



AGENDA OF THE REGULAR MEETING OF  
THE CITY COUNCIL  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
November 9, 2021  
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 status of the ongoing Covid-19 health pandemic the City of Birchwood Village is conducting its November 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 Andy Gonyou 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.

Topic: Birchwood Village November 2021 City Council Meeting

Time: **Nov 9, 2021 07:00 PM** Central Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87372452556?pwd=RjA1RnZMWDIDR0Z0VUxwWHo0Umtndz09>

Meeting ID: 873 7245 2556

Passcode: 107363

**PLEDGE OF ALLEGIANCE**

**APPROVE AGENDA**

**OPEN PUBLIC FORUM**

**ANNOUNCEMENTS**

\*Denotes items with supporting material attached.

- A. We are social, follow us on Facebook/Twitter and/or register for the email listserv

**ADMINISTRATIVE PRESENTATION**

- A. Sheriff Report\* (pp. 4-8)
- B. Planning Commission Regular September Meeting Minutes\* (pp. 9-12)
- C. Planning Commission Regular October Meeting Minutes\* (pp. 13-19)
- D. Kudos to Anh Nguyen of Minute Solutions. Her work is excellent and has far exceeded expectations.

**CITY BUSINESS – CONSENT AGENDA**

- A. Approve Treasurer’s Report\* (pp. 21-33)
- B. Approve Resolution 2021-26, Adopting CPU and Sewer Plan\* (pp. 35-36)
- C. Transfer \$20,000 from Special Revenue Projects to cover all special projects work in parks this year (signage, buckthorn removal, rentals, weed killer, tree removal, etc)
- D. Zero out/transfer \$40 out of warming house fund to General Fund
- E. Zero out/transfer \$2119.89 out of sewer rehab debt to sewer fund. Both funds have been inactive for years.

**CITY BUSINESS – REGULAR AGENDA**

- A. Planning Commission Discussion
  - a. Review Planner Doug Danks’ Contract (Mayor Wingfield)
  - b. Add permanent slot (15 minutes) on agenda for Planning Commission questions and concerns
  - c. Use of City Council liaison  
*Time Budget: 15 Minutes*
- B. Lake Links/Hall Avenue Update
  - a. Engage City Engineer for design approval/obtain bid from Schifsky  
*Time Budget: 10 Minutes*
- C. Wildwood Lift Station
  - a. Authorize City Engineer to draft plans for replacement
  - b. Make OSHA compliant
  - c. Emergency storage
- D. Mayor Wingfield & Councilmember McCarthy Updates
  - a. Meeting with Rice Creek Watershed District (RCWD) at Feistner Beach
  - b. RCWD October 27<sup>th</sup>, 2021 Board Meeting
  - c. Braun Intertec Study
  - d. Appoint Bud & Ruth Jenson as City Liaisons for Hall’s Marsh issues to DNR, Washington Co., & RCWD
- E. Councilmember Reports
  - a. Mayor Wingfield
    - i. Feistner Beach & Dock Association\* (pp. 37-40)
    - ii. Review extent of City Permit at 15 Birchwood Lane\* (pp. 41-42)

- iii. Hockey boards replacement discussion
- b. Councilmember McCarthy
  - i. Metro-INET Conversion Update\* (pp. 43)
  - ii. Councilmember Emails\* (pp. 43-44)
    - 1. Approve Resolution 2021-25
  - iii. Maintenance Code\* (pp. 45-57)
- F. City Administrator Report
  - a. Digitize sanitary sewer records\* (p. 59)
  - b. November Workshop Scheduling
    - i. Review park improvements/paths
    - ii. Define impervious surface (similar to City of Mahtomedi)
    - iii. Goals for 2022

**ADJOURN**

# MEMORANDUM



**TO:** Birchwood Village City Council  
**FROM:** Andy Gonyou, City Administrator  
**SUBJECT:** Sheriff Report  
**DATE:** November 3, 2021

Dear Mayor & City Council Members: The following pages are a report of law enforcement incidents and citations for October 2021:

# Incident Summary Report PUBLIC

From:10/1/2021 12:00:00 AM To:10/31/2021 11:59:59 PM

## WASHINGTON COUNTY SHERIFFS OFFICE



### BIRCHWOOD VILLAGE - 25

10/1/2021 8:05:59 AM	WC21047885	50XXX -699 HALL AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
Patrolled area of Birchwood Village no traffic violations observed			
10/3/2021 1:49:10 PM	WC21048260	20XXX -254 CEDAR ST, BIRCHWOOD VILLAGE	DIRECTED PATROL
Patrolled area of Birchwood Village, no traffic violations observed.			
10/4/2021 11:41:19 PM	WC21048480	20XXX -298 WILDWOOD AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
Directed patrol. No suspicious/criminal activity observed. Clear			
10/6/2021 12:42:29 AM	WC21048636	30XXX -307 JAY ST, BIRCHWOOD VILLAGE	DIRECTED PATROL
Directed patrol. No suspicious/criminal activity observed. Clear.			
10/7/2021 3:35:59 AM	WC21048819	1-99 BIRCHWOOD LN, BIRCHWOOD VILLAGE	DIRECTED PATROL
Directed patrol. No suspicious/criminal activity observed. Clear.			
10/8/2021 11:45:48 AM	WC21049054	XXX Jay St, BIRCHWOOD VILLAGE	911 ABANDONED/HANGUP/OPEN LINE
911 abandon: checked area of call, observed nothing emergent.			
10/8/2021 6:56:32 PM	WC21049117	XXX Lake Ave, BIRCHWOOD VILLAGE	NOISE COMPLAINT/DISTURBANCE
Report of juvs drinking in park area. Found to be adults celebrating a dog's third birthday. Asked to keep noise down.			
10/9/2021 8:26:24 AM	WC21049209	50XXX -699 HALL AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
Patrolled area of Birchwood Village, no traffic violations observed.			
10/12/2021 12:15:00 AM	WC21049591	BIRCHWOOD VILLAGE, BIRCHWOOD VILLAGE	AREA CHECK
Patrolled the area of BIRCHWOOD VILLAGE. Looking for parking and driving violations.			
Unable to locate any violations.			
10/12/2021 11:09:19 AM	WC21049648	50XXX -699 HALL AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
Patrolled area of Birchwood Village, no traffic violations observed.			
10/12/2021 7:08:00 PM	WC21049702	XXX WILDWOOD AVE, BIRCHWOOD VILLAGE	FALL
Responded to a report of a fall in BIRCHWOOD VILLAGE.			
See comments below.			
10/14/2021 12:46:33 AM	WC21049882	34XXX -398 WILDWOOD AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL

# Incident Summary Report PUBLIC

From:10/1/2021 12:00:00 AM To:10/31/2021 11:59:59 PM

Directed patrol. No suspicious/criminal activity observed. Clear

10/15/2021 12:33:36 AM WC21050031 20XXX -298 WILDWOOD AVE, BIRCHWOOD VILLAGE DIRECTED PATROL

Directed patrol. No suspicious/criminal activity observed. Clear

10/17/2021 3:33:35 PM WC21050443 XXX Jay St, BIRCHWOOD VILLAGE 911 ABANDONED/HANGUP/OPEN LINE

Dispatched to 911 hang up. Nothing emergent on call back, misdial. Unable to contact homeowner. Made contact via phone again and still no emergency. Clear.

10/19/2021 11:04:12 AM WC21050695 30XXX -341 WILDWOOD AVE, BIRCHWOOD VILLAGE DIRECTED PATROL

Patrolled area of Birchwood Village, no traffic violations observed.

10/21/2021 5:03:44 PM WC21051039 XXX Birchwood Ave, BIRCHWOOD VILLAGE 911 ABANDONED/HANGUP/OPEN LINE

911 hangup call. UTI male walking. Clear.

10/21/2021 6:15:00 PM WC21051047 BIRCHWOOD VILLAGE, BIRCHWOOD VILLAGE AREA CHECK

Check the area of BIRCHWOOD VILLAGE looking for speed or parking violations.

I found area clear.

10/22/2021 2:42:11 AM WC21051102 40XXX -407 LAKE AVE, BIRCHWOOD VILLAGE DIRECTED PATROL

Directed patrol. No suspicious/criminal activity observed. Clear.

10/22/2021 1:38:05 PM WC21051179 XXX Wildwood Ave, BIRCHWOOD VILLAGE THEFT FROM MOTOR VEHICLE

Theft of wallet from construction vehicle parked on side of road, See report.

10/24/2021 2:12:50 PM WC21051474 34XXX -398 WILDWOOD AVE, BIRCHWOOD VILLAGE DIRECTED PATROL

Patrolled area of Birchwood Village, no traffic violations observed.

10/24/2021 9:28:05 PM WC21051532 XXX Lake Ave, BIRCHWOOD VILLAGE ALARM-BUSINESS/RES/FIRE/MEDICAL/ETC

Dispatched for fire alarm. Arrived on scene, homeowner advised it was set off by accident. Requested fire to cancel. Cleared.

10/26/2021 2:02:00 AM WC21051694 BIRCHWOOD VILLAGE, BIRCHWOOD VILLAGE AREA CHECK

Checked the entire area of BIRCHWOOD VILLAGE.

Found nothing out of place.

10/27/2021 5:29:58 PM WC21051950 XXX Hall Ave, BIRCHWOOD VILLAGE ALARM-BUSINESS/RES/FIRE/MEDICAL/ETC

Responded to an alarm. Spoke with a resident of the house who said no emergency. Clear.

10/28/2021 2:12:00 AM WC21051999 BIRCHWOOD VILLAGE, BIRCHWOOD VILLAGE AREA CHECK

**Incident Summary Report** PUBLIC

**From:10/1/2021 12:00:00 AM To:10/31/2021 11:59:59 PM**

Check the area of BIRCHWOOD VILLAGE.

Found nothing out of place and not parking violations.

10/29/2021 4:37:17 AM WC21052123 XXX Jay St, BIRCHWOOD VILLAGE ASSIST OTHER AGENCY

AOA to Saint Paul PD. Check address for RO of vehicle they were out with. RO no longer lived at address. CLea.

**TOTAL INCIDENTS: 25**

# Citations for: Birchwood

10/1/2021 To 10/31/2021

Agcy	Date	Citation Number	Badge	Officer Name	Citation Type	Block	Street Name	Str Sfx	Cross Street Name	Cross St Sfx	City	Literal Description	Statute
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REGULAR MEETING MINUTES (Final)

Birchwood Planning Commission Meeting

Zoom Virtual Meeting – 7:00 PM Meeting 9/23/2021

Submitted by Michael Kraemer – acting secretary

COMMISSIONERS PRESENT: – Andy Sorenson – Chairman, Ryan Hankins – Vice Chairman, Michelle Maiers-Atakpu (arrived 7:10 PM), Michael Kraemer.

COMMISSIONERS ABSENT: Joe Evans

OTHERS PRESENT: Justin McCarthy – Council Member, Luke Whipper

1. CALL TO ORDER Meeting called to order by Chairman Andy Sorenson at 7:02 PM.
2. PUBLIC FORUM
  - a. Luke Whipper was present anticipating a variance he was involved in was on the agenda. Mr. Whipper was informed by Chairman Sorenson that no variance was pending on the meeting agenda and he should contact Administrator Andy Gonyou for more information.
3. APPROVE AGENDA
  - a. The document pertaining to Agenda Item B – Sliding Scale for Impervious Surface Percentage for Smaller Lots was missing from the packet. The corrected document was issued via email by City Administrator Andy Gonyou on 9/22/2021. Motion by Sorenson to accept the correct document for discussion, 2<sup>nd</sup> by Hankins, Vote Yes – 3, No – 0. Motion passed. The document issued via email was used in the discussion.
  - b. Chairman Andy Sorenson moved that an Agenda Item F be added to the agenda to consider the request by City Administrator Andy Gonyou to add a Special Planning Commission meeting on October 7, 2021. This meeting was needed to review three pending variance requests yet to be presented to the Planning Commission. Motion was 2<sup>nd</sup> by Ryan Hankins. Vote Yes - 3, No – 0 Motion passed to add Agenda Item F.
4. AGENDA ITEM C – **Non-Conforming Uses Code Review - Section 301.050**
  - a. Motion by Chairman Sorenson to consider Agenda Item C first to accommodate the presence of Council Member McCarthy’s input on this agenda item. 2<sup>nd</sup> by Ryan Hankins. Vote Yes – 4, No – 0 Motion passed.

- b. Commission Member Ryan Hankins and Council Member Justin McCarthy had simultaneously been working on improvements to Section 301.050 of Village Code as it relates to Non-Conforming Uses.
  - c. Commission Member Ryan Hankins and Council Member Justin McCarthy went on to explain the modifications to the language in this section of the Code were designed to allow for the improvement of existing Non-conforming Uses and Structures for health, welfare, and safety purposes provided no expansion of the structure occurred.
  - d. The ensuing discussion of the Commission supported the theme of providing language in the Code that accommodated improving property for health, welfare, and safety purposes even if non-conforming use, provided the dimensions of the property did change.
  - e. PLANNING COMMISSION ACTION: Advisory motion by Kraemer and 2<sup>nd</sup> by Maiers-Atakpu to endorse the language of the Section 301.050 - Non-Conforming Uses as presented. Vote Yes – 4, No – 0.
5. **AGENDA ITEM A – Sliding Scale for Side Yard Setbacks of Smaller Lots.**
- a. ISSUE: During the 2021 Work Sessions the Planning Commission has considered the issues surrounding the large number of smaller lots resulting from historical platting in the community. This historic platting trend in numerous parts of the City seems to create constant challenges for structure improvement compliance with existing Village Code. The Commission compared Birchwood Code with the codes from other communities with similar development histories. The goal of the comparison was to determine what measures might be taken to protect the Comprehensive Plan of the Village yet better facilitate the goal of “quality” housing stock in the community.
  - b. The Commission is looking to make the following recommendations to the City Council for consideration:
    - i. **RETAIN** side yard setback dimension for all lots >15000sf and larger at 10'. **CONSIDER ADDING** language to Section 302.020 on side yard setbacks, to provide a sliding scale for varying lot sizes. Suggested language would include side yard setbacks for lots 10000 to 15000 at 9'. For all lots 9500sf and smaller, allow 8' side yard setbacks. This would better accommodate some of the small pre-existing lots with better compliance and ability to build quality structures within the parameters of the lot dimensions.
  - c. PLANNING COMMISSION ACTION:
    - i. Planning Commission tabled the consideration of a Sliding Scale for Side Yard Setbacks of Smaller Lots until the October 2021 meeting. This would give Commissioner Ryan Hankins time to work up appropriate Code language for consideration by the Council.

6. AGENDA ITEM B – **Sliding Scale for Impervious Surface Percentage of Smaller Lots.**

- a. ISSUE: During the 2021 Work Sessions the Planning Commission has considered the issues surrounding the large number of smaller lots resulting from historical platting in the community. This historic platting trend in numerous parts of the City seems to create constant challenges for structure improvement compliance with existing Village Code. The Commission compared Birchwood Code with the codes from other communities with similar development histories. The goal of the comparison was to determine what measures might be taken to protect the Comprehensive Plan of the Village yet better facilitate the goal of “quality” housing stock in the community.
- b. PLANNING COMMISSION ACTION: On an advisory motion by Kraemer and 2<sup>nd</sup> by Maiers-Atakpu, (vote of Yes – 4, No -0, motion passed) the Commission is looking to make the following Impervious Surface Percentage Code recommendations to the City Council for consideration:
  - i. RETAIN goal of 25% impervious for new lots.
  - ii. RETAIN Definition in Section 300.020 DEFINITIONS for item 23. Impervious Surface and EXCEPTIONS 1 - Open decks... and 2: Approved surfaces....
  - iii. CONSIDER ADDING following language change in Section 302.050.b. - ***For lots where mitigation measures are applied the total mitigated percentage shall not exceed 35% total.***
  - iv. CONSIDER ADDING following language to Section 302.050 ADD - 2. IMPERVIOUS GOALS FOR PRE-EXISTING LOTS.
    1. ***For lots pre-existing at 1/1/1975 and less than 15000sf, the allowable impervious surface percentage should be pro-rated as follows: Allowable Impervious Ratio = (25%+((15000 - Lot Area)x.0011),*** ( I.e. a 6000 sf lot would have an allowable impervious percentage of 35%. This sliding scale would help provide for the construction of quality structures in smaller lots without penalizing them for previous code or platting shortcomings.)
- c. Language Write Up: The Commission will prepare draft Code language writeup and discussion memo to aid the Council’s consideration of this matter.

7. AGENDA ITEM D – Variance Worksheet Discussion

- a. PLANNING COMMISSION ACTION: Motion by Maiers-Atakpu and 2<sup>nd</sup> by Hankins to table the review and discussion of the Variance Worksheet until the October, 2021 meeting. Vote: Yes – 4, No – 0. Motion passed

8. AGENDA ITEM E - Review/Approval August 26, 2021 Meeting Minutes

- a. PLANNING COMMISSION ACTION: Motion by Sorenson, 2<sup>nd</sup> by Hankins to approve minutes. Yes – 4, No – 0, Motion passed.
9. AGENDA ITEM F – Special October 7, 2021 Planning Commission meeting.
    - a. Commission members present (Sorenson, Hankins, Maiers-Atakpu, Kraemer) indicated they could attend a special meeting as requested by City Administrator Gonyou.
    - b. PLANNING COMMISSION ACTION: Commissioners present authorized Secretary Kraemer to email Administrator Gonyou to set up the requested October 7, 2021 special meeting for 6:00 start time because of the potential heavy agenda work load.
10. Adjournment
    - a. At 8:56 PM motion by Maiers-Atakpu and 2<sup>nd</sup> by Sorenson to adjourn the meeting. Vote: Yes – 4, No – 0. Motion passed.

SPECIAL MEETING MINUTES (Draft)

Birchwood Planning Commission Special Meeting

Zoom Virtual Meeting – 6:00 PM Meeting 10/7/2021

Submitted by Michael Kraemer – acting secretary

COMMISSIONERS PRESENT: – Andy Sorenson – Chairman, Ryan Hankins – Vice Chairman, Michelle Maiers-Atakpu, Joe Evans Michael Kraemer.

COMMISSIONERS ABSENT:

OTHERS PRESENT: Darren DeYoung, Luke Wippler, Jonathan Miller, Ken and Lynell Vandermeer, Suzie and Larry Mahoney, Steve Thatcher, Tony Nickolaus, Ralph Heimer, Scott Freeberg, Alyson Landmark, Scott and Karen Freeberg, Trushenski, Dr. Jim Barthel, Brent Stevens.

1. CALL TO ORDER Meeting called to order by Chairman Andy Sorenson at 6:02 PM.
2. PUBLIC FORUM – no one spoke
3. APPROVE AGENDA
  - a. Moved Maiers-Atakpu Second Hankins. To approve agenda as listed. Vote Yes – 5, No – 0. Motion passed.
4. **Agenda Item A - Variance Case No. 21-04-VB (117 Wildwood Avenue) – Garage Construction**
  - a. Public Hearing
    - i. Opened 6:04 PM
    - ii. Closed 6:21 PM
    - iii. Comments:
      1. A public comment memo dated October 3, 2021 submitted by Ralph Heimer, 109 Wildwood Ave, Birchwood requesting denial of the variance was emailed to Commission members on 10.3.2021 and not included in packets. Mr. Heimer presented the email at the public hearing.
      2. August 26, 2021 memo from Doug Danks retracting his previous report approving building permit was sent out via email to Commission members on 10.6.2021 and not included in packets. Commission determined that since plan reviewer's report was not public information, it could not be discussed during the meeting.
  - b. Review & Discuss
    - i. **Variance Request #1 – Section 301.050 Non-Conforming Uses**
      1. Planning Commission Findings:

- a. Jonathan Miller, attorney representing Nickolaus property indicated permit to build new 24' x 30' garage as replacement of original 14' x 16' shed was issued on August 18, 2021 and then rescinded. Nickolaus maintain they were not told the reason why.
- b. Mr Miller indicated the reason the 180-day deadline to rebuild after the June 22,2020 destruction of the old shed was missed because of pandemic and City staff response delays and not responsibility of property owner.
- c. Tony Nickolaus, property owner, expressed concerns over the lack of continuity and follow through on part of City staff. Mr. Nickolaus expressed displeasure that variance request was required and notification printed in local paper using their name without their knowledge or permission.
- d. Commissioner Maiers-Atakpu reiterated, rebuilding and expanding an existing non-conforming detached garage, is not the perpetuation of a non-conforming use but rather the expansion which is prohibited by code.
- e. Due to lack of verifiable documentation of issues and accusations on both sides of the discussion and due to lack of presence of members of City staff involved in this project review, a motion was made by Hankins to close the discussion. 2<sup>nd</sup> by Maiers-Atakpu. Vote: Yes – 5, No – 0. Motion passed.

ii. Planning Commission Action:

1. Motion by Hankins a second by Maiers-Atakpu to make no determination because application is not complete because of the conflicting nature of the documentation. Vote Yes- 5, No -0 Motion passed. No determination made.

**5. Agenda Item B - Variance Case No. 21-05-VB/Conditional Use Permit (339 Wildwood Avenue)**

a. Public Hearing

- i. Opened 6:54 PM
- ii. Closed 7:06 PM
- iii. Comments:

1. Luke Wippler explained the purpose of the proposed lakeside retaining wall is to protect against slope erosion, provide methods to safely traverse the hillside and provide for safe boat lift and dock storage.

2. Scott Freeberg neighbors to 339 Wildwood Ave raised questions on the construction limits and final restoration plans.
3. Review memo by City Engineer Thatcher Engineering identified four separate variance issues identified in the global variance request for variance from the retaining wall setback from the OHW. For purposes of clarity the four variance requests were discussed and voted on separately. The results are indicated in the following.

b. Review & Discuss

**i. Variance Request #1 – Code 302.020 – Structure Location Requirements**

1. Planning Commission Finding:

- a. The proposed retaining wall distance is 20' – 25' from the OHW'. This is not in compliance with the Code 50' setback 302.020 – Structure Location Requirements.
- b. Practical difficulties related to slope stability that supports and defends why the retaining wall should be constructed.
- c. Other methods of slope stability exist such as vegetative ground cover and plantings. Owner's preference is to utilize boulder retaining wall to stabilize the slope midway and provide protection uphill for upcoming shoreline rip rap installation.
- d. Commissioner Kraemer indicated that in his opinion the retaining wall was being requested as a convenience for storage of dock and boat lifts and did not represent practical difficulties any different than other properties on the lake where permits for retaining walls had been denied.

2. Planning Commission Recommendations:

- a. Motion to recommend approval of Variance #1.
  - i. Motion: Sorenson, 2<sup>nd</sup> Evans, Vote: Yes – 3, No – 2. Kraemer & Maiers-Atakpu dissenting. Motion passed.

**ii. Variance Request #2 – Code 302.050 - Impervious Surface Requirements**

1. Planning Commission Findings:

- a. The property is not in compliance with City Code with an impervious surface ration of 28%. The variance if approved would increase that ratio to 29%.
- b. City Engineer – Steve Thatcher, September 22, 2021 memo states that on September 20,2021 the applicant successfully provided the information which supports the proposed work will meet the conditions of Variance #2

2. Planning Commission Action:

- a. Motion to recommend approval of Variance Request #2 – Impervious Surface requirements via incorporating proposed mitigation measures and including adding all of “Conditions” 1- 5 identified in the 9.22.2021 Thatcher Engineering Review memo. Motion by Kraemer, 2<sup>nd</sup> Sorenson, Vote: Yes – 5, No – 0 Motion passed.

iii. **Variance Request #3 – Code 302.055 - Grading Within 20 Feet of OHW**

1. Planning Commission Findings:

- a. According to City Engineer Thatcher’s September 22, 2021 memo and City Plan Reviewer Doug Danks September 22, 2021 memo on 338 Wildwood Avenue – Revised Variance, Zoning Permit and Conditional Use Permit Applications 2021 the retaining wall and associated land disturbances as proposed have been revised to locate the work outside the 20’-0” setback from the OHW. As a result, this variance is not needed.

2. Planning Commission Action:

- a. No action taken as this variance is not needed per the relocation of the wall and associated grading.

iv. **Variance Request #4 – City Code 302.070 – City Fence Ordinance Part 5 Retaining Walls in Excess of 4’**

1. Planning Commission Findings

- a. The preliminary drawings show potential boulder wall build height of 5’. No professional engineering certification or plan was provided.
- b. City Engineer Steve Thatcher (in attendance) indicated the boulder retaining wall plans exposed wall face is 4’ in height and is compliant with Code. No variance required.

2. Planning Commission Action

- a. No action taken as Planning Commission determined no variance was necessary.

6. **Agenda Item C - Variance Case No. 21-06-VB (469 Lake Avenue)**

- a. Planning Commission member Michael Kraemer recused himself from the Commission for this topic because the Variance relates to the property adjacent to his home.

b. **Variance Request #1 – Variance from City Code 302.050 (IMPERVIOUS SURFACES)**

i. Public Hearing

1. Opened 7:50



2. Closed 8:06

3. Comments:

- a. Mike and Candice Kraemer submitted a public comment memo on Case No. 21-06-VB (469 Lake Avenue) dated 10.5.2021 to the City Administrator Gonyou and the Commission.
- b. Dr. Barthel explained his plans to rebuild the existing home to better accommodate his life style.
- c. Brent Stevens, builder explained the driveway paver and runoff infiltration system proposed for the property. Mr Stevens indicated the resultant impervious ratio of 32% would be reduced to a resultant impervious ratio of 23% using the PaveDrain system.
- d. Suzie Mahoney – 479 Lake Ave
  - i. Expressed concern that the proposed driveway adjacent to Kraemer property line may create operational problems long term.
  - ii. Expressed concern about the amount of lot area taken up by the house structure and long term impact and declined of the pervious areas.
- e. Larry Mahoney – 479 Lake Ave
  - i. Expressed concern that the proper maintenance program be utilized to keep the pervious paver and infiltration systems functioning.
  - ii. Shared that the City of Mahtomedi is experiencing operational problems with pervious paver systems and now considers pavers as impervious surfaces.

ii. Review & Discuss

1. Planning Commission Findings

- a. September 24, 2021 variance review memo for City Engineer Steve Thatcher states the variance request does not provide all the information needed to show that the proposed work will meet the conditions of Variance Request.
- b. City Engineer Steve Thatcher indicated he had received additional infiltration system design information from Brent Stevens site designer for 469 Lake Ave, just prior to the meeting but had not had a chance to review the information. Mr. Thatcher was particularly concerned about the challenge to meet the 3' separation required by

Code between the OHW/ground water and the bottom of the infiltration system.

- c. Brent Stevens – drainage system designer for 469 Lake Ave indicated a paver/drainage system maintenance agreement would be part of the system design.
- d. Commissioner Hankins questioned the 6’ side yard setback indicated on the plans. Commissioner Hankins indicated he felt the builder was in error assuming the Code 302.015 60% threshold for pre-existing small lots applies to the Codes setback requirements also.
- e. Brent Stevens, (builder) indicated City Plan Reviewer Doug Danks had informed them application of the 60% factor from Code 302.015 applies to side yard setbacks also. Mr Stevens indicated Mr. Danks had indicated no variance application related to side yard setbacks was required. Mr. Danks was not available to confirm this statement.

2. Planning Commission Action

- a. Motion by Sorenson to recommend approval of Variance Request #1 – Variance from City Code 302.050 IMPERVIOUS SURFACES using mitigation measures to achieve the 25% guideline provided the conditions of the impervious surface code are met, approved, and signed off on by City Engineer. This includes an accepted stormwater management plan filed with deed for operation, testing and maintenance of the infiltration system as proposed by the homeowner. 2<sup>nd</sup> by Evans, Vote: Yes – 3, No – 1 Hankins dissenting, Kraemer abstaining. Motion carried.

**7. Additional Advisory Recommendations to Council**

- a. Planning Commission recommends the City Council authorize the Planning Commission to review and make recommendations on:
  - i. Code Section 302.020 – Structure Location Requirements. In particular focus on the rationale surrounding the 50’ setback requirements for retaining walls.
  - ii. Impervious Surface Ratios
  - iii. Setback requirements for small lots.
- b. The Planning Commission recommends the City Council, City Staff, and Planning Commission hold a joint discussion to improve the communication and information transfer related to permitting, variances, and project review.
  - i. Prior to this 10.7.2021 meeting it appears the three variance applications considered at the meeting had been in the City’s que for over a month, with incomplete, missing, and outdated reports and documents. In

addition, meeting and property notifications, web site postings of support documents were late and incomplete. We must do better.

- ii. Add “date received” documentation on any and all applications.
- iii. Establish application routing and signoff protocol.

## **8. Adjournment**

- a. At 8:37 PM motion by Hankins and 2<sup>nd</sup> by Maiers-Atakpu to adjourn the meeting.  
Vote: Yes – 5, No – 0. Motion passed.



For the Period : 10/12/2021 To 11/3/2021

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$126,980.39	\$2,296.37	\$46,633.14	\$82,643.62
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Other Federal Programs	\$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	\$32,525.69	\$0.00	\$0.00	\$32,525.69
Spec Rev - Warm House	\$40.00	\$0.00	\$0.00	\$40.00
REIMBURSED CONTRACTED SERVICES	\$0.00	\$0.00	\$0.00	\$0.00
General Debt Service (Identify) (Inactive)	\$0.00	\$0.00	\$0.00	\$0.00
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab Debt	\$2,119.89	\$0.00	\$0.00	\$2,119.89
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00
General Capital 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	\$123,615.31	\$0.00	\$0.00	\$123,615.31
Water	(\$22,034.99)	\$0.00	\$5,599.99	(\$27,634.98)
Sewer	\$115,277.98	\$0.00	\$4,085.18	\$111,192.80
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Water Meter Upgrade Fees	\$53,092.25	\$0.00	\$52,939.93	\$152.32
American Rescue Act Proceeds	\$46,152.31	\$0.00	\$56,790.62	(\$10,638.31)
Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$473,728.83</b>	<b>\$2,296.37</b>	<b>\$166,048.86</b>	<b>\$309,976.34</b>

<u>Name of Fund</u>	Regular City Council Meeting - November 9, 2021	<u>Beginning</u> <u>Balance</u>	<u>Total</u> <u>Receipts</u>	<u>Total</u> <u>Disbursed</u>	<u>Ending</u> <u>Balance</u>	<u>Less</u> <u>Deposits</u> <u>In Transit</u>	<u>Plus</u> <u>Outstanding</u> <u>Checks</u>	<u>Total</u> <u>Per Bank</u> <u>Statement</u>
Jonathan E Fleck		City Council/Town Board						
Justin R. McCarthy		City Council/Town Board						
Kevin L Woolstencroft		City Council/Town Board						
Mary Wingfield		City Council/Town Board, Mayor						
Robert Mark Foster		City Council/Town Board						

Fund Name: All Funds

Date Range: 10/12/2021 To 11/03/2021

<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>
10/12/2021	Payroll Period Ending 10/09/2021	31610	Andy Gonyou- City Administrator payroll	N	Clerk - Treasurer	100-41401-100-	\$ 645.99
	<b>Total For Check</b>	<b>31610</b>					<b>\$ 645.99</b>
10/12/2021	Payroll Period Ending 10/09/2021	31611	Jackie Smith- Deputy Clerk Payroll	N	Clerk - Treasurer	100-41401-100-	\$ 480.41
	<b>Total For Check</b>	<b>31611</b>					<b>\$ 480.41</b>
10/12/2021	MN Department of Revenue	EFT10122021A*	MN State Tax eFiling - Q3 2021	N	Clerk - Treasurer	100-41401-115-	\$ 1,060.42
		EFT10122021A*			Building Inspections Administration	100-42401-437-	\$ 240.80
	<b>Total For Check</b>	<b>EFT10122021A</b>					<b>\$ 1,301.22</b>
10/13/2021	IRS - US Treasury	EFT10132021A*	Federal Taxes - Q3 2021 - Sept Payment	N	Clerk - Treasurer	100-41401-100-	\$ 412.83
		EFT10132021A*				100-41401-100-	\$ 1,049.04
		EFT10132021A*				100-41401-100-	\$ 245.34
	<b>Total For Check</b>	<b>EFT10132021A</b>					<b>\$ 1,707.21</b>
10/14/2021	Xcel Energy	10142021A*	Gas Service 407 Lake Ave Lift Station 08/17-09/16	N	Sewer Utility	605-43190-383-	\$ 26.78
	<b>Total For Check</b>	<b>10142021A</b>					<b>\$ 26.78</b>
10/14/2021	Xcel Energy	10142021B*	Gas Service 200 Wildwood Ave Lift Station 08/17-09/16	N	Sewer Utility	605-43190-383-	\$ 28.12
	<b>Total For Check</b>	<b>10142021B</b>					<b>\$ 28.12</b>
10/14/2021	Manship Plumbing & Heating Inc	31606*	Water testing and locates	N	Water Utility	601-43180-314-	\$ 480.00
		31606*				601-43180-314-	\$ 120.00
	<b>Total For Check</b>	<b>31606</b>					<b>\$ 600.00</b>
10/14/2021	PERA	EFT10142021A*	Retirement funds- Gonyou- Administrator Sept 26-Oct 9	N	Clerk - Treasurer	100-41401-121-	\$ 115.51
		EFT10142021A*			Water Utility	601-43180-381-	\$ 12.62
	<b>Total For Check</b>	<b>EFT10142021A</b>					<b>\$ 128.13</b>
10/23/2021	Minutes Solutions Inc.	31612*	9/14/21- meeting minutes	N	MISCELLANEOUS	100-49001-300-	\$ 260.00
	<b>Total For Check</b>	<b>31612</b>					<b>\$ 260.00</b>

**Fund Name:** All Funds  
 Regular City Council Meeting - November 9, 2021  
**Date Range:** 10/12/2021 To 11/03/2021

<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>
10/23/2021	USS Minnesota One MT LLC	31613*	Energy Charges - July-Sept 2021	N	General Government Buildings and Plant	100-41940-380-	\$ 155.14
		31613*				100-41940-380-	\$ 121.62
		31613*				100-41940-380-	\$ 143.46
		31613*			Sewer Utility	605-43190-380-	\$ 382.54
		31613*				605-43190-380-	\$ 587.81
		31613*				605-43190-380-	\$ 324.31
		31613*				605-43190-380-	\$ 413.68
		31613*				605-43190-380-	\$ 693.35
		31613*				605-43190-380-	\$ 749.79
	<b>Total For Check</b>	<b>31613</b>					<b>\$ 3,571.70</b>
10/23/2021	White Bear Lake Historical Society	31614*	Historical Plaques for Centennial	N	Parks	100-45207-430-	\$ 2,279.00
	<b>Total For Check</b>	<b>31614</b>					<b>\$ 2,279.00</b>
10/23/2021	Birchwood Community Club	31615*	Dues and reimbursement for garden supplies	N	General Government Buildings and Plant	100-41940-220-	\$ 45.70
	<b>Total For Check</b>	<b>31615</b>					<b>\$ 45.70</b>
10/23/2021	R Leeves Productions LLC	31616*	Videography - Council Mtgs, 10/12 and 10/18	N	Cable Eqpmt and Service	100-41950-314-	\$ 87.08
		31616*				100-41950-314-	\$ 82.50
	<b>Total For Check</b>	<b>31616</b>					<b>\$ 169.58</b>
10/23/2021	Mary Cahill	31617*	Cleaning Supplies for hall	N	General Government Buildings and Plant	100-41940-220-	\$ 29.30
	<b>Total For Check</b>	<b>31617</b>					<b>\$ 29.30</b>
10/23/2021	ESS Brothers & Sons, Inc	31618*	Sanitary Lids and Shipping costs	N	Water Utility	605-43180-220-	\$ 801.00
	<b>Total For Check</b>	<b>31618</b>					<b>\$ 801.00</b>
10/23/2021	Rydeen, Jim	31619*	Reimbursement - Parks Supplies and office supplies	N	Office Operations Supplies	100-41911-200-	\$ 3.56
		31619*			Parks	100-45207-400-	\$ 378.89
		31619*				100-45207-400-	\$ 101.86
		31619*				100-45207-400-	\$ 128.18
		31619*				100-45207-400-	\$ 57.41
		31619*				100-45207-400-	\$ 148.17
		31619*				100-45207-400-	\$ 81.69
	<b>Total For Check</b>	<b>31619</b>					<b>\$ 899.76</b>
10/23/2021	Menard's - MAPLEWOOD	31620*	Sealer	N	Parks	100-45207-400-	\$ 24.91



**Fund Name:** All Funds  
 Regular City Council Meeting - November 9, 2021  
**Date Range:** 10/12/2021 To 11/03/2021

<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>
	<b>Total For Check</b>	<b>31620</b>					<b>\$ 24.91</b>
10/23/2021	MENARD'S - OAKDALE	31621*	Maintenance supplies	N	Parks	100-45207-400-	\$ 23.97
		31621*				100-45207-400-	\$ 20.80
	<b>Total For Check</b>	<b>31621</b>					<b>\$ 44.77</b>
10/23/2021	Toshiba Business Solutions	31622*	Printer Maintenance - 10/09-11/08/21	N	Office Operations Supplies	100-41911-314-	\$ 10.62
	<b>Total For Check</b>	<b>31622</b>					<b>\$ 10.62</b>
10/23/2021	AirFresh Industries, Inc.	31623*	Portable Restrooms-Oct Billing	N	Parks	100-45207-314-	\$ 162.50
	<b>Total For Check</b>	<b>31623</b>					<b>\$ 162.50</b>
10/23/2021	TSE, Inc. Work Account	31624*	Janitorial Services - 10/7/2021	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
	<b>Total For Check</b>	<b>31624</b>					<b>\$ 25.00</b>
10/23/2021	Andrew Gonyou	31625*	Reimbursement - Microsoft on-line billing, office supplies	N	General Government Buildings and Plant	100-41940-200-	\$ 94.79
		31625*				100-41940-320-	\$ 13.42
	<b>Total For Check</b>	<b>31625</b>					<b>\$ 108.21</b>
10/23/2021	Wingfield, Mary	31626*	Reimbursement - Plastic waste bags for parks, signage and dispensers	N	Parks	100-45207-400-	\$ 420.98
		31626*				100-45207-400-	\$ 39.99
		31626*				100-45207-430-	\$ 25.98
		31626*				100-45207-430-	\$ 33.29
	<b>Total For Check</b>	<b>31626</b>					<b>\$ 520.24</b>
10/23/2021	Structural Tower Services	31627*	Larger Tower	N	CARES Expenses (for Enterprise Funds)	601-49295-314-	\$ 3,100.00
	<b>Total For Check</b>	<b>31627</b>					<b>\$ 3,100.00</b>
10/23/2021	AT&T Mobility	EFT10222021A*	Wireless for water tower	N	Water Utility	601-43180-382-	\$ 51.30
	<b>Total For Check</b>	<b>EFT10222021A</b>					<b>\$ 51.30</b>
10/27/2021	Payroll Period Ending 10/23/2021	31628	Payroll- Jackie Smith- Deputy Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 597.45
	<b>Total For Check</b>	<b>31628</b>					<b>\$ 597.45</b>
10/27/2021	Mary Cahill	31630*	International Stamps and certified mail for IRS	N	Unallocated Expenditures	100-49201-430-	\$ 23.83

**Fund Name:** All Funds  
 Regular City Council Meeting - November 9, 2021  
**Date Range:** 10/12/2021 To 11/03/2021

<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>
		<b>Total For Check</b>	<b>31630</b>				<b>\$ 23.83</b>
10/27/2021	Dakota Supply Group	31631*	AMI System and Components for Water Meter Towner	N	Water Utility	620-43180-314-	\$ 52,939.93
		31631*				625-43180-314-9	\$ 56,790.62
		<b>Total For Check</b>	<b>31631</b>				<b>\$ 109,730.55</b>
10/27/2021	Core & Main	31632*	water and sewer supplies	N	Water Utility	601-43180-220-	\$ 336.07
		31632*			Sewer Utility	605-43190-220-	\$ 77.80
		<b>Total For Check</b>	<b>31632</b>				<b>\$ 413.87</b>
10/29/2021	Xcel Energy	EFT10292021A	Street Lighting	N	Street Lighting	100-43160-380-	\$ 1,285.06
		<b>Total For Check</b>	<b>EFT10292021A</b>				<b>\$ 1,285.06</b>
11/01/2021	Manship Plumbing & Heating Inc	31635*	Water testing, turn off fountains, replace manhole covers and locates	N	Water Utility	601-43180-314-	\$ 420.00
		31635*				601-43180-314-	\$ 600.00
		31635*				601-43180-314-	\$ 360.00
		31635*				601-43180-314-	\$ 120.00
		<b>Total For Check</b>	<b>31635</b>				<b>\$ 1,500.00</b>
11/01/2021	Pelco Construction, LLC	31636*	Building Hall Restoration	N	Unallocated Expenditures	100-49201-430-	\$ 28,355.00
		<b>Total For Check</b>	<b>31636</b>				<b>\$ 28,355.00</b>
11/01/2021	Rydeen, Jim	31637*	Reimbursement - Park Supplies- Weed killer for buckthorn	N	Parks	100-45207-400-	\$ 67.38
		<b>Total For Check</b>	<b>31637</b>				<b>\$ 67.38</b>
11/01/2021	Andrew Gonyou	31638*	Reimbursement - zoom	N	General Government Buildings and Plant	100-41940-320-	\$ 16.09
		<b>Total For Check</b>	<b>31638</b>				<b>\$ 16.09</b>
11/01/2021	Lund, John	31639*	Tree Removal	N	Tree Removal	100-43135-314-	\$ 1,200.00
		<b>Total For Check</b>	<b>31639</b>				<b>\$ 1,200.00</b>
11/01/2021	H.A. Kantrud, P.A.	31640	Attorney Services - Oct 2021	N	Legal Services	100-41601-300-	\$ 1,500.00
		<b>Total For Check</b>	<b>31640</b>				<b>\$ 1,500.00</b>
11/01/2021	City of White Bear Lake	31641	Monthly Fire Service	N	Legal Services	100-41601-300-	\$ 2,445.58
		<b>Total For Check</b>	<b>31641</b>				<b>\$ 2,445.58</b>
11/01/2021	Payroll Period Ending 11/01/2021	31642	Payroll- Andy Gonyou	N	Clerk - Treasurer	100-41401-100-	\$ 1,217.25

**Fund Name:** All Funds  
 Regular City Council Meeting - November 9, 2021  
**Date Range:** 10/12/2021 To 11/03/2021

<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>
		<b>Total For Check</b>	<b>31642</b>				<b>\$ 1,217.25</b>
11/01/2021	Payroll Period Ending 11/01/2021	31646	payroll for Ron Koehnle- park maintenance	N	Parks	100-45207-100-	\$ 502.34
		<b>Total For Check</b>	<b>31646</b>				<b>\$ 502.34</b>
11/01/2021	Payroll Period Ending 11/01/2021	31647	Payroll for Mary Cahill- Assistant Treasurer	N	Clerk - Treasurer	100-41401-100-	\$ 173.01
		<b>Total For Check</b>	<b>31647</b>				<b>\$ 173.01</b>
<b>Total For Selected Checks</b>							<b>\$ 166,048.86</b>

Fund Name: All Funds

Date Range: 10/12/2021 To 11/03/2021

<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>
10/15/2021	Anderson Heating	171735220*	Building Permit # 2021-81	(10/15/2021) -	N	Building Permits	100-32211-	\$ 360.25
								<b>\$ 360.25</b>
10/15/2021	Tacheny Exteriors	171735221*	Building Permit # 2021-80	(10/15/2021) -	N	Building Permits	100-32211-	\$ 84.41
								<b>\$ 84.41</b>
10/20/2021	Loren Witcher	171735219*	Community Club Dues	(10/20/2021) -	N	Miscellaneous	100-36140-	\$ 4.00
								<b>\$ 4.00</b>
10/22/2021	Ramsey/Washington Cable Commission	171735222*	Cable Redistribution Payment - Q3- 2021	(10/25/2021) -	N	Refund-Reimbursemnt-Dividend	100-36240-	\$ 711.79
								<b>\$ 711.79</b>
10/25/2021	Plumbing West	171735223*	Building permit- 2021-82	(10/25/2021) -	N	Building Permits	100-32211-	\$ 316.75
								<b>\$ 316.75</b>
11/01/2021	Wynne, Lindsay	171735224*	Dog Permit	(10/29/2021) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
11/01/2021	Plumbing West	171735225*	Building Permit # 2021-82	(10/25/2021) -	N	Building Permits	100-32211-	\$ 316.75
								<b>\$ 316.75</b>
11/01/2021	Custom Remodelers	171735226*	Building Permit # 2021-86	(10/29/2021) -	N	Building Permits	100-32211-	\$ 244.00
								<b>\$ 244.00</b>
11/01/2021	Kitten, Robert	171735228*	Hall Rental	(11/02/2021) -	N	City/Town Hall Rent	100-34101-	\$ 25.00
								<b>\$ 25.00</b>
11/01/2021	Kitten, Robert	171735229*	Damage Deposit for Hall Rental- escrow	(11/02/2021) -	N	Escrow Deposits	100-36245-8	\$ 100.00
								<b>\$ 100.00</b>
11/01/2021	WD&D Permit Service	171735230*	Building Permit # 2021-87	(11/02/2021) -	N	Building Permits	100-32211-	\$ 113.42
								<b>\$ 113.42</b>
<b>Total for Selected Receipts</b>								<b>\$ 2,296.37</b>

As on 11/3/2021

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Dock/Lift Permit Fee	0.00	16,500.00	16,500.00
<b>Total Acct 322</b>	<b>0.00</b>	<b>16,500.00</b>	<b>16,500.00</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>16,500.00</b>	<b>16,500.00</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Recreation			
Community Events	0.00	3,200.00	(3,200.00)
<b>Total Acct 451</b>	<b>0.00</b>	<b>3,200.00</b>	<b>(3,200.00)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>3,200.00</b>	<b>(3,200.00)</b>
<b>Other Financing Uses:</b>			
Transfer To Governmental Fund			
Interfund Transfers	0.00	5,000.00	(5,000.00)
<b>Total Acct 493</b>	<b>0.00</b>	<b>5,000.00</b>	<b>(5,000.00)</b>
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>5,000.00</b>	<b>(5,000.00)</b>
<b>Beginning Cash Balance</b>		<b>24,225.69</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>16,500.00</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>8,200.00</b>	
<b>Cash Balance as of 11/03/2021</b>		<b>32,525.69</b>	

As on 11/3/2021

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Total Revenues	0.00	0.00	0.00
<b>Other Financing Sources:</b>			
Total Other Financing Sources	0.00	0.00	0.00
<b>Disbursements:</b>			
Total Disbursements	0.00	0.00	0.00
<b>Other Financing Uses:</b>			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		123,615.31	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 11/03/2021		123,615.31	

As on 11/3/2021

Water

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Water Fee	0.00	64,068.36	64,068.36
Penalty - Late Water/Sewer	0.00	674.52	674.52
State and Misc fees	0.00	2,286.02	2,286.02
<b>Total Acct 341</b>	<b>0.00</b>	<b>67,028.90</b>	<b>67,028.90</b>
Delinquent Water/Sewer Fees	0.00	468.51	468.51
Miscellaneous	0.00	5,790.79	5,790.79
<b>Total Acct 361</b>	<b>0.00</b>	<b>6,259.30</b>	<b>6,259.30</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>73,288.20</b>	<b>73,288.20</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Postage/Postal Permits			
Refunds and Reimbursements	0.00	231.00	(231.00)
<b>Total Acct 414</b>	<b>0.00</b>	<b>231.00</b>	<b>(231.00)</b>
Financial Administration			
Professional Services: Medical and Dental Fees	0.00	1,061.09	(1,061.09)
Contracted Services	0.00	6,213.30	(6,213.30)
<b>Total Acct 415</b>	<b>0.00</b>	<b>7,274.39</b>	<b>(7,274.39)</b>
Office Operations Supplies			
Operating Supplies (211 through 219)	0.00	243.26	(243.26)
Newsletter			
Printing and Binding (351 through 359)	0.00	683.19	(683.19)
<b>Total Acct 419</b>	<b>0.00</b>	<b>926.45</b>	<b>(926.45)</b>
Water Utility			
Repair and Maintenance Supplies (221 through 229)	0.00	774.91	(774.91)
Contracted Services	0.00	72,330.06	(72,330.06)
Utility Services: Electric Utilities	0.00	127.68	(127.68)
Utility Services: Water	0.00	51.30	(51.30)
Miscellaneous (431 through 499)	0.00	164.84	(164.84)
Fees	0.00	2,580.00	(2,580.00)
Wtr/Swr Emergency			
Repair and Maintenance Supplies (221 through 229)	0.00	800.00	(800.00)
PROFESSIONAL SERVICES (301 through 319)	0.00	1,041.50	(1,041.50)
Contracted Services	0.00	19,983.56	(19,983.56)
<b>Total Acct 431</b>	<b>0.00</b>	<b>97,853.85</b>	<b>(97,853.85)</b>
MISCELLANEOUS			
Miscellaneous (431 through 499)	0.00	8,181.90	(8,181.90)
<b>Total Acct 490</b>	<b>0.00</b>	<b>8,181.90</b>	<b>(8,181.90)</b>
CARES Expenses (for Enterprise Funds)			
Contracted Services	0.00	21,330.00	(21,330.00)
<b>Total Acct 492</b>	<b>0.00</b>	<b>21,330.00</b>	<b>(21,330.00)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>135,797.59</b>	<b>(135,797.59)</b>

As on 11/3/2021

Water

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Other Financing Uses:</b>			
Transfer To Enterprise Fund			
Interfund Transfers	0.00	35,000.00	(35,000.00)
<b>Total Acct 493</b>	<u>0.00</u>	<u>35,000.00</u>	<u>(35,000.00)</u>
<b>Total Other Financing Uses</b>	<u>0.00</u>	<u>35,000.00</u>	<u>(35,000.00)</u>
<b>Beginning Cash Balance</b>		69,874.41	
<b>Total Receipts and Other Financing Sources</b>		73,288.20	
<b>Total Disbursements and Other Financing Uses</b>		<u>170,797.59</u>	
<b>Cash Balance as of 11/03/2021</b>		(27,634.98)	



As on 11/3/2021

Sewer

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Penalty - Late Water/Sewer	0.00	542.10	542.10
Sewer Fee	0.00	77,041.78	77,041.78
<b>Total Acct 341</b>	<b>0.00</b>	<b>77,583.88</b>	<b>77,583.88</b>
Delinquent Water/Sewer Fees	0.00	468.51	468.51
<b>Total Acct 361</b>	<b>0.00</b>	<b>468.51</b>	<b>468.51</b>
MISCELLANEOUS REVENUES	0.00	10,821.14	10,821.14
<b>Total Acct 362</b>	<b>0.00</b>	<b>10,821.14</b>	<b>10,821.14</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>88,873.53</b>	<b>88,873.53</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Postage/Postal Permits			
Refunds and Reimbursements	0.00	1,826.00	(1,826.00)
<b>Total Acct 414</b>	<b>0.00</b>	<b>1,826.00</b>	<b>(1,826.00)</b>
Financial Administration			
Professional Services: Medical and Dental Fees	0.00	1,061.08	(1,061.08)
<b>Total Acct 415</b>	<b>0.00</b>	<b>1,061.08</b>	<b>(1,061.08)</b>
Office Operations Supplies			
Operating Supplies (211 through 219)	0.00	243.26	(243.26)
<b>Total Acct 419</b>	<b>0.00</b>	<b>243.26</b>	<b>(243.26)</b>
Utility Locates			
Contracted Services	0.00	325.40	(325.40)
<b>Total Acct 428</b>	<b>0.00</b>	<b>325.40</b>	<b>(325.40)</b>
Water Utility			
Repair and Maintenance Supplies (221 through 229)	0.00	801.00	(801.00)
Sewer Utility			
Sewer - Wastewater Charge	0.00	49,881.70	(49,881.70)
Repair and Maintenance Supplies (221 through 229)	0.00	386.40	(386.40)
Contracted Services	0.00	30,951.54	(30,951.54)
Utility Services (381 through 389)	0.00	8,754.24	(8,754.24)
Utility Services: Gas Utilities	0.00	554.47	(554.47)
<b>Total Acct 431</b>	<b>0.00</b>	<b>91,329.35</b>	<b>(91,329.35)</b>
Unallocated Expenditures			
Miscellaneous (431 through 499)	0.00	13,100.00	(13,100.00)
<b>Total Acct 492</b>	<b>0.00</b>	<b>13,100.00</b>	<b>(13,100.00)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>107,885.09</b>	<b>(107,885.09)</b>
<b>Other Financing Uses:</b>			
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Beginning Cash Balance</b>		<b>130,204.36</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>88,873.53</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>107,885.09</b>	
<b>Cash Balance as of 11/03/2021</b>		<b>111,192.80</b>	



**CITY OF BIRCHWOOD VILLAGE**

**RESOLUTION 2021-26**

**A RESOLUTION ADOPTING THE 2040 CITY OF BIRCHWOOD VILLAGE COMPREHENSIVE PLAN UPDATE, AND THE COMPREHENSIVE SEWER PLAN, A COMPILATION OF POLICY STATEMENTS, GOALS, STANDARDS, AND MAPS FOR GUIDING THE OVERALL DEVELOPMENT AND REDEVELOPMENT OF THE LOCAL GOVERNMENTAL UNIT**

**WHEREAS**, Minnesota Statutes section 473.864 requires each local governmental unit to review and, if necessary, amend its entire comprehensive plan and its fiscal devices and official controls at least once every ten years to ensure its comprehensive plan conforms to metropolitan system plans and ensure its fiscal devices and official controls do not conflict with the comprehensive plan or permit activities that conflict with metropolitan system plans; and

**WHEREAS**, Minnesota Statutes sections 473.858 and 473.864 require local governmental units to complete their “decennial” reviews by December 31, 2018; and

**WHEREAS**, the City Council of the City of Birchwood Village authorized the review and update of its Comprehensive Plan, including the Comprehensive Sewer Plan; and

**WHEREAS**, the proposed City of Birchwood Village 2040 Comprehensive Plan is a planning tool intended to guide the future growth and development of the City of Birchwood Village in a manner that conforms with metropolitan system plans and complies with the Metropolitan Land Planning Act and other applicable planning statutes; and

**WHEREAS**, the proposed City of Birchwood Village 2040 Comprehensive Plan reflect a community planning process conducted in the years 2016 through 2019 involving elected officials, appointed officials, city staff, community organizations, the public at large, developers, and other stakeholders; and

**WHEREAS**, pursuant to Minnesota Statutes section 473.858, the proposed 2040 Comprehensive Plan was submitted to adjacent governmental units and affected special districts and school districts for review and comment on March 25, 2019, and the statutory six-month review and comment period has elapsed; and

**WHEREAS**, the Planning Commission has considered the proposed 2040 Comprehensive Plan and all public comments, and thereafter submitted its recommendations to the City Council of the City of Birchwood Village; and

**WHEREAS**, on 03/12/2019 & 03/25/2019, the City of Birchwood Village conducted public hearings on the proposed 2040 Comprehensive Plan; and

**WHEREAS**, the City Council of the City of Birchwood Village approved Resolution 2019-06 authorizing the proposed 2040 Comprehensive Plan, including the Comprehensive Sewer Plan, to be submitted to the Metropolitan Council for review; and

**WHEREAS**, at its regular meeting on July, 28, 2021, the Metropolitan Council completed its review of the proposed 2040 Comprehensive Plan and the Comprehensive Sewer Plan and found that the Plan meets the requirements of the Metropolitan Land Planning Act; conforms to

the metropolitan system plans for transportation (including aviation), water resources, and parks; is consistent with *Thrive MSP 2040*; and is compatible with the plans of adjacent jurisdictions and affected special districts and school districts;

**WHEREAS**, the 2040 proposed Comprehensive Plan includes all revisions made during the review process and responds to additional advisory comments that are part of the Metropolitan Council's actions authorizing the City of Birchwood Village to place its proposed 2040 Comprehensive Plan into effect; and

**WHEREAS**, the Metropolitan Council approves the City of Birchwood Village's Comprehensive Sewer Plan.

**NOW THERE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA**, that the City of Birchwood Village 2040 Comprehensive Plan, including the Comprehensive Sewer Plan, is adopted and is effective as of the date of this resolution.

**BE IT FURTHER RESOLVED** that, pursuant to sections 473.864 and 473.865 of the Metropolitan Land Planning Act, the City of Birchwood Village will: (1) review its fiscal devices and official controls; (2) if necessary, amend its fiscal devices and official controls to ensure they do not conflict with the 2040 Comprehensive Plan or permit activity in conflict with metropolitan system plans; and (3) submit amendments to fiscal devices or official controls to the Metropolitan Council for "information purposes."

Whereupon this resolution is duly adopted on November 9<sup>th</sup>, 2021.

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Mary Wingfield, Mayor

Attest:

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Andy Gonyou, City Administrator-Clerk

**From:** [Mary Wingfield](#)  
**To:** [Andy Gonyou](#)  
**Subject:** Curt Feistner Preserve boat slip memo  
**Date:** Tuesday, November 2, 2021 12:29:26 PM  
**Attachments:** [image.png](#)  
[image.png](#)

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To the council.

Please see email string below.

The following points should be noted:

The council should clarify its long term goals vis a vis the Birchwood Dock Assn. As of now, the BDA is a privately run entity that contracts with the city for dock placement. As a private contractor, they must obtain liability insurance for their dockage. That is an annual fee of \$2000+. I.e. For the past ten years, the BDA has had to recoup \$20k+ in unnecessary fees from its members to meet their contractual requirements. This is a huge operating cost.

Over the years, I have conveyed to the BDA that that insurance charge is wasteful and unnecessary as the docks could be run through the city by a committee. The city's insurance would be able to provide necessary coverage with no additional cost to its policy. The BDA prefers to operate as an outside entity. (I have been told they want to preserve the BDA autonomy and avoid losing any docks by city action. Of course, there is no such protection under city code or the contract the BDA operates under.)

To date, the council's informal position has been we are willing to help protect the continued use of boat slips, but the type of private management remains as is unless the BDA wants to pursue committee status. Accordingly, it is a misstatement to suggest the city does not want to be the overseer of dock management in its capacity, it is the BDA that wants no change in operations.

Be that as it is, since the continued expense for insurance creates unnecessary costs to any resident, and it has been my philosophy to ensure city services are provided equitably and economically, I cannot support the BDAs request to "manage" Feistner Preserve for one boat slip that has no dock and needs no additional insurance coverage yet would collect a substantial fee to cover their overhead.

While the BDA has not solicited its members for the option of using Feistner Preserve, the city has an interest in communicating with all residents to ensure public access to our limited resources. I have heard from some that they would welcome the opportunity to apply for boat space at Feistner Preserve.

I suggest the city notify the public of the opportunity in its next newsletter and hold a lottery drawing for the space. Boat owners would be required to provide proper mooring (but not a buoy type.) A fee of \$1000 has previously been discussed and is reasonable. A stair ladder will need to be installed next spring to accommodate access.

m

----- Forwarded message -----

From: **Birchwood Dock Association** <[birchwooddocks@gmail.com](mailto:birchwooddocks@gmail.com)>

Date: Mon, Oct 18, 2021, 1:31 PM

Subject: Re: Curt Feistner Preserve dock opportunity

To: Mary Wingfield <[wingfield.mary@gmail.com](mailto:wingfield.mary@gmail.com)>

Hi Mary,

Thank you. I've forwarded your request to the eboard for input. I have not received anything yet.

Yes. I agree that the city can offer a better deal, but I disagree that we wouldn't be competing. The city regulates the BDA's dues and boat length limits, which are both of your differentiation points for this one slip.

My initial thought is that the BDA should be allowed to maintain all the slips utilizing Birchwood public property using our current processes, with the city responsible for providing safe access to the boat spot - as is the agreement at the other easements.

I think residents would have a hard time separating the one dockless slip at Feistner from the other 20+, in terms of slip access and who to contact. I am also a bit concerned that a separate boat spot managed by the City would be contrary to the original reason the city required there be only one organization managing docks/slips. It was all before my time in Birchwood, but individual regulations and organizations managing separate easements seems like it was the whole reason behind 617.

I know the letter of 617.340 and 617.370 doesn't specify if there is *no* dock, as there will be at Feistner, but the spirit is definitely referencing boat slip management and not the docks themselves.

image.png



image.png



Logistically, would the city then maintain parallel processes to the BDA for this one slip? Separate wait list, separate WBLCD application, etc.? In speaking with Councilman Foster at our Fall 2021 meeting, it sounded like the city had no interest in / capacity to manage the docks and slips.

One other note, in case you missed it in the application: my time as BDA president ends at the end of the year, as my 6 year slip lease expired this year. Mr Dana Klimp is taking over as president for 2022.

I will get back to you when I hear from the eboard. Thanks much!

-David

On Mon, Oct 18, 2021 at 11:13 AM Mary Wingfield <[wingfield.mary@gmail.com](mailto:wingfield.mary@gmail.com)> wrote:  
Hi David

Seems the city can offer a better deal as we don't need to charge for insurance. Then there is the fact that we can allow a longer boat. Of course, we won't have a dock. Do I was hoping we can not be in competition with the BDA because of the length of the boat so we could get some help from you as to communicating this to your group for first consideration. I e. It would be a city "run" slip.

Sorry that some are confused, we can message the kayak canoe rack more in the newsletter.

Thanks for your help  
m

On Mon, Oct 18, 2021, 8:56 AM Birchwood Dock Association  
<[birchwooddocks@gmail.com](mailto:birchwooddocks@gmail.com)> wrote:

Hi Mary,  
I will forward this along to the eboard and membership for discussion.

So you are proposing the city manages this slip at Feistner Preserve, outside of the dock association? Or you are proposing the BDA manages the slip and adds to our application with the WBLCD?

If the former, does the city foresee the dual slip management becoming confusing for residents? I already have conversations with residents and realtors on where the BDA and the city start and stop. Particularly in regards to the wait list management and the kayak/canoe racks.

Thanks!  
-David

On Sat, Oct 16, 2021 at 3:24 PM Mary Wingfield <[wingfield.mary@gmail.com](mailto:wingfield.mary@gmail.com)> wrote:

Hi Dave.

Thanks for attending our meeting this week, and for providing a seamless process in the BDA permit application.

As we discussed, the city has cleaned up Feistner Preserve. The council previously discussed the option of providing boat access. (One boat is best, a longer pontoon that would otherwise not have access at Birch? Then we would not be competing with your group.) Boats with sea legs would work, or the owners could lock up on shore if they prefer that option.

There would be no dock so the fee would be \$1000. The city will create a stairway access before the boating season.

We believe to this is a win/win situation. Can you please forward this to your membership for consideration. Please forward my contact information to anyone who

needs more information or wants to opt in. I have had some interest outside of you group, so a response by November 20th would be helpful.

Thanks again for all your hard work. Let me know if you have any questions. Have a great weekend.

m







## MEMORANDUM



**TO:** Birchwood Village City Council  
**FROM:** Justin McCarthy, City Councilmember  
**SUBJECT:** Metro-INET Conversion  
**DATE:** November 3, 2021

Dear Mayor & City Council Members,

I write to provide an update on our conversion from Metro INET. Our email has now transitioned from Metro INET to OFFICE 365. Our next task is to get the email from the copier working properly and to get One Drive working on the PCs (this requires Metro INET to change a configuration setting on our PCs).

Given the reduced cost of email addresses (\$60.00/year) over what we paid for Metro INET I suggest that the Council offer the choice for members of the Council to obtain @cityofbirchwood.com email addresses. This would be entirely optional.

Additionally, for those that would be interested in a @cityofbirchwood.com email but are concerned about having to switch from their old email, we could setup email forwarding. We could forward your new @cityofbirchwood.com email to your old address or we could setup a forward from your old email to your new email.

Included in the \$60.00/year are Microsoft Office web applications, such as Outlook, Word, and Excel that may be beneficial for Council members to use to work on city business. Additionally, this plan comes with OneDrive, which would allow us to share files with city staff. Additionally, if any Councilmember does not have Office applications, and would need the full suite of desktop applications to work on city business, we could also discuss that. The price for that is \$150.00 per year.

In sum, I would propose that the Council approve the *option* for Council members to get @cityofbirchwood.com email addresses at \$5.00/ year.

Thank you,  
Justin McCarthy  
City Councilmember



**RESOLUTION 2021-25**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO OBTAIN  
MICROSOFT365 ACCOUNTS FOR CITY COUNCIL MEMBERS THAT ARE  
INTERESTED IN A CITY EMAIL OR NEED OFFICE APPLICATIONS FOR CITY  
BUSINESS**

**WHEREAS**, members of the City Council of the City of Birchwood Village use e-mail communications to communicate with staff and with members of the community; and

**WHEREAS**, because of the recent change in email provider, the cost to the city for email addresses has been greatly reduced; and

**WHEREAS**, certain members of the City Council of the City of Birchwood Village desire to have an email account with the city domain name.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Birchwood Village that the City Administrator is authorized to purchase Microsoft365 business basics yearly subscriptions for City Council members that are interested in a City email address.

Resolution duly seconded and passed this 9<sup>th</sup> day of November, 2021.

Attest:

\_\_\_\_\_  
Mary Wingfield, Mayor

\_\_\_\_\_  
Andy Gonyou, City Administrator-Clerk

# MEMORANDUM



**TO:** Birchwood Village City Council  
**FROM:** Justin McCarthy, City Councilmember  
**SUBJECT:** Maintenance Code Option  
**DATE:** November 3, 2021

Dear Mayor & City Council Members,

During July's regular Council meeting, we discussed proposals for a maintenance code. During the meeting it was decided that I should meet with Alan to flesh out some concerns I had with the proposed code. After some research, it appears that many of the provisions we were proposing to add are already covered by Birchwood code. For example, Birchwood already has the following ordinance:

***404.080. REQUIREMENTS FOR SAFE AND SANITARY MAINTENANCE OF DWELLINGS AND DWELLING UNITS.***

***1. Structural Soundness.***

***a. Members - Every foundation, door, outer wall, ceiling and roof shall be weather tight, water tight, and rodent proof, shall be capable of affording privacy, and shall be kept in good repair.***

***b. Openings - Every window, exterior door and basement hatchway or stairway shall be weather tight, water tight and rodent proof and shall be kept in good working condition and repair.***

***c. Stairs and Porches - Every inside and outside stair and handrail, and every porch and porch rails shall be so constructed as to safely support the maximum load that normal use may require and shall be kept in safe condition and good repair at all times. The Housing Inspector may require a handrail for each stair if deemed necessary.***

***d. Every stairway of more than 3 risers must have a handrail of height corresponding to State Statute requirements and be safely enclosed to handrail height.***

***2. Mechanical Soundness of Plumbing. All plumbing shall comply with the State Plumbing Code.***

***3. Exits. Every dwelling unit shall have a safe, unobstructed means of egress leading to safe and open space ground level, as required by the Minnesota Statutes and the Code of the City.***

***4. Effectiveness. Every supplied facility, piece of equipment, or utility which is required under this Section shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.***

While the proposed maintenance code is more thorough and comprehensive than what we currently have in the code, I believe most of the major points of the maintenance code are already somewhat addressed by one or more sections of existing Birchwood code. Therefore, I recommend that we not pass a new maintenance code, but instead, work with the existing code. I have included, as Exhibit A, a table mapping the provisions of the maintenance code with existing Birchwood code; and Exhibit B, the proposed maintenance code from the July meeting.

I have also included a copy of 404 and included some suggested amendments. These amendments remove unused definitions, fix some mistakes (e.g., changed rat to rodent in 404.090), clarify that the Housing Appeal Board is the City Council unless the City Council decides to appoint a different Appeal Board, clarify that the City Clerk will handle scheduling appeal hearings, and finally clarify some rules on the hearings.

Proposed Maintenance Code	Birchwood Code (Existing)
301	404.090(1); 404.040
302	404.090(1)
303	404.090(2)
304	402
305	402
306	402
307	404.050(2)
308	404.090(1)
310	402.090(1)
311	NONE
312	404.090
313	402.090
402 (kitchen)	NONE
403	404.050(1)
404	404.050(1)
405	404.050(1)
406	404.080(1)
407	NONE (may be covered by 404.080(3))
502	404.080(1)
503	404.080(1)
504	404.050(3)
505	404.080
506	NONE
507	NONE
508	404.080
509	404.080(4)
510	NONE
511	NONE

## 404. HOUSING

404.010. TITLE. This chapter shall be known and may be cited and referred to as the Minimum Standards Housing Ordinance of the City.

404.020. APPLICATION. The provisions of this chapter shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation.

404.030. DEFINITIONS. Certain words or terms in this chapter are defined for the purpose hereof as follows: words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural number the singular; the words "dwelling", "dwelling unit #", or "premises" include the words "or any part thereof".

1. Approved. Shall mean approved by the Inspector of Buildings appointed to enforce the provisions of this chapter.
2. Half-Basement or lower level. A portion of a building located partly underground but having less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
3. Basement. A portion of a building located partly or wholly underground and having one-half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.
4. Dwelling. Any building or structure, or part thereof, which is used or intended to be used for living or sleeping.
5. Dwelling Unit. A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking.
6. Extermination. The control or elimination of insects, rodents or other pests by eliminating their harborage, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating or trapping, by blocking their access to a dwelling, or by any other recognized and legal pest elimination methods approved by the City, pursuant to the appropriate Code.
- ~~7. First Story. That story of a dwelling at or next above the average grade of adjoining ground.~~

~~8-7.~~ Garbage. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.



~~9.8.~~ Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

~~10.9.~~ Housing Appeals Board. Defined in 404.140.

~~11.10.~~ Housing Inspector. Shall mean the Inspector of Buildings of the City of Birchwood Village, appointed to enforce the Code.

~~12.11.~~ Infestation. The presence, within or around a dwelling or in or near waste disposal containers, of any insects, rodents or other pests.

~~13.~~ Light Housekeeping. ~~The use of a room or rooms for combined living, sleeping and dining purposes by individuals or groups of persons having part of a dwelling such as stairs or halls in common but living independently of each other and doing their cooking upon the premises, whether in the same or in other units, as distinguished from a dwelling unit or apartment having normal kitchen and toilet facilities.~~

~~14.~~ Light Housekeeping Unit. ~~The room or rooms occupied for light housekeeping purposes by one individual or group of persons living independently of other such individuals or groups.~~

~~15.12.~~ Occupant. Any person living, sleeping, cooking or eating in or having possession or use of a dwelling unit.

~~16.13.~~ Owner. Any legally responsible person who alone or jointly or severally with others:

- a. Has legal title to any dwelling with or without actual possession thereof; or
- b. Has charge, care or control of any dwelling as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the owner shall be bound to comply with the provisions of this Code to the same extent as if he were the owner.

~~17.14.~~ Person. Shall include any individual, firm, corporation, association or partnership.

18.15. Plumbing. Water pipes, mechanical garbage disposal units, waste pipes, water closets, sinks, installed dishwashers and clothes washing machines, lavatories, bathtubs, shower baths, catch basins, drains, vents and other similar supplied fixtures, including all connections to water or sewer lines.

~~19. Rooming Unit. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.~~

~~20. Rooming House. Any dwelling, or that part of any dwelling, containing one or more rooming units, in which space is let by the owner or operator.~~

~~21.16. Rubbish.~~ Any inorganic waste such as tin cans, glass, paper, sweepings, etc. Stones, sod, earth, concrete, demolition waste, large automobile parts, large appliances, hazardous waste, tree trunk sections over four (4) inches in diameter, animal wastes except when adequately wrapped, or articles so heavy or bulky they cannot be easily lifted by one man shall not be considered rubbish.

~~22.17. Supplied.~~ Paid for, arranged, furnished, or provided by or under control of the owner or operator.

~~23.18. Refuse.~~ Any putrescible and nonputrescible solid wastes, except body wastes, and including garbage, rubbish, ashes, incinerator residue, and market and industrial solid wastes.

404.040. COMPLIANCE WITH REQUIREMENTS. No person shall occupy or let to another for occupancy any dwelling for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of this chapter.

404.050. REQUIREMENTS FOR SANITATION.

1. Sink, Flush Water Closet, Lavatory Basin and Bathtub or Shower in dwellings. Refer to State Building Code 1205 (d).
2. Access to Bathrooms and Water Closets. Refer to State Building Code 511.
3. Floors and Ventilation of Bathrooms and Water Closets. Refer to State Building Code 510.
4. Piped Hot and Cold Running Water. Refer to State Plumbing Code 4715.

404.060. REQUIREMENTS FOR LIGHT, VENTILATION AND HEATING.

1. Window Area and Ventilation. Refer to State Building Code 1205 (b).
2. Screening.
  - a. When flies or other pests are prevalent, all openable windows as required by State Building Code 1205 (b) shall be effectively screened, and screen doors shall be maintained in good condition.
  - b. Every basement window used for ventilation, and every other opening to a building which might provide an entry for rodents, shall be supplied with a screen or other device as will effectively prevent their entrance.
3. Electrical Outlets. Refer to State Electrical Code

4. Heating Facilities. Refer to State Building Code 1212.

404.070. REQUIREMENTS FOR FLOOR SPACE AND GENERAL OCCUPANCY.

1. Floor Space. Refer to State Building Code 1207.
2. Access to Sleeping Rooms. Refer to State Building Code 1204.
3. Ceiling Height of Habitable Rooms. Refer to State Building Code 1207.
4. Basement or Half-Basement Occupancy. Refer to State Building Code 1205.

404.080. REQUIREMENTS FOR SAFE AND SANITARY MAINTENANCE OF DWELLINGS AND DWELLING UNITS.

1. Structural Soundness.
  - a. Members - Every foundation, door, outer wall, ceiling and roof shall be weather tight, water tight, and rodent proof, shall be capable of affording privacy, and shall be kept in good repair.
  - b. Openings - Every window, exterior door and basement hatchway or stairway shall be weather tight, water tight and rodent proof and shall be kept in good working condition and repair.
  - c. Stairs and Porches - Every inside and outside stair and handrail, and every porch and porch rails shall be so constructed as to safely support the maximum load that normal use may require and shall be kept in safe condition and good repair at all times. The Housing Inspector may require a handrail for each stair if deemed necessary.
  - d. Every stairway of more than 3 risers must have a handrail of height corresponding to State Statute requirements and be safely enclosed to handrail height.
2. Mechanical Soundness of Plumbing. All plumbing shall comply with the State Plumbing Code.
3. Exits. Every dwelling unit shall have a safe, unobstructed means of egress leading to safe and open space ground level, as required by the Minnesota Statutes and the Code of the City.
4. Effectiveness. Every supplied facility, piece of equipment, or utility which is required under this Section shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

404.090. REQUIREMENTS FOR CLEANLINESS AND GARBAGE AND TRASH DISPOSAL.

1. Owner or Owner-Occupant Responsibility. Every owner or owner occupant shall be responsible for the cleanliness of all parts of a dwelling and premises shared in common by more than one family and for provision of the following utilities and services, except where such responsibility is assumed by an operator or an occupant by agreement.
  - a. Extermination of insects, rodents or other pests; except that where only one dwelling unit is infested, the occupant of such infested unit shall be responsible for its extermination, unless the dwelling is not maintained in a reasonable ~~rat~~rodent proof or insect proof condition.
  - b. Provisions of all other facilities, utilities, service or conditions required by this chapter and chapter 402.
2. Occupant Responsibility. Every occupant of a dwelling unit shall be responsible for keeping the occupied area and premises and all plumbing equipment and facilities in a clean, safe and sanitary condition at all times. Refuse shall be disposed of in accordance with chapter 402.

404.100. EMERGENCY DISCONTINUANCE OF SERVICE OR UTILITIES. No owner or occupant shall cause any service, facility, equipment or utility to be removed from or shut off from or discontinued in any occupied dwelling unit let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies when discontinuance of service is approved by the Housing Inspector. Upon discontinuance of gas or electric service for cause by a public utility company or upon discontinuance of any municipal or other service for cause, the Housing Inspector shall be notified, and shall thereupon take immediate steps to have the responsible person correct conditions leading to such discontinuance of services. This section shall not be construed to prevent the cessation or discontinuance of any such service upon order of the Housing Inspector or any other authorized officials.

404.110. DANGEROUS DWELLINGS. Refer to State Building Code 203 for regulations on dangerous dwellings.

1. Declaration of Nuisance and Orders.
  - a. All dangerous dwellings or parts thereof within the terms of State Building Code 203 are hereby declared to be public nuisances, and shall be vacated and repaired or demolished in accordance with the provisions of Section 404.130.
  - b. In any case where a dangerous dwelling is 50 percent or more damaged or decayed, or deteriorated from its original structure, or where it cannot be repaired

so as to comply with the terms of the State Building Code it shall be ordered vacated and demolished in accordance with the provisions of Section 404.130.

404.120. ENTRY AND INSPECTION OF DWELLINGS.

1. The Housing Inspector is hereby authorized, with the consent of the homeowner or if he has obtained a warrant or other court order authorizing the inspection, to make inspections to determine the condition of dwellings, dwelling units and premises located within the City in order to safeguard the health and safety of the occupants of such dwellings and of the general public. For this purpose and upon showing proper identification, the Housing Inspector is authorized to enter, examine and survey, at any reasonable hour, all dwellings, dwelling units and premises, and the owner, occupant or the person in charge thereof, shall give the Housing Inspector free access thereto for the purpose of such inspections.
2. Every occupant of a dwelling shall give the owner thereof or his agent or employee access to any part of such dwelling or its premises at any reasonable hour for the purpose of making any repairs or alterations which are necessary to effect compliance with the provisions of this section or any lawful order issued pursuant thereto.

404.130. ENFORCEMENT: SERVICES OF NOTICES AND ORDERS: HEARINGS.

1. Notices of Violation

- a. Whenever the Housing Inspector determines that there has been a violation of any provision of this chapter, he shall give notice of such violation to the person or persons responsible therefore and order compliance with the Code as hereinafter provided. Such notice and order shall be in writing on an appropriate form and shall include:
  - (i) A list of the violations, with reference to the section of this chapter violated, and an order as to the remedial action required to effect compliance with this chapter.
  - (ii) Specification of a reasonable time for compliance.
  - (iii) Advice concerning the procedure for appeal. Such notice and order shall be served upon the owner, occupant or agent in person; provided, however, that the notice and order shall be deemed to be properly served if such owner, occupant or agent is sent a copy thereof by registered mail to his last known address and a copy is posted in a conspicuous place in or on the dwelling affected.
- b. Whenever the Housing Inspector determines that a dwelling is a dangerous dwelling as defined in State Building Code 203, he shall:

- (i) Affix upon the door or entrance to such dwelling a printed placard declaring that such dwelling is unfit for human habitation and is ordered vacated. No person shall deface or remove such placard from any dwelling which has been condemned as unfit for human habitation and placarded as such. The Housing Inspector shall remove the placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.
- (ii) Serve notice, as provided herein to the owner and occupant or lessee of any building found by him to be a dangerous dwelling within the standards set forth in Section 404.110 that: (1) the owner must vacate and repair or demolish said building in accordance with the terms of notice and this Section, and (2) the occupant or lessee must vacate said building or, with the consent of the owner, may have it repaired, in accordance with the notice and order, and remain in possession.

## 2. Hearings.

- a. Any person affected by a notice and order issued in connection with the enforcement of this section may request and shall be granted a hearing on the matter before the Housing Appeals Board, provided such person shall file ~~in the Office of the Housing Inspector~~ with the City Clerk a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within thirty (30) days of the date the notice and order are served. Upon receipt of the petition, the ~~Housing Inspector~~ City Clerk shall set a time and place for a hearing before the Housing Appeals Board and shall give the petitioner written notice thereof. Said hearing shall be held within thirty (30) days after a petition has been filed, and the petitioner shall be given an opportunity to be heard and to show cause why the notice and order should be modified or withdrawn. The failure of the petitioner or his representative to appear and to state his case at such hearing shall have the same effect as if no petition were filed.
- b. After the hearing, the Housing Appeals Board by a majority vote, shall sustain, modify or withdraw the notice, depending on its findings as to whether the provisions of this section have been complied with, and the petitioner and the Housing Inspector shall be notified within ten days in writing of such findings.
- c. The proceedings of the hearing, including the findings and decision of the Housing Appeals Board and the reasons therefore shall be summarized in writing and entered as a matter of public record ~~in the office of the Housing Inspector~~ with the City Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

## 3. Orders to Vacate.

- a. Where a notice of violation and order to comply have been served pursuant to this section and, upon reinspection at the end of the time specified for compliance, and if no petition for a hearing has been filed, it is found that the violation or violations have not been remedied, the Housing Inspector may order the dwelling, or parts thereof affected by the continued violations, vacated in accordance with the following procedure:
    - (i) Dwellings shall be vacated within a reasonable time, not to exceed 60 days.
    - (ii) Vacated dwellings shall have all outer doors firmly locked and basement, cellar and first and second story windows barred or boarded to prevent entry.
    - (iii) Vacated dwellings shall not again be used for human habitation until written approval is secured from the Housing Inspector.
  - b. If a dwelling or part thereof is not vacated within the time specified in the order of vacation, the Inspector shall seek a court order in a court of competent jurisdiction for the vacation of such dwelling or part thereof.
4. Emergency Order. Whenever the Housing Inspector finds that an emergency exists which requires immediate action to protect the health and safety of the residents or of the public, he may issue an order so stating, and notwithstanding any other provisions of this section such order shall take effect and shall be complied with immediately. Upon petition to the Housing Appeals Board, petitioner shall be afforded a hearing pursuant to paragraph 2 of this section.
5. Vacation and Demolition.
- a. If the owner, occupant, or lessee fails to comply with the order of the Housing Inspector or the action of the Housing Appeals Board after hearing, the Housing Inspector shall cause such dwelling or part thereof to be vacated and repaired or demolished as the facts may warrant and shall, with the assistance of the City of Birchwood Village Attorney, cause the costs of such repair or demolition to be charged against the land on which the building existed as a municipal lien or to be recovered in a suit of law against the owner.
  - b. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous dwelling as defined herein is immediately vacated and repaired or demolished, the Housing Inspector shall cause its immediate vacation and repair or demolition. The costs of such emergency repair or demolition shall be collected in the same manner as provided in Paragraph (a) of this subsection.

404.140. HOUSING APPEALS BOARD.

1. A Housing Appeals Board is hereby created as authorized by this Section.



- a. Membership - The Board shall consist of five members to be selected by the City Council annually, or, in the absence of such selection by the City Council, -the City Council shall~~may~~ act as the Housing Appeals Board, and the City Clerk shall be ex-officio member of the Board and act as secretary and shall not be able to vote.
2. The Board shall elect a Chair~~person~~ ~~man~~ from its members, except where the Board is the City Council, in which case, the Chairperson shall be the Mayor. The Housing Appeals Board shall:
  - a. ~~Adopt rules and procedures consistent with this Section, elect its own officers, and Conduct all proceedings in accordance with the Open Meeting Laws and~~ keep a record of all proceedings, including the vote of each member on each case heard. No member of the Board shall take part in any hearing or determination in which he has directly or indirectly, any personal or financial interest. Three members of the Board in attendance at any meeting shall constitute a quorum.
  - b. Interpret the intent of the section in specific cases where, upon appeal, it clearly appears that, by reason of special conditions, undue hardship would result from literal application of any action of the section. Where such undue hardship is clearly demonstrated, the Board may permit a variance from the applicable section provided the dwelling will vary only a reasonable minimum from the literal provisions of the section and will comply generally with spirit and intent of the regulations as to sanitation, safety and rehabilitation. Any such variance shall be permitted only by the concurring vote of at least three members of the Board.

404.150. INTERPRETATION. The provisions of this chapter shall be held to be the minimum requirements to protect the health, safety, and welfare of the people of the City, and where this chapter imposes greater requirements than imposed by other provisions or law or ordinance, the provisions of this chapter shall control.

404.160. SEPARABILITY. Should any chapter, section or provision of this Code be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Code as a whole or any part thereof other than the part so declared to be invalid.

Thank you,  
Justin McCarthy  
City Councilmember



# MEMORANDUM



**TO:** Birchwood Village City Council  
**FROM:** Andy Gonyou, City Administrator  
**SUBJECT:** Digitizing Sanitary Sewer Records  
**DATE:** November 3, 2021

Dear Mayor & City Council Members,

White Bear Township currently services the City of Birchwood Village's sanitary sewer system and has made a request to allow Birchwood's sewer maps (currently only in paper form) to be digitized for easier use in the office, as well as allowing field staff to have immediate access to the City's maps while servicing the City's lines in the field.

The maintenance department of White Bear Township has received a "not-to-exceed" estimate of \$575.00, and with the Council's approval, would facilitate the entire process through TKDA – an engineering provider used by White Bear Township.

**City Administrator Request:** Consider the proposal put forth by White Bear Township to digitize the City of Birchwood Village's sanitary sewer maps.

Thank you,  
Andy Gonyou, MPA  
City Administrator - Clerk  
City of Birchwood Village, MN  
office: (651) 426-3403  
fax: (651) 426-7747  
email: [andy.gonyou@cityofbirchwood.com](mailto:andy.gonyou@cityofbirchwood.com)  
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