



AGENDA OF THE REGULAR MEETING OF
THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
June 9, 2020
7:00 P.M.

NOTE: Due to Open Meeting Law restrictions, the City Council may be discussing agenda items for the first time. Your patience and understanding is appreciated during this process.

CALL TO ORDER

In light of the Governor’s Executive Order regarding social-distancing and restrictions on gatherings, the City of Birchwood Village is conducting its June meeting using interactive web-based technology. Pursuant to Minnesota Statutes, Chapter 13D. 021 Subdivision 1(1) the City of Birchwood is declaring that, “an in-person meeting or a meeting conducted under section 13D.02 is not practical or prudent because of a health pandemic...”

The meeting will be conducted using the Zoom meeting platform and the details of that are directly below for participating. If you plan to attend it is suggested that you familiarize yourself with the technology in advance. If you plan to participate than you must either 1) send your name, topic you plan to speak on, and the phone number you will be calling from to City Hall by noon the day before the meeting; or 2) join the meeting no later than 6:50pm to coordinate with the Moderator.

The Moderator of the meeting shall be City Administrator Tobin Lay and all participants, except Council Members, shall have their microphones muted unless recognized by the Mayor. Public Forum shall be honored using this technology and the meeting will be broadcast via the Cable Commission like other meetings.

City of Birchwood Village is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/84146807370?pwd=UUFnaUVUJa2NIamQzenh3Z0hvY2s3Zz09>

Meeting ID: 841 4680 7370

Password: 384079

One tap mobile

+13017158592,,84146807370#,,1#,384079# US (Germantown)

+13126266799,,84146807370#,,1#,384079# US (Chicago)

Dial by your location

+1 301 715 8592 US (Germantown)

* Denotes items that have supporting documentation provided

- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 900 9128 US (San Jose)

Meeting ID: 841 4680 7370

Password: 384079

Find your local number: <https://us02web.zoom.us/j/84146807370>

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

OPEN PUBLIC FORUM

- A. Mary Wingfield (Community Club)

ANNOUNCEMENTS

- B. Crime Alert Notice (Wingfield)
- C. No Birchwood Garage Sale, Music in the Park, or July 4th Parade
- D. Follow us on Facebook at @BirchwoodCityHall or Twitter at @CityofBirchwood

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report* (pp. 5-6)

CITY BUSINESS – CONSENT AGENDA

- A. Approve Regular Meeting Minutes from May 12, 2020* (pp. 7-13)
- B. Approve Treasurer’s Report* (pp. 15-26)
- C. Approve Resolution 2020-20, Variance No. 20-01-VB Denial* (pp. 27-30)
- D. Approve GovCard Agreement for Processing Credit Cards* (pp. 31-34)
- E. Reschedule August City Council Meeting – Aug 18* (p. 35)
- F. Approve Sewer Line Jetting Bid* (pp. 37-38)

CITY BUSINESS – REGULAR AGENDA

- A. MS4: Storm Water Pollution Prevention Program Review* (pp. 39-48)
 - a. Public Hearing
Time Budget: 5 Minutes
- B. Appeal of Administrative Decision
 - a. Case No. 20-01-AP* (pp. 49-60)
 - i. Public Hearing
 - ii. Council Deliberation
 - iii. Approve Resolution 2020-21 (available later)
Time Budget: 15 Minutes
 - b. Case No. 20-02-AP* (pp. 61-66)

* Denotes items that have supporting documentation provided

- i. Public Hearing
- ii. Council Deliberation
- iii. Approve Resolution 2020-22 (available later)

Time Budget: 15 Minutes

C. Wildwood Ave Traffic Calming* (pp.)67

- a. Public Discussion
- b. Council Deliberation

Time Budget: 15 Minutes

D. Diseased Trees* (pp.)69-99

- a. Public Discussion
- b. Council Deliberation and Approval

Time Budget: 15 Minutes

E. Tighe-Schmitz Park Improvements – hockey rink surface

- a. Public Discussion
- b. Council Deliberation and Approval

Time Budget: 10 Minutes

F. City Attorney Report

- a. 11 Birchwood Ln Utility Easement Update
- b. Lake Tract Surveys Update

Time Budget: 15 Minutes

G. Council Member Reports:

- a. Mayor Wingfield
 - i. Joint Workshop with Planning Commission – June 30
 - ii. Halls Marsh Yellow Iris

Time Budget: 5 Minutes

b. Councilmember LaFoy

- i. Tree Program
- ii. Personal Comments

Time Budget: 10 Minutes

H. City Administrator’s Report

- a. Water Meter Upgrade
- b. Tree Work* (pp.)101-103
- c. City Project No. 2019-3 – Emergency Lift Station Bypass* (pp.) 105-107

Time Budget: 10 Minutes

ADJOURN

* Denotes items that have supporting documentation provided

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Sheriff Report
DATE: June 4, 2020

Dear Mayor & City Council Members:

Below is a reporting of law enforcement incidents and citations for May 2020:

Incident Summary Report PUBLIC

From:5/1/2020 12:00:00 AM To:5/31/2020 11:59:59 PM

WASHINGTON COUNTY SHERIFFS OFFICE



BIRCHWOOD VILLAGE - 26

| | | | |
|-----------------------|------------|---|-------------------------------------|
| 5/1/2020 7:56:41 AM | WC20016949 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | ALARM-BUSINESS/RES/FIRE/MEDICAL/ETC |
| 5/1/2020 10:42:03 AM | WC20016965 | XX White Pine Ln, BIRCHWOOD VILLAGE | CITIZEN/PUBLIC ASSIST |
| 5/2/2020 3:54:17 AM | WC20017066 | XXX Birchwood Ave, BIRCHWOOD VILLAGE | SUICIDE ATTEMPT/THREATS OF |
| 5/2/2020 4:22:48 PM | WC20017162 | Cedar St / Hall Ave, BIRCHWOOD VILLAGE | DIRECTED PATROL |
| 5/2/2020 5:06:39 PM | WC20017167 | Cedar Ave / Hall Ave, BIRCHWOOD VILLAGE | TRAFFIC STOP |
| 5/2/2020 5:22:42 PM | WC20017172 | XXX - 289 CEDAR ST, BIRCHWOOD VILLAGE | DIRECTED PATROL |
| 5/5/2020 8:58:42 AM | WC20017568 | HALL AVE / CEDAR ST, BIRCHWOOD VILLAGE | DIRECTED PATROL |
| 5/5/2020 9:02:36 AM | WC20017569 | Hall Ave / Cedar St, BIRCHWOOD VILLAGE | TRAFFIC STOP |
| 5/10/2020 9:44:14 AM | WC20018350 | XXX Birchwood Ave, BIRCHWOOD VILLAGE | MEDICAL |
| 5/11/2020 8:01:05 AM | WC20018459 | Hall Ave / Cedar St, BIRCHWOOD VILLAGE | PUBLIC WORKS CONCERN |
| 5/12/2020 2:09:58 PM | WC20018666 | XXX Cedar St, BIRCHWOOD VILLAGE | OFFICER INFORMATION |
| 5/12/2020 7:15:07 PM | WC20018708 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | MEDICAL |
| 5/13/2020 8:56:23 PM | WC20018853 | XXX Lake Ave, BIRCHWOOD VILLAGE | PARKING COMPLAINT |
| 5/15/2020 7:30:52 PM | WC20019123 | XX Five Oaks Ln, BIRCHWOOD VILLAGE | DISTURBANCE |
| 5/16/2020 11:33:45 AM | WC20019202 | XXX Lake Ave, BIRCHWOOD VILLAGE | THEFT |
| 5/16/2020 11:08:56 PM | WC20019298 | XXX Birchwood Ave, BIRCHWOOD VILLAGE | SUSPICIOUS PERSON/ACTIVITY |
| 5/18/2020 3:35:26 PM | WC20019490 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | ALARM-BUSINESS/RES/FIRE/MEDICAL/ETC |
| 5/20/2020 2:33:26 PM | WC20019759 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | PROPERTY DAMAGE |
| 5/23/2020 12:58:02 PM | WC20020245 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | FOUND PROPERTY/ITEM |
| 5/23/2020 1:30:32 PM | WC20020251 | Unknown, BIRCHWOOD VILLAGE | CITIZEN/PUBLIC ASSIST |
| 5/24/2020 12:14:52 AM | WC20020357 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | SUSPICIOUS PERSON/ACTIVITY |
| 5/25/2020 3:18:02 AM | WC20020548 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | CITIZEN/PUBLIC ASSIST |
| 5/25/2020 10:41:58 PM | WC20020670 | XXX Cedar St, BIRCHWOOD VILLAGE | SUSPICIOUS PERSON/ACTIVITY |
| 5/26/2020 12:54:31 PM | WC20020728 | XXX Hall Ave, BIRCHWOOD VILLAGE | ANIMAL COMPLAINT |
| 5/28/2020 8:01:30 AM | WC20020936 | XXX Wildwood Ave, BIRCHWOOD VILLAGE | CITIZEN/PUBLIC ASSIST |
| 5/29/2020 9:10:05 AM | WC20021078 | XXX Birchwood Ave, BIRCHWOOD VILLAGE | MOTOR VEHICLE THEFT |

TOTAL INCIDENTS: 26

Citations for: Birchwood

5/1/2020 To 5/31/2020

| Agcy | Date | Citation Number | Badge | Officer Name | Citation Type | Block | Street Name | Str Sfx | Cross Street Name | Cross St Sfx | City | Literal Description | Statute |
|------|----------|-----------------|---------|--------------|-----------------|-------|-------------|---------|-------------------|--------------|-----------|-------------------------|-----------|
| WCSO | 5/2/2020 | 820028012301 | WC12103 | B. Kammerer | Citation | 0 | CEDAR ST | | HALL AVE | | Birchwood | MOV-Stop Sign Violation | 169.30(b) |
| WCSO | 5/2/2020 | 820028012302 | WC12103 | B. Kammerer | Written Warning | 0 | CEDAR ST | | HALL AVE | | Birchwood | MOV-Stop Sign Violation | 169.30(b) |
| WCSO | 5/5/2020 | 820028012601 | WC159 | A. Degel | Citation | 0 | HALL AVE | | CEDAR ST | | Birchwood | MOV-Stop Sign Violation | 169.30(b) |

Regards,
Tobin Lay

**CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
May 12th, 2020**

MINUTES

MEMBERS PRESENT: Mayor Mary Wingfield; Council Members: Randy LaFoy, Kevin Woolstencroft, Jonathan Fleck, & Jessi Aakre.

STAFF PRESENT: Tobin Lay, City Administrator; Alan Kantrud, City Attorney.

OTHERS PRESENT: Justin McCarthy, David Heiden, Stan Karwoski, Andrew Giesen .

Mayor Wingfield called the regular meeting to order at 7:00pm and explained the reason for the meeting being conducted virtually via the Zoom platform as is permitted by Minnesota State Statute. The pledge of allegiance was recited.

AGENDA APPROVAL

Mayor Wingfield: Pulled Administrative Presentation item B to discuss under the City Administrator's Report.

Administrator Lay: Informed Mayor and Council of additional items added to the Regular Agenda for Mayor Wingfield (barn quilts), Councilmembers LaFoy (tree program) & Aakre (admin. evaluations update), and himself.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE THE AGENDA AS AMENDED. ROLL CALL VOTE: LAFOY; AYE, FLECK; AYE, AAKRE; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

OPEN PUBLIC FORUM

- A. Justin McCarthy (515 Lake Avenue):** Expressed support for continuing tree inspections.

ANNOUNCEMENTS

- A. Fire Hydrant Flushing
- B. Writer's Club Journals
- C. NYDS Caring for Mental Health
- D. Toilet Efficiency Rebates
- E. Don't Flush Rags or Shirts Down the Toilet

- F. Ticks & Swimming
- G. Fraud, Scams
- H. We are social, follow us on Facebook/Twitter and/or register for the email listserv

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report
- B. Snow Removal Contracts

CONSENT AGENDA

- A. Approve Regular Meeting Minutes from April 14, 2020
- ~~B. Approve Treasurer's Report~~
- C. Approve MS4 Public Hearing for June Council Meeting – Storm Water Pollution Prevention Program
- D. Approve Resolution 2020-16: Approving Coverage for City Workers' Compensation Insurance Policy
- E. Approve Resolution 2020-17: Declining to Waive the Statutory Monetary Limits on Municipal Tort Liability Established by Minnesota Statutes 466.04
- F. Approve 2020 Municipal Recycling Grant and Authorize Administrator Lay to Sign

MAYOR WINGFIELD PULLED THE TREASURERS REPORT FOR FURTHER DISCUSSION AT THE END OF THE CITY ADMINISTRATOR'S REPORT.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE CONSENT AGENDA ITEMS A, C, D, E, & F. ROLL CALL VOTE: LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, AAKRE, AYE, WINGFIELD; AYE. MOTION PASSED.

CITY BUSINESS – REGULAR AGENDA

- A. Variance Case No. 20-01-VB for 15 Birchwood Lane
 - a. Review Applicant Request & Planning Commission Recommendation
 - b. Council Deliberation

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO GRANT A 2 FOOT 2 INCH VARIANCE FROM SEC. 302.045 STRUCTURE HEIGHT LIMITATION. ROLL CALL VOTE: LAFOY; AYE, FLECK; NAY, WOOLSTENCROFT; NAY, AAKRE; AYE, WINGFIELD; NAY. MOTION DENIED.

MAYOR AND COUNCIL MEMBERS STATED THAT THE REASON FOR THE DENIAL WAS THAT THE SEC. 304.040.2.SUBD.2.ii ELEMENT WAS NOT SATISFIED; THE CONDITION WHICH RESULTED IN THE NEED FOR THE VARIANCE WAS CREATED BY THE APPLICANT'S ACTION OR DESIGN SOLUTION. THE REQUIREMENTS OF THE CODE

WERE ESTABLISHED BEFORE THE PROPOSED DESIGN SOLUTION THAT LEAD TO THE VARIANCE REQUEST AND OTHER REASONABLE DESIGN SOLUTIONS DO EXIST.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO GRANT A 3.5 FOOT VARIANCE FROM SEC. 302.020 SIDE YARD SETBACK REQUIREMENTS. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; NAY, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADD 7 MINUTES TO REGULAR AGENDA ITEM A. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADD 10 MINUTES TO REGULAR AGENDA ITEM A. ROLL CALL VOTE: WOOLSTENCROFT; AYE, FLECK; NAY, AAKRE; NAY, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO DENY A 3.5 FOOT VARIANCE FROM SEC. 302.020.1 EAVE EXCEPTION. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

MAYOR AND COUNCIL MEMBERS STATED THAT THE REASON FOR THE DENIAL WAS THAT THE SEC. 304.040.2.SUBD.2.ii ELEMENT WAS NOT SATISFIED; THE CONDITION WHICH RESULTED IN THE NEED FOR THE VARIANCE WAS CREATED BY THE APPLICANT'S ACTION OR DESIGN SOLUTION. THE REQUIREMENTS OF THE CODE WERE ESTABLISHED BEFORE THE PROPOSED DESIGN SOLUTION THAT LEAD TO THE VARIANCE REQUEST AND OTHER REASONABLE DESIGN SOLUTIONS DO EXIST.

- c. Approve Resolution 2020-18
 - i. **Mayor & Council Members:** the requests that were denied were struck from Resolution 2020-18.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER FLECK TO APPROVE RESOLUTION 2020-18 AS AMENDED. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

- B. East County Line Rd Update
 - a. County Presentation
 - i. **County Commissioner Stan Karwoski and County Engineer Andrew Giesen:** Provided updates on East County Line Rd project.
 - b. Approve Mayor or Staff to Sign Plans for Bidding

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE CITY ADMINISTRATOR LAY TO SIGN THE PLANS FOR BIDDING FOR THE EAST COUNTY LINE ROAD PROJECT. ROLL CALL VOTE: AAKRE;

AYE, FLECK; AYE, WOOLSTENCROFT; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

C. Leftover Boat Slips

a. Council Deliberation

- i. **Mayor, Council Members & David Heiden (Birchwood Dock Assoc.):** reviewed and discussed recommendations from the Dock Assoc. Councilmember Aakre was asked to work with Mr. Heiden and present recommendations again in August.

D. Wildwood Ave Traffic Calming

a. Council Deliberation

MAYOR AND COUNCIL MEMBERS DIRECTED ADMINISTRATOR LAY TO ADD THIS AGENDA ITEM TO THE JUNE 2020 REGULAR CITY COUNCIL MEETING.

E. Approve Coverage for Liability Insurance Policy

a. Council Deliberation and Approval

- i. **Administrator Lay:** explained that the liability insurance policy now offers an option to increase data breach coverage from \$250,000 to \$500,000.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER FLECK TO APPROVE COVERAGE FOR LIABILITY INSURANCE IN THE AMOUNT OF \$250,000.00. ROLL CALL VOTE: FLECK; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, AAKRE; AYE, WINGFIELD; AYE. MOTION PASSED.

F. City's Water Meter to WBL

a. Council Deliberation and Approval

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE THE CITY OF WHITE BEAR LAKE PURCHASE AND INSTALL A NEW WATER METER AT THE CITY'S CONNECTION TO WHITE BEAR LAKE. ROLL CALL VOTE: WOOLSTENCROFT; AYE, FLECK; AYE, LAFOY; AYE, AAKRE; AYE, WINGFIELD; AYE. MOTION PASSED.

G. COVID-19 Response

a. Portapotty (Bloomquist Park)

- i. Mayor & Council Members directed Administrator Lay not to install portapotty at Bloomquist Park this summer

b. Events: Garage Sale, Music in the Park, July 4th, Elections (polling place), Public Meetings, Hall rentals

- i. Mayor, Council Members decided to cancel the aforementioned events except for public meetings, which should take place virtually, and elections.

c. Approve Resolution 2020-19: Allowing Beer and Wine Consumption at Music in the Park Summer Music Concerts

- i. Resolution 2020-19 was not voted on because Music in the Park was cancelled.

H. City Project No. 2019-3 – Emergency Lift Station Bypass

a. Approve Change Order Request 1

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE CHANGE ORDER REQUEST 1. ROLL CALL VOTE: FLECK; AYE, AAKRE; AYE, WOOLSTENCROFT; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED.

b. Approve Peterson Companies Pay Application 3

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE PETERSON COMPANIES PAY APPLICATION. ROLL CALL VOTE: FLECK; AYE, WOOLSTENCROFT; AYE, AAKRE; AYE, LAFOY; AYE, WINGFIELD; AYE. MOTION PASSED. (02:17:03)

c. Approve Disable SCADA System Alarm

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE BID TO DISABLE THE SCADA ALARM IN WHITE BEAR TOWNSHIP'S COMPUTER SYSTEM. ROLL CALL VOTE: AAKRE; AYE, LAFOY; AYE, WOOLSTENCROFT; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

d. Approve Power Pole Removal

- i. **Mayor & Council Members:** directed Administrator Lay to have John Lund remove the power pole.

I. Diseased Trees

- a. Public Discussion
b. Council Deliberation and Approval

MAYOR AND COUNCIL MEMBERS TABLED REGULAR AGENDA ITEM I TO THE JUNE 2020 REGULAR CITY COUNCIL MEETING.

J. Sewer Line Jetting

- a. Council Deliberation

MAYOR AND COUNCIL MEMBERS TABLED REGULAR AGENDA ITEM J TO THE JUNE 2020 REGULAR CITY COUNCIL MEETING.

K. Tighe-Schmitz Park Improvements – hockey rink surface

- a. Update
b. Public Discussion

MAYOR AND COUNCIL MEMBERS TABLED REGULAR AGENDA ITEM K TO THE JUNE 2020 REGULAR CITY COUNCIL MEETING.

L. City Attorney Report

- a. 11 Birchwood Ln Utility Easement Update
- b. Lake Tract Surveys Update

City Attorney Kantrud: provided an update on these assignments.

M. Council Member Reports

- a. Mayor Wingfield
 - i. Newsletter
 - 1. **Mayor Wingfield:** newsletter submission deadline is May 15
 - ii. WBL Water Rates
 - 1. **Mayor Wingfield & Councilmember LaFoy:** informed the Council of reduced White Bear Lake water rates.
 - iii. Barn quilts
 - 1. **Mayor Wingfield:** informed the Council of a new barn quilt made and installed on the village hall.
- b. Councilmember LaFoy
 - i. Clearing Brush at Curt Feistner Memorial Preserve
 - 1. **Mayor & Council Members:** directed Administrator Lay to have Sentence-To-Serve cut the brush down at Curt Feistner Memorial Preserve
- c. Councilmember Aakre
 - i. Informed Council of upcoming Administrator Evaluation by the Personnel Committee and asked them to send their evaluation forms to Administrator Lay.

N. Pulled Consent Agenda Item B

- a. **Mayor Wingfield:** Informed Council that she does not accept the Treasurer's Report due to missing June 2019 receipt, but she will approve payment of pending invoices. Staff was directed to correct the discrepancy.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO PAY PENDING INVOICES INCLUDED ON MAY 2020 TREASURER REPORT. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED.

O. City Administrator's Report

- a. City Trailer
 - i. Tabled
- b. Kay Beach Handicap Parking
 - i. **Mayor & Council Members:** directed staff to open the Kay Beach chain for handicap parking
- c. Hall Avenue Traffic Study
 - i. **Mayor & Council Members:** directed staff where to have the speed wagon placed to study the traffic and Cedar St and Hall Ave
- d. Birch Snowplowing
 - i. **Administrator Lay:** informed the Council that the snow plowing contract had expired and that he would begin searching for bidders and present bids in the fall.

ADJOURN

MOTION WAS MADE BY COUNCILMEMBER FLECK AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADJOURN THE MEETING. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, FLECK; AYE, WOOLSTENCROFT; AYE, WINGFIELD; AYE. MOTION PASSED. MEETING ADJOURNED AT 9:57 PM.

ATTEST:

Mary Wingfield
Mayor

Tobin Lay
City Administrator - Clerk

For the Period : 5/12/2020 To 6/5/2020

| <u>Name of Fund</u> | <u>Beginning Balance</u> | <u>Total Receipts</u> | <u>Total Disbursed</u> | <u>Ending Balance</u> |
|--|------------------------------|---------------------------|----------------------------|---------------------------|
| General Fund | \$189,198.03 | \$194,716.03 | \$48,677.56 | \$335,236.50 |
| Road and Bridge | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Comp Plan Grant | (\$4,040.00) | \$0.00 | \$0.00 | (\$4,040.00) |
| Tree Canopy Care | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Special Rev Projects | \$28,919.85 | \$4,500.00 | \$265.96 | \$33,153.89 |
| Spec Rev - Warm House | \$40.00 | \$0.00 | \$0.00 | \$40.00 |
| REIMBURSED CONTRACTED SERVICES | (\$7,285.26) | \$0.00 | \$0.00 | (\$7,285.26) |
| General Debt Service (Identify) (Inactive) | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Birchwood In Re-hab Bond | (\$25,181.54) | \$0.00 | \$0.00 | (\$25,181.54) |
| Sewer Re-hab Debt | \$27,765.44 | \$2,341.40 | \$0.00 | \$30,106.84 |
| CAPITAL PROJECT FUNDS (401 through 499) | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Capital Improvement Projects | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Municipal State Aid Streets - Construction (Inactive) | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Capital Project PW | (\$2,384.69) | \$0.00 | \$0.00 | (\$2,384.69) |
| Water | (\$1,587.76) | \$0.00 | \$3,674.00 | (\$5,261.76) |
| Sewer | \$36,359.86 | \$3,651.39 | \$4,596.95 | \$35,414.30 |
| Transit System | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Sewer Infrastructure | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Engineering Services | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Total | \$241,803.93 | \$205,208.82 | \$57,214.47 | \$389,798.28 |

**CONSENT B
TREASURER'S REPORT**

Fund Name: All Funds

Date Range: 05/12/2020 To 06/05/2020

| <u>Date</u> | <u>Remitter</u> | <u>Receipt #</u> | <u>Description</u> | <u>Deposit ID</u> | <u>Void</u> | <u>Account Name</u> | <u>F-A-P</u> | <u>Total</u> | |
|-------------|------------------------------------|------------------|----------------------------------|-------------------|-------------|----------------------|---------------------|--------------------|----------|
| 05/12/2020 | MN Management & Budget | 171734842* | Court Fines Apr 2020 | (05/12/2020) - | N | Court Fines | 100-35101- | \$ 20.00 | |
| | | | | | | | | \$ 20.00 | |
| 05/12/2020 | Capra Utilities, Inc. | 171734847* | Permit | (05/23/2020) - | N | Building Permits | 100-32211- | \$ 4.50 | |
| | | | | | | | | \$ 4.50 | |
| 05/14/2020 | Ramsey/Washington Cable Commission | 171734849* | Redistribution Payment - Q1 2020 | (05/23/2020) - | N | Cable Comm. Grant | 100-33625- | \$ 314.25 | |
| | | | | | | | | \$ 314.25 | |
| 05/19/2020 | Bruette Roofing, Inc. | 171734850* | Building Permit | (05/23/2020) - | N | Building Permits | 100-32211- | \$ 99.11 | |
| | | | | | | | | \$ 99.11 | |
| 05/21/2020 | Birchwood Dock Association | 171734851* | BDA Boat Slip Payment | (05/23/2020) - | N | Dock/Lift Permit Fee | 210-32260- | \$ 4,500.00 | |
| | | | | | | | | \$ 4,500.00 | |
| 05/23/2020 | Residents | 171734843* | Kayak/Canoe Permit Deposit #3 | (05/23/2020) - | N | Kayak/Canoe Permits | 100-32212- | \$ 30.00 | |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 60.00 |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 30.00 |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 30.00 |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 30.00 |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 60.00 |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 30.00 |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 30.00 |
| | | | | | | | Kayak/Canoe Permits | 100-32212- | \$ 10.00 |
| | | | | | | | | \$ 310.00 | |
| 05/23/2020 | Residents | 171734844* | Animal Licenses | (05/23/2020) - | N | Animal Licenses | 100-32240- | \$ 40.00 | |
| | | | | | | | Animal Licenses | 100-32240- | \$ 20.00 |
| | | | | | | | Animal Licenses | 100-32240- | \$ 10.00 |
| | | | | | | | Animal Licenses | 100-32240- | \$ 20.00 |
| | | | | | | | Animal Licenses | 100-32240- | \$ 20.00 |
| | | | | | | | | \$ 110.00 | |

Fund Name: All Funds

Date Range: 05/12/2020 To 06/05/2020

| <u>Date</u> | <u>Remitter</u> | <u>Receipt #</u> | <u>Description</u> | <u>Deposit ID</u> | <u>Void</u> | <u>Account Name</u> | <u>F-A-P</u> | <u>Total</u> | |
|------------------------------------|------------------------|------------------|---|-------------------|-------------|--|-----------------------------|----------------------------------|-------------|
| 06/04/2020 | MN Management & Budget | 171734854* | Court Fines June 2019 | (06/04/2020) - | N | Court Fines | 100-35101- | \$ 66.66 | |
| | | | | | | | | <hr/> | |
| | | | | | | | | \$ 66.66 | |
| 06/04/2020 | MN Management & Budget | 171734855* | Court Fines Dec 2019 | (06/04/2020) - | N | Court Fines | 100-35101- | \$ 119.00 | |
| | | | | | | | | <hr/> | |
| | | | | | | | | \$ 119.00 | |
| 06/04/2020 | Washington County | 171734856* | Property Tax & Special Assessment Settlement - July 2019 - This was not entered when received | (06/04/2020) - | N | General Property Taxes (31001 through 31299) | 100-31001- | \$ 193,633.63 | |
| | | | | | | | General Governemnt | 100-34111- | \$ 38.88 |
| | | | | | | | Sewer Re-hab | 305-36110- | \$ 83.54 |
| | | | | | | | Sewer Re-hab | 305-36110- | \$ 2,257.86 |
| | | | | | | | Delinquent Water/Sewer Fees | 605-36130- | \$ 3,651.39 |
| | | | | | | | | <hr/> | |
| | | | | | | | | \$ 199,665.30 | |
| Total for Selected Receipts | | | | | | | | <hr/> <hr/> \$ 205,208.82 | |

Fund Name: All Funds

Date Range: 05/12/2020 To 06/05/2020

| <u>Date</u> | <u>Vendor</u> | <u>Check #</u> | <u>Description</u> | <u>Void</u> | <u>Account Name</u> | <u>F-A-O-P</u> | <u>Total</u> |
|-------------|----------------------------------|-------------------|---|-------------|----------------------------|----------------|---------------------|
| 05/14/2020 | Peterson Companies, Inc. | 31006* | Emergency Lift Station Bypass | N | Unallocated Expenditures | 100-49201-430- | \$ 18,323.45 |
| | Total For Check | 31006 | | | | | \$ 18,323.45 |
| 05/14/2020 | Mow Joe Inc | 31007* | Spring Leaf Pick Up 2020 | N | Leaf Pick-Up | 100-43110-314- | \$ 1,756.85 |
| | Total For Check | 31007 | | | | | \$ 1,756.85 |
| 05/15/2020 | Xcel Energy | EFT051520A* | Xcel Gas Bill: 03.19.2020 - 04.19.2020 | N | Sewer Utility | 605-43190-383- | \$ 22.72 |
| | Total For Check | EFT051520A | | | | | \$ 22.72 |
| 05/20/2020 | Amazon | EFT052020A* | Office Supplies | N | Office Operations Supplies | 100-41911-200- | \$ 239.97 |
| | Total For Check | EFT052020A | | | | | \$ 239.97 |
| 05/22/2020 | Payroll Period Ending 05/22/2020 | 31008 | Administrator | N | Clerk - Treasurer | 100-41401-100- | \$ 1,913.04 |
| | Total For Check | 31008 | | | | | \$ 1,913.04 |
| 05/22/2020 | Payroll Period Ending 05/22/2020 | 31009 | Treasurer - Deputy Clerk | N | Clerk - Treasurer | 100-41401-100- | \$ 116.76 |
| | Total For Check | 31009 | | | | | \$ 116.76 |
| 05/26/2020 | PERA | EFT052620A* | Administrator - Retirement - Tobin Lay | N | Clerk - Treasurer | 100-41401-121- | \$ 367.02 |
| | Total For Check | EFT052620A | | | | | \$ 367.02 |
| 05/26/2020 | PERA | EFT052620B* | Treasurer/Deputy Clerk - Retirement - Andy Gonyou | N | Clerk - Treasurer | 100-41401-121- | \$ 19.04 |
| | Total For Check | EFT052620B | | | | | \$ 19.04 |
| 06/01/2020 | Xcel Energy | EFT060120A* | Xcel Street Light Bill: 04.03.2020 - 05.02.2020 | N | Street Lighting | 100-43160-380- | \$ 1,198.76 |
| | Total For Check | EFT060120A | | | | | \$ 1,198.76 |
| 06/03/2020 | Manship Plumbing & Heating Inc | 31010* | Standby, Testing, & Locates - Mar 2020 | N | Water Utility | 601-43180-314- | \$ 600.00 |
| | | 31010* | | | | 601-43180-314- | \$ 240.00 |
| | | 31010* | | | | 605-43180-314- | \$ 240.00 |
| | Total For Check | 31010 | | | | | \$ 1,080.00 |
| 06/03/2020 | AirFresh Industries, Inc. | 31011* | Portable Restroom Rental | N | Parks | 100-45207-314- | \$ 81.25 |
| | Total For Check | 31011 | | | | | \$ 81.25 |

Fund Name: All Funds

Date Range: 05/12/2020 To 06/05/2020

| <u>Date</u> | <u>Vendor</u> | <u>Check #</u> | <u>Description</u> | <u>Void</u> | <u>Account Name</u> | <u>F-A-O-P</u> | <u>Total</u> |
|-------------|-------------------------------------|----------------|---|-------------|--|----------------|--------------------|
| 06/03/2020 | Leeves, Robert | 31012* | Videographer - May 2020 | N | Cable Eqpmt and Service | 100-41950-314- | \$ 90.38 |
| | Total For Check | 31012 | | | | | \$ 90.38 |
| 06/03/2020 | Metropolitan Council - Env. Service | 31013 | Q2 SAC Fee | N | Sewer Utility | 605-43190-430- | \$ 2,460.15 |
| | Total For Check | 31013 | | | | | \$ 2,460.15 |
| 06/03/2020 | TA Schifsky & Sons, Inc. | 31014* | Street Sweeping | N | Street Sweeping | 100-43103-314- | \$ 2,610.00 |
| | Total For Check | 31014 | | | | | \$ 2,610.00 |
| 06/03/2020 | USS Minnesota One MT LLC | 31015* | Energy Charges - Apr 2020 | N | General Government Buildings and Plant | 100-41940-380- | \$ 130.05 |
| | | 31015* | | | Sewer Utility | 605-43190-380- | \$ 628.53 |
| | | 31015* | | | | 605-43190-380- | \$ 346.78 |
| | Total For Check | 31015 | | | | | \$ 1,105.36 |
| 06/03/2020 | MN Department of Health | 31016 | Community Water Supply Connection Fee - Q2 2020 | N | Water Utility | 601-43180-437- | \$ 860.00 |
| | Total For Check | 31016 | | | | | \$ 860.00 |
| 06/03/2020 | Seton Identification Products | 31017* | Signs | N | Unallocated Expenditures | 100-49201-430- | \$ 281.91 |
| | Total For Check | 31017 | | | | | \$ 281.91 |
| 06/03/2020 | Thatcher Engineering, Inc | 31018* | City Engineering Services - May 2020 Projects & Project #2019-3 | N | Engineer Service | 100-41650-300- | \$ 765.00 |
| | | 31018* | | | | 100-41650-300- | \$ 170.00 |
| | | 31018* | | | Unallocated Expenditures | 605-49201-430- | \$ 722.50 |
| | Total For Check | 31018 | | | | | \$ 1,657.50 |
| 06/03/2020 | Menards - Oakdale | 31019* | Maintenance Supplies | N | Parks | 100-45207-400- | \$ 145.24 |
| | | 31019* | | | | 100-45207-400- | \$ 17.98 |
| | Total For Check | 31019 | | | | | \$ 163.22 |
| 06/03/2020 | Office Depot, Inc. | 31020* | Office Supplies | N | Office Operations Supplies | 100-41911-200- | \$ 40.13 |
| | Total For Check | 31020 | | | | | \$ 40.13 |
| 06/03/2020 | Lund, John | 31021* | L/S #1 Bypass Projcet | N | Unallocated Expenditures | 605-49201-430- | \$ 100.00 |
| | Total For Check | 31021 | | | | | \$ 100.00 |
| 06/03/2020 | Menards - Maplewood | 31022* | Parks Supplies | N | Parks | 100-45207-400- | \$ 17.45 |
| | | 31022* | | | | 100-45207-400- | \$ 4.58 |
| 19 | Total For Check | 31022 | | | | | \$ 22.03 |

Fund Name: All Funds

Date Range: 05/12/2020 To 06/05/2020

| <u>Date</u> | <u>Vendor</u> | <u>Check #</u> | <u>Description</u> | <u>Void</u> | <u>Account Name</u> | <u>F-A-O-P</u> | <u>Total</u> |
|-------------|------------------------------|------------------------|--|-------------|---|----------------|--------------------|
| 06/03/2020 | St. Anthony Village | 31023* | Utility Billing Services - Q2 2020 & Leaf Pick Up | N | Unallocated Expenditures | 100-49201-430- | \$ 100.00 |
| | | 31023* | | | Financial Administration | 601-41501-314- | \$ 1,974.00 |
| | | Total For Check | 31023 | | | | \$ 2,074.00 |
| 06/03/2020 | Croix Valley Inspections Inc | 31024* | Inspection Fees - 2019 Calendar Year | N | Building Inspections Administration | 100-42401-314- | \$ 9,033.32 |
| | | Total For Check | 31024 | | | | \$ 9,033.32 |
| 06/03/2020 | Press Publications | 31025* | Legal Notice Publications - May 2020 | N | Ordinances and Proceedings | 100-41130-351- | \$ 121.94 |
| | | 31025* | | | | 100-41130-351- | \$ 93.80 |
| | | Total For Check | 31025 | | | | \$ 215.74 |
| 06/03/2020 | Gopher State One Call | 31026* | Billable Tickets (36) - May 2020 | N | Utility Locates | 605-42805-314- | \$ 48.60 |
| | | Total For Check | 31026 | | | | \$ 48.60 |
| 06/03/2020 | City of Roseville | 31027* | IT Services June 2020 | N | General Government Buildings and Plant | 100-41940-320- | \$ 580.00 |
| | | Total For Check | 31027 | | | | \$ 580.00 |
| 06/03/2020 | Companion Animal Control LLC | 31028 | Animal Control Services - May 2020 | N | Animal Control | 100-41916-314- | \$ 80.00 |
| | | Total For Check | 31028 | | | | \$ 80.00 |
| 06/03/2020 | City of White Bear Lake | 31029* | Fire Services - May 2020 | N | Fire | 100-42201-314- | \$ 2,476.25 |
| | | Total For Check | 31029 | | | | \$ 2,476.25 |
| 06/03/2020 | H.A. Kantrud, P.A. | 31030* | Attorney Fees - May 2020 | N | Legal Services | 100-41601-300- | \$ 1,500.00 |
| | | Total For Check | 31030 | | | | \$ 1,500.00 |
| 06/03/2020 | Wingfield, Mary | 31031* | Reimbursement - Materials to frame trailer | N | Parks | 100-45207-400- | \$ 57.02 |
| | | Total For Check | 31031 | | | | \$ 57.02 |
| 06/03/2020 | Lay, Tobin | 31032* | Reimbursement - City Hall Supplies & Zoom account for Jun 2020 | N | Office Operations Supplies | 100-41911-200- | \$ 21.35 |
| | | 31032* | | | Unallocated Expenditures | 100-49201-430- | \$ 128.23 |
| | | 31032* | | | | 100-49201-430- | \$ 16.06 |
| | | Total For Check | 31032 | | | | \$ 165.64 |

Fund Name: All Funds

Date Range: 05/12/2020 To 06/05/2020

| <u>Date</u> | <u>Vendor</u> | <u>Check #</u> | <u>Description</u> | <u>Void</u> | <u>Account Name</u> | <u>F-A-O-P</u> | <u>Total</u> |
|-------------|----------------------------------|-------------------|--|-------------|-------------------------------|----------------|--------------------|
| 06/03/2020 | Payroll Period Ending 05/29/2020 | 31033 | Maintenance - Jim Rydeen | N | Parks | 100-45207-100- | \$ 1,586.07 |
| | Total For Check | 31033 | | | | | \$ 1,586.07 |
| 06/03/2020 | Belisle, Kim | 31037* | Refund - Utility Bill Overpayment | N | Unallocated Expenditures | 100-49201-430- | \$ 16.70 |
| | Total For Check | 31037 | | | | | \$ 16.70 |
| 06/03/2020 | Xcel Energy | EFT061620A* | Xcel Gas Bill: 04.19.2020 - 05.18.2020 | N | Sewer Utility | 605-43190-383- | \$ 27.67 |
| | Total For Check | EFT061620A | | | | | \$ 27.67 |
| 06/04/2020 | Winnick Supply | 31038* | Metal Leg Extensions for Kay Dock | N | Parks | 210-45207-430- | \$ 265.96 |
| | Total For Check | 31038 | | | | | \$ 265.96 |
| 06/04/2020 | MCFOA | 31039 | MCFOA Annual Dues 2020 | N | City Training and Development | 100-41914-433- | \$ 45.00 |
| | Total For Check | 31039 | | | | | \$ 45.00 |
| 06/05/2020 | Payroll Period Ending 06/05/2020 | 31034 | Administrator | N | Clerk - Treasurer | 100-41401-100- | \$ 1,913.04 |
| | Total For Check | 31034 | | | | | \$ 1,913.04 |
| 06/05/2020 | Payroll Period Ending 06/05/2020 | 31035 | Administrator - Insurance | N | Clerk - Treasurer | 100-41401-100- | \$ 427.75 |
| | Total For Check | 31035 | | | | | \$ 427.75 |
| 06/05/2020 | Payroll Period Ending 06/05/2020 | 31036 | Treasurer - Deputy Clerk | N | Clerk - Treasurer | 100-41401-100- | \$ 72.97 |
| | Total For Check | 31036 | | | | | \$ 72.97 |
| 06/05/2020 | PERA | EFT060520A* | Maintenance - Retirement - Jim Rydeen | N | Parks | 100-45207-121- | \$ 280.00 |
| | Total For Check | EFT060520A | | | | | \$ 280.00 |
| 06/05/2020 | PERA | EFT060520B* | Administrator - Retirement - Tobin Lay | N | Clerk - Treasurer | 100-41401-121- | \$ 367.02 |
| | Total For Check | EFT060520B | | | | | \$ 367.02 |
| 06/05/2020 | IRS - US Treasury | EFT060520C* | Federal Taxes - Q2 2020 - May Payment | N | Clerk - Treasurer | 100-41401-100- | \$ 819.56 |
| | | EFT060520C* | | | | 100-41401-100- | \$ 191.68 |
| | | EFT060520C* | | | | 100-41401-100- | \$ 449.04 |
| | Total For Check | EFT060520C | | | | | \$ 1,460.28 |
| 06/05/2020 | PERA | EFT060520D* | Treasurer/Deputy Clerk - Retirement - Andy Gonyou | N | Clerk - Treasurer | 100-41401-121- | \$ 11.90 |

Fund Name: All Funds

Date Range: 05/12/2020 To 06/05/2020

| <u>Date</u> | <u>Vendor</u> | <u>Check #</u> | <u>Description</u> | <u>Void</u> | <u>Account Name</u> | <u>F-A-O-P</u> | <u>Total</u> |
|---------------------------|---------------|----------------|--------------------|-------------|---------------------|----------------|--------------|
| | | | Total For Check | | EFT060520D | | \$ 11.90 |
| Total For Selected Checks | | | | | | | \$ 57,214.47 |

As on 6/5/2020

Special Rev Projects

| | <u>Budget</u> | <u>Actual</u> | <u>Variance</u> |
|---|---------------|------------------|-------------------|
| Receipts: | | | |
| Dock/Lift Permit Fee | 0.00 | 17,250.00 | 17,250.00 |
| Total Acct 322 | 0.00 | 17,250.00 | 17,250.00 |
| Miscellaneous | 0.00 | 500.00 | 500.00 |
| Total Acct 361 | 0.00 | 500.00 | 500.00 |
| Total Revenues | 0.00 | 17,750.00 | 17,750.00 |
| Other Financing Sources: | | | |
| Total Other Financing Sources | 0.00 | 0.00 | 0.00 |
| Disbursements: | | | |
| Recreation | | | |
| Miscellaneous (431 through 499) | 0.00 | 200.00 | (200.00) |
| Total Acct 451 | 0.00 | 200.00 | (200.00) |
| Parks | | | |
| Operating Supplies (211 through 219) | 0.00 | 1,283.61 | (1,283.61) |
| Repair and Maintenance Supplies (221 through 229) | 0.00 | 100.00 | (100.00) |
| Contracted Services | 0.00 | 340.00 | (340.00) |
| Miscellaneous (431 through 499) | 0.00 | 5,227.29 | (5,227.29) |
| Total Acct 452 | 0.00 | 6,950.90 | (6,950.90) |
| Total Disbursements | 0.00 | 7,150.90 | (7,150.90) |
| Other Financing Uses: | | | |
| Total Other Financing Uses | 0.00 | 0.00 | 0.00 |
| Beginning Cash Balance | | 22,554.79 | |
| Total Receipts and Other Financing Sources | | 17,750.00 | |
| Total Disbursements and Other Financing Uses | | 7,150.90 | |
| Cash Balance as of 06/05/2020 | | 33,153.89 | |

As on 6/5/2020

Capital Project PW

| | <u>Budget</u> | <u>Actual</u> | <u>Variance</u> |
|---|---------------|------------------|--------------------|
| Receipts: | | | |
| Total Revenues | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> |
| Other Financing Sources: | | | |
| Total Other Financing Sources | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> |
| Disbursements: | | | |
| Unallocated Expenditures | | | |
| Miscellaneous (431 through 499) | 0.00 | 2,618.60 | (2,618.60) |
| Total Acct 492 | <u>0.00</u> | <u>2,618.60</u> | <u>(2,618.60)</u> |
| Total Disbursements | <u>0.00</u> | <u>2,618.60</u> | <u>(2,618.60)</u> |
| Other Financing Uses: | | | |
| Transfer To Governmental Fund | | | |
| Interfund Transfers | 0.00 | 66,000.00 | (66,000.00) |
| Total Acct 493 | <u>0.00</u> | <u>66,000.00</u> | <u>(66,000.00)</u> |
| Total Other Financing Uses | <u>0.00</u> | <u>66,000.00</u> | <u>(66,000.00)</u> |
| Beginning Cash Balance | | 66,233.91 | |
| Total Receipts and Other Financing Sources | | 0.00 | |
| Total Disbursements and Other Financing Uses | | <u>68,618.60</u> | |
| Cash Balance as of 06/05/2020 | | (2,384.69)* | |

*These funds were temp. transferred to the General Fund to help cover the cost of 2019 City Projects. Those funds will be transferred back to this fund once the July Property Taxes have been received.

As on 6/5/2020

Water

| | <u>Budget</u> | <u>Actual</u> | <u>Variance</u> |
|---|---------------|--------------------|--------------------|
| Receipts: | | | |
| Water Fee | 0.00 | 22,155.60 | 22,155.60 |
| Total Acct 341 | 0.00 | 22,155.60 | 22,155.60 |
| Total Revenues | 0.00 | 22,155.60 | 22,155.60 |
| Other Financing Sources: | | | |
| Total Other Financing Sources | 0.00 | 0.00 | 0.00 |
| Disbursements: | | | |
| Financial Administration | | | |
| Contracted Services | 0.00 | 3,953.25 | (3,953.25) |
| Total Acct 415 | 0.00 | 3,953.25 | (3,953.25) |
| Newsletter | | | |
| Printing and Binding (351 through 359) | 0.00 | 303.60 | (303.60) |
| Total Acct 419 | 0.00 | 303.60 | (303.60) |
| Water Utility | | | |
| Repair and Maintenance Supplies (221 through 229) | 0.00 | 918.58 | (918.58) |
| Contracted Services | 0.00 | 30,241.82 | (30,241.82) |
| Fees | 0.00 | 1,720.00 | (1,720.00) |
| Wtr/Swr Emergency | | | |
| Repair and Maintenance Supplies (221 through 229) | 0.00 | 900.00 | (900.00) |
| PROFESSIONAL SERVICES (301 through 319) | 0.00 | 1,765.74 | (1,765.74) |
| Contracted Services | 0.00 | 11,502.08 | (11,502.08) |
| Total Acct 431 | 0.00 | 47,048.22 | (47,048.22) |
| MISCELLANEOUS | | | |
| Miscellaneous (431 through 499) | 0.00 | 22,707.50 | (22,707.50) |
| Total Acct 490 | 0.00 | 22,707.50 | (22,707.50) |
| Unallocated Expenditures | | | |
| Miscellaneous (431 through 499) | 0.00 | 2,720.95 | (2,720.95) |
| Total Acct 492 | 0.00 | 2,720.95 | (2,720.95) |
| Total Disbursements | 0.00 | 76,733.52 | (76,733.52) |
| Other Financing Uses: | | | |
| Total Other Financing Uses | 0.00 | 0.00 | 0.00 |
| Beginning Cash Balance | | 49,316.16 | |
| Total Receipts and Other Financing Sources | | 22,155.60 | |
| Total Disbursements and Other Financing Uses | | 76,733.52 | |
| Cash Balance as of 06/05/2020 | | (5,261.76)* | |

*Utility billing payments have not all been entered yet

As on 6/5/2020

Sewer

| | <u>Budget</u> | <u>Actual</u> | <u>Variance</u> |
|---|---------------|-------------------|--------------------|
| Receipts: | | | |
| Building Permits | 0.00 | 144.90 | 144.90 |
| Total Acct 322 | 0.00 | 144.90 | 144.90 |
| Sewer Fee | 0.00 | 49,986.53 | 49,986.53 |
| Total Acct 341 | 0.00 | 49,986.53 | 49,986.53 |
| Delinquent Water/Sewer Fees | 0.00 | 3,651.39 | 3,651.39 |
| Total Acct 361 | 0.00 | 3,651.39 | 3,651.39 |
| MISCELLANEOUS REVENUES | 0.00 | 18,269.64 | 18,269.64 |
| Total Acct 362 | 0.00 | 18,269.64 | 18,269.64 |
| Total Revenues | 0.00 | 72,052.46 | 72,052.46 |
| Other Financing Sources: | | | |
| Total Other Financing Sources | 0.00 | 0.00 | 0.00 |
| Disbursements: | | | |
| Engineer Service | | | |
| PROFESSIONAL SERVICES (301 through 319) | 0.00 | 85.00 | (85.00) |
| Total Acct 416 | 0.00 | 85.00 | (85.00) |
| Office Operations Supplies | | | |
| OFFICE SUPPLIES (201 through 209) | 0.00 | 316.80 | (316.80) |
| Total Acct 419 | 0.00 | 316.80 | (316.80) |
| Utility Locates | | | |
| Contracted Services | 0.00 | 183.65 | (183.65) |
| Total Acct 428 | 0.00 | 183.65 | (183.65) |
| Water Utility | | | |
| Contracted Services | 0.00 | 360.00 | (360.00) |
| Wtr/Swr Emergency | | | |
| Contracted Services | 0.00 | 6,860.50 | (6,860.50) |
| Sewer Utility | | | |
| Sewer - Wastewater Charge | 0.00 | 29,691.00 | (29,691.00) |
| Contracted Services | 0.00 | 22,499.45 | (22,499.45) |
| Utility Services (381 through 389) | 0.00 | 4,148.78 | (4,148.78) |
| Utility Services: Gas Utilities | 0.00 | 178.60 | (178.60) |
| Miscellaneous (431 through 499) | 0.00 | 6,803.78 | (6,803.78) |
| Total Acct 431 | 0.00 | 70,542.11 | (70,542.11) |
| Unallocated Expenditures | | | |
| Miscellaneous (431 through 499) | 0.00 | 822.50 | (822.50) |
| Total Acct 492 | 0.00 | 822.50 | (822.50) |
| Total Disbursements | 0.00 | 71,950.06 | (71,950.06) |
| Other Financing Uses: | | | |
| Transfer To Governmental Fund | | | |
| Interfund Transfers | 0.00 | 50,000.00 | (50,000.00) |
| Total Acct 493 | 0.00 | 50,000.00 | (50,000.00) |
| Total Other Financing Uses | 0.00 | 50,000.00 | (50,000.00) |
| Beginning Cash Balance | | 85,311.90 | |
| Total Receipts and Other Financing Sources | | 72,052.46 | |
| Total Disbursements and Other Financing Uses | | 121,950.06 | |
| Cash Balance as of 06/05/2020 | | 35,414.30 | |

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Resolution 2020-20, Variance No. 20-01-VB Denial
DATE: June 4, 2020

Dear Mayor & City Council Members:

Last month the Council heard Variance Case No. 20-01-VB and adopted Resolution 2020-18 approving one of the three variance requests for 15 Birchwood Lane.

Enclosed is Resolution 2020-20 that formally denies the other two requests that the Council voted on and denied last month. Resolution 2020-20 is the sister-resolution to Resolution 2020-18 that was adopted last month.

Request/Recommendation

Staff requests that the City Council approve Resolution 2020-20 to formally deny the two variance requests that were denied verbally last month for 15 Birchwood Lane. Thanks!

Regards,
Tobin Lay

RESOLUTION NO. 2020-20

**RESOLUTION DENYING A VARIANCE FROM
THE CITY OF BIRCHWOOD VILLAGE ZONING CODE
FOR 15 BIRCHWOOD LANE**

WHEREAS, a proposal (20-01-VB) has been submitted by Greg and Kathy Sherwood to the City Council requesting a variance from the City of Birchwood Village at the following site:

ADDRESS: 15 Birchwood Lane

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING:

1. A 3.5' (42") variance from the 2-foot eave exception in 302.020.1 to allow the entire front porch to be covered;
2. A 2'2" (26") variance from the 30-foot structure height limitation, per 302.045; and

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on January 23 and February 20, 2020; and

WHEREAS, the Planning Commission denied the first request for a 3.5' variance from Sec. 302.020.1 and approved the second request for a 2'2" variance from Sec. 302.045; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas and has applied the standards for granting variances; and

WHEREAS, the City Council determined that both the first and second request failed to satisfy the element of Practical Difficulties found in Sec. 304.040.2.Subd.2.ii; while applicants may have special conditions or circumstances that are present with the land, the conditions that lead to the need for the variance were created by the property owner's action or design solution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village after reviewing the proposal, that the City Council accepts and adopts in part and rejects in part the findings of the Planning Commission as previously explained.

FURTHER, BE IT RESOLVED THAT the City Council of the City of Birchwood Village hereby denies the requested variances based on the application of the Code to the request determining that:

1. The project was designed as a complete tear-down and rebuild with no changes to the City Code made during the project-planning and thus the requested variances are based solely on the property owners' desired design and/or design-solution which does not constitute a "practical difficulty" as defined by the City Code.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Mary Wingfield, Mayor

ATTEST:

Tobin Lay, City Administrator

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Approve GovCard Agreement
DATE: June 4, 2020

Dear Mayor & City Council Members:

Sometime in the past, I spoke to you about eventually having the City accept credit cards for permits and licenses. The Council agreed with the concept at that time.

I have researched several credit card processing options and services and am now prepared to make my recommendation – GovCard. This option accepts and securely processes all major credit cards and e-checks in-person, over the phone, or through our website. There are no recurring service fees to the City. Instead, users will pay a convenience fee. Enclosed is a summary of the service and the user’s rates.

There is, however, a one-time setup fee of \$199.00 and chargeback/return fees from the credit card companies for failed transactions. Accordingly, we should expand our existing “returned check” fee in our fee schedule to include these chargeback and return fees. The current “returned check” fee amount is \$30.

This process does not replace our current process of accepting cash and checks – it just expands the options our residents and contractors have to pay their permit and licensing fees to the City.

Request/Recommendation

Staff requests that the City Council:

- Review the enclosed materials;
- Approve City Administrator Tobin Lay to enter into agreement with GovCard; and
- Approve expanding the “Returned Check” fee in the 2020 City Fee Schedule to also include chargeback and return fees passed on by the credit card companies for failed transactions.

Thanks!

Regards,
Tobin Lay

GovCard- Executive Summary

January 17th, 2020

Birchwood Village, MN



Overview

GovCard is an Internet-based payment platform that offers a no-cost processing solution. GovCard is offered by virtue of APS' membership in the Minnesota Municipal League. The program exists to fill the technology void in Minnesota's underserved communities.

Transaction costs are absorbed by the customer via a service fee. GovCard allows you to process credit or debit cards, ACH and E-check in addition to recurring payments—all on one-easy-to-use platform! Instant customer payments reduce accounts receivable. Cash flow is further improved as credit and debit card transactions are funded the following business day.

Payment Avenues

Reporting

Each payment avenue communicates to the same reporting tool. All payment data is derived from a single source and is reported real-time.

Government/Utility & Customer Benefits

GovCard dramatically reduces staff demands as payments are instantly posted. Time spent opening envelopes, posting payments and creating bank deposits quickly become a thing of the past! Online payments also reduce foot traffic.

Today's customers demand a convenient and easy experience. You deliver by providing a robust and low-cost solution. Your customers

will appreciate eliminating the need for face-to-face transactions and late fees!

Security

The GovCard platform is 100% PCI-compliant. No cardholder data is stored on the system.

Adoption Rate

Depending upon the complexion of the community and the promotion of GovCard, expect that 25-60% of all payments will be made on the platform. Remember—your customers will still have the ability to pay by mailed check!

Set-up and On-going fees

There is a one-time set up fee of \$199.00 for this platform.

Your customers will pay the following fees:

Credit/Debit Cards 0 – 60.00 - \$1.75

Credit/Debit Cards 60.00 and up – 3%

E-check with any amount - \$1.75

Implementation

Once the order is processed, set-up, programming and training are generally completed in 5-7 business days.



MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Reschedule August City Council Meeting
DATE: June 4, 2020

Dear Mayor & City Council Members:

Due to August Primary Elections being held in the Village Hall, we will be unable to hold the August City Council meeting during its regularly scheduled time.

I recommend rescheduling the August City Council meeting to Tues August 18 – just one week later. Aug 25th is also an option but puts the meeting too late in the month and too close to the Sept meeting.

Request/Recommendation

Staff requests that the City Council approve rescheduling the August 2020 City Council meeting to August 18th at 7:00pm. Thanks!

Regards,
Tobin Lay

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Approve Sewer Line Jetting Bid
DATE: June 4, 2020

Dear Mayor & City Council Members:

Several months ago, the City Council discussed a recommendation from White Bear Township to have the City's sewer lines jetted (cleaned). The Township provided an estimate for performing this work. The City Council asked that other bids be obtained. Enclosed is the low bid – Velocity.

Request/Recommendation

Staff requests that the City Council approve the enclosed Velocity bid as presented. Thanks!

Regards,
Tobin Lay



9643 240th Ave NW Elk River MN
PH.(763)262-0214 FAX.(763)428-4249

Proposal for: Birchwood Village
207 Birchwood Ave
White Bear Lake, MN 55110

This proposal will be binding upon **Velocity Drain Services** only if accepted by Accepting Party within 30 days of the date hereof and is subject to all terms and conditions stated on this document. *We are pleased to submit the following proposal to furnish materials and labor at the prices stipulated below:*

Velocity Drain Services proposes to furnish labor and material necessary to jet 10 miles from all sanitary manholes for the city.

Jetting Services with 2 technicians up to 40 hours at \$160.00/Hour/Technician.....\$12800.00
10% Municipal Discount for Contracted Preventative Maintenance.....-1280.00
TOTAL PRICE THIS PROPOSAL.....\$11520.00

Any alteration or deviation from the above specifications involving extra costs will be executed only upon approval, and will become an extra charge over and above the estimate.

Warranties on equipment will be honored as outlined by the original equipment manufacturer.

PAYMENT TERMS: NET UPON RECEIPT. LATE CHARGES, AT A RATE OF 1.5% PER MONTH.

Thank you for this opportunity to propose our services to you. Please call if you have any questions.

Note: This proposal does not include any extra work not stated above.

Note: This proposal does not include any problems produced in other areas than the area stated above.

Note: This proposal does not warranty any work produced by misuse of drains, or from condition of existing issues such as broken or faulty plumbing.

Thanks,

Andrew M. Mattson
Project Manager
Velocity Drain Service Inc.

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: MS4 Public Hearing
DATE: June 4, 2020

Dear Mayor and Council Members,

Each year the City is required to hold a public hearing regarding MS4 – Storm Water Pollution Prevention Program – to review and discuss the City’s storm water management procedures. These procedures are found in Section 202.100 of City Code (enclosed).

Based on the Council’s authorization last month, staff has published notice of tonight’s public hearing accordingly.

Request/Recommendation

Staff requests Council to open the public hearing regarding MS4 – Storm Water Pollution Prevention Program. Thanks!

Regards,
Tobin Lay

**THE CITY OF BIRCHWOOD VILLAGE
STORM WATER POLLUTION PREVENTION PROGRAM PLAN (SWPPP)**

202.100. ILLICIT DISCHARGE DETECTION AND ELIMINATION: PURPOSE AND OBJECTIVES. The purpose of this Ordinance is to provide for the health, safety and general welfare of the citizens of Birchwood Village through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by the State and Federal Law. This Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) MS4 permit process.

The objectives of this Ordinance are:

202.100.1. To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user.

202.100.1.2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.

202.100.1.3. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this ordinance.

202.100.2. DEFINITIONS. For the purpose of this ordinance, the following terms shall have the following meanings:

202.100.2.1. Authorized Enforcement Agency: employees or designees of Birchwood Village or the Minnesota Pollution Control Agency (MPCA) as designated to enforce this Ordinance.

202.100.2.2. Best Management Practices (BMP's): Schedule of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. Best Management Practices also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

202.100.2.3. Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C., 1251 et seq.), and any subsequent amendments thereto.

202.100.2.4. Construction Activity: Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more and projects that disturb less than one acre if they are part of a larger common plan of development. Such activities include but are not limited to clearing and grubbing,

grading, excavating, and demolition.

- 202.100.2.5. Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment, when improperly treated, stored, transported, disposed of, or otherwise managed.
- 202.100.2.6. Illicit Connections: An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter a storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.
- 202.100.2.7. MPCA: Minnesota Pollution Control Agency
- 202.100.2.8. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by the Environmental Protection Agency (EPA) (or by the State of Minnesota under the authority delegated pursuant to 33 U.S.C., 1342(b)) that authorizes the discharge of pollutants to Waters of the State, whether the permit is applicable on an individual, group, or general area-wide-basis.
- 202.100.2.9. Non-Stormwater Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.
- 202.100.2.10. Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- 202.100.2.11. Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquids, solid wastes, and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

- 202.100.2.12. Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and boulevards.
- 202.100.2.13. Storm Drainage System: Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, infiltration, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- 202.100.2.14. Storm Water: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- 202.100.2.15. Storm Water Pollution Prevention Plan (SWPPP): A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution and contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the maximum extent practicable.
- 202.100.2.16. City: Birchwood Village
- 202.100.2.17. Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a property.
- 202.100.2.18. Waters of the State: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Minnesota or any portion thereof
- 202.100.3. APPLICABILITY. This Ordinance shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency.
- 202.100.4. RESPONSIBILITY FOR ADMINISTRATION. Birchwood Village shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the MPCA may be delegated in writing by the City Engineer of Birchwood Village to persons or entities acting in the beneficial interest of or in the employ of the City.
- 202.100.5. ULTIMATE RESPONSIBILITY. The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.
- 202.100.6. DISCHARGE PROHIBITIONS.

202.100.6.1. Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or Waters of the State any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

202.100.6.1.1. The following discharges are exempt from discharge prohibitions established by this Ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated-typically less than one PPM Chlorine), fire fighting activities, and any other water source not containing pollutants.

202.100.6.1.2. Discharges specified in writing by the MPCA as being necessary to protect the health and safety.

202.100.6.1.3. Dye testing is an allowable discharge, but requires a verbal notification to the City clerk 48-hours prior to the start of the test.

202.100.6.1.4. The prohibition shall not apply to any non-stormwater discharge permitted under the NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the MPCA or Federal EPA, provided that the other applicable laws and regulations, and provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

202.100.6.2. Prohibition of Illicit Connections.

202.100.6.2.1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

202.100.6.2.2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

202.100.6.2.3. A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

202.100.7. SUSPENSION OF MS4 ACCESS.

202.100.7.1. Suspension due to Illicit Discharges in Emergency Situations. Birchwood Village

may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or the Waters of the State, or to minimize danger to persons.

202.100.7.2. Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access.

202.100.7.3. Restoration of Access. A person violates this Ordinance by restoring MS4 access to a premises that had access suspended or terminated pursuant to this Section. Restoration of access may only occur with prior written approval of the City.

202.100.8. MONITORING OF DISCHARGES.

202.100.8.1. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, or construction activity as defined in this Ordinance.

202.100.8.2. If an officer or agent of the City has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

202.100.9. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY USE OF THE BEST MANAGEMENT PRACTICES. Birchwood Village has adopted requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or Waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or Waters of the State through the use of these structural and non-structural best management practices. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural best management practices to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions

of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These best management practices shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with these requirements of the NPDES permit.

202.100.10. WATERCOURSE PROTECTION. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

202.100.11. NOTIFICATION OF SPILLS. Notwithstanding any other requirements of law, as soon as any person responsible for a property has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or Waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such a release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. An owner or lessee is responsible for the residential property they own or occupy. For commercial and industrial property, responsible persons include an owner, but not be limited to the tenant, the operator, and an emergency response officer for the facility or operation. In the event of the release of non-hazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to Birchwood Village within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

202.100.12. ENFORCEMENT.

202.100.12.1. Whenever Birchwood Village finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the City may order compliance by written Notice of Violation to the responsible person. Such a notice may require without limitation:

202.100.12.1.1. The performance of monitoring, analyses, and reporting;

202.100.12.1.2. The elimination of illicit connections or discharges;

- 202.100.12.1.3. The violating discharges, practices, or operations shall cease and desist;
- 202.100.12.1.4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- 202.100.12.1.5. Payment of a fine to cover administrative and remediation costs; and
- 202.100.12.1.6. The implementation of source control or treatment best management practices; and
- 202.100.12.1.7. The deadline within which to remedy the violation.
- 202.100.12.2. If the abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- 202.100.13. APPEAL OF NOTICE OF VIOLATION. Any person receiving a Notice of Violation may appeal the determination of the City. The notice of appeal must be received by the City within 15 days from the date of the Notice of Violation. The appeal shall be heard by the City Council within 30 days from the date of the receipt of the notice to appeal. The decision of the Board of Supervisors shall be final.
- 202.100.14. ENFORCEMENT MEASURES AFTER APPEAL. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within the deadline extended by the decision of the City Council, then representatives of the City shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be declared unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.
- 202.100.15. COST OF ABATEMENT OF THE VIOLATION. Within 30 days after the abatement of the violation, the owner of the property will be notified of the cost of the abatement, including administrative costs and a 25% surcharge, and the deadline to pay the abatement costs. The property owner may file a written protest objecting to the costs and payment terms of the abatement within 15 days. The appeal shall be heard by the City Council within 30 days from the date of the receipt of the notice of appeal. If the amount due is not paid within a timely manner as determined by the decision of the City Council after hearing the appeal, the charges will be filed with Washington County and shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

- 202.100.16. INJUNCTIVE RELIEF. The provisions of this Ordinance are intended to prevent the occurrence of events which would likely create immediate and irreparable harm to public facilities and the public health if they occurred. If a person has violated or continues to violate the provisions of this Ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- 202.100.17. COMPENSATORY ACTION. In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, lake and/or creek cleanup, etc.
- 202.100.18. VIOLATIONS DEEMED A PUBLIC NUISANCE. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- 202.100.19. CRIMINAL PROSECUTION. Any person that violates this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, may be subject to the maximum fine and imprisonment allowed by State law. Each day on which such violation exists or continues, shall constitute a separate offense punishable to the maximum extent of the law. The authorized enforcement agency may recover all attorney's fees, court costs, and other expenses associated with the enforcement of this Ordinance, including sampling and monitoring expenses.
- 202.100.20. REMEDIES NOT EXCLUSIVE. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable Federal, State, or Local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

ADOPTED BY ORDINANCE 2013-06-01; JUNE 11, 2013

MEMORANDUM



TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Appeal Case No. 20-01-AP
DATE: June 4, 2020

Birchwood Village

Dear Mayor & City Council Members:

Appeal Case No. 20-01-VB is an appeal by Paul Edwards of the administrative decision in the interpretation and enforcement of the Zoning Code that denied the appellant's building permit application that would have expanded a non-conforming pre-existing structure located at and commonly known as 321 Wildwood Avenue.

The right to appeal administrative decisions is provided under Sec. 304. Sec. 304.020.1 states that:

[a] person who deems himself aggrieved by an alleged error in any order, requirement, decision or determination made in the interpretation and enforcement of the Zoning Code, may appeal to the Board by filing a written appeal with the City Clerk within 30 days after the date of such order, requirement, decision or determination.

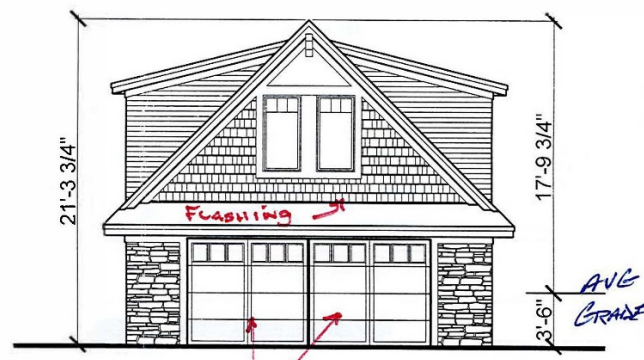
Mr. Edwards submitted a building permit application with the City on April 7, 2020 to replace an existing flat roof with a gabled roof on his non-conforming pre-existing garage. That application was denied by the City on April 20, 2020 and Mr. Edwards notified the City of his intention to appeal on May 10, 2020.

The City's stated reason for denying the permit application was that "[t]he existing garage is considered a non-conforming structure and ... the requested project would intensify the non-conformance [sic] use further." Mr. Edwards' garage is non-conforming because it sits 5 ft. within the side yard setback.

The following photos of the existing flat roof garage and the proposed plan for a gabled roof show that the proposed plan is an intensification of the non-conforming use and that it enlarges, modifies, changes, and extends vertical dimensions. *See Sec. 301.050.B.*



Existing flat roof garage



Proposed gabled roof garage

Sec. 300.020.34 defines a Non-Conforming Use as follows:

Non-Conforming Pre-Existing Structure or Use: Any building or structure which was legally existing on January 1, 1975, or authorized by variance thereafter, which would not conform to the applicable conditions if the building or structure were to be erected under this Code. **Non-Conforming Illegal Structure, Use, or Lot:** A lot, building, structure, premises, or use illegally established when it was

initiated, created, or constructed, which did not conform with the applicable conditions or provisions of the City Code for the area in which the structure or use is located.

For the purposes of interpreting this Code, staff assumes that the garage was legal prior to January 1, 1975 because the age of the garage is unknown to staff. Accordingly, staff gives the benefit of the doubt that this garage is a non-conforming *pre-existing structure*, rather than a non-conforming *illegal structure*. The administrative decision was thus based on this assumption.

Sec. 301.050.B states that:

A non-conforming use may be continued so long as it remains otherwise lawful, subject to the provisions of paragraphs (1) through (7) below, in order to ensure that the non-conforming use will not be intensified and that, over time, the non-conforming use will, where possible, be brought into conformity with the Zoning Code.

1. A Non-Conforming Pre-Existing Structure shall not be enlarged, modified, changed, extended (either horizontally or vertically) or structurally altered, unless such changes bring the Non-Conforming Pre-Existing Structure into conformity with the Zoning Code. (Exception: A non-conforming use, lawfully located within 60% of all required setbacks, may be structurally altered if the alterations do not change the horizontal or vertical dimensions of the structure and otherwise conform to the Zoning Code.)

Mr. Edwards argues that Sec. 301.050.B.5 (following) allows him to expand his roof:

Notwithstanding paragraph (1) above, a Non-Conforming Pre-Existing Structure may be expanded, provided:

- a. That such expansion does not increase the non-conformity in any dimension (vertical or horizontal), does not create a new non-conforming use, and in itself conforms with the Zoning Code; and
- b. The sum of the setbacks on either side of the structure is not LESS than 20 feet.

He states that the extension of the roof neither increases the non-conformity horizontally or vertically because it does “not alter the location of the garage [or] ... move [it] closer to the adjacent lot line” and “will not exceed that allowable by code of 18 feet to the ridge line from average grade.”

City staff has interpreted Sec. 301.050.B.5 to mean that notwithstanding 301.050.B.1, a non-conforming pre-existing structure may be expanded as long as the non-conforming portion of the structure is not expanded in any way, that no conforming portion of the structure is made to be non-conforming, and the total setbacks on both sides of the structure are at least 20 feet.

Under this interpretation, the roof could be expanded above the conforming portions of the garage only but not above the non-conforming portion that is within the setback.

The proposed plan would violate Sec. 301.050.B because it would expand the non-conforming portion of the garage vertically by creating additional structure within the setback, even if it would otherwise meet the height limitations. Simply stated, one cannot build anything new within the setback.

Mr. Edwards also argues that “adding a roof above the block foundation does not increase non conformity [sic] because adding the roof does not change the foundations [sic] proximity to the lot line.” He relies on a provision in Sec. 302.020.1 that states:

GENERAL REQUIREMENTS. All structures must be located so that minimum setback requirements are met or exceeded. All measurements (in feet) as set forth below shall be determined by

measuring from the foundation of the appropriate structure perpendicular to the appropriate lot line.

It is the position of City staff that Mr. Edwards misapplies this provision. The intent of Sec. 302.020.1 is to guide one in determining how far back from the lot lines the setbacks are. It is not meant to be used to determine vertical measurements but rather to determine where that vertical measurement should begin on the horizontal line from the lot line. Employing Mr. Edwards' interpretation of Sec. 302.020.1 would defeat the intent and purpose of every reference to vertical measurements in the Code book.

Finally, Mr. Edwards infers that he was instructed to request a variance "for replacing the garage roof...." This is not true. He was, however, informed that a variance would be required to build the roof as proposed. Sec. 301.050.B.4 allows "normal maintenance of a Non-Conforming Pre-Existing Structure ... which do not physically extend or intensify the non-conforming use." What a variance would be required for is to extend or intensify the non-conforming use, such as replacing a flat roof with a gabled roof within the setback.

Enclosed is the permit application, the City Engineer/Planner Steve Thatcher's findings, the City Attorney Alan Kantrud's findings, the City's notice of denial to Mr. Edwards, Mr. Edwards notice of appeal to the City.

Request/Recommendation

Staff requests that the City Council:

- Review the materials; and
- Approve Resolution 2020-21 to find for City staff and their administrative decision.

Thanks!

Regards,
Tobin Lay

REGULAR Ba APPEAL NO. 20-01-AP

City of Birchwood Village BUILDING PERMIT APPLICATION

Jack Kramer – Building Official
10090 Oakgreen Avenue North
Stillwater, MN 55082
Office Ph. # 651-351-5051
Pager # 651-847-9157

Two Sets of Plans Received: Yes
Date Issued: 4.11.2020
Permit No: 2020-6

Project Address: 321 WILLOWOOD AVE, BIRCHWOODS, MN

Permit Applicant: PAUL EDWARDS Phone No: [REDACTED]

Contractor License No: OWNER Expiration Date: _____

Homeowner: PAUL EDWARDS Phone No: _____

Permit For: ROOF REPLACEMENT Valuation \$: 15,000

Sq. Feet: 600 Length: 25' Width: 24' Height: 12'

Legal of Site Location: _____

PID#: 30,030,21,21,0043

Road Escrow: _____

Proximity to Wetlands or Lakeshore: 200'

Setbacks: Front Yard 30' Rear Yard 200' Side/s Yard 20'/5'

Septic Inspector Approval: N/A Fee \$: N/A

Description of Work (attach a site plan) REPLACE FLAT ROOF w/ 12/12 PITCH
GABLE ROOF. GARAGE LOCATION UNCHANGED. AVERAGE GRADE IS
15 3/8" (ALCH NOTED AT 3'6" ON DRAWING)

| Special Approvals | Required | Received | Not Required |
|-----------------------|----------|----------|--------------|
| Washington County | | | ✓ |
| Rice Creek Watershed | | | ✓ |
| City Council | | | ✓ |
| Building Commissioner | ✓ | | |

| | |
|---------------------|------------------|
| Plan Check Fee | \$ <u>163.31</u> |
| City Fee | \$ <u>251.25</u> |
| Plan Reviewer Fee | \$ |
| State Surcharge Fee | \$ <u>7.50</u> |
| Building Permit Fee | \$ |

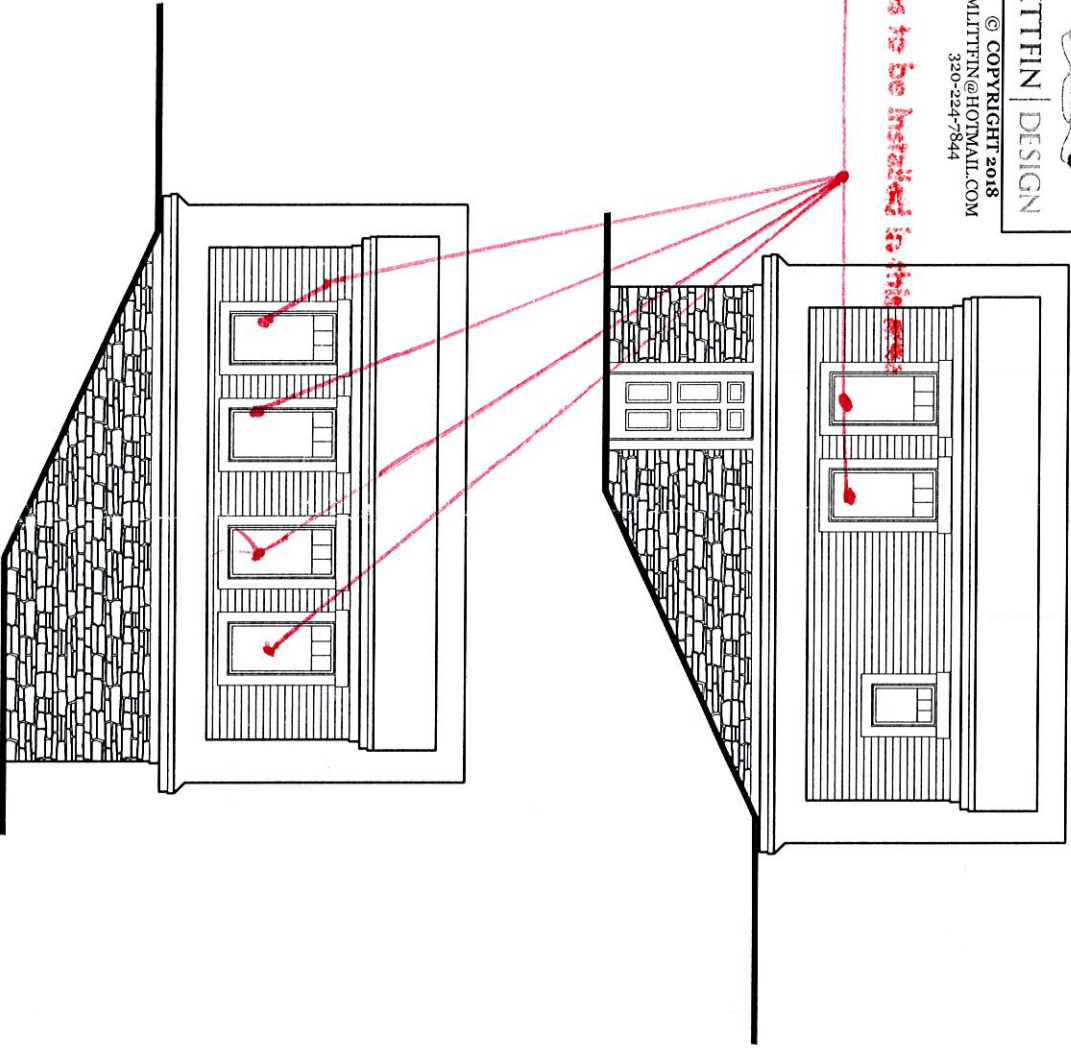
NOTE: THE NEW GARAGE AREA TO BE UNFINISHED AT THIS TIME, VERIFIED BY OWNER 4.10.2020
JDK



LITFIN | DESIGN

© COPYRIGHT 2018
MLITFIN@HOTMAIL.COM
320-224-7844

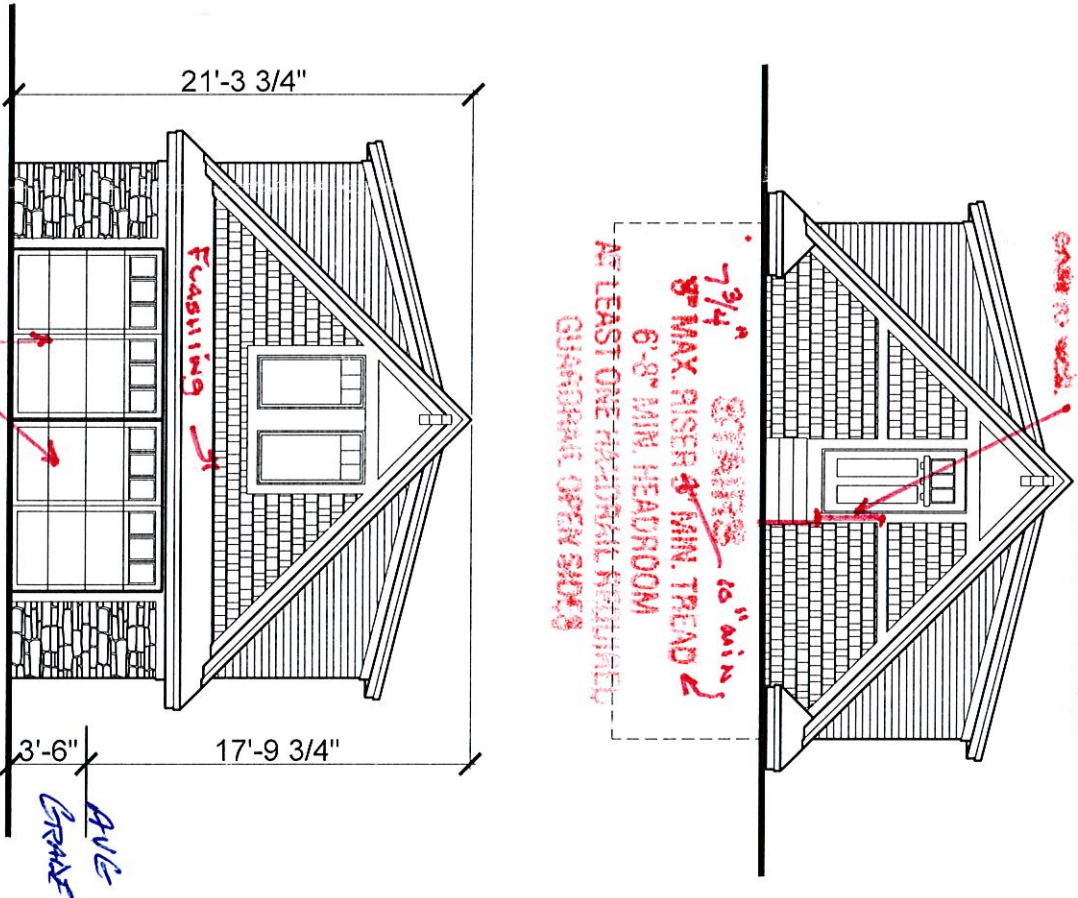
story glass to be installed in this area



MAINTAIN MINIMUM OF 20" WIDTH
OF HALLWAYS AND STAIRWAYS

Handrails req'd. 34" - 38" high, 1 1/2" dia. no closer than 1 1/2" to wall, return glass to wall.

7 3/4" STAIRS 10" min
8" MAX. RISER & MIN. TREAD
8'-8" MIN. HEADROOM
AT LEAST ONE HANDRAIL INSTALLED
GUARDRAIL OPEN SIDES



Garage Doors Shall Be Designed For 90 mph. F. Sec.

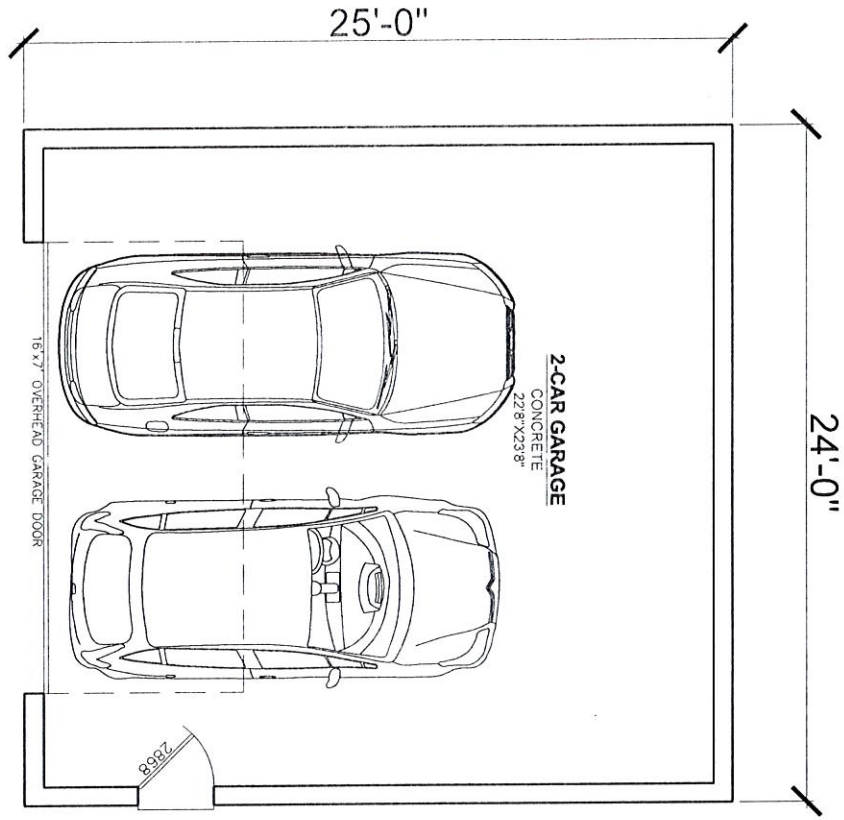
Just wind load Requirements

HoweCunen Copy

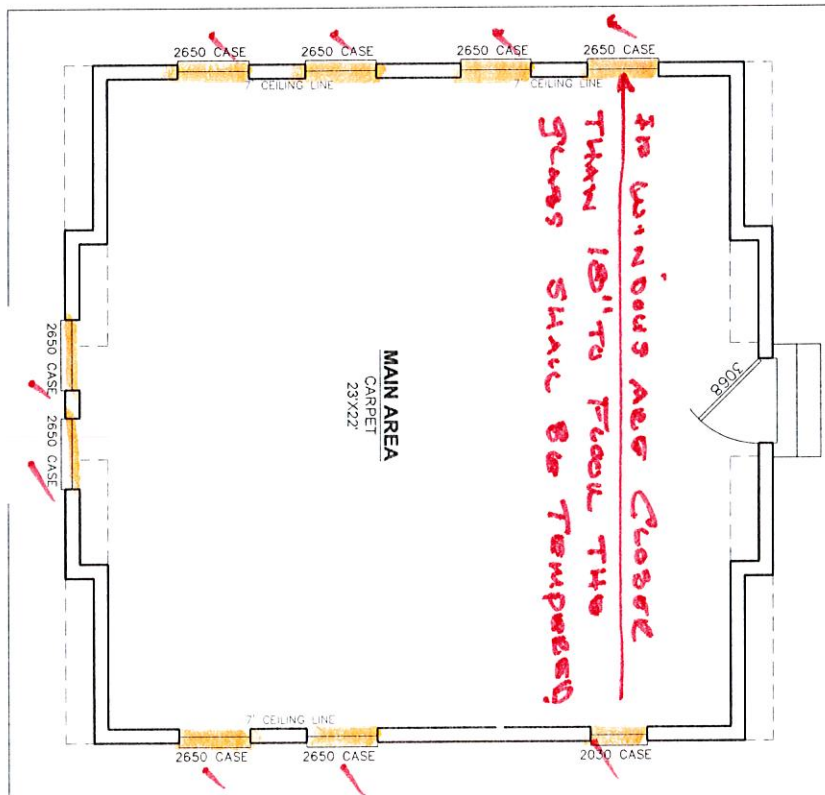
Plan Reviewed For Code Compliance
3.11.2020 By The City of Birchwood Vic
TRAC KERRIE
BUDG OFFICER



LITTFIN | DESIGN
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MLITTFIN@HOTMAIL.COM
320-224-7844



1 PROPOSED FIRST FLOOR PLAN
912 FINISHED SQ. FT.



2 PROPOSED SECOND FLOOR PLAN
577 SQ. FT.

Tobin Lay

From: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Sent: Monday, April 20, 2020 9:06 AM
To: Tobin Lay
Subject: RE: Application 321 Wildwood Ave

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Tobin,

I agree with you. The work proposed in the building permit application does not meet the requirements for exception No. 5 of City Code 301.050 because if the following:

1. The expansion does increase the non-conformity in any dimension (vertical or horizontal), and
2. The work (itself) does not conform with the Zoning Code because it is within the minimum setback requirements.

Thanks,
Steve

Steven Thatcher, PE
Thatcher Engineering Inc.

6201 Creek Valley Road
Edina, MN 55439
Phone: 612-781-2188 Cell: 612-867-7234 Fax: 612-781-2188 Web: www.thatcher-eng.com

Tobin Lay

From: HAK <prairiehabaneros@gmail.com>
Sent: Monday, April 20, 2020 4:14 PM
To: Tobin Lay
Subject: Re: FW: Application 321 Wildwood Ave

Caution: This email originated outside our organization; please use caution.

Yes, this proposed "new roof" is quite a bit more involved and clearly is adding a habitable area above a garage. Windows, doors, presumably electricity and whatever else is certainly more than a reroofing project. I don't understand how was even applied-for as such. It should be applied-for as an expansion of the primary dwelling perhaps and for a variance if anything. But typically there are no accommodations for legal-nonconforming structures and certainly the regular code requirements. The only allowance typically in a legal-nonconforming situation is maintenance of the existing non-conformity. If it is destroyed by fire for example it would have to adhere to the setbacks as written now.

As it is presented this is an expansion of a non-conforming use.

Alan

On Mon, 20 Apr 2020 at 15:15, Tobin Lay <Tobin.Lay@cityofbirchwood.com> wrote:

Alan,

May I get your legal opinion on an Administrative decision made on a building permit? Steve and I both agreed to deny the permit application for the below project because it would intensify the non-conforming use of the existing garage that is built within 5' of the sideyard setback by replacing the existing flat roof with a gabled roof. The applicant feels that language in Sec. 302.020 limit the measurements to horizontal and cannot apply to a vertical intensification. Would your opinion change if the non-conforming structure was granted previously by variance? I've attached both Sec. 301 & 302 for your convenience.

Here is Steve's reply:

Tobin,

I agree with you. The work proposed in the building permit application does not meet the requirements for exception No. 5 of City Code 301.050 because if the following:

1. The expansion does increase the non-conformity in any dimension (vertical or horizontal), and
2. The work (itself) does not conform with the Zoning Code because it is within the minimum setback requirements.

Tobin Lay

From: Tobin Lay
Sent: Monday, April 20, 2020 3:04 PM
To: 'Edwards, Paul'
Cc: Jack Kramer (INSPJACK@msn.com); Steve Thatcher (sthatcher@thatcher-eng.com)
Subject: RE: Application 321 Wildwood Ave

Hello Paul,

The purpose of this email is to summarize the City's decision about your building permit application that we discussed over the phone today. We are not able to approve your building permit application at this time. The existing garage is considered a non-conforming structure and based on the City's reading of Sec. 301.050, Non-Conforming Uses, the requested project would intensify the non-conformance use further. Thank you.

Tobin Lay
City Administrator-Clerk
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747
email: tobin.lay@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



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Tobin Lay

From: Edwards, Paul
Sent: Sunday, May 10, 2020 6:13 PM
To: Tobin Lay
Cc: Jack Kramer (INSPJACK@msn.com); sthatcher@thatcher-eng.com
Subject: RE: 321 Wildwood Ave proposed roof replacement

Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Tobin,

Please pass this email along to the governing body for which this process will involve. Please advise me of all relevant dates and all party's to which this matter will involve. I am appealing under code 301.050 #5 as I have been aggrieved in its misapplication. As you stated below, the proposed garage roof replacement meets all other building requirements. If there are other relevant codes or concepts and general useful information pertinent to this process please advise.

Consider this my formal appeal of the administrative decision to replace my flat garage roof with a gable garage roof. Code 301.050 #5 clearly states that a non-conforming pre-existing structure may be expanded.

My existing garage structures nonconformance is relative to the adjacent lot line. Therefore tests must be applied as defined by code 301.050 #5 to determine if expansion is allowable.

1. Do alterations to the existing structure move it closer (horizontally) to the lot line? No, the proposed garage roof to be installed will not alter the location of the garage and the existing structure will not move closer to the adjacent lot line. Its useful to understand that the measurement is from the base of the foundation perpendicular to the adjacent lot line as defined by code.
2. Is the sum of the setbacks on either side of the structure less than 20 feet? The lot is 50 feet wide, the existing garage is 24 feet wide, therefore the sum of the distance is 26 feet and not less than the 20 feet required by code.
3. Do the alterations increase non conformity vertically? No. The proposed pitched roof will not exceed that allowable by code of 18 feet to the ridge line from average grade.

Code 301.050 #5 clearly does not say that expansion of a non-conforming structure may only occur on the "compliant" side of the structure as has been suggested by administration. In fact, the code is quite clear that given compliance with test provisions cited above expansion may occur including replacing a flat roof with a gabled roof. Furthermore, neither code 301.050 nor anywhere else in the code book could I find guidance relating to expansion of a non-conforming structure only on the "compliant" side of the structure. I've found no footnotes or other citing's within the codebook to this "compliant side" concept. Building on the "compliant" side of a non-conforming structure does not have a definition in the code book. The code book also does not include guidance for building ½ or ¾'s of a gable roof over a flat roof on the "compliant" side and leaving the remainder unfinished. Furthermore, doing so would be entirely out of character with the neighborhood as I cannot think of a single garage that has only of a portion of its gable roof completed.

Administration also argues that building above the existing wall somehow increases nonconformance. The code is clear in its measurement guidance which is perpendicular from the foundation of the structure to the lot line. Adding another row of block to the foundation does not increase non conformity nor does adding two or three rows of block. Similarly, adding a roof above the block foundation does not increase non conformity because adding the roof does not change the foundations proximity to the lot line.

Finally, code 301.050 #5 does not call for a variance for replacing the garage roof notwithstanding the nonconforming structure.

The existing structure has a leaky flat roof and in its existing state takes away from the quality of the street and neighborhood. The proposed gable roofed garage will be constructed professionally and greatly enhance the overall look and character of the street. Motion lights will be installed to increase security on what is a very dark street. Ill also have a freshly installed driveway and freshen up the landscaping around the garage. I hope it adds a lot of curb appeal.

I look forward to working with you on this project that will be beneficial to the neighborhood.

Thank you,

Paul Edwards
321 Wildwood Ave

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Appeal Case No. 20-02-AP
DATE: June 4, 2020

Dear Mayor & City Council Members:

Appeal Case No. 20-02-VB is an appeal by Cathy Wandmacher of the administrative decision in the interpretation and enforcement of the Zoning Code that denied the appellant's zoning permit application that would have increased the impervious surface coverage of the lot beyond the allowable amount located at and commonly known as 415 Wildwood Avenue.

The right to appeal administrative decisions is provided under Sec. 304. Sec. 304.020.1 states that:

[a] person who deems himself aggrieved by an alleged error in any order, requirement, decision or determination made in the interpretation and enforcement of the Zoning Code, may appeal to the Board by filing a written appeal with the City Clerk within 30 days after the date of such order, requirement, decision or determination.

The City was informed that there was a large project going on at 415 Wildwood Avenue. City staff contacted the owner of 415 Wildwood, Ms. Wandmacher and discovered that a brick patio and fireplace were being installed on the lot. Ms. Wandmacher was unaware that a zoning permit was required for this activity.

Upon the City's request, Ms. Wandmacher submitted a zoning building permit application with the City on May 7, 2020, for work that had already been performed. That application was denied by the City on May 15, 2020 and Ms. Wandmacher notified the City of her intention to appeal on May 21, 2020.

The City's reason for denying the permit application was that the impervious coverage of her lot exceeded the max. 25% allowed under Sec. 302.050 (approx. 31% instead of the max. 25%). Because her lot was smaller than the min allowed in Sec. 302.010 for an undersized lot (6,761 sq. ft. instead of the min 7,200), her lot was considered a "non-conforming pre-existing use" under Sec. 301.050 and not considered a buildable lot. Accordingly, most improvements to her lot, including this one, would require a variance permit. The City required Ms. Wandmacher to remove the work that had been performed.

Ms. Wandmacher is appealing the decision in enforcement, believing that the requirement is too onerous. She does not appeal the decision in the interpretation of the Zoning Code. Accordingly, I make no analysis on the interpretation of the Zoning Code.

City Staff sees no other option available for enforcement, unless the City Council would approve Ms. Wandmacher to request a variance for work already performed.

Enclosed is the permit application and the City's notice of denial to Ms. Wandmacher.

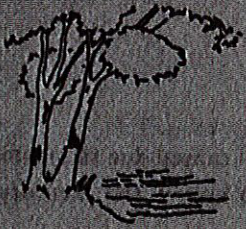
Request/Recommendation

Staff requests that the City Council:

- Review the materials; and
- Approve Resolution 2020-22 to find for City staff and their administrative decision.

Thanks!

Tobin Lay



City of Birchwood Village
Zoning Permit Application

207 Birchwood Ave, Birchwood, MN 55110
 Phone: 651-426-3403 Fax: 651-426-7747
 Email: info@cityofbirchwood.com

Also doing about 10 stone steps with mulch between down to the lake

Steven Thatcher – City Planner
 6201 Creek Valley Road
 Edina, MN 55439
 Office Ph.: 612-781-2188
 Email: sthatcher@thatcher-eng.com

Two Sets of Plans Received: _____
Date Issued: _____
Permit No: _____

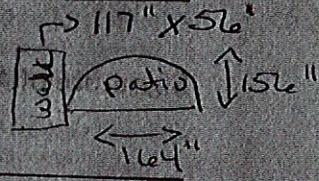
Project Address: 415 Wildwood Ave

Permit Applicant: Cathryn Ward Macher **Phone No:** [REDACTED]

Contractor License No: _____ **Expiration Date:** _____

Homeowner (if different): _____ **Phone No:** [REDACTED]

Type of Work: stone patio **Valuation:** \$ _____
Sq. Feet: _____ **Length:** _____ **Width:** _____ **Height:** _____



PIN: _____ **Proximity to Wetlands or Lakeshore:** _____

Setbacks: Front Yard _____ Rear Yard _____ Side Yards _____ & _____

Proposed % Impervious Surface of the Lot (upon completion): _____

Removal of Trees and/or Vegetation: Yes No **Explain:** it was dead

Description of Work (including the intended use and occupancy of the proposed work):
patio + fire pit

Attach a site plan to scale (showing location of proposed work and all existing structures and improvements on the lot) and elevation drawings if the structure has a height dimension.

| Special Approvals | Required | Received |
|-----------------------|----------|----------|
| Washington County | | |
| Rice Creek Watershed | | |
| WBL Conservation Dist | | |
| Dept Natural Resource | | |

| | |
|-----------------------------------|--|
| Cert. of Insurance | |
| OR Cash Escrow | |
| Soil Investigation Report | |
| OR Shoring Plan | |
| Existing Conditions Report | |
| Demolition Notifications | |
| Construction Signage | |
| Stormwater / Erosion Control Plan | |

| | |
|---------------------|----|
| City Fee | \$ |
| Planner Fee | \$ |
| State Surcharge Fee | \$ |
| Permit Escrow Fee | \$ |
| TOTAL | |

my lot size
 .155 acres @ 701.1 ft²
 29 x 245 x 27 x 242
 31.6% Impervious

Notice:

*The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.

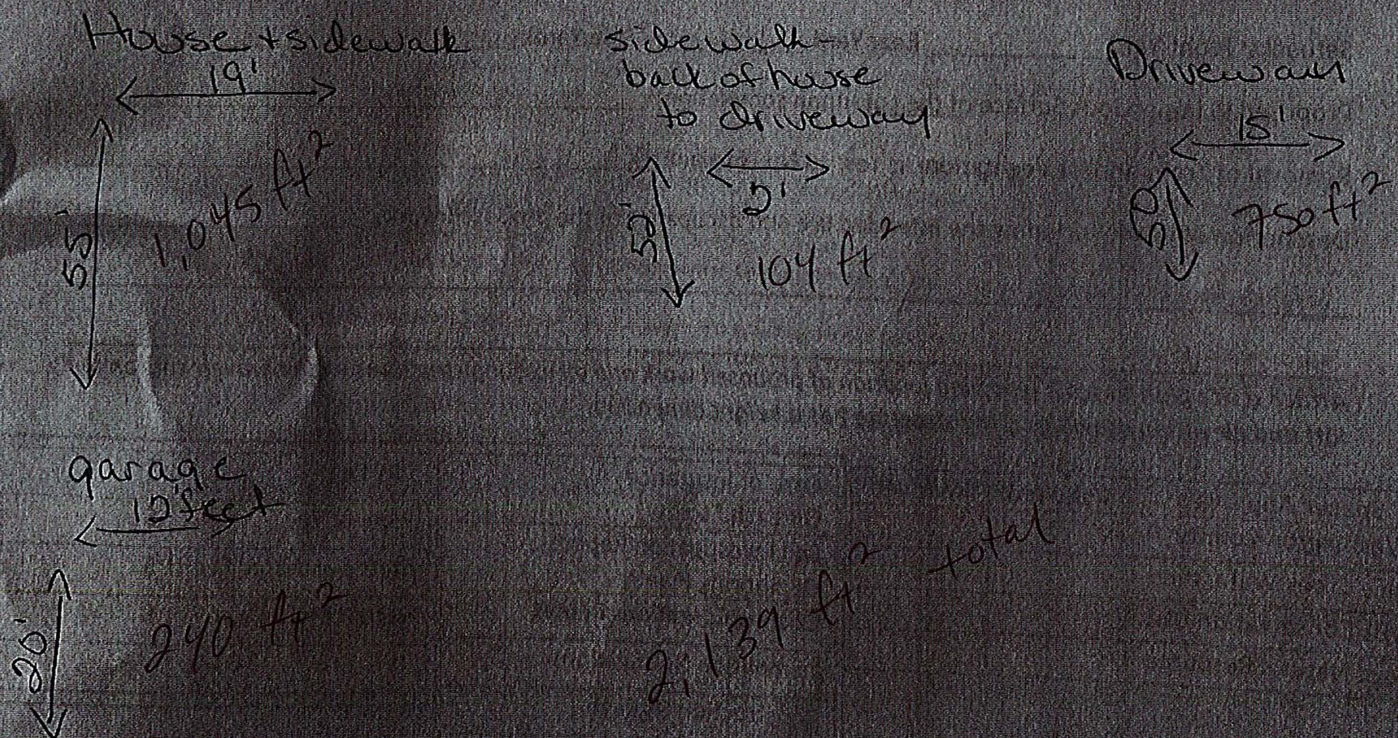
*The City will hold applicant responsible for any damage to public streets & roadways in the course of construction, landscape, excavating, filling and grading operations.

*Any changes to this application will make the permit voidable unless amendments are approved by the City with prior consent. The applicant will provide (separate documents, surveys, and calculations) to the City with the building height, roof plane, grade plane, change in elevation, and impervious surface.

*The applicant shall comply with all provisions of the State Building, Plumbing, Mechanical, Electrical, and Fire Codes, as well as all City Ordinances governing zoning and buildings. The State of Minnesota regulates all electrical work. The continued validity of this permit is contingent upon the applicant's compliance of all work done and materials used, with the plans and specifications herewith submitted, and with the applicable ordinances of the City.

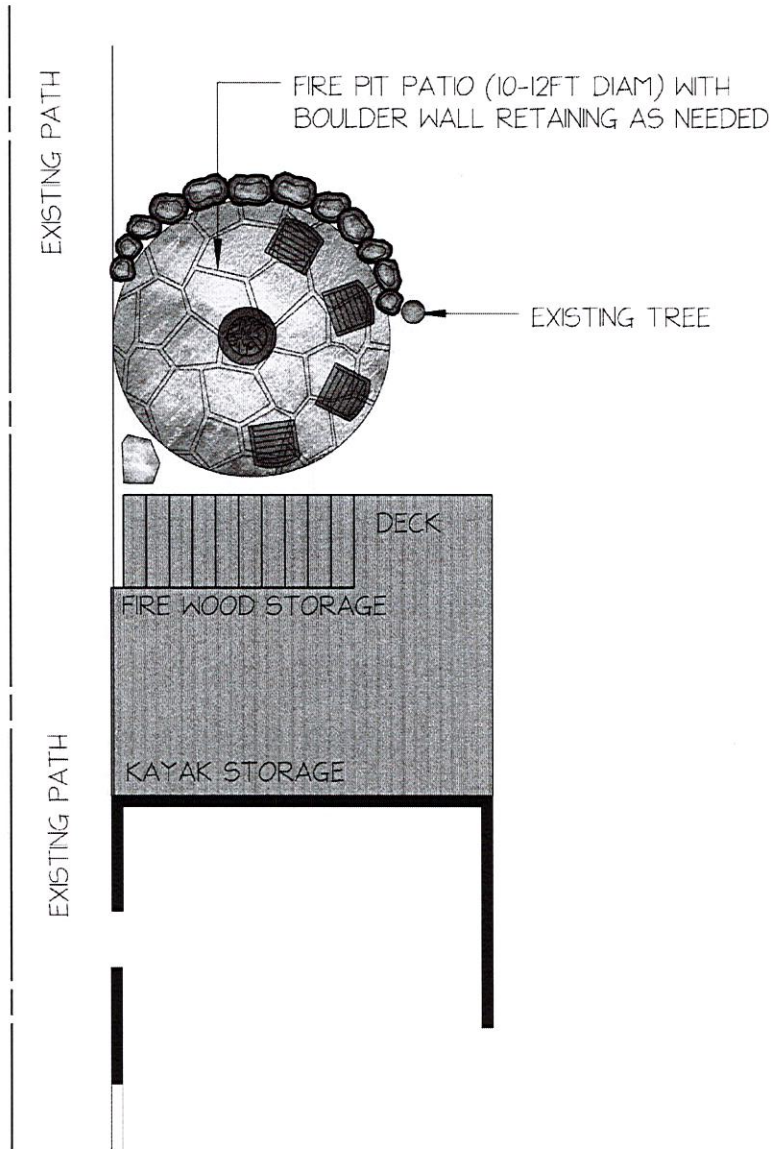
*Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building which will be built in conformance with such representation.

Signature of Applicant: Cath A. Walman Date: 5-7-20



STEPS TO BOTTOM OF HILL
 - OUT CROPPING OR FLAT SURFACE NATURAL BOULDERS AS NEEDED

| | | |
|---|--------------|-------------|
| WANDMACHER RESIDENCE | | |
| 415 WILDWOOD AVE BIRCHWOOD, MN 55110 | | |
| client | | |
| scale | 1" = 8' | date 4/4/20 |
| drawn by | checked by | revision |
| ROSALIE TALLEN | 651 426-1500 | |
| | | drawing # |





CITY OF BIRCHWOOD VILLAGE
207 Birchwood Avenue
Birchwood Village, MN 55110
651-426-3403 (tel) / 651-426-7747 (fax)
Info@CityofBirchwood.com
www.CityofBirchwood.com

Re: Unapproved Land Disturbance

May 15, 2020

Cathy Wandmacher
415 Wildwood Avenue
Birchwood, MN 55110

Dear Ms. Wandmacher,

The purpose of this letter is to inform you that your application for a Zoning Permit has been denied and that the unapproved work that has already been performed must be removed.

The reason for the denial is because the impervious surface coverage on your lot exceeds the max. allowable amount. City Code Sec. 302.050 states that the “impervious surface coverage of lots shall not exceed twenty five (25) percent of the lot area...” Based on the info you presented on your application, your lot had approx. 31% impervious surfaces on it prior to your work.

Your lot is considered a “non-conforming pre-existing use” (Sec. 301.050) because it does not meet the requirements to be a buildable lot. Under Sec. 302.010, a normal lot must be 12,000 sq ft and an undersized lot (like yours) must be a least 7,200 sq ft. Your total lot size is approx.. 6,761 sq ft. Accordingly, Sec. 302.050 would require you to obtain a variance permit for most improvements to your yard.

Additionally, under Sec. 301.080, the type/size of work you performed requires a Zoning Permit, which you did not obtain prior to your work. The Late Fee under the 2020 Fee Schedule, which has been established by Sec. 701, states that “In the event a person shall engage in conduct for which a permit or license is required without first paying the appropriate fee and obtaining the permit or license, the fee established shall be tripled or \$50, whichever is greater.” Zoning Permit fees are currently set at \$30. At this time I am not seeking the Late Fee but failure to comply with this order may result in that and other fees being charged.

Please be advised that Sec. 304.020 provides recourse for appealing this administrative decision with the City Council by filing a written appeal with City Hall within 30 days of this notice. The appeal must fully state the order to be appealed; allege an error in that order, made in the interpretation and enforcement of the Zoning Code; and the relevant facts of the matter. There is currently no fee for filing an appeal.

In the alternative, you may also file a “Petition for a Variance” from the Zoning Codes. Doing so will allow you to petition members of the Planning Commission and then the City Council to

grant a variance from the specific codes that you seek. The fee for a variance is \$300 plus time and materials for the City Planner and other consulting professionals.

If you wish to discuss either the appeals or variance process, please let me know.

Regards,
Tobin Lay
City Administrator

Copied: City Attorney Alan Kantrud; City Engineer Steve Thatcher.

**REGULAR C
WILDWOOD AVE TRAFFIC**



Salt Spring Island Canada

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Diseased Trees
DATE: June 4, 2020

Dear Mayor & City Council Members:

Last year the Council appointed John Lund as the City Tree Inspector for 2019. As we are entering the tree inspection season (summer), it is time to appoint a tree inspector again, for 2020. John Lund is willing to provide inspection services again for \$1,300.

Given that the City's Diseased Tree Ordinance is outdated and that the issue of rights continues to be raised by residents, the Council asked last month that a public discussion take place on this subject during this meeting.

Master's students from Metropolitan State University researched this issue last Fall for the City and presented a 21 page report on the subject. That report is enclosed to help you in this discussion.

Also enclosed is John Lund's recommendation and Sec. 403, Tree Diseases.

Request/Recommendation

Staff requests that the City Council:

- Open the public discussion on this subject;
- Appoint John Lund as the City Tree Inspector for 2020 for \$1,300; and/or
- Decide how to proceed with the City's Diseased Tree Ordinance and inspections going forward.

Thanks!

Regards,
Tobin Lay

Tobin Lay

From: john lund
Sent: Tuesday, May 12, 2020 12:09 PM
To: Tobin Lay
Subject: RE: Tree Ord Project
Attachments: image001.jpg

Caution: This email originated outside our organization; please use caution.

Hi,

As the tree inspector for Birchwood, I recommend the city make some changes to the current tree ordinance in place. Our city's current tree ordinance needs to have additions written into it.

We need to practice good forest management. How our ordinance is written now we are not able to enforce the DNR's recommended procedure for root grafting before taking down and removing trees with oak wilt. We need to include root grafting into our ordinance, and this is an example for why we should rewrite the ordinance because we are not currently able to enforce the DNR's best practice for removal of trees with oak wilt by root grafting first which stops the spread.

We should not leave tree inspection up to homeowners, as this would be inconsistent and incomplete. Instead the city should have a licensed tree inspector annually inspect all trees to properly limit the spread of diseases like oak wilt and other diseases, to identify ash trees at risk, and identify the emerald ash bore if present.

I recommend we create a committee and rewrite the tree ordinance to include how we will address emerald ash bore and oak wilt so we are enforcing tree removal correctly per the DNR's recommendations, and practicing good forest management.

-John

Sent from [Mail](#) for Windows 10

From: [Tobin Lay](#)
Sent: Thursday, May 7, 2020 5:14 PM
To: '[john lund](#)'
Subject: RE: Tree Ord Project

Hello John,

Is this your recommendation for the Council or a pre-cursor. Let me know so I can act accordingly. Thanks .

Tobin Lay
City Administrator-Clerk
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747

email: tobin.lay@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



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From: john lund
Sent: Thursday, May 7, 2020 5:12 PM
To: Tobin Lay <Tobin.Lay@cityofbirchwood.com>
Subject: RE: Tree Ord Project

Caution: This email originated outside our organization; please use caution.

Thanks for the report. I think we need to add trenching 5 ' deep around trees with oak wilt ordinance asp. The main thing to stop the spread that has not been getting done. If we do what the DNR has stated will stop the transfer of oak wilt we need to do it. It is very clear what the city has been in forcing does not work. Then maybe we start at the planning co with some of these other tree ordinances topics. Maybe we have our attorney recommends some changes to our tree ordinance study and current ordinance. I think tree inspecting is smart just like all other citys do.

Sent from [Mail](#) for Windows 10

Study of City of Birchwood Village Tree Ordinance

**PADM 650 01: PUBLIC POLICY ANALYSIS WITH KARL NOLLENBERGER
COMPILED BY LINH NGUYEN, MELLISA XIONG, AND HENASON KOLLIE**

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EXECUTIVE SUMMARY

The City of Birchwood is a small residential community on the shores of White Bear Lake. The city is heavily wooded, giving it a forest-like feel. Trees are very important to the city and its residents. The city has ordinance with procedure for inspection and removal of disease trees to protect its natural environment. However, the ordinance was last updated in May 2011. Since then, the trees in the city have suffered from new diseases which were not included in the current ordinance.

The purpose of this study is to update the City of Birchwood Village's current tree ordinance to make it more comprehensive, relevant and easier to understand by the public. The study will do research and look into two topics the clients are concerned about: (1) an update on tree diseases and plagues to the ordinance and (2) whether or not they should continue their current practice of entering private land for tree inspection without permission.

There are important constitutional concerns at stake when cities enter private property. When a city cannot obtain consent from a property owner, the city may need to obtain an administrative search warrant. Cities should be aware of the situations that might require an administrative warrant and understand what they need to do to obtain an administrative search warrant. The city attorney should be consulted in these situations so that important evidence is not excluded when cities try to establish an ordinance violation and so that cities are not liable for violating the property rights of individuals.

PROBLEM STATEMENT

A few residents of the city have voiced their concerns about their constitutional right as the current ordinance allows the inspector to enter in private land to inspect trees without permission from the owner of the properties. In updating the new ordinance, the City of Birchwood Village hope to answer these following four questions:

1. What diseases should Birchwood's ordinance include?
2. Should Birchwood continue to inspect private trees or should it limit its scope to public trees only?
3. If continue inspecting private trees:
 - a. Does the City have constitutional authority to enter private property without permission to inspect and to remove diseased trees?
 - b. Whether authorized or not to enter private property, should the City continue its practice of entering without permission?
4. What other practices should the city adopt to make the ordinance comprehensive and effective in stopping the spread of tree diseases?

CLIENT

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On September 18, 2019, a meeting was held with Tobin Lay and John Lund, with the Mayor Mary Wingfield on the phone, to get more information about the details of the project. The City of Birchwood Village representatives are very concerned about the new tree diseases that threatens the well-being of the trees in the City. John Lund, the city tree inspector, mentioned that the trees around the city are plagued with Bur Oak Plight. Currently, there is no information about this particular disease in the current ordinance. He mentioned that because the temperature in Minnesota doesn't get as low as it was before, it is easier for the fungus and other tree diseases to spread. Tobin Lay stated currently that the city's only solution is to remove diseased trees, and that the city has not looked into alternative procedures in terms of treatment and prevention.

In addition, Mr. Lay was concerned about the legal issues, stating that the city was sued in the past for entering private properties without permission to inspect the trees. The court has not come to a solid conclusion as to whether entering private land violates the land owner's constitutional right. The current practice of the city for private land inspection is as follows: the tree inspector, John Lund, goes into private properties to inspect the trees. Upon discovering a potential disease, he then notifies the city of his findings and the procedure to tree removal, or abatement process. The home owners have 20 days to implement the recommended procedures. They can choose to do it on their own or have the city do it for them. If they choose to let the city do it, the cost is at the home owners' expense.

On September 19, 2019, Mr. Lay sent the policy analysis team his research on constitutional right:

- The Minnesota Statutes 2018 Sec.18G.13 states that "a city council, board of county commissioners, or town board may by resolution or ordinance adopt and enforce regulations to control and prevent the spread of plant pests and diseases. The regulations may authorize appropriate officers and employees to:
 - (1) Enter and inspect any public or private place that might harbor plant pests;
 - (2) Provide for the summary removal of diseased trees from public or private places if necessary to prevent the spread of the disease;
 - (3) Require the owner to destroy or treat plant pests, diseased or invasive plants, or other infested material; and
 - (4) Provide for the work at the expense of the owner.
- The law case State of Minnesota v. Carl S. Sorenson concluded that state officials can enter private land without permission or a warrant if they have a valid reason for entering and if they only enter the area outside the owners' home, not the actual house because this was considered open-fields.

- The League of Minnesota Cities, on the other hand, advised the City to obtain permission or a warrant before entering private properties.
- Examples of the city's tree ordinance. Mr. Lay stated that the city of White Bear Lake currently only governs the inspection and removal of public trees.

In the initial meeting, the tree inspector John Lund, emphasized the importance of tree inspection for both public and private trees. He noted that tree diseases and plagues are spread through multiple means such as through the roots underground; through birds and insects when travel from one tree to another, etc. It was his job to inspect and monitor to make sure that the spread is controllable. However, he could not do that without the authority of being able to inspect private trees.

1. Description of interested parties and potential cost and benefits

Refer to Appendix B for chart comparison.

2. Potential winners and losers

It is agreed that without a change in the ordinance, all involved parties lose. Everybody wins when the ordinance is updated and implemented.

3. Type of analysis

The policy analysis team decided to look into and analyze the following topics:

- Knowledge of types of diseases and types of tree affected
- Constitutional laws and compare tree ordinances of surrounding cities.
- Tree treatments the city can adopt to stop the spreading of diseases.
This will be done by retrieving data from previous research, case study and current ordinance from other cities, summary of similar court case involving private properties and constitutional rights and interviews with researchers and potential interested parties.

4. Statement of goals and objectives

The purpose of this study is to update the City of Birchwood Village's current tree ordinance to make it more comprehensive, relevant and easier to understand by the public. The study will do research and look into two topics the clients are concerned about:

- An update on tree diseases and plagues to the ordinance
- Whether or not they should continue their current practice of entering private land for tree inspection without permission.

TREE DISEASES

According to the United States Department of Agriculture (2015), there are several tree diseases mentioned, yet the four listed diseases below are highlighted in this document to emphasize the City of Birchwood's current tree disease as mentioned by the state legislative.

Dutch Elm Disease

A fungus disease caused by the invasive fungal pathogen, *Ophiostoma novo-ulmi*, and occurs throughout the state of Minnesota. The fungus is spread by elm bark beetles when they feed or through root grafts. Once infected, the fungus closes off the tree's water supply killing it gradually.

Emerald Ash Borer

A shade tree pest and is defined as a beetle that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The beetles lay eggs and the worm-like larvae lives underneath the bark of ash tree and emerge as adults in one to two years. Females may lay up to 70 eggs during its six-week life span and fly up to a mile.

Oak Bur Light (*Not adopted into the current ordinance*)

A fungus disease caused by *Tubakia iowensis*, where it attacks the root of oaks closing the water supply to travel upward. The tree dies of dehydration and starts to wilt. Symptoms include brown leaves and leaves falling off mid-summer to early fall.

Oak Wilt

A fungus disease caused by *Ceratocystis Fagacearum* where it attacks the root of oaks closing the water supply to travel upward. The tree dies of dehydration and starts to wilt. Symptoms include dry leaves and falling branches.

RESEARCH FINDINGS

SCOPE AND METHODOLOGY

Our group obtained our data through a variety of sources such as an interview with the Department of Plant Pathology at the University of Minnesota, Twin Cities; the City of Birchwood's website; Minnesota Statutes, Minnesota League of Cities; other city tree ordinances; and scholarly articles.

COMPARISON OF CITY ORDINANCES

To make better recommendation, we examined the ordinances of the following cities: Birchwood, Dellwood, Eagan, Maplewood, Mahtomedi, Roseville, and White Bear Lake.

Refer to Appendix C for complete comparison of cities.

After analyzing different ordinances, we find out the following information:

- They all have a clear definition section at the beginning to define the technical terms used throughout the document.
- They all have similar abatement process: once infected trees are spotted, the property owners receive a written notice in the mail. They have 20 days to response and either take care of the abatement themselves or authorize the city to do that for them, cost is at the owner's expense.
- The City of Roseville doesn't state directly that the inspector can enter private properties for inspection but imply the idea throughout the documents. It also has a section called ***Duties of property owners***, which suggests certain things property owners can do to protect and maintain the trees on their properties.
- The City of Dellwood has a standard abatement process and an emergency abatement process. It states that under normal circumstances, the City inspector shall not enter private properties for inspection but may do so in emergency circumstances.

CRITERIA

Legal

It is important for a city ordinance to follow state and federal law. The City of Birchwood Administrator, Tobin Lay, is concerned about the legal aspect of the city ordinance and its content. Some of the questions proposed are whether or not it is constitutional for the City to enter private properties without permission and whether the city should continue its practice of entering without permission or only inspect public trees. These questions will be addressed among the different alternatives suggested.

There are important constitutional concerns at stake when cities enter private property. When a city cannot obtain consent from a property owner, the city may need to obtain an administrative search warrant. Cities should be aware of the situations that might require an administrative warrant and understand what they need to do to obtain an administrative search warrant. The city attorney should be consulted in these situations so that important evidence is not excluded when cities try to establish an ordinance violation and so that cities are not liable for violating the property rights of individuals (League of Minnesota Cities, 2018).

We therefore recommend that the City of Birchwood consult its legal department on the constitutionality or legal right of entering properties without permission.

Environmental Impact

Healthy trees play a crucial role in promoting a healthy environment and support wildlife habitation. Trees clean the air of pollution, offer shades and help to cool off the temperature. Trees can also be the home for multiple of birds, insects and small animals. The changes made in the city's tree ordinances can help to contribute to a better lifestyle among the residents and create a positive impact on the environment.

Cost Analysis

This criteria provides a cost analysis for each alternative we proposed. Taking into consideration the city's budget and capacity to carry out the changes made to the tree ordinances, we estimate the cost and analyze the opportunity cost for each alternative.

Aesthetically Appealing

A healthy tree environment creates a welcoming image to the public, attracting more visitors and businesses to the city. It also allows more opportunity for community building among the residents of the city. We analyze each alternative to see how aesthetically appealing the city can be after implementing the changes to the city ordinance.

Safety

Safety should be a goal to its residents. Therefore, we look at each alternative and analyze the impact of the changes towards the safety of the general public.

ALTERNATIVES

ALTERNATIVE 1: Status Quo

Birchwood Village should continue their current practice of entering private land for tree inspection without permission from the resident or property owner. The City Tree Inspector, John Lund, is hired to inspect trees once a year. A notice is sent out to residents such as their local newsletter. The summer issue of Birchwood Village News gives out a notice asking residents if they want to get notified by the city when the Tree Inspector stops in their neighborhood (City of Birchwood Village, 2019a). The City Inspector is to inspect Dutch Elm disease, oak wilt, emerald ash borer, and chestnut borer within city limits. The city should continue to inspect all tree diseases protected by the state legislative, this does not include the protection to enter private property to inspect Bur Oak Blight.

Alternative 1 Criteria

| Legal | Environmental Impact | Cost Analysis | Aesthetically Appealing | Safety |
|---|---|--|--|--|
| League of MN advises the city not to enter yet the DNR gives rights to municipals to enter property. Minnesota Statute 89.63 gives certified tree inspectors permission to enter private or public land to inspect shade tree pest. Residents argue that their constitutional right is violated (amendment 4 and 5) | The current approach allows the city to check the health statuses of their trees and slow down the process of tree shade pest from spreading. | Contracted Services cost \$1,300 Tree removal cost \$5,000 Total = \$6,300 (City of Birchwood Village, 2019b) | The city is able to trim and maintain trees, especially public trees, to a more attractive look for residents. The city is also able to inform residents of maintaining their private trees. | Maintaining the health of trees is crucial as it is tied to safety. Dead or wilting trees pose as an issue due to lose branches falling off possibly striking objects or people. |

ALTERNATIVE 2: Tree Treatment

Finding Professional Arborists

There are many insects, diseases and other problems that can threaten your landscape trees.

Professional arborists are trained to provide proper care, help maintain healthy trees and provide management when necessary. Their expertise may include planting, transplanting, fertilizing, pruning, tree removal and pest management, especially proper diagnosis of problems and pesticide application.

Experienced and skillful tree workers work safely and reduce the risk to property damage during the tree care activity.

- Consulting arborists are especially trained and experienced in the assessment and diagnosis of tree problems, including pest issues.
 - Consulting arborists may be private individuals or be affiliated with a tree care company.
- Many cities employ city foresters or tree inspectors who are often certified arborists.
 - They typically work in the parks and recreation or public works departments.
 - They can help diagnose a tree's problem and will offer advice on tree care and management.
 - Contact your city local services to determine whether your city employs a city forester.
 - Tree inspectors are certified by the Minnesota DNR (Department of Natural Resources). They must pass an exam covering certain aspects of tree care and management.

Pesticide Applications

A professional arborist that applies a pesticide to a tree for hire needs to be licensed by the state of Minnesota. They are required to have a category E, Turf and Ornamental license issued by the Minnesota Department of Agriculture (MDA).

All pesticides that can be applied to trees need to be registered by the Environmental Protection Agency (EPA) and with the state of Minnesota. All applicators must follow the label and only apply the pesticide at sites and plants listed on the label. Only licensed applicators can use restricted use pesticides.

CAUTION: Mention of a pesticide or use of a pesticide label is for educational purposes only. Always follow the pesticide label directions attached to the pesticide container you are using. Remember, the label is the law.

Specialized equipment and skillful workers are absolutely essential when large trees in urban spaces must be removed.

General Guidelines for Selecting A Professional Arborist

Ask for certificates of insurance, including proof of liability for personal and property damage and worker's compensation.

- Contact the insurance company to make sure the policy is current.
- Under some circumstances, you can be held financially responsible if an uninsured worker is hurt on your property or if the worker damages a neighbor's property.

Experience, education and a good reputation are signs of a good arborist.

- Ask for local references.
- Take a look at some of their work, and if possible, talk with former clients.

Be sure you understand what work is to be done and at what cost.

- Do not rush into a decision just because you are promised a discount if you sign an agreement immediately.
- Do not feel obligated to pay in full until the work is completed, but keep in mind that terms for residential tree work are usually "due on delivery." Work might not proceed unless the contractor has been paid up front.
- A reasonable down payment may be expected if materials are part of the contracted work. Examples of material expenses could include tree preservation fencing and signage, mulching, transplanted or purchased trees.

Ask the tree care company to create a specific contract for work, including all costs and tasks associated with the work.

- For pruning, use current language that is consistent with industry standards. Consult the Forest Service publication "How to Prune Trees," for those standards.
- The contract should include the responsibility for clean-up and disposal of tree wood residue.
- It should also include any issues that apply to timing of the work and the potential to contract or spread tree diseases or insect pest problems.

If possible, get more than one estimate.

- Good work is not inexpensive.
- A good professional must carry several kinds of insurance as well as pay for specialized equipment.
- You are also paying for their experience and understanding of how to care for trees and their ability to provide long term value to your landscape trees.
- Beware of estimates that fall well below the average. There may be hidden costs or the person may not be fully insured or trained.

Alternative 2 Criteria

| Legal | Environmental Impact | Cost Analysis | Aesthetically Appealing | Safety |
|--|--|---|--|---|
| The city attorney should be consulted in these situations so that important evidence is not excluded when cities try to establish an ordinance violation and so that cities are not liable for violating the property rights of individuals. | With these principles in mind, staff should follow this general guidance in gaining access to property. Staff of certain programs (for example, Hazardous Waste or Environmental Remediation) may have additional authority to enter private property pursuant to program-specific statutes and regulations. | In general, an arborist consultation or report will cost: \$75 to \$100 for one to five trees. \$25 for each additional tree. | Where the rule of law prevails, the citizen and residents will live at peace with each other | Rule of law is important because: It checks abuse of power by authorities. It empowers individuals with rights which cannot be easily taken-away. It treats everyone equally without discrimination. Its supremacy ensures no person can claim to be above law. |

ALTERNATIVE 3: Entering Private Properties with Prior Consent Form

This alternative explores the option to send out a prior consent form to property owners before the tree inspector starts his annual inspection. This consent form will allow the tree inspector to enter private property with permission from the owner, making it easier for him to have jurisdiction and supervision over all trees in the city, both public and private.

The consent form can be communicated to the community through multiple ways: meetings and town halls, email or mail. Based on the city’s demographic description, it is recommended to send the consent form through the mail and have the property owner mailed back a signed copy.

Because the city currently only employs one full time employee, to implement this option, it is recommended to hire one part time employee (seasonal for 3-4 mons every year prior to the inspecting season) to keep track of all the consent form, making sure to update information such as change in property ownership. For the first year of implementation, this person will be the person of contact for property owner if they have questions. He/she will also make sure to reach out to each property owner to obtain the consent form and explain the importance of timely inspection.

Alternative 3 Criteria

Legal

The consent form allows the city to legally enter private property without any constraint. It broadens the scopes of jurisdiction and supervision of the tree inspector so he can carry out his job more effectively.

The consent form prevents any legal issues and law suits concerning the constitutional right of the property owners. Whether or not a government agency is allowed to enter private properties without permission is still a debatable topic in court. Some cities have experienced law suits regarding this issue in the past so the consent form guarantees Birchwood Village the authority to carry out its duty in the public interest.

Environmental impact

Tree diseases and plague, as mentioned in the problem statement, can be spread through multiple ways: beetles, birds, through the ground... Depending on the nature of the disease, the spreading speed is also different. If the city fails to control the speed of spreading and treat the infected trees in a timely manner, this will cause more troubles environmentally not only to Birchwood but other cities as well.

It is essential that the city was given the appropriate authority to inspect both public and private trees so that it can exercise proper control, ensuring a healthy environment for the community.

Cost analysis

This option requires the city to allocate a portion of its budget to sending mails and communicate to the property owners and also hire an additional employee to monitor and supervise these activities. This cost occurs annually and will decrease over time (initial mail in the first year and the following year only to those property with changed ownership.) Below is an estimate of initial cost:

| | |
|---|----------------|
| Cost of mailing consent form (\$.50 x 368 households) | \$184 |
| Cost of hiring part time worker (\$15 hour x 20 hours/wk x 3 months) | \$3,600 |
| Miscellaneous | \$200 |
| Total | \$3,984 |

(Information on wages is determined in consideration of the data from Bureau of Labor Statistics)

Aesthetically Appealing

Protecting the trees, both public and private, is important in order to create a healthy look and reputation to the city. Since the city is heavily wooded, consists of large forest-like area, these trees, once infected with plagues and diseases, left dead leaves and broken branches on the ground. This will affect negatively to not only the overall tree appearance but also the appearance of the surrounding community. As the city appearance gets affected, this can lead to an unwelcoming feeling to the city visitors.

Safety

The spread of the diseases can lead to fallen tree branches and tree trunks. This causes troubles to the city's transportation routes as it can lead to traffic jams and accidents on the road. As a result, it becomes a problem to the residents of the city, making it difficult for them to commute to places. Fallen tree branches also cause danger to the by passers, especially pedestrians walking on the sidewalk.

Timely inspection and treatment is the best way the tree inspector as well as the city can prevent these incidents so the consent from property owners is necessary for the city to continue providing a safe place to its residents.

RECOMMENDATIONS

Based on our findings, we suggest the following addition to the current tree ordinances:

1. Include a definition session at the beginning of the ordinance: A lot of the city's tree ordinances we look at have a separate definition section at the beginning of the document. This makes the documents look more organized. In addition, it provides an excellent guideline for residents, those who might not be familiar with the tree diseases, the scientific and administrative term within the ordinance. The city's current tree ordinance does define the terms but does so throughout the document. This might make it difficult for people to understand the main ideas.
2. In the *Define Nuisances* session, besides the current tree diseases such as oak wilt, emerald ash borer, bur oak plight, Dutch elm, we recommend adding the following clause "or any other tree diseases of an epidemic nature as declared by the city council." This will make sure that the city has jurisdiction and supervision over all future tree diseases, not just the ones that are currently plaguing the city's trees.
3. Add *Bur Oak Blight* information into the ordinance: Bur Oak Plight is the additional disease that is spreading more and more widely throughout the city. It is recommended to add information about the annual inspection frequency and the abatement/treatment process.
 - a. Annual Inspection (ex. frequency): inspect once between June to September to identify symptoms.
 - b. Abatement process

- i. Inject fungicide onto infected tree.
- ii. Affected bur oaks should also be treated against two-lined chestnut borer and other conditions as warranted by the situation (*Armillaria* root disease) (Rainbow Treecare, 2019).

4. Add ***standard abatement process*** and ***emergency abatement process***

- a. Inspection Notice. The tree inspector can enter private properties if he/she suspects that a tree or plant on that property is infected with one of the declared public nuisance. Notice of inspection shall be communicated to all property owners either orally or in writing individually or public posting in at least 3 strategic places around the city.
- b. Standard Abatement Process. The tree inspector, unless it's imminent danger shall not enter private properties without the owner's permission for the purpose of tree inspections unless there's a warrant or order from court
- c. Emergency Abatement Process. If the tree inspector determines that an infected tree poses danger and the delay of control measures causes harm to the public health, safety or welfare, the tree inspector may take immediate action. The city inspector must make an attempt to notify the owner before entering their property such as knocking on their door.

5. Include ***Duties of the property owner*** section: Note some of the suggestions and recommendations that the property owner can do to take care of the trees in their own properties.

6. University of Minnesota Department of Pathogen offered full service of research and maintenance of trees through Minnesota State, including extensive research on the current tree diseases and appropriate treatment on diseases and maintenance recommendations. As trees are important to the city's residents and community, this investment can contribute to a long-term impact on the environment, the city's reputation as well as its residents' safety

CONCLUSION

Once again, Birchwood Village is known for its beautiful heavily wooded trees. Tracing back to the problem statement, our clients wanted to know what diseases should be added into the Birchwood Village city tree ordinance. Although Bur Oak Blight may not be a tree disease recognized in the Minnesota legislative, it is still a shade tree pest that is occurring within city limits that affects Birchwood Village. Introducing Bur Oak Blight to the ordinance would also help enforce the combat of Bur Oak Blight because it will recognize the disease as a threat to the city; possibly harming the health and safety of the residents if nothing is done.

The League of Minnesota Cities advised Birchwood Village not to enter the property to be completely 100% safe, yet the Minnesota Department of Natural Resources allows for the examination of all trees to be inspected. When it comes to inspecting private or public trees, Birchwood Village should have a balance of the two and create a standard abatement process along with an emergency abatement process. In other words, the city shall not practice entering private properties by default, yet if any private trees pose any imminent [health or safety] danger, the Tree Inspector may enter the property with attempt to notify. Realistically, only about ten cases were recorded where residents came forth disagreeing with how the city enters their land. Birchwood Village has an estimated city population just shy of 900 with roughly 200 residents; this means that about .05% of the residents have come forth and this percentage is significantly low (United States Census Bureau, 2010).

This report includes three alternatives to approaching the current tree ordinance. Keeping the status quo and following what other cities are doing. In surrounding cities, most cities state in their ordinances allowing the city to enter private property to inspect trees. Alternative Two seeks a tree treatment plan and Alternative Three practices the 100% safe way of needing prior permission to enter. Recommendations were given to give options on what the city can look at when revising their tree ordinance such as adding a definitions line to the ordinance to make it easier and clear to understand, having a standard abatement processes AND emergency abatement process (as practiced in Dellwood City), and adding Bur Oak Blight.

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APPENDICES

Appendix A: Interview Questions

On September 26, 2019, policy analysis team member Henason Kollie contacted professors and staff members from the University of Minnesota.

Interview question posted to the professors:

- How can Birchwood battle and overcome the insects that are responsible for the diseases that are destroying their trees?
- What type of insects should be included in their ordinance for inspections and treatment?

In an effort to gather more specific information on tree diseases, the team communicated with Susan Kingsbury, Graduate Program Coordinator Plant Pathology Department at the University of Minnesota. She expressed happiness for contacting her department to learn more about tree disease. She further referred the team to meet Forest Pathology/Tree Disease Specialists Professor Robert Blanchette and Teaching Professor Brett Arenz Director of Plant Disease Clinic at the University of Minnesota.

Professor Brett Arenz and Professor Robert Blanchette educated the team: Tree diseases can affect the health of your trees and shrubs in a variety of ways, and therefore necessitate different types of treatment. Each genus and tree species are susceptible, to varying degrees, to different insects or tree diseases. As a property owner, you want to keep your eyes open for a few common symptoms, such as leaf spots, powdery mildew appearing on the leaf surfaces and leaves turning yellow out of season. He went on to say that the most common insect in Minnesota is the Emerald Ash Borer (EAB), and the most common tree disease is the Dutch Elm disease. The fungus causing Dutch Elm disease prevails as the most widely spread, with the spread of infection being caused by beetles and root grafting. He said Birchwood city should not limit their fight against tree diseases to only Dutch elm disease, Oak wilt disease and Emerald Ash Borer but should include all other insects and tree diseases for which he said his department was willing to help Birchwood if called upon.

Appendix B: Description of Interested Parties and Potential Costs and Benefits

| Description of interest parties | Relationship to the problem | The position | Action | Cost | Benefit |
|--|------------------------------------|---|--|--|---|
| Property Owner | Own the trees | Private properties (about 6 residents complain to the city) | Education on method of tree treatment Private trees inspection | Tax money for cost of cutting down and treating diseases tree Privacy | Private trees protected from diseases. Safe and healthy environment |
| Residents | Live in the city | Residents care a lot about tree and want to live in a green environment | Education on tree treatment and private trees inspection | Tax money on cost of cutting down and treating diseases tree | Enjoy healthy trees, safe from infection Safety: Diseased tree can cause accidents to by-passers |
| City Administrator | Administer control of the city | City Mayor Tree Inspector | Update ordinances Educational material for residents Inspect trees | Time to make legal adjustment on ordinance, cost of marketing and informational material: billboards, flyers, brochures. Authorized to do annual tree inspection and take appropriate action to control the spread of tree diseases | Public Awareness Safety: Branches from diseased tree can cause accidents to people and damage other public and private properties Well-managed tree |

Appendix C: Comparison of City Ordinances

| City Name | Last updated | Definition Of Terms | List of Diseases/ Nuisance | Abatement process/What is the Process of Removal | Public Admin Title | Miscellaneous/ Additional Notes |
|--------------------------|---------------------|----------------------------|--|---|--------------------------------|--|
| City of Birchwood (2011) | 2011 | No | Dutch elm, oak wilt, emerald ash borer | Written notice via mail Allow property owners 20 days to carry out removal. Property owners can authorize the City to removed infected trees. Cost at owners' expense | | Authorized private tree inspection |
| City of Dellwood (2012) | 2012 | Yes | Oak wilt, Dutch Elm Disease | Tree Inspector may not enter private property to inspect; permission is needed from owner/resident unless a warrant is obtained. If the Tree Inspector believes there is a public nuisance with reasonable certainty, a letter or verbal notice is given to the owner filed with the City Clerk. This is known as the Standard Abatement Procedure. | Tree Inspector | Tree Inspector may enter property after an attempt to notify owner if there is "imminent danger."—or harmful to human health and safety. All expenses and appeals would be dealt with at the next city council meeting |
| City of Eagan (2019) | 1997 | Yes | Dutch elm disease, oak wilt, other disease declared by the council | Spraying, removing, burning, other treatment for infected tree or wood to prevent the spread. Written notice via certified mail Allow property owners 20 days to carry out procedure either through private company or through the city contracted vendor. Cost at owners' expense | City forester, tree inspectors | Authorized private tree inspection |

| | | | | | | |
|--------------------------------|------|-----|--|--|--|--|
| City of Maplewood (2015) | 2015 | Yes | No specific disease is named; all diseases are labeled as shade tree pest | City Forester may enter private property at any reasonable time for the purpose of public tree nuisance. Written notice given Owners have ten days to remove the nuisance. After ten days, the city takes over and owners are billed the cost of removal. | Environmental And Economic Development Director (EEDD) and City Forester | Maplewood practices selling trees for residents to plant at a discounted price to replenish trees in their city. |
| City of Mahtomedi (2016) | 2016 | No | Dutch Elm, Oak Wilt, Elm Bark Beetles, fungus, Ceratocystis fagacerarum, and other agents of epidemic diseases/insects | Tree Inspector may enter upon private property an any reasonable time for the purpose of scoping out tree diseases. | Tree Inspector | A written notice is needed to owners if trees are to be cut down. |
| City of Roseville (2011) | 2011 | Yes | Trees, scrubs, herbaceous plants | The city supervise the planting, care, maintenance, removal and replacement of any tree, shrub or herbaceous plan on public and private grounds that might constitute hazard or threat Property owner upon identify infected notifies the city and follow the removal and treatment process using one of the city approved vendor | City Forester | Added section: Duties of private landowner. Authorized private inspection (stated indirectly) |
| City of White Bear Lake (2019) | 1984 | No | Dutch elm fungus, elm bark beetles, oak wilt | Written notice requiring removal, burying, burning of infected. Allow property owner 20 days to carry out procedure. Cost at owners' expense | Director of Public Works | Authorized private tree inspection. |

403. TREE DISEASES

403.010. DECLARATION OF POLICY. The Council has determined that the health of the elm, oak, and ash trees within the municipal limits are threatened by fatal diseases known as Dutch elm disease, oak wilt, and from the emerald ash borer and the two-lined chestnut borer. . It has further been determined that the loss of elm and oak trees growing upon private and public property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of these diseases and these pests, and this article is enacted for that purpose.

403.020. CONTROL AREA DESIGNATED. For the purposes of this ordinance, the control area consists of the entire City of Birchwood Village.

403.030. APPOINTMENT OF A TREE INSPECTOR. The Council shall at least annually designate a tree inspector or tree inspectors, certified by the Minnesota Commissioner of Agriculture, who shall have the responsibilities set forth in this ordinance to administer the Dutch elm disease and oak wilt control programs and to control the infestation of the emerald ash borer and the two-lined chestnut borer within the City.

403.040. NUISANCES DECLARED. The following are declared to be public nuisances whenever and wherever they may be found within the City:

1. Elms. Any standing or living elm tree, (including but not limited to American elm, red elm, rock elm, Siberian elm, and Chinese elm), or part thereof, determined by the City tree inspector to be infected to any degree with the Dutch elm disease fungus, *Ceratocystis ulmi* (Busiman) Moreau.

Any bark intact dead or dying elm tree, or part thereof, or any elm wood including branches (greater than 2" in diameter at the largest end), logs, stumps, or firewood with bark intact that poses a threat, (as determined by the City tree inspector), of harboring or acting as a breeding site for the beetles, *Scolytus multistriatus* (Eichh) or *Hylurgopinus rufipes* (Marsch).

2. Oaks. Any bark intact living or standing tree or part thereof, in the red oak group (including, but not limited to, red oak, pin oak, northern pin oak, scarlet oak and black oak) infected to any degree, (as determined by the City tree inspector), with the oak wilt fungus *Ceratocystis fagacearum* (Bretz) Hunt, and has been determined (by the City tree inspector) to pose a threat of overland transmission of the fungus to other oak trees. This may also include any bark intact dead or dying red oak group oak tree, or part thereof, that has died of oak wilt, (as determined by the City tree inspector), including branches (greater than 2" in diameter at the largest end), logs, stumps, or firewood that is determined by the City tree inspector to pose a threat of overland transmission of the oak wilt fungus to other oak trees.

Any bark intact living or standing tree, or part thereof, in the red oak group described above that is infected to any degree with the two-lined chestnut borer (*Agrilus bilineatus*) that has been determined by the City tree inspector to pose a threat of overland transmission of the borer. This may also include any bark intact dead or dying red oak group oak tree, or part thereof, that has died from invasion of the two-lined chestnut borer as determined by the tree inspector.

3. Ash. The provisions of paragraph 2 and 3 above shall also apply whenever the tree inspector shall find a living or standing ash tree or bark intact or dying ash tree, or part thereof, that has been infested with the emerald ash borer (*Argilus planipennis* or *Agrilus marcopol*).

403.050. ABATEMENT. It is unlawful for any person to permit a public nuisance as defined in 403.040 to remain on any premises owned or controlled by that person within the designated control areas of the City. Such nuisances may be abated in the manner prescribed by this chapter.

403.060. INSPECTION AND INVESTIGATION.

1. Annual Inspection.

a. Dutch Elm disease: The tree inspector shall inspect all premises and places within the designated Dutch elm disease control area of the City at least once during the growing season, by August 1st, to determine whether any condition described in 403.040 (1) exists.

b. Elm wood: The tree inspector shall inspect all premises and places within the designated Dutch elm disease control area of the City by August 1st, of each year for elm wood or logs/stumps that meet any of the conditions described in 403.040 (1) and require by August 1st, removal or debarking of all wood logs, and stumps to be retained.

c. Oaks: The tree inspector shall inspect all premises and places within the designated control area of the City as many times as practical or necessary to determine whether any condition described in 403.040 (2) exists.

d. Ash Trees. The tree inspector shall inspect all premises and places within the City of Birchwood as many times as practical or necessary to determine whether any condition described in 403.040 (3) exists.

2. Entry on Private Premises: The tree inspector so designated by the Council may enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned to him/her under this chapter.

3. Diagnosis: Whenever possible, diagnosis shall be based upon accepted field symptoms. The City tree inspector shall, upon finding indications of oak wilt or Dutch

elm disease or the two-lined chestnut borer or the emerald ash borer, take such steps for diagnosis as may be appropriate. These steps may include analysis of twig and stem samples from elm, oak, and ash trees or parts thereof suspected of being infected. The tree inspector may submit such samples to an approved laboratory upon approval of the Council. Laboratory isolation and confirmation of the presence of the fungi shall be done by the Department of Agriculture's disease laboratory, or other laboratories capable of performing such services approved by the Minnesota Commissioner of Agriculture.

403.070. INTERFERENCE PROHIBITED. It is unlawful for any person to prevent, delay or interfere with the City tree inspector or his/her agents while they are engaged in the performance of duties imposed by this ordinance.

403.080. PROCEDURE FOR ABATEMENT AND REMOVAL.

1. Notice to Landowner. Whenever it is found with reasonable certainty that a tree has oak wilt or Dutch elm disease, or is infected with the two-lined chestnut borer or the emerald ash borer, the tree inspector shall proceed as follows:

(a) If the tree inspector finds that there is potential for infection of other oak or elm trees, the owner of the property on which the nuisance is found, shall be notified by certified mail, addressed to said owner at his/her last known address. The tree inspector will specify on the notice a reasonable date before which the nuisance must be abated. The tree inspector shall identify in the notice the abatement action to be taken.

(b) The tree inspector shall immediately report said action to the Council and, after the expiration of the time limited by said notice, the tree inspector may proceed to abate the nuisance as herein provided.

(c) The cost of such abatement, plus a \$50 administrative fee, shall be assessed against the owner of the property involved, or against the property itself.

403.081. ABATEMENT ACTIONS.

1. High Risk Elm Trees: High risk elm trees shall be those trees that are dead, barren, or have extensive wilt (30 percent or more of the tree is wilted). Such trees shall be identified and marked prior to July 1st. These high risk trees shall be removed within 20 days of notification of the property owner.

2. Oak Wilt: All oak trees within the designated oak wilt control area of the City diagnosed as having oak wilt should be isolated from neighboring healthy oak trees of the same species by chemical or mechanical disruption of common root systems to prevent root graft transmission of the oak wilt fungus.

To control the overland spread of oak wilt, the pruning of oaks shall be avoided during the most susceptible period of infection, from April 15 until July 1. If wounding is

unavoidable during this period, as in the aftermath of a storm or when the tree interferes with utility lines, a tree wound dressing shall be applied immediately.

a. Red Oaks. To prevent the oak wilt fungus from producing spores and to prevent the overland spread of this fungus, any bark intact diseased material resulting from any tree of the red oak group, that wilted from oak wilt in July and August of one year shall be declared hazardous for the spring of the following year. This hazardous spring period shall be defined as April 15 to July 1 and diseased material shall be determined such by the City tree inspector.

Any hazardous oak wood to be used as fuel wood or to be salvaged or other purposes must be debarked, dried, or else completely covered by heavy plastic (4 mil or greater) from April 15 until July 1 of the year following the appearance of oak wilt. After this time there is no danger of spore production and the wood does not need to be covered.

Any branch greater than 2" in diameter of the red oak group determined to be hazardous and not to be salvaged shall be disposed of by burning, chipping, or removal to an authorized dump site prior to April 15 of the year following the appearance of symptoms. Dead standing red oaks that have advanced beyond the potential for spore production need not be removed except where they constitute a hazard to life and/or property. The City tree inspector will advise accordingly.

Stumps of trees of the red oak group removed due to oak wilt shall be completely covered with at least 2" of compacted soil, removed, or debarked to the ground line to eliminate all possibilities of spore formation and overland disease spread.

Any hazardous material not dealt with in the above described manner must be removed within 20 days of notification.

b. White Oaks: Trees of the white oak group (i.e. white oak, bur oak, bicolor oak) diagnosed as having oak wilt should be isolated by root graft disruption as previously stated. Diseased material originating from such trees will rarely ever support spore formation, and salvaged material therefore will not require special treatment to prevent overland spread. Standing trees of this group showing early symptoms of oak will may sometimes be saved by removing affected branches. The City tree inspector will advise accordingly.

3. Two-lined Chestnut Borer. The tree inspector shall identify such actions as the inspector deems necessary to prevent the spread of the two-lined chestnut borer whenever the two-lined chestnut borer is discovered in Birchwood.

4. Emerald Ash Borer. The tree inspector shall identify such actions as the inspector deems necessary to prevent the spread of the emerald ash borer whenever the emerald ash borer is discovered in Birchwood.

403.090. ROOT GRAFT DISRUPTION (BARRIERS) AT PROPERTY BOUNDARIES. Because oak wilt is a community problem and because oak wilt control may benefit an entire neighborhood, the tree inspector shall recommend and encourage neighborhood participation and cooperation, including cost sharing, in root graft disruption and other control efforts, especially where oak wilt is in danger of spreading across property boundaries.

403.100. TRANSPORTING ELM AND OAK WOOD PROHIBITED. It is unlawful for any person to transport within the City any bark intact elm wood, or wood from the red oak group that is determined to be hazardous, or any oak infected with the chestnut borer, or any ash wood infected with the emerald ash borer without having first obtained a permit from the City tree inspector to do so. The City tree inspector shall grant such permits only when such permission does not interfere with the provisions of this ordinance.

403.110 PENALTY. Any person, firm or corporation who violates the conditions of this ordinance is guilty of a misdemeanor.

“AMENDED BY ORDINANCE 2011-02; MAY 10, 2011”

MEMORANDUM



Birchwood Village

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Tree Work
DATE: June 4, 2020

Dear Mayor & City Council Members:

There are several trees throughout town that need some attention. Below are photos, diagnosis, and recommended plan.

Tighe-Schmitz Park

Playground Willow:



Tree is near death and leaning out over the swing set. Recommended to down and remove entirely.

Swamp Box Elder:



Tree has fallen but growing suckers. Recommended to cut at the roots and leave in place.

Rink Willow:



Tree has fallen but growing suckers. Recommended to cut at the roots and leave in place

Rink Box Elder

No photo. Tree is growing rapidly out over the path. Recommended to girdle (remove bark) at base and let it die OR cut and disperse.

The low bid for these four (4) trees is \$600 total for the girdle option in the Rink Box Elder and another \$50 to cut and disperse the Rink Box Elder.

Rink Arborvitae



The arborvitae surrounding the northwest end of the ice rink are severely overgrown – too much to trim. Arborvitae shouldn't be trimmed more than 8 inches because the branches beyond that will not regrow. Recommended to remove entirely and woodchip the area (approx. 2-4 truckloads). **Either with Sentence-To-Serve (STS)(free) or budget for future removal. Woodchips are \$100 per truck load.**

Hall Court



Tree is growing out over the road and not very stable. Recommended to down and remove entirely.

Bid price is \$1,000.

Request/Recommendation

Staff requests that the City Council:

- Approve \$650 bid for Tighe-Schmitz Park trees;
- Approve STS removal of ice rink arborvitae and woodchip the area (up to \$400); and
- Approve \$1,000 bid for Hall Court tree.

Thanks!

Regards,
Tobin Lay

Tobin Lay

From: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Sent: Thursday, May 14, 2020 6:32 PM
To: 'Brad Nelson'; Tobin Lay
Cc: 'John Dreshar'; Andrew Giesen
Subject: RE: Birchwood Village - East County Line Road - Emergency Lift Station Bypass - Peterson Companies
Attachments: 2020-5-14 Birchwood Village - East County Line Road Lift Station - Draft Responsibility for Remaining Work.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Caution: This email originated outside our organization; please use caution.

Tobin, Brad, John and Andrew,

I am writing to coordinate and propose responsibilities for the remaining work for the subject project.

In the agreement between the City of Birchwood Village and Peterson Companies, Inc., Peterson is responsible for the following:

1. Conducting a deflection test (a.k.a. mandral test) of the new sanitary sewer pipe.
 - a. The test could not be conducted before now because it must be conducted after the sewer trench has been backfilled to the desired finished grade and has been in place for 30 days. The benefit of the test is to document that the new pipe deflection is less than the maximum allowable deflection of five percent of the pipe's internal diameter.
 - b. Peterson will conduct this test at no cost to the City because it is included in line items 7 and 8 of Peterson's bid.
2. Clean and video tape newly installed sanitary sewer from (A) MH 20A to MH 20E and (B) from MH 20E to MH 11, prepare report, and email video and report to City and Engineer.
 - a. The video and report has not yet been conducted because it is conducted after the deflection test and after all work is completed. The benefit of the video and report is to document that the new pipe is clean and has no problems.
 - b. Line item 13 of Peterson's bid shows that Peterson will do this work for \$2,000.00.

Thatcher Engineering, Inc. recommends that the City authorize Peterson do this work before the county adjusts the manhole rings and installs bituminous because of the following:

1. If there are problems with the new sanitary sewer, Peterson is responsible to fix them.
2. If there are no problems with the new sanitary sewer now, others are responsible to fix any problems in the future.
 - a. Washington County will be responsible if any material, including bituminous, gets into the new sanitary sewer.

Please let me know if you have any questions.

Thanks,
Steve

Steven Thatcher, PE
Thatcher Engineering Inc.

6201 Creek Valley Road

Edina, MN 55439

Phone: 612-781-2188 Cell: 612-867-7234 Fax: 612-781-2188 Web: www.thatcher-eng.com

From: Brad Nelson [mailto:bnelson@petersoncompanies.net]

Sent: Wednesday, May 13, 2020 5:56 AM

To: Tobin Lay <Tobin.Lay@cityofbirchwood.com>

Cc: John Dreshar <jdreshar@petersoncompanies.net>; 'Steven W. Thatcher' <sthatcher@thatcher-eng.com>

Subject: RE: Birchwood Village - Emergency Lift Station Bypass - Peterson Companies - Change Order Request 1 and Pay Application 3

Thank you for the update Tobin. Steve, please let us know what, if anything, else needs to happen onsite.

Thanks,

BRAD NELSON | VICE PRESIDENT OF PROJECT MANAGEMENT

PETERSON COMPANIES, INC. | 8326 WYOMING TRAIL | CHISAGO CITY, MN 55013

(P) 651-257-0301 | (C) 651-248-3349

WWW.PETERSONCOMPANIES.NET

REGULAR Hc CITY PROJECT 2019-3

Draft
Responsibility for Remaining Work
City Of Birchwood Village, Minnesota
Washington County, Minnesota
Peterson Companies, Inc.
 East County Line Road Emergency Lift Station Bypass
 (City Project No. 2019-3)
 May 14, 2020

| No. | Description | Responsibility | Notes |
|-----|---|---|--|
| 1. | Existing erosion control - leave in place | City | |
| 2. | Erosion control maintenance | City and Washington County | |
| 3. | Conduct deflection test (a.k.a. mandral test) of sanitary sewer | Peterson Companies, Inc. (Peterson) | |
| 4. | Clean and video tape newly installed sanitary sewer from (A) MH 20A to MH 20E and (B) from MH 20E to MH 11. Prepare report and email video and report to City and Engineer. | Peterson | |
| 5. | Adjust manhole castings | Washington County | Last year, Peterson dry stacked the manhole rings because the manhole casting will need to be adjusted prior to the installation of the second bituminous wear course weather. |
| 6. | Install bituminous including coordination with Ramsey County | Washington County | |
| 7. | Install paint - (A) two 6" wide yellow center lines and (B) 6" wide white lines at both edges. Match existing. | Washington County | |
| 8. | Remove erosion control | Washington County | The removed erosion control can be disposed of or recycled because Peterson does not want it. |
| 9. | Restoration work (seed or sod) | Washington County | |
| 10. | Testing | Washington County | |
| 11. | Remove temporary road closure signs including temporary dip/down arrow signs | Washington County can call Brad Nelson of Peterson or Safety Signs, LLC (952-469-6700) to have Safety Signs remove these signs at no cost to County or City because Safety Signs installed these signs. | |

T:\Projects\Birchwood Village\Lift Stations\East County Line Station\2020-5-14 Birchwood Village - East County Line Road Lift Station - Draft Responsibility for Remaining Work.xlsx\Bid Schedule A