan committee to determine the comp plan, bylaws, rules, and developing a method for selection of managers to the WMOs. We support having 5 to 7 managers for each WMO -- any more than 7 managers makes discussion and decision making too cumbersome.

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



Date: February 11, 2013

To: Burl Haar, Executive Secretary, Minnesota Public Utilities Commission, burl.haar@state.mn.us
Dave Birkholz, Minnesota Energy Facility Permitting, david.birkholz@state.mn.us
Paul Lehman, Xcel Energy, paul.lehman@xcelenergy.com
Timothy G. Rogers, Xcel Energy, timothy.g.rogers@xcelenergy.com
Michelle Swanson, Xcel Energy, michelle.m.swanson@xcelenergy.com

From: Greenwood City Council

Re: **Comments Regarding Routing of the Xcel Energy Scott County Bluff Creek to Westgate Transmission Upgrade Project – Docket Numbers 11-948 and 11-332**

At our 02-06-13 meeting the Greenwood city council discussed the Hwy. 5 Alternative for the routing of the Xcel Energy Scott County to Westgate 115kV upgrades. This memo outlines our comments.

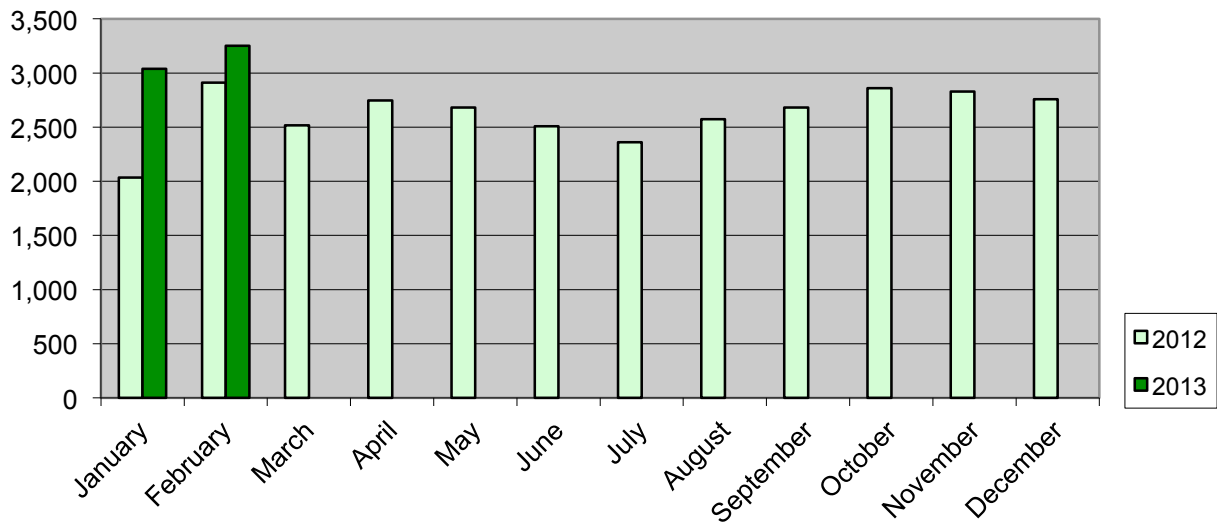
We strongly support the Hwy. 5 Hybrid Alternative because:

1. It utilizes existing infrastructure and is a cost-effective solution for upgrading the system.
2. The proposed new substation would be in the commercial / industrial southwest corner of Audubon Road and Lyman Boulevard. By comparison, if the popular Three Rivers Park District recreational trail through Greenwood is the chosen route, the physical size and dominance of the proposed power poles would dramatically change the character of the trail and the Greenwood homes on smaller lots along the transmission line. We understand that every city thinks they are "special," but the route through our city is also viewed from the waters of Lake Minnetonka – one of the jewels of our state.
3. The proposed new substation would add 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 also support screening of new substations and existing substations. While we understand that it is possible that Xcel may not be "required" to improve the screening of existing substations outside the scope of the project, we encourage Xcel to work in partnership with affected cities to minimize the visual impact of all substations.

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

**City of Greenwood
Website Total Hits**



Month	2012	2013	Variance with Prior Month	Variance with Prior Year
January	2,034	3,038	280	1,004
February	2,911	3,252	214	341
March	2,516		-3,252	-2,516
April	2,746		0	-2,746
May	2,682		0	-2,682
June	2,509		0	-2,509
July	2,361		0	-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	3,145		

TOTAL NUMBER OF EMAIL ADDRESSES IN BULK MAIL DATABASE: 136

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

1/15/2013 ▾

End Date

2/15/2013 ▾

Report Name

Page Views (Default) ▾

[Get Report](#)

Page Views by Section

Section	Page Views	Percent of Total
Default Home Page	1078	33.15%
Swiffers NOT Flushable	461	14.18%
Agendas, Packets & Minutes	223	6.86%
City Departments	132	4.06%
Budget & Finances	97	2.98%
Planning Commission	91	2.8%
Mayor & City Council	89	2.74%
RFPs & Bids	78	2.4%
Forms & Permits	70	2.15%
Code Book	61	1.88%
Welcome to Greenwood	58	1.78%
Garbage & Recycling	56	1.72%
Assessments & Taxes	49	1.51%
Watercraft Spaces	46	1.41%
Events	45	1.38%
Photo Gallery	43	1.32%
Comprehensive Plan & Maps	41	1.26%
Lake Minnetonka	39	1.2%
Links	36	1.11%
What's New?	35	1.08%
Planning & Zoning Workshop	35	1.08%
Old Log Community Events	34	1.05%
Xcel Project Update!	33	1.01%
Meetings	32	0.98%
Emergency Preparedness	29	0.89%
Well Water	27	0.83%
Meetings on TV	25	0.77%
Spring Clean-Up Day	25	0.77%
Community Surveys	24	0.74%

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.

Community Surveys	27	0.71%
Health & Safety	23	0.71%
Elections	22	0.68%
Milfoil Project	22	0.68%
Search Results	20	0.62%
Email List	19	0.58%
Animal Services	17	0.52%
Southshore Center	17	0.52%
Crime Alert!	16	0.49%
Unsubscribe	4	0.12%
TOTAL	3252	100%

Unique IPs by Section

Section	Unique IPs	Percent of Total IPs
Default Home Page	398	35.38%
City Departments	71	6.31%
Agendas, Packets & Minutes	64	5.69%
Swiffers NOT Flushable	51	4.53%
Mayor & City Council	41	3.64%
Forms & Permits	33	2.93%
Welcome to Greenwood	33	2.93%
Planning Commission	28	2.49%
Code Book	26	2.31%
Planning & Zoning Workshop	24	2.13%
Photo Gallery	23	2.04%
Links	23	2.04%
Assessments & Taxes	21	1.87%
What's New?	20	1.78%
Watercraft Spaces	20	1.78%
Garbage & Recycling	20	1.78%
Lake Minnetonka	19	1.69%
Old Log Community Events	19	1.69%
Comprehensive Plan & Maps	19	1.69%
Xcel Project Update!	16	1.42%
Budget & Finances	13	1.16%
Events	12	1.07%
Emergency Preparedness	11	0.98%
Southshore Center	11	0.98%
RFPs & Bids	11	0.98%
Search Results	11	0.98%
Email List	10	0.89%
Well Water	10	0.89%
Meetings	10	0.89%
Milfoil Project	10	0.89%
Spring Clean-Up Day	8	0.71%
Animal Services	7	0.62%
Community Surveys	7	0.62%
Health & Safety	7	0.62%
Elections	6	0.53%
Meetings on TV	6	0.53%
Crime Alert!	4	0.36%
Unsubscribe	2	0.18%
TOTAL	1125	100%

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

Generate and Download

Done

February 20, 2013

Morgan V, LLC
34321 Myrtle Lane
Union City, CA 94587

To Whom It May Concern:

The tenant occupying the property located at 21380 State Highway 7, commonly known as the Lakeshore Market, vacated the premises on February 17, 2013. The property has been used as a convenience store and gas station. These uses are not permitted under the current city code, thus exist as a nonconforming use.

Nonconforming uses are regulated by Section 1145 of the city code, entitled "Nonconforming Uses". Section 1145.00(a) reads in part;

"Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter may be continued including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than 1 year."

Section 1145.10 of the city code address discontinuance of a nonconforming use.

"Section 1145.10. Discontinuance. In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of 1 year, the use of the same shall thereafter conform to the regulations of the district in which it is located."

This letter serves as notification that if the use of the property is not restored to that of a convenience store and gas station by February 17, 2014, it will lose its nonconforming status and any future use shall comply with the provision outlined in the city code.

Sincerely,

Gus Karpas
City Clerk/Zoning Administrator

Cc: File
Mayor Kind and City Councilmembers
City Attorney Mark Kelly