



AGENDA OF THE
REGULAR MEETING OF THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
207 BIRCHWOOD AVENUE
WASHINGTON COUNTY, MINNESOTA
JANUARY 11, 2011
7:00 P.M.

CALL TO ORDER – PLEDGE OF ALLEGIANCE

OATH OF OFFICE

APPROVE AGENDA

OPENING REMARKS – MAYOR ALAN MITCHELL

CITY BUSINESS – CONSENT CALENDAR

1. Approval of the Minutes of the December 14, 2010 Regular Meeting (see exhibit)
2. Approve hiring of Kenneth Ronnan as cablecaster at \$14.00/hr (see exhibit)
3. Approve hiring of Christopher Johnson, Chad Peterson, John Geier, and Tabor Wilde as Level 2 Rink Attendants at \$8.00/hr (see exhibits)
4. Approval of Resolution 2011-02: Abating the portion of an amount of an unpaid utility bill certified to Washington County erroneously as delinquent. (see exhibit)
5. Approval of Resolution 2011-03: Acceptance of Cash Donations (see exhibit)

COMMUNITY EVENTS ANNOUNCEMENTS

6. Dock Association Formation Meeting – Saturday, January 22, 2011 @ 9:30am – City Hall
7. Other

OPEN PUBLIC FORUM

CITY BUSINESS

8. 7:30 Financial Report and Approval of Disbursements (Reiter – see exhibit)
Draft Motion: “To approve the disbursements as presented.”
Time Budget: 5 minutes
9. 7:35 Closing the contract with Shelly Rueckert for Utility Bill Research (Harper)
Draft Motion: “To close out the contract with Shelly Rueckert for utility bill research.”
Time Budget: 5 minutes
10. 7:40 Disbursement Request from Parks Committee (Carson – see exhibit)
Background: The Parks Committee has requested a disbursement of \$557.02 to purchase hockey goals and nets for Tighe-Schmitz Park.
Draft Motion: “To approve the expenditure of \$557.02 by the Parks Committee as indicated in the exhibit.”
Time Budget: 5 minutes
11. 7:45 Naming of the Acting Mayor (Mitchell)
Draft Motion: “To name Council Member _____ as Acting Mayor.”
Time Budget: 5 minutes

12. **7:50 RESOLUTION 2011-01: Naming of the Official Depository (Mitchell)**
Draft Motion: "To approve Resolution 2011-01 naming U. S. Bank as the City's official depository, and also to name the 4M Fund as an additional official City depository."
Time Budget: 5 minutes
13. **7:55 Naming of the Official Newspaper (Mitchell)**
Draft Motion: "To name the White Bear Press as the City's official newspaper."
Time Budget: 5 minutes
14. **8:00 Establishing the Scheduled Dates and Time for Monthly Regular Meetings (Mitchell – see exhibit)**
Draft Motion: "To set a regular meeting schedule for the 2nd and 4th Tuesday of each month at 7:00pm, provided that if the 2nd meeting of the month is not required that it will be announced during the 1st meeting."
Time Budget: 5 minutes
15. **8:05 Acknowledgement of 2011 Appointments (Mitchell – see exhibit)**
Time Budget: 5 minutes
16. **8:10 Mayor's Appointments (Mitchell – see exhibit)**
Time Budget: 5 minutes
17. **8:15 Appointment to the Birchwood Parks Committee (see exhibits)**
Time Budget: 5 minutes
18. **8:20 DOCKET 2011-01-01: Announcement of vacancy of one of the City representatives on the White Bear Lake Conservation District (Mitchell)**
Background: The City has 2 representatives on the WBLCD Board. One of them, Joe Allaben, will be moving out of town. The Council will need to appoint a replacement for Mr. Allaben, whose term expires March 2013.
Draft Motion: "To publish this vacancy in the City's official newspaper with a deadline of January 31, 2010 to submit letters of interest."
Time Budget: 5 minutes
19. **8:25 Rice Creek Watershed District – Citizens Advisory Committee – Applications requested (Powers – see exhibit)**
Draft Motion: "To direct the Clerk to post this information on the City's web site, and to place an ad in the city's official newspaper, regarding this matter."
Time Budget: 5 minutes
20. **8:30 Open Meeting Law Review (Sandstrom – see exhibit)**
Time Budget: 10 minutes
21. **8:40 DOCKET 2011-01-01: Introduce Draft Ordinance 2011-01> Rules of Procedure: Amending Chapter 104 of the Birchwood City Code (Mitchell – see exhibit)**
Time Budget: 5 minutes
22. **8:45 DOCKET 2011-01-02: Contract for the Interim Assistant Clerk/City Treasurer (Mitchell)**
Background: Cindie Reiter is employed (not a contractor) as the interim assistant clerk/city treasurer through January 31, 2011.
Draft Motion: "To appoint Cindie Reiter as the permanent assistant clerk/city treasurer according to the terms of the attached employment agreement."
Time Budget: 5 minutes
23. **8:50 DOCKET 2011-01-04: Creation of Personnel Committee (Mitchell)**
Background: At the December 14, 2010 Regular Meeting, the City Council approved a motion to create a two-member Personnel Committee.
Draft Motion: "To name _____ and _____ as the Personnel Committee."
Time Budget: 5 minutes

24. **8:55 DOCKET 2011-01-05: Creation of Incidental Spending Policy (Mitchell)**
Background: At the December 14, 2010 Regular Meeting, the City Council approved a motion to create a incidental spending policy to govern expenditures made by staff, committees, and Council members.
Draft Motion: "To direct staff to develop a draft incidental spending policy for review by the City Council at the February 8, 2011 Council meeting."
Time Budget: 5 minutes
25. **9:00 Dock Authorization for 2011 – Set Date for action on 2011 dock permit application**
Background: The City has received the dock applications for 2011. At its October 28, 2010 special meeting, the Council tabled consideration and approval of the applications until after approval of the Public Lake Tract Ordinance. That ordinance was approved at the December 14, 2010 regular meeting."
Draft Motion: "To set _____, 2011 as the date to review and act on the 2011 dock permit application."
Time Budget: 5 minutes
26. **9:05 Rice Creek Watershed District – RFP: 2011 Urban Stormwater Remediation Cost-Share Program (Powers – see exhibit)**
Draft Motion: "To authorize the City Clerk, working with the Parks Committee, to submit an application for an Urban Stormwater grant for the purpose of constructing a rain garden on the City Hall property."
Time Budget: 5 minutes
27. **9:10 City Clerk Report (Powers – see exhibits)**
a. Minnesota Association of Small Cities Annual Dues Statement - \$278.48
b. Review of Sewer Maintenance Policy adopted by the City in 2005.
c. Other
Time Budget: 5 minutes
28. **9:15 City Engineer's Report (Elfering – see exhibit)**
Time Budget: 5 minutes
29. **9:20 City Attorney's Report (Sandstrom – see exhibit)**
Time Budget: 5 minutes
30. **9:25 Next Meeting – January 25, 2011 – Possible Items (see exhibit)**
Time Budget: 5 minutes
31. **9:30 Adjourn**



CITY OF BIRCHWOOD VILLAGE
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EXECUTIVE SUMMARY – JANUARY 11, 2011 CITY COUNCIL MEETING

NOTE: This executive summary is provided by the City Clerk to the Council to give a broader detail on the various agenda items. This summary is to be used as an adjunct to the agenda packet, and should not be considered a substitute for reading the agenda packet.

CONSENT CALENDAR: Consent Calendar items are those issues that are considered by the Clerk to be ministerial or non-controversial in nature. All of these items can be approved with one motion. Any individual Council member (or the Mayor) can take an item off of the consent calendar and move it to City Business.

The consent calendar for this meeting consists of three general topics:

1. Approval of the minutes from the December 14, 2010 regular meeting. Since 3 members of this Council were not impaneled for this meeting, it is recommended that the motion and second to approve the minutes be made by Council Members Harper and Carson.
2. The hiring of Kenneth Ronnan to replace Ryan Hickok as the City's cablecaster, and 4 new Level 2 rink attendants. Ronnan's pay is reimbursed to the City on a quarterly basis by the Ramsey Washington Suburban Cable Commission.
3. Approval of two resolutions. Resolution 2011-02 is to correct delinquent utility bill amounts erroneously certified to Washington County. Resolution 2011-03 is to accept cash donations from the Artist's Group and the Writers Unlimited. *Roll call votes are not required for any action of the City Council, as long as the City Clerk can ascertain how each member voted. Therefore, these resolutions can be approved as Consent Calendar items.*

COMMUNITY EVENT ANNOUNCEMENTS: Mayor Mitchell has requested this be placed on all agendas as a way to communicate with City residents on events of interest to the community. If you know of any community events and wish them to be placed in this section, contact me no later than a week before the Council Meeting. If you can't get it to me in time, you can announce it under the "Other" portion of the agenda.

OPEN PUBLIC FORUM: This is the traditional time for members of the audience to approach the Council with any item. Generally, each person is allowed up to 3 minutes to speak.

CITY BUSINESS: The format for listing City Business on the agenda is to list the anticipated time the Council will discuss the item; what item is being discussed (with docket numbers if appropriate); who will be the main presenter of the item; a background statement; a draft motion; and anticipated time budgeted for disposing of the agenda item. It can be assumed that some items will take less time and some items will take more time. It has been my experiences that the meeting will end within 10-15 minutes of the anticipated adjourn time about 90% of the meeting.

FINANCIAL REPORT/APPROVAL OF DISBURSEMENTS: City Treasurer Cindie Reiter prepares a financial report that summarizes the financial transactions made since the last Council meeting. As well, she prepares the listing of revenues and expenditures for your review and (in the case of expenditures) approval. No expenditure of public money can be made without the approval of the City Council; however, payments made on a regular recurring basis or required by statute to be paid by the City are routinely paid between meetings. These obligations generally include taxes, PERA, utilities, payroll, and expense reimbursement. Other requests for payment are considered to be discretionary and will not be paid until the Council approves the expenditure.

CONTRACT WITH SHELLY RUECKERT: Rueckert, finance director for the City of Little Canada, was hired by the City to investigate utility billing irregularities. Her investigation has been completed. Council Member Harper requested this matter be placed on the agenda for discussion.

DISBURSEMENT REQUEST FROM THE PARKS COMMITTEE: John Lund and the Parks Committee is requesting to purchase new hockey goals and nets to replace the existing goals and nets, which have outlived their safe usefulness.

NAMING OF THE ACTING MAYOR, OFFICIAL DEPOSITORY, OFFICIAL NEWSPAPERS: At the first meeting of the year, the Council by statute must perform certain functions. Minn. Stat. 412.121 requires the naming of an Acting Mayor, who will preside over Council meetings and sign checks in the absence of the Mayor; Minn. Stat. 427.02 requires the naming of official depositories of City funds; and Minn. Stat. 412.831 requires the naming of an official newspaper for the publication of legal advertisements and other official City business. The City's current official newspaper is the White Bear Press, and the City's official depositories are U. S. Bank and the 4M Fund.

ESTABLISHING THE DATES AND TIMES FOR REGULAR MEETINGS: Minn. Stat. 412.191, Subd. 2 requires that the Council establish meeting dates and times in its rules. Mayor Mitchell has indicated a desire to have two meetings each month, on the 2nd and 4th Tuesday, through May. Since there is no statutory bar to changing the frequency of meetings during the year, the Council can revert back to once-a-month meetings at a later time if it desires. Minn. Stat. 13D.04, Subd. 1 requires the meeting dates and times be on file at City Hall. I will also post the dates on the outside bulletin board.

ACKNOWLEDGEMENT OF 2011 APPOINTMENTS: On an annual basis, the City appoints certain positions that are named on the exhibit. Although in the past the Council formally appointed the clerk and the treasurer, by law these positions are hired staff and not subject to the annual appointment process.

MAYOR'S APPOINTMENTS: It is standard practice in Minnesota cities that the Mayor appoints each Council Member to certain commissions, departments, and other responsibilities. These responsibilities are listed on the exhibit enclosed in the agenda packet. What this entails is that if you are assigned to Roads (for example), if there is an issue pertaining to roads that needs to be addressed between meetings, you are the Council contact. Please contact either myself or Mayor Mitchell for more information.

APPOINTMENT TO THE BIRCHWOOD PARKS COMMITTEE: At the November 9, 2010 regular meeting, the Council directed staff to advertise in the newsletter the vacancy on the Birchwood Parks and Natural Resource Committee. With the delay in getting the newsletter distributed, the deadline to submit letters of interest was set as December 31. The City received 2 timely letters of interest (McCormick and Cavenor) and 1 untimely letter (Corliss). The Council has the discretion to consider the untimely letter equally with the timely letters. It is my understanding that a Parks Committee term is indefinite.

DOCKET 2011-01-01: VACANCY ON THE WHITE BEAR LAKE CONSERVATION DISTRICT: The City has two representatives on the WBLCD Board. Debbie Harrod was appointed last year to complete the unexpired portion of Douglas Danks' term, which expires this coming July. The City's other representative, Joe Allaben, has informed the

City that he will be moving out of the City in March. The City needs to appoint Mr. Allaben's replacement, who will serve until March 2013.

RICE CREEK WATERSHED DISTRICT – CITIZENS ADVISORY COMMITTEE: The Watershed District is soliciting candidates to serve on its Citizens Advisory Committee. The solicitation letter is in the agenda packet.

OPEN MEETING LAW REVIEW: It is extremely easy to fall into an open meeting law violation. Something as innocent as hitting "reply all" on an e-mail to other Council members may, in certain contexts, be considered a violation. City Attorney Kevin Sandstrom will address the Council on this issue, and staff provided information from the League of Minnesota Cities on this issue in the agenda packet for your prior review.

DOCKET 2011-01-02: RULES OF PROCEDURE: Mayor Mitchell has proposed the draft ordinance as a way of codifying rules for "orderly and respectful communications between and among council members, city staff, and citizens to promote the efficient working of the public's business..." Also included for your review are the City's harassment policy and a statement of human resource principles. Each of these were adopted by resolution in 1999.

DOCKET 2011-01-03: ASSISTANT CLERK/CITY TREASURER CONTRACT: Cindie Reiter's agreement to serve as Interim Assistant Clerk/City Treasurer expires on January 31, 2011. Mayor Mitchell and Council Member Harper each have expressed a desire to formally hire Cindie permanently and end her interim status. The enclosed employment agreement, once agreed upon by the parties, will formalize her employment status and terms of employment. The Council needs to approve the change in employment status from interim to permanent, and also to approve the terms of the employment agreement.

DOCKET 2011-01-04: CREATION OF PERSONNEL COMMITTEE: At its December 14, 2010 meeting, the Council approved a motion to establish a Personnel Committee to interact with City staff in the areas of performance appraisals, time sheets, employment agreement issues, and other human resource matters. Naming two of the members as the Personnel Committee does not create an open meeting law issue, as there will not be a quorum present at Committee meetings.

DOCKET 2011-01-05: CREATION OF INCIDENTAL SPENDING POLICY: At its December 14, 2010 meeting, the Council approved a motion directing it to draft and present for approval a spending policy for incidental expenses without (prior) Council approval for staff, council members, and the parks committee. This directive was in response to (a) the impression of the Parks Committee that it had unfettered access to funds budgeted to it by the Council; and (b) to guide staff, the Council, and the Parks Committee on what expenditures are authorized to be spent before formal Council approval at the next regular meeting. The draft motion directs staff to develop a proposed policy for review, comment, and consideration at the February 8, 2011 regular meeting.

DOCK AUTHORIZATION FOR 2011 – DATE AND TIME: Section 617.340 of the recently-enacted Public Lake Tract Ordinance (617) states that "[t]he City Council shall hold its annual Dock Permit Application Review Meeting on a date and at a time set by the City Council sufficient to timely submit an application to the WBLCD." The Council previously conducted this Application Review Meeting on October 28, 2010. At that meeting, the Council tabled consideration and approval of the applications until after approval of the Public Lake Tract Ordinance. That ordinance was approved by the Council at its December 14, 2010 meeting.

RICE CREEK WATERSHED DISTRICT – RFP: 2011 URBAN STORMWATER REMEDIATION COST-SHARE PROGRAM: The Watershed District annually requests proposals for grant dollars for urban stormwater remediation. The City received a grant last year under this program, and City Engineer Kristie Elfering will be discussing that with the Council at tonight's meeting. It is my understanding that there is some interest in creating a rain garden at the City Hall swale that will not only help slow the rate of stormwater and snow melt runoff, but also help digest some of the potentially dangerous toxins and nutrients before the runoff enters White Bear Lake. If the Council agrees, it

could direct City staff to work with the Parks Committee and City Engineer to submit an RFP for this purpose. The Council has the discretion to choose another project for funding, or choose not to submit an proposal to the Watershed District.

MINNESOTA ASSOCIATION OF SMALL CITIES -- ANNUAL MEMBERSHIP DUES: This organization has a well-established and well-respected lobbying presence at the State Capitol as a champion for small cities. The enclosed dues request represents a 50% discount over its usual fee structure. Staff is not convinced, however, that the City would receive value for the expenditure, as the lobbying needs of small, outstate, stand-alone cities are quite a bit different than those of a small, Twin Cities- area, bedroom community. On the other hand, the fact that MAOSC's executive director and main lobbyist are from Washington County may be persuasive to the Council.

REVIEW OF SEWER MAINTENANCE POLICY: The City Council, at its December 14, 2010 regular meeting, directed staff to develop a sewer jetting policy for review, comment, and consideration by the Council. Staff subsequently learned that the City formally adopted such a policy in 2005 as part of the sewer improvement project. Enclosed in the agenda packet is a copy of the approved policy for your review.

CITY ENGINEER'S REPORT: It is my understanding that City Engineer Kristie Elfering will discuss how to dispose of the grant money received by the City from the Rice Creek Watershed District's 2010 Urban Stormwater Remediation Cost-Share Program. After the awarding of the grant, it is my understanding that the Council has second thoughts about participation, and deferred final disposition to the current Council. The City has until June 2011 to complete the project.

NEXT MEETING -- JANUARY 25, 2011 -- POSSIBLE ITEMS: From conversations I have had with Mayor Mitchell and Council Member Harper, it is anticipated that the 2nd monthly meeting would be a mixture of "workshop" and action items -- either new or left over from the 12st meeting. Council Member Harper submitted a document outlining her suggestions for workshop topics for Council review and consideration.

CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
December 14, 2010

MINUTES

MEMBERS PRESENT: Mayor Mary Wingfield; Council Members Jay Brunner (@7:30pm), Barb Carson, Jane Harper, and Nino Nardecchia

STAFF PRESENT: City Engineer Kristie Elfering; City Clerk Dale Edward Powers; Interim Assistant City Clerk/City Treasurer Cindie Reiter, Utility Billing Director Tony Rueckert; City Attorney Kevin Sandstrom; Paul Thatcher; Thomas Wood (MN/DOT).

OTHERS PRESENT: Dick Galena, Jim Greeley, John Ford, Alan Mitchell, Jennifer Nodes, Mark Peterson, Len Pratt, Tony Sampair, David Trepanier, and Tony Walker.

Wingfield called the regular meeting to order @ 6:30pm, and the Pledge of Allegiance was recited.

APPROVAL OF THE AGENDA: *Wingfield/Nardecchia 4-0 (Brunner absent)* to approve the agenda with the following changes:

- Removing Item #10, 14, 32, & 33 (Approval of the September 14, 2010 Regular Meeting Minutes; Approval of the October 28, 2010 Special Meeting Minutes; Approval of the November 9, 2010 Regular Meeting Minutes; Treasurer's Report – Accounts Receivable; Treasurer's Update on 419 Wildwood Avenue and 235 Cedar Street) from Consent Agenda to Regular Agenda.
- Revising Item # 6 (Revising Proposed 2011 City Budget)
- Adding Item # 43 (New Plow Policy).

CONSIDERATION OF PERSONNEL ISSUES RELATING TO CITY CLERK DALE POWERS: Nardecchia related to the Council concerns he had relative to certain actions by the City Clerk. No formal action was approved by the City Council on these concerns.

CONSIDERATION OF PERSONNEL ISSUES RELATING TO INTERIM ASSISTANT CLERK/CITY TREASURER CINDIE REITER: Nardecchia related to the Council concerns he had relative to certain actions by the Assistant Clerk/City Treasurer. No formal action was approved by the City Council on these concerns.

APPROVAL OF THE SEPTEMBER 14, 2010 REGULAR MEETING MINUTES: *Wingfield/Nardecchia 4-0 (Brunner absent)* to approve the minutes of the September 14, 2010 Regular Meeting with the following changes: change "as long as it becomes direct deposit" to "as long as direct deposit is utilized".

APPROVAL OF THE OCTOBER 28, 2010 SPECIAL MEETING MINUTES: *Nardecchia/Harper 4-0 (Brunner absent)* to approve the minutes of the October 28, 2010 Special Meeting with the following changes: change "to table review" to "place a moratorium on consideration of the Birchwood Dock Association

47 *Work Group single dock association application until such time that the City Council passes the Public*
48 *Lake Tract Ordinance."*

49
50 **APPROVE RESOLUTION 2010-12-14-A DELAYING THE APPLICATION OF ORDINANCE NO. 2010-11-09:**
51 The purpose of this resolution is to clarify that the changes to the City's sewer fee structure are to take
52 place on January 1, 2011, and not upon publication of the changes as indicated at a previous meeting.
53

54 *Nardecchia/Harper to adopt Resolution 2010-12-14-A and waive reading of same. A roll call vote was*
55 *taken:*

56
57 BRUNNER: ABSENT CARSON: AYE
58 HARPER: AYE NARDECCHIA: AYE
59 MAYOR WINGFIELD: AYE
60

61 *The resolution was adopted.*

62
63 **REVIEW AND ADOPT RESOLUTION 2010-12-14-B ADOPTING ORDINANCE NO. 2010-12-14 AMENDING**
64 **WATER AND SEWER CODE:** The purpose of this resolution is to memorialize the adoption of changes to
65 the City's sewer and water code/
66

67 *Harper/Nardecchia to adopt Resolution 2010-12-14-B and waive reading of same. A roll call vote was*
68 *taken:*

69
70 BRUNNER: ABSENT CARSON: AYE
71 HARPER: AYE NARDECCHIA: AYE
72 MAYOR WINGFIELD: AYE
73

74 *The resolution was adopted.*

75
76 **DISCUSSION OF UTILITY LATE FEE INTEREST PENALTY CHARGE:** Rueckert shared with the Council an
77 exhibit illustrating the penalty charge on delinquent utility bills that other area cities charge. Wingfield
78 noted that the City's fee ordinance would need to be amended to effect any recommendations.
79

80 *Wingfield/Nardecchia 4-0 (Brunner absent) to direct the City Attorney to prepare documentation at*
81 *the next Council meeting to amend the quarterly late fee to 5% on the utility billing.*

82
83 **TRUTH IN TAXATION HEARING:**

84
85 *Nardecchia/Harper 4-0 (Brunner absent) to open the Truth In Taxation hearing @7:05pm.*

86
87 Wingfield shared with the attendees that the levy amount mailed out to property owners by the County
88 reflected the City's preliminary levy, not the final levy.

89
90 Pratt asked about the 10% property tax increase – is that a preliminary number? Wingfield responded
91 that the revised number of \$320,000 reflects a reduction from last year's taxes.

92
93 *Wingfield/Nardecchia 4-0 (Brunner absent) to close the Truth In Taxation hearing @7:10pm.*
94

95 Brunner arrived @7:15pm.

96

97 **REVIEW OF PROPOSED 2011 CITY BUDGET:** Walker went over with the Council the amended budget,
98 with the addition of the actual numbers from the City of White Bear Lake on fire and police protection.

99 Harper noted that (a) roads should be increased from 20K to 21.5K to reflect the actual cost of road
100 maintenance from this year; (b) Village Hall maintenance should be increased from 10k to 12.5k – the
101 City planned on painting the outside of the hall, but held off pending the results of the inspection report
102 from White Bear Lake. The inspection report indicated there is rotten siding that has resulted in rodents
103 inside the hall; and (c) and with the unreliability of LGA (the City's LGA was taken away this year), the
104 City budget should place the \$5570 in LGA under "miscellaneous". As far as capital expenditures,
105 Harper noted that there are stormwater issues at the Village Hall property that need to be addressed
106 through a rain garden work at Village Hall, and the City is in a good position to get grant money from the
107 Rice Creek Watershed District as a cost-sharing measure. To include, Harper noted that the total
108 amount of the levy, with these changes, should be \$324,000.

109
110 **APPROVE RESOLUTION 2010-12-14-C ADOPTING THE FINAL LEVY:** The resolution will establish the
111 final levy on real property in the City as \$323,000 to be collected on next year's property taxes.

112
113 *Harper/Nardecchia to adopt Resolution 2010-12-14-C and waive reading of same. A roll call vote was
114 taken:*

115
116 BRUNNER: AYE CARSON: AYE
117 HARPER: AYE NARDECCHIA: AYE
118 MAYOR WINGFIELD: AYE

119
120 *The resolution was adopted.*

121
122 **APPROVE RESOLUTION 2010-12-14-D ADOPTING THE FINAL BUDGET:**

123
124 *Harper/Nardecchia to adopt Resolution 2010-12-14-D and waive reading of same. A roll call vote was
125 taken:*

126
127 BRUNNER: AYE CARSON: AYE
128 HARPER: AYE NARDECCHIA: AYE
129 MAYOR WINGFIELD: AYE

130
131 *The resolution was adopted.*

132
133 **OPEN PUBLIC FORUM:** No members of the public rose to speak.

134
135 **APPROVAL OF THE NOVEMBER 9, 2010 REGULAR MEETING:** Nardecchia/Brunner 4-0-1 (Carson
136 abstaining) to approve the minutes of the November 9, 2010 regular meeting amended as follows: (a)
137 Line 220 the following: "The clerk was directed to contact the State Auditor's Office to verify that staff
138 was following correct accounting practices"; (b) delete the text of the ordinance and the power point
139 slides of the dock presentation."

140
141 **REMOVAL OF ITEM # 30 (AMENDMENT TO CHAPTER 605 REGARDING ANIMALS) FROM CONSENT
142 AGENDA:** Wingfield/Nardecchia unanimous to remove Item #30 from the Consent Agenda.

143 **APPROVAL OF RESOLUTION 2010-12-14-E: AMENDMENT TO CHAPTER 605 REGARDING ANIMALS:**
144 Wingfield discussed amending the amendment to change "park" in 605.043 to "public", with further
145 language exempting service dogs for disabled persons from this restriction.
146

147 *Wingfield/Carson to adopt Resolution 2010-12-14-E and waive reading of same. A roll call vote was*
148 *taken:*

149
150 BRUNNER: NAY CARSON: AYE
151 HARPER: AYE NARDECCHIA: NAY
152 MAYOR WINGFIELD: AYE
153

154 *The resolution was adopted.*
155

156 **ACCOUNTS RECEIVABLE & UPDATE ON 419 WILDWOOD AVENUE AND 235 CEDAR STREET:** Reiter
157 advised the Council that a summary accounts receivable report was in the November Financial Report,
158 and mentioned that the two properties are rental properties and collection activities are ongoing.
159

160 **APPROVAL OF CONSENT AGENDA:** *Nardecchia/Wingfield 3-2 (Harper and Brunner voting in the*
161 *negative) to approve the Consent Agenda, consisting of the following:*
162

163 **Approval of the minutes of the November 4, 2010 Special Meeting – Continuation of Unfinished*
164 *Business from the October 14, 2010 Regular Meeting*

165 **Approval of the minutes of the November 9, 2010 Sanvassing Board Meeting*

166 **Require the City Clerk to post on the City website, and provide to the City Council, documentation of*
167 *all final and amended minutes since July 2010*

168 **Approval of the settlement agreements between the City and BB Tautges Redpath, and between the*
169 *City and Schleiss Accounting*

170 **A Personnel Committee composed of two members of the City Council shall be established within the*
171 *next six weeks to draft office management policy, discipline procedures and other issues pertinent to the*
172 *effective management of staff and to conduct annual or semi-annual performance reviews*

173 **A Personnel Committee composed of two members of the City Council shall be established within the*
174 *next six weeks to draft office management policy to review the office staffing needs*

175 **Accept the Finance Committee report to the City Council*

176 **Direct the City Clerk to forward a copy of the August 16, 2010 minutes along with a copy of the State*
177 *Auditor's Statement of Position – Fund Balances for Local Governments to all the Finance Committee*
178 *members for action*

179 **Direct the City Clerk to draft sewer jetting/management policy for Council review and action*

180 **The City Council shall be advised of the effectiveness of these (catch basins) systems, and the Clerk*
181 *shall forward a copy of the maintenance report to each Councilmember as part of the following*
182 *month's Council packet*

183 **The City Clerk is directed to contact Xcel Energy and enter the energy saver program by April 1, 2011*

184 **Adopt the above Catch Basin Policy (contained in Item #26 of the agenda packet) for use by City staff*
185 *to manage the cleaning of its catch basin structures*

186 **All discretionary building/improvement projects in excess of \$5,000.00 shall be reviewed by a*
187 *separate firm/contractor prior to approval to avoid any conflict of interest, real or perceived*

188 **The City Council shall draft and present for City Council review a spending policy for incidental*
189 *expenses without Council approval for staff and council members and the parks committee*

190 **To fill a Parks Committee vacancy, the City Clerk shall post notice in the next city newsletter and on*
191 *the website asking anyone who is interested to submit their request for consideration to the city clerk*
192 *so appointment can be made by the City Council*

193 **The Parks Committee shall submit plans and requests for funds to the council for all expenses beyond*
194 *general operating and maintenance expenses*

195

196 **ANALYSIS OF CATCH BASIN PLANS – THATCHER ENGINEERING:** Thatcher gave an overview about catch
197 basins in general, and his evaluation of the City's catch basins.

198

199 *Harper/Nardecchia 4-0 (Brunner abstaining) to accept the Thatcher Engineering report and pass it on*
200 *to the future Council for consideration.*

201

202 **FINANCIAL REPORT AND APPROVAL OF DISBURSEMENTS:** Nardecchia and Powers conducted a
203 colloquy on CTAS disbursement and receipt dates.

204

205 **Wingfield** asked **Sandstrom** why are we paying a finance charge to HLB Tautges Redpath. **Sandstrom**
206 was unaware of the additional charges.

207

208 **Wingfield** also expressed a concern about street sweeping charges, and found a discrepancy between
209 spring and fall billings – in the spring the City paid \$1800 and in the fall the City paid \$1800. The contract
210 with KEJ calls for \$100 increments. The City Treasurer was directed to research this issue and report
211 back to the Council.

212

213 **Wingfield** expressed a concern about Council pay, noting that the audit noted that the Council members
214 were overpaid \$100,000 last year, and feels the Council should recapture the overage with this year's
215 Council pay.

216

217 **Wingfield** questioned the record to North Oaks Accounting. The City Treasurer was directed to research
218 this issue and report back to the Council.

219

220 *Wingfield/Nardecchia 4-1 (Brunner) to accept the Financial Report and approve the disbursements as*
221 *corrected.*

222

223 **REVIEW OF RFP – 2010 AUDIT:** The Council reviewed the proposals from the firms that submitted
224 documentation to the City: Abdo, Bek, and Myers; Goldetsky Etling; HLB Tautges Redpath; Larson Allen;
225 and Smith Schafer. **Nardecchia** commented that while all of the proposals had similar base costs, there
226 was difficulty in locating the additional per hour rates for extra work. **Nardecchia** recommended that
227 the City continue with HLB Tautges Redpath due to their experience with the City, as long as their
228 additional hour fees are in line. **Wingfield** noted that HLB Tautges Redpath's per hour charges range
229 from \$70-\$233, depending on level of expertise, which are lower than the other proposals. **Harper**
230 recommends that the hourly rates be inserted into the letter of engagement with the firm, as well as
231 tightening up the language regarding extra billable hours.

232

233 *Nardecchia/Harper unanimous to award the contract for conducting the audit of the City's 2010*
234 *financial records to HLB Tautges Redpath, conditioned on the City Attorney drafting a contract*
235 *detailing the hourly rate structure, a requirement that the firm communicate with the City when*
236 *additional billing is about to occur, and that the firm specifically reject the performance of work*
237 *requiring additional hourly billing until said billing arrangement is approved by the City Council (via*

238 *Wingfield/Nardecchia unanimous amendment), and subject to the City Attorney drafting an approval*
239 *letter of the contract language (via Wingfield/Nardecchia unanimous amendment).*
240

241 **REVIEW REPAIR OPTIONS FOR HALL AVENUE & CEDAR STREET:** Wood, from the Research Department
242 of MN/DOT, gave a presentation to the Council on repair options for Hall/Cedar. No formal action was
243 taken on Wood's presentation.
244

245 **SKATING RINKS & WARMING HOUSE UPDATE:** Carson updated the Council on activities regarding the
246 skating rinks and the warming house, and noted that it will be similar to last year. Carson noted that she
247 received 8 applications for warming house attendants, and recommends that the City Council approve
248 their hiring at the following pay levels: Level 1 at \$10.00/hour; level 2 at \$8.00/hour.
249

250 *Carson/Brunner unanimous to hire Joseph Morgan and [redacted] Winter as Level 1 Rink Attendants at*
251 *\$10.00 per hour; hire Jared Bartz, Myles Berge, Johnny [redacted], Mitlin Howe, Pat Kachler, and Kara*
252 *Mathewson as Level 2 Rink Attendants at \$8.00 per hour; conditioned that all time sheets be reviewed*
253 *and certified by Council Member Carson (via Nardecchia/Carson unanimous amendment).*
254

255 **APPROVAL OF RESOLUTION 2010-12-14-E: ADOPTING ORDINANCE NO. 2010-02 PUBLIC LAKE TRACT**
256 **ORDINANCE:** The Council discussed the latest iteration of the Public Lake Tract Ordinance which reflect
257 the desired changes of the Council as well as public comment. The Council adopted the following
258 changes to the final draft:
259

260 *Nardecchia/Harper unanimous to amend 617.310 (4) to read "Boat Association memberships shall be*
261 *limited to one per dwelling unit."*
262

263 *Nardecchia/Brunner unanimous to amend 617.310 (5) to read "Boat canopies shall not be allowed on*
264 *any boat lift installed or stored on any Public Lake Tract."*
265

266 *Nardecchia/Harper unanimous to amend 617.111 to insert the phrase "Dellwood Beach" within the*
267 *beach defined as "Public Lake Tract."*
268

269 *Brunner/Nardecchia 3-2 (Harper and Carson voting in the negative) to amend 617.350 (4) to change*
270 *"10 years (10 boating seasons)" to "6 years (6 boating seasons)".*
271

272 *Nardecchia/Wingfield to adopt Resolution 2010-12-14-E approving Ordinance 2010-02 as amended*
273 *and waive reading of same. A roll call vote was taken:*
274

275	BRUNNER:	AYE	CARSON:	NAY
276	HARPER:	NAY	NARDECCHIA:	AYE
277		MAYOR WINGFIELD:	AYE	

278
279 *The resolution was adopted.*
280
281
282
283
284

285 APPROVAL OF RESOLUTION 2010-12-14-F APPROVING SUMMARY PUBLICATION OF ORDINANCE NO.
286 2010-02: Sandstrom noted that state law requires the resolution be approved by a 4/5th's vote.

287
288 *Nardecchia/Wingfield to adopt Resolution 2010-12-14-F and waive reading of same. A roll call vote*
289 *was taken:*

290
291 BRUNNER: AYE CARSON: NAY
292 HARPER: AYE NARDECCHIA: AYE
293 MAYOR WINGFIELD: AYE
294

295 *The resolution was adopted.*

296
297 APPROVAL OF RESOLUTION 2010-12-14-G APPROVING AND IMPLEMENTING THE UPDATED CITY BOAT
298 SLIP WAITING LIST:

299
300 *Nardecchia/Brunner to adopt Resolution 2010-12-14-G as amended and waive reading of same. A roll*
301 *call vote was taken:*

302
303 BRUNNER: AYE CARSON: NAY
304 HARPER: AYE NARDECCHIA: AYE
305 MAYOR WINGFIELD: AYE
306

307 *The resolution was adopted.*

308
309 SETTING A DEADLINE TO COMPLY WITH THE REQUIREMENTS TO BE ELIGIBLE TO REMAIN ON THE CITY
310 BOAT SLIP WAITING LIST: Nardecchia noted that the second clause of Resolution 2010-12-14-G states

311 as follows: "Upon the Council adopting the new Public Lake Tract Ordinance, the Council shall set a
312 deadline for the individuals on the attached City Boat Slip Waiting List to comply with the requirements
313 set forth in the Public Lake Tract Ordinance to be eligible to remain on the City Boat Slip Waiting List."

314
315 *Nardecchia/Brunner unanimous to set a deadline of January 31, 2011 for individuals on the attached*
316 *City Boat Slip Waiting List to comply with the requirements set forth in the Public Lake Tract Ordinance*
317 *to be eligible to remain on the City Boat Slip Waiting List.*

318
319 BOAT STORAGE PERMIT FEES: Nardecchia noted that he received complaints about private boat lifts on
320 the lake tracts. There is a \$100 fee per boat lift, and the following dock associations have yet to pay the
321 fees: Ash \$400.00 for 4 lifts; Birch \$400.00 for 4 lifts; and Elm \$100.00 for 1 lift.

322
323 *Nardecchia/Brunner unanimous that no penalty be added to the dock association boat slip permit*
324 *fees paid as of today, and that the Council consider acceptance of the Clerk of those payments as*
325 *proof that required permits have been issued, and that the Clerk is directed to bill the following dock*
326 *associations for the dock association boat slip permit fees as shown below to be paid in full by January*
327 *13, 2011: Ash - 4 lifts - \$400.00; Birch - 4 lifts - \$400.00; Elm - 1 lift - \$100.00; and that the City*
328 *Attorney is directed to draft a notice to all applicable entities that if the boat slip permit fees are not*
329 *paid, that the Council will not entertain any dock permit application request for any public lake tract*
330 *for which boat lifts are being stored without permit.*

331

332

333 **SNOW PLOW POLICY:** Wingfield commented that the City does not currently have a snow plow policy,
334 and the City was hit with a monster storm. Without regard, the City needs to clear out hydrants and lift
335 stations. Brunner would like to encourage City residents to go out and clear out the hydrants in their
336 neighborhood.

337

338 *Harper/Brunner unanimous to require the snow plow operator to clear out hydrants and lift stations*
339 *to ensure their access.*

340

341 **ADJOURN:** *Harper/Nardecchia unanimous to adjourn @10:10pm.*

342

343

344

345

346

347 _____
Mayor Alan Mitchell

348

349

350 ATTEST:

351

352

353

354 _____
Dale Richard Powers, MA, AICP

355 City Clerk

356

DRAFT

FOR OFFICE USE ONLY

Possible Work Locations

APPLICATION FOR EMPLOYMENT

FOR OFFICE USE ONLY
Rate _____
Date _____

3

To Applicant: We deeply appreciate your interest in our organization and assure you that we are sincerely interested in your qualifications. A clear understanding of your background and work history will aid us in placing you in the position that best meets your qualifications and may assist us in possible future upgrading.

PERSONAL

Date 12.30.10

Name Peterson Chad Reed Social Security No. [REDACTED]
Last First Middle

Present address 709 Hall Ave Birchwood MN 55110 Telephone No. (651) 426-0475
No Street City State Zip

Are you legally eligible for employment in the U.S.A? Yes State age if under 18 or over 70. No

What method of transportation will you use to get to work? Drive, or walk

Position(s) applied for LEVEL TWO RINK ATTENDANT Rate of pay expected \$ 8.00 per week

Were you previously employed by us? Yes If yes, when? last season (2009-2010)

If your application is considered favorably, on what date will you be available for work? immediately (12.30.10) 19

Are there any other experiences, skills, or qualifications which you feel would especially fit you for work with our organization?
I worked here last year, and I get along with people really well.

RECORD OF EDUCATION

School	Name and Address of School	Course of Study	Check Last Year Completed				Did You Graduate?	List Diploma or Degree
			5	6	7	8		
Elementary	<u>Harris Bilingual school (Colorado)</u>	X	5	6	7	8	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	X
	<u>Home school</u>							
High	<u>Wellington J.H. (Colorado)</u>		1	2	3	4	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	High School Graduate
	<u>Home school</u>							
College	<u>White Bear Lake</u>						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	<u>St. Cloud State University</u>		<u>Pre-med/Chiropractic</u>	1	2	3	4	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Other (Specify)			1	2	3	4	<input type="checkbox"/> Yes <input type="checkbox"/> No	

FOR OFFICE USE ONLY

APPLICATION FOR EMPLOYMENT

FOR OFFICE USE ONLY

Possible Work Locations


Rate _____

Date _____

To Applicant: We deeply appreciate your interest in our organization and assure you that we are sincerely interested in your qualifications. A clear understanding of your background and work history will aid us in placing you in the position that best meets your qualifications and may assist us in possible future upgrading.

PERSONAL

Date _____

Name Johnson Christopher Asst Social Security No. 

Present address 837 Wildwood Ave. Birchwood MN 55110 Telephone No. 651-399-3879

Last No First Street City State Zip

Are you legally eligible for employment in the U.S.A? yes State age if under 18 or over 70. 17

What method of transportation will you use to get to work? car

Position(s) applied for rink attendant Rate of pay expected \$ 8.00 per week hr

Were you previously employed by us? yes If yes, when? last december through January

If your application is considered favorably, on what date will you be available for work? right away 2010

Are there any other experiences, skills, or qualifications which you feel would especially fit you for work with our organization? I know how to shovel a hockey rink.

RECORD OF EDUCATION

School	Name and Address of School	Course of Study	Check Last Year Completed				Did You Graduate?	List Diploma or Degree
			5	6	7	8		
Elementary	<u>Princeton Center Point</u>	X	5	6	7	<input checked="" type="checkbox"/>	X	
						<input type="checkbox"/>		
High	<u>Mahomet High School</u>		1	2	<input checked="" type="checkbox"/>	4	<input type="checkbox"/>	
							<input checked="" type="checkbox"/>	
College	<u>None</u>		1	2	3	4	<input type="checkbox"/>	
							<input type="checkbox"/>	
Other (Specify)	<u>None</u>		1	2	3	4	<input type="checkbox"/>	
							<input type="checkbox"/>	

FOR OFFICE USE ONLY

Possible Work Locations

APPLICATION FOR EMPLOYMENT

FOR OFFICE USE ONLY

Rate _____

Date _____

To Applicant: We deeply appreciate your interest in our organization and assure you that we are sincerely interested in your qualifications. A clear understanding of your background and work history will aid us in placing you in the position that best meets your qualifications and may assist us in possible future upgrading.

PERSONAL

Date 11/1/10

Name Geier John Richard Social Security No. _____
Last First Middle

Present address 210 Park Avenue Mahtomedi MN 55115 Telephone No. 651-008-4701
No Street City State Zip

Are you legally eligible for employment in the U.S.A? YES State age if under 18 or over 70. 16

What method of transportation will you use to get to work? _____
 Position(s) applied for Rink attendant Rate of pay expected \$ 8.00 per week

Were you previously employed by us? Yes If yes, when? Last winter
 if your application is considered favorably, on what date will you be available for work? This winter 19__

Are there any other experiences, skills, or qualifications which you feel would especially fit you for work with our organization?
I worked at the rink last year

RECORD OF EDUCATION

School	Name and Address of School	Course of Study	Check Last Year Completed				Did You Graduate?	List Diploma or Degree
			5	6	7	8		
Elementary	<u>Mahtomedi / Wildwood</u>	X	5	6	7	8	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	X
	<u>Mahtomedi / O.H. Anderson</u>							
High	<u>Mahtomedi Highschool</u>		1	2	3	4	<input type="checkbox"/> Yes <input type="checkbox"/> No	
College			1	2	3	4	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Other (Specify)			1	2	3	4	<input type="checkbox"/> Yes <input type="checkbox"/> No	

FOR OFFICE USE ONLY

APPLICATION FOR EMPLOYMENT

FOR OFFICE USE ONLY

Possible Work Locations

Rate _____

Date _____

To Applicant: We deeply appreciate your interest in our organization and assure you that we are sincerely interested in your qualifications. A clear understanding of your background and work history will aid us in placing you in the position that best meets your qualifications and may assist us in possible future upgrading.

PERSONAL

Date 11/26/10

Name Wolde Tabor Social Security No. XXXXXXXXXX
Last First Middle

Present address 846 stillwater rd maktoned MN 55115 Telephone No. 651-434-2854
No Street City State Zip

Are you legally eligible for employment in the U.S.A.? Yes State age if under 18 or over 70. _____

What method of transportation will you use to get to work? car

Position(s) applied for Bank attendant Rate of pay expected \$ 8.00 per week

Were you previously employed by us? NO If yes, when? _____

If your application is considered favorably, on what date will you be available for work? any 19____

Are there any other experiences, skills, or qualifications which you feel would especially fit you for work with our organization? _____

RECORD OF EDUCATION

School	Name and Address of School	Course of Study	Check Last Year Completed				Did You Graduate?	List Diploma or Degree
			5	6	7	8		
Elementary	<u>Cono Christian School</u>	X					<input type="checkbox"/> Yes <input type="checkbox"/> No	X
High	<u>Maktoned high school</u> <u>2000 75th street North</u> <u>Maktoned, MN 55115</u>						<input type="checkbox"/> Yes <input type="checkbox"/> No	
College						<input type="checkbox"/> Yes <input type="checkbox"/> No		
Other (Specify)						<input type="checkbox"/> Yes <input type="checkbox"/> No		

RESOLUTION 2011- 02

CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA

A RESOLUTION ABATING THE PORTION OF AN AMOUNT OF AN UNPAID
UTILITY BILL CERTIFIED TO WASHINGTON COUNTY ERRONEOUSLY AS
DELINQUENT

WHEREAS, the City Council has recognized that certain delinquent utility bills
were certified twice to Washington County as delinquent; and

WHEREAS, when these situations are identified to the City, the City Council by
resolution abates the erroneous amount of the delinquent utility bill and forwards said
resolution to Washington County.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of
Birchwood Village that the following dollar amounts, representing the erroneous amount
of the certified delinquent utility bills, are hereby abated on the following affected
properties, identified herein by PID number:

- 1. PID 30.030.21.42.0057 (297 Jay Street): \$1,008.49
- 2. PID 30.030.21.23.0049 (124 Cedar Street): \$ 276.20

I certify that the City of Birchwood Village adopted the above Resolution on this
11th day of January, 2011.

Alan Mitchell, Mayor

ATTEST:

Dale Richard Powers, MA, AICP
City Clerk

**INSERT FINANCIAL REPORT AND
STATEMENT OF REVENUES AND
DISBURSEMENTS HERE**

10

SmartZone Communications Center

birchwoodvillage@comcast.ne

± Font size -

Council agenda for January

From : j lund 612 <j.lund.612@comcast.net>

Tue Dec 28 2010 12:33:53 PM

Subject : Council agenda for January

To : birchwoodvillage@comcast.net

Hi Dale

I would like the parks and natural resource committee to be placed on the Jan agenda for the city council.

Won't approval for 3 new hockey goals and 3 new nets

Won't approval to remove the trees on the west side of the tennis court 1. Ash tree, Boxelder tree & trim oaks

Won't approval to trim oak trees on the north side of the tennis court

John Lund Will present for parks

SEE REVERSE FOR QUOTE!

11, 12, 13
14, 15

**CITY OF BIRCHWOOD VILLAGE
2011 APPOINTMENTS**

STATUTORY

Acting Mayor	Jane Harper
Official Depository	US Bank & 4M Fund
Official Newspaper	White Bear Press

NON-STATUTORY

City Engineer	Elfering & Associates
City Attorney	Eckberg, Lammers, Wolf & Vierling
Water Superintendent	White Bear Lake Public Works
Official Newspaper	White Bear Press
Official Depository	US Bank & 4M Fund
City Historian	Scott Freeberg
Animal Control	Animal Control & Management
Tree Inspector	Steve Dean
Plumbing, Sewer, Water and Heating Inspector	Lake Area Inspections
White Bear Lake Conservation District	Debbie Harrod and TBD
Building Inspector & Zoning Administrator	Lake Area Inspections
Transit Commissioner	Milo Haus and Mark Peterson
Board of Adjustments	Planning Commission
Police	White Bear Lake Police Department
Fire	White Bear Lake Fire Department



RECD DEC 06 2010

4779 Bloom Ave., White Bear Lake, MN 55110 • Phone: 651-407-1200 • Fax: 651-429-1242

December 1, 2010

Mr. Dale Powers
City of Birchwood Village
207 Birchwood Avenue
White Bear Lake, MN 55110

Dear Mr. Powers:

The *White Bear Press* wishes to be considered as your designated newspaper for 2011.

We meet all the requirements under state statutes, and our rates follow the guidelines set by the legislature.

We offer circulation to every home within the circulation area audited by Verified Audit Circulation, an independent firm.

We offer submittal of legal notices by mail, fax at (651) 429-1242, or e-mail to legals@presspubs.com - clearly label them as "Legal Notices."

Your rate will remain the same at \$14.15 a column inch, in 7-point type, at 9 lines per inch.

Our deadline for legal notices is Thursday by 5:00 p.m. for the following Wednesday publication.

If you have any questions or concerns, please let me know.

Sincerely,

Lisa Graber
Legal Notice Coordinator

Misc: BirchwoodVillage2011.doc

Your Best Source For Community Information

White Bear Press • Vadnais Heights Press • St. Croix Valley Press • Quad Community Press • Shoreview Press • Forest Lake Press
legals@presspubs.com presspubs.com

SCHEDULE OF REGULAR CITY COUNCIL MEETINGS

(Start time is 7:00 p.m. at City Hall)

January 11, 2011

January 25, 2011

February 8, 2011

February 22, 2011

March 8, 2011

March 22, 2011

April 12, 2011

April 26, 2011

May 10, 2011

May 24, 2011

June 14, 2011

June 28, 2011

July 12, 2011

July 26, 2011

August 9, 2011

August 23, 2011

September 13, 2011

September 27, 2011

October 11, 2011

October 25, 2011

November 8, 2011

November 22, 2011

December 13, 2011

December 27, 2011

RECD DEC 06 2010

ANIMAL CONTROL SERVICES
6400 Colfax Avenue North
Brooklyn Center, MN 55430
651-356-4623

November 29, 2010

Katherine Weber
City Clerk
207 Birchwood Avenue
Birchwood, MN 55110

Rc: Animal Control Services

Dear Ms. Weber,

Enclosed, please find a contract proposal for the 2011 calendar year. Assuming it meets with the city's approval, an authorized city representative needs to sign on page three and return the entire contract in the enclosed envelope to the office of our legal counsel. You will receive a fully executed copy by return mail or if you prefer, email.

If you have any questions, please give me a call. I look forward to providing services in the city again this year.

Yours Truly,

/s/ Rick

Richard Ruzicka
Animal Control Services
Rick@LostMN.com

ANIMAL CONTROL CONTRACT

This Agreement, made effective the first day of January, 2011, by and between Animal Control Services, hereinafter referred to as "ACS," and the City of Birchwood Village, a municipal corporation, State of Minnesota, hereinafter referred to as the "City".

In consideration of the covenants and agreements, hereinafter set forth, it is mutually agreed by and between the parties, hereto, as follows:

1. This agreement will continue in effect until December 31, 2011, unless terminated as provided herein.
2. ACS will provide services on a call out/as needed basis, in a vehicle suitable for the transportation of small animals, in accordance with City Ordinances and a schedule agreed upon by both parties. The vehicle shall have proper identification displayed at all times. ACS shall maintain and insure such vehicles at all times.
3. ACS shall provide competent personnel, trained in the handling of animals, in proper uniform and identification including employee's first name and/or employee number.
4. ACS will not take action on private property contrary to the expressed wishes of the owner of said property, nor forcibly take an animal from any person, without the instruction, approval and assistance of a duly licensed Minnesota Peace Officer with current jurisdiction that includes the private property where the animal is located.
5. ACS shall impound and board animals as directed by written order of an authorized City representative, or by ruling of the Minnesota Board of Health or other Minnesota or United States agency with jurisdiction.
6. Impounded animals shall be checked for identification as required by Minnesota Statutes Chapter 346 and kept at Hillcrest Animal Hospital, 1320 County Road D Cir Maplewood, MN 55109, (651) 484-7211, in a suitable, humane manner for the period specified in paragraph 9. ACS may temporarily board at an emergency facility if access and/or treatment is not immediately available at Hillcrest Animal Hospital.
7. If an animal is unclaimed, the City will pay ACS the charges as agreed to on Exhibit One to this Agreement within thirty days of the Statement Date.
8. Before an animal is released to its owner, ACS or its agent shall collect the charges specified on Exhibit One to this Agreement.
9. In the event that any dogs, cats, or other impounded animals are unclaimed after the expiration of any applicable redemption or quarantine period, or six (6) days, whichever is longer, they shall become the property of ACS and may be disposed of or sold at its sole discretion. All proceeds from the disposition of such animals shall be the sole

property of ACS, including any proceeds received from any animals disposed of in accordance with Minnesota Statutes 35.71.

10. The City shall furnish to ACS any required forms or receipts and ACS shall keep records of all animals impounded.
11. ACS shall defend, indemnify, and hold the City harmless including its officers, employees or agents from any and all claims, lawsuits, losses, damages, or expenses on account of bodily injuries, sickness, disease, death, and property damage, including injury to animals caused by its employees. ACS shall provide the City proof of commercial general liability insurance including comprehensive automobile liability in an amount of at least \$500,000.00 per occurrence. ACS shall carry, and upon request of the City provide proof of Workers Compensation Insurance coverage required by Minnesota law.
12. ACS shall comply with the Minnesota Data Practices Act and all other State and Federal laws relating to data privacy or confidentiality, and shall hold the City and its employees harmless from any claims resulting from any improper disclosure or use of data it receives or maintains in performance of this Agreement. ACS shall immediately report to the City any requests from third parties for information relating to its performance of this Agreement.
13. ACS agrees to promptly respond to inquiries for information or documentation from the City related to its performance of this Agreement.
14. ACS agrees to abide by the requirements and regulations of the Americans with Disabilities Act of 1990 (ADA), the Humans Rights Act (Minnesota Chapter 363 and Title VII of the Civil Rights Act of 1964), and any laws governing discrimination based on race, gender, disability, religion, sexual preference, and sexual harassment. Violation of any of the above laws can lead to termination of this contract.
15. Either party hereto, may terminate this contract after thirty (30) days written notice to the other party. Any payments due ACS shall not be affected by termination.
16. Any notice required under applicable law or this Agreement, may be sent to the other party as indicated on Exhibit One herein.
17. ACS shall be entitled to apply a fuel surcharge in the event the average price for unleaded gasoline in the Twin Cities metropolitan area, as measured by AAA or similar reporting service, is \$3.15 per gallon or higher.

Richard L. Ruzicka
Animal Control Services

City of Birchwood Village

By: _____

Its: _____

**ANIMAL CONTROL CONTRACT
EXHIBIT ONE**

CALL OUT	\$ 96	8:00 A.M. to 5:00 P.M. (Mon-Fri except holidays)
	\$124	5:00 P.M. to 8:00 A.M. (Fri-Mon and holidays)

The Call Out rates are a flat fee, determined by the time the request is received by ACS.

ANIMAL – OWNER CHARGES - CLAIMED

\$42.00	Administrative Handling Fee
\$18.00	Daily Boarding Fee
	Statutory Veterinary Services (at cost)

ANIMAL – CITY CHARGES - UNCLAIMED

\$25.00	Animal Surrender Fee
\$17.00	Daily Boarding Fee
\$58.00	Euthanasia and Disposition
	Statutory Veterinary Services (at cost)

Charges herein do not include any applicable sales taxes.

Daily Boarding Fees are charged for all or any portion of a calendar day an animal is boarded.

Notices pursuant to this contract shall be given by deposit in the United States Mail, postage prepaid, addressed as follows:

Mr. Richard L. Ruzicka
Animal Control Services
6400 Colfax Avenue North
Brooklyn Center, MN 55430

City of Birchwood Village
Katherine Weber, City Clerk
207 Birchwood Avenue
Birchwood, MN 55110

Alternatively, notices required by this contract may be personally delivered to the persons named above. Notice shall be deemed given as of the date of personal service or as of the date of deposit of the notice in the United States Mail.

DEPOSITORY SERVICES RESOLUTION FOR GOVERNMENTAL ENTITIES

DEPOSITOR NAME: City of Birchwood Village

CONTACT: City Clerk or Treasurer

ADDRESS: 207 Birchwood Avenue
Birchwood, MN 55110

TAX IDENTIFICATION NUMBER: [REDACTED]

I, Dale R. Powers (name of certifying officer) do hereby certify that I am the City Clerk (title of certifying officer) of the above-named governmental entity (therein called the "Depositor") a City existing under the laws of the State of Minnesota and that the following is a true, complete and correct copy of resolutions adopted at a meeting of the Depositor duly and properly called and held on the 11th day of January, 20 11 that a quorum was present at said meeting; and that said resolutions are now in full force and effect.

RESOLVED, that U.S. Bank National Association is hereby designated as a depository of the Depositor with authority to accept or receive at any time for the credit of the Depositor deposits by whomsoever made of funds and other property in whatever form or manner transferred to endorsed; and that any officer of the Depositor is hereby authorized to open or cause to be opened one or more accounts with the Bank on such terms, conditions and agreements as the Bank may now or hereafter require and to make any other agreements deemed advisable in regard to any of the foregoing. Depositor acknowledges and agrees that the services contemplated by this resolution shall be governed by the U.S. Bank Customer Agreement for commercial deposit accounts, as amended from time to time.

RESOLVED, that checks, drafts or other orders for the payment, transfer or withdrawal of any of the funds or other property of the Depositor on deposit with the Bank shall be binding on the Depositor when signed, manually or by use of a facsimile or mechanical signature or otherwise authorized, by any one of the individuals listed in the section entitled "Authorized Signers", and the Bank is hereby authorized to pay and charge to the account of the Depositor any such checks, drafts or other orders so signed or otherwise authorized, including those payable to the individual order of the same person or persons signing or otherwise authorizing the same and including also those payable to the Bank or to any other person for application, or which are actually applied to the payment of any such indebtedness owing the Bank from the person or persons who signed such checks, drafts or other withdrawal orders or otherwise authorized such withdrawals. In particular, and not in limitation of foregoing, such persons may authorize payment, transfer or withdrawal by oral or telephonic directions to the Bank complying with such rules and regulations relating to such authorization as the Bank may communicate to the Depositor from time to time.

RESOLVED, that the City Clerk (identify certifying officer by title) hereby certifies to the Bank the names and signatures (either actual or any form or forms of facsimile or mechanical signatures adopted by the person authorized to sign) of the Authorized Signers listed below and shall from time to time hereafter, upon a change in the facts so certified, immediately certify to the Bank the names and signatures (actual or facsimile) of the persons then authorized to sign or to act. The Bank shall be fully protected in relying on such certificates and on the obligation of the certifying officer (set forth above) to immediately certify to the Bank any change in any facts so certified, and the Bank shall be indemnified and saved harmless by the Depositor from any claims, demands, expenses, loss or damage resulting from or growing out of honoring or relying on the signature of other authority (whether or not properly used and, in the case of any facsimile signature, regardless of when or by whom or by what means such signature may have been made or affixed) of any officer or person whose name and signature was so certified, or refusing to honor any signature or authority not so certified.

2011 COUNCIL APPOINTMENTS

Administration – Alan Mitchell

- Mayor
- Intercommunity Relations
- Personnel Matters
- Contracts
- Rules of Procedure and Code of Conduct

Planning – Jane Harper

- Deputy Mayor
- Budget and Finance and Audit
- Sewer and Water
- Planning Committee Liaison
- Comprehensive Plan/Capital Improvement Plan

Parks – Barb Carson

- Parks Committee Liaison
- City Hall Maintenance
- Assistant Weed Inspector
- Invasive Species
- Hockey Rink/Tennis Courts/Tighe Schmidt

Public Works – Mark Peterson

- Roads and Streets
- Storm Water and Drainage
- Rain Gardens
- Public Lake Tracts
- White Bear Transit Commission

Public Safety – Tony Sampair

- Police and Fire
- Civil Defense/Pandemic Planning
- Hazardous Materials
- Ambulance
- Recycling

Dale Richard Powers, MA, AICP
City Clerk
207 Birchwood Avenue
Birchwood Village, MN 55101

October 28, 2010

Dear Mr. Powers,

I was informed that there is a vacancy on the Birchwood Parks Commission and that they are looking for possible volunteers. I would like my name considered for this vacancy. Please take whatever steps necessary to have my appointment considered by the City Council. Thank you.



John McCormick
110 Birchwood Ave.
Birchwood, MN
55110
651 426 8066

12/30/10

REC'D JAN 03 2011

To: Birchwood Council

From: Katie Cavanor

Re: opening on the parks and natural resources committee

My name is Katie Cavanor and I live at 30 Oakridge Drive with my husband and two children. I am interested in submitting my name for consideration for the open seat on the parks and natural resources committee.

I have lived in Birchwood for the past nine years. One of the attributes that attracted my husband and I to the area was the available open spaces, parks and walkways available throughout the village. When my children were small we would spend many afternoons swimming at Kay Beach and playing at the playgrounds in the neighborhood. Although my children are older now we still enjoy playing tennis at the local court and walking our dog through the neighborhoods. I am very appreciative of the numerous walkways that allow me to get off the streets and provide a sense of being somewhere other than a busy metro area. These are Birchwood's best attributes and I applaud the council for having the foresight to recognize the need for a parks and natural resources committee to ensure that these community attributes are maintained and preserved.

I would like to help in this endeavor by volunteering to participate on the committee. My goals for volunteering would be to ensure that the use of the parks and walkways remain available to all residents. Also, it is important that as a community located on the shores of White Bear Lake that we are cognizant of our duty to ensure that the lake continues to be a vibrant part of our community. It is our responsibility to ensure that the quality of the water and the lakeshore remain useable for recreational activities such as swimming and boating for years to come.

Please feel free to contact me if you have any questions regarding my commitment to the position.

Katie Cavanor
30 Oakridge Drive
651-429-2010



To whom it may Concern,

12-30-10

RECD JAN 04 2011

I am interested in the open seat
on the parks committee.

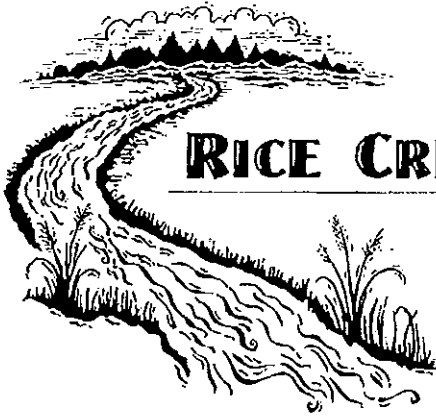
Please consider me for this
position.

Sincerely,

Karleen Conliss

Please call with any questions -

651-303-3734



RICE CREEK WATERSHED DISTRICT

4325 Pheasant Ridge Dr. NE #611 • Blaine, MN 55449-4539
Phone: 763-398-3070 • Fax: 763-398-3088
www.ricecreek.org

December 15, 2010

Ms. Katherine M. Weber, Clerk
Birchwood Village
207 Birchwood Avenue
Birchwood, MN 55110-1610

Dear Ms. Weber,

The Rice Creek Watershed District (RCWD) is once again seeking applications for our Citizen Advisory Committee and we are asking the communities within our district for their help. The RCWD is eager to work with the citizens and government bodies in the Rice Creek Watershed toward a more comprehensive and integrated water resource management paradigm. To that end, we are asking for your assistance to spread the word.

The Rice Creek Watershed District board appoints CAC members for 1-year terms. Previously appointed members may continue to serve on the committee beyond the initial one-year term at will. RCWD's CAC currently meets on the first Wednesday of each month at 5:30 p.m. at the Lino Lakes City Hall. However, there are no meetings in July or December. The purpose of the CAC is to advise and assist the managers on all matters affecting the interests of the district and make recommendations to the managers on all contemplated projects and improvements in the district. Members are also asked to keep current on water-related issues in their community and relay this information to the district.

We would appreciate any thoughts or knowledge you may have regarding individuals who could serve on the Advisory Committee for the District. If anyone needs more information or would like to request an application to serve on the Citizen Advisory Committee they can contact the Rice Creek Watershed District office at (763) 398-3070. We intend to make any 2011 appointments to our Citizen Advisory Committee in February so we are asking that applications be turned into the District by January 28, 2011. Thank you for your attention and please do not hesitate to call if you have any questions.

Sincerely,

Phil Belfiori
Administrator

Enc. CAC application form

APPLICATION FOR MEMBERSHIP
CITIZEN ADVISORY COMMITTEE (CAC)
RICE CREEK WATERSHED DISTRICT

Name: _____

Address: _____

City/State/Zip: _____

County: _____ Email: _____

Phone #'s: Home: _____ Work: _____ Cell: _____

Are you a resident of the RCWD? Yes, Years: _____ No

Membership Category(ies):

- Soil & Water Conservation District Supervisor
- County Board Member
- City or Town Official
- Sportsmen's Organization Member
- Agriculture
- Citizen
- Other: _____

Qualifications: (May include education, occupation, volunteer experiences, etc.)

Civic, Professional & Community Activities: (past and present)

Reasons for wanting to serve on this committee:

Other comments:

Signature: _____ Date: _____

Return form to: Rice Creek Watershed District
4325 Pheasant Ridge Drive NE #611
Blaine, MN 55449

Fax: (763) 398-3088
Phone: (763) 398-3070

Subdivision 1. Purpose. The managers must annually appoint an advisory committee to advise and assist the managers on all matters affecting the interests of the watershed district and make recommendations to the managers on all contemplated projects and improvements in the watershed district.

Subd. 1a. Duties. For purposes of carrying out its duties under this section the advisory committee shall:

- (1) elect a chair from its membership;
- (2) elect a recorder from its membership;
- (3) establish a meeting schedule, which at a minimum meets annually;
- (4) consider issues pertinent to the functions and purposes of the watershed district;
- (5) review and comment on reports, minutes, activities, and proposed projects of the managers; and
- (6) report to the managers the general content of advisory committee meetings and resulting recommendations.

Subd. 2. Members. (a) The advisory committee consists of at least five members. If practicable, the advisory committee members selected should include a representative from each soil and water conservation district, a representative of each county, a member of a sporting organization, and a member of a farm organization. Other advisory committee members may be appointed at the discretion of the managers. The members must be residents of the watershed district, except representatives from soil and water conservation districts and counties, and serve at the pleasure of the managers.

(b) In addition, the managers may appoint other interested and technical persons who may or may not reside within the watershed district to serve at the pleasure of the managers.

Subd. 3. Expense reimbursement. The managers may reimburse members of the advisory committee for actual traveling and other necessary expenses incurred in the performance of duties in the amount as provided for state employees.



Writer's Direct Dial:
(651) 351-2134

Writer's E-mail:
ksandstrom@eckberglammers.com

Stillwater Office:
1809 Northwestern Avenue
Stillwater, Minnesota 55082
(651) 439-2878
Fax (651) 439-2923

January 3, 2011

Hudson Office:
2417 Monetary Boulevard
Hudson, Wisconsin 54016
(715) 386-3733
Fax (651) 439-2923

Mayor Alan Mitchell
23 Oakridge Drive
White Bear Lake, MN 55110

Jane Harper
146 Wildwood Avenue
White Bear Lake, MN 55110

www.eckberglammers.com

Barb Carson
704 Hall Avenue
White Bear Lake, MN 55110

Anthony Sampair
409 Lakewood Avenue
White Bear Lake, MN 55110

Mark Peterson
709 Hall Avenue
White Bear Lake, MN 55110

Re: *Reminder of Open Meeting Law Requirements*

Dear Mayor and Council:

Since we have just begun a new year, I thought it appropriate to pass along a note regarding Minnesota's Open Meeting Law requirements as set forth in Minnesota Statute §13D.01, *et seq.* The purpose of the Minnesota open meeting law is fundamentally to prohibit nonpublic meetings where the public interest cannot be fully informed and knowledgeable about actions that are being taken.

Most cities and council people generally recognize that the open meeting law applies to prohibit the exclusion of the public from city council meetings where a majority of the council is present in order to discuss and vote on public business. The open meeting law, however, has been construed to have application beyond the aspects of gatherings of majorities of councilpersons and also have application to other circumstances affecting discussions between councilpersons in what would normally be considered by many people to be a non-meeting gathering.

Generally, keep in mind that any discussion or communication that would occur between individual council people that is designed to avoid public disclosure of their discussion with the intent to forge a majority decision is a violation of the open meeting law. *Moberg v. Independent School District #281*, 336 N.W.2d 510 (1983).

In short, "serialized communications" between council members, with each member contacting another and then contacting another, for the purpose of forging a decision sequentially between council members to a point where a majority view is forged is a violation of the open meeting law. That is not to say that social or chance gatherings between councilpersons can not occur. Clearly, the open meeting law allows

social and chance gatherings of councilmembers, such as at social gatherings, chance meetings, grocery stores, community events, and the like, but it is imperative that the councilpersons, under those circumstances, not use those opportunities to initiate discussions of city business.

The Minnesota Supreme Court has openly acknowledged the Minnesota open meeting law and its provisions will be liberally construed to favor the public. *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332. N.W.2d 1. The requirements of the Minnesota open meeting law are applicable to workshop and non-council meetings. *Op. Atty. Gen.*, 471-e, Oct. 28, 1974. The concept of workshops or non-council meetings dedicated to specific topics where the council can receive information and discuss (although not vote) on topics are meetings where discussions are critical to the decisions that will be ultimately formed by the City. That is not to say that the workshop or off line meetings are illegal inasmuch as they are clearly useful and are a predominant tool of many cities in the formation of ideas, concepts and policies. However, all of those workshop sessions and meetings dedicated to single function or topic purposes are open meetings and must be noticed and posted as such so that the public can have the opportunity to observe the discussion within those meetings if it desires.

The open meeting law also requires that any special meeting called by the City for purposes of discussing council matters must be noticed and posted providing the date, time, place and purpose of those meetings on the principal bulletin board of the public body or on the door of the meeting room. The notice must also be mailed or delivered to each person who has filed a written request for notices of special meetings of the city, at least three days prior to the date of the meeting. Councils are occasionally required to call emergency meetings because of urgent circumstances occurring within the community. Although the three day notice requirement is not required for purposes of emergency meetings, cities are nonetheless required to make a good faith effort to provide notice of any emergency meeting to each news medium that has filed a written request for notice if the request includes the news mediums phone number. The City Clerk should have a master list of those individuals who have requested notice of special meetings and those news medium who have requested notices of emergency meetings.

Compliance with the terms and provisions of the open meeting law are individually enforced against members of a city council. The law provides that any person who intentionally violates the provisions of the open meeting law are subject to personal liability in the form of civil penalty in amount not to exceed \$300.00 for a single occurrence, which penalty by law may not be paid by the public body. In those rare circumstances where persons have been found to intentionally have violated the section on three or more occasions involving the same governing body, that person is required by state statute to forfeit any further right to serve on the governing body or in any other capacity within such public body for a period of time equal to the term of office that they were then serving. Additionally, the statute goes on to allow district courts the opportunity to award attorney's fees, court costs and disbursements to the prevailing party up to \$13,000.00 in any action brought under the open meeting law statute dealing with violation issues. (The City's insurer or the City itself may pay the attorney's fee sanction.)

*Mayor and Councilmembers
City of Birchwood
January 3, 2011
Page 3 of 3*

The open meeting law itself can on occasion conflict with the terms and provisions of the Minnesota Data Practices Act, which classifies documents within the State of Minnesota as either public, private, confidential or nonpublic. Therefore, it is important that the city offices coordinate with the city attorney's office on issues of disclosure of public, nonpublic, private and confidential documents prior to the discussion of the content of any of those documents within any public meeting.

Also note that the Data Practices Act makes most of your city-related communications subject to public scrutiny and disclosure. Please be particularly cautious with the use of email, because any email you draft in conjunction with your position as a councilmember, with only limited exceptions, is subject to public disclosure. The modern convenience of email has made it the communication tool of choice. However, I typically advise that email use is best limited, and should particularly be avoided on sensitive issues or issues that may result in litigation. Note one exception is that email between the Council and the City Attorney is generally confidential under the attorney-client privilege, so it is a bit safer to send an email to my office for the purpose of obtaining legal advice. That being said, I am usually available to have phone conversations and encourage you to call me at any time.

Finally, it is important to note that the provisions of the Minnesota open meeting law apply to all public groups and commissions, not merely elected officials. The provisions of this law do apply to park commissions, planning commissions, subcommittees, and other advisory boards who meet for purposes of reviewing material and passing recommendations along to the city council. Those advisory boards that have any local ordinance or statutory authority to make decisions need to comply with the strict requirements of the open meeting law. Thus if any of you are involved in communicating with commission members, keep the open meeting law and serial communication issues in mind.

Naturally, should any of you have any questions with regard to the open meeting law, government data practices act, or any other similar issues, you may relay those questions directly to our office.

Sincerely,



Kevin S. Sandstrom

KSS/mah

cc: Dale Powers, City Clerk

Part III. The open meeting law

Minn. Stat. § 13D.01.

The Minnesota open meeting law generally requires that all meetings of public bodies be open to the public. This presumption of openness serves three basic purposes:

Rupp v. Mayasich, 533 N.W.2d 893 (Minn. Ct. App. 1995).

- To prohibit actions from being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning decisions of public bodies or detect improper influences.
- To ensure the public's right to be informed.
- To afford the public an opportunity to present its views to the public body.

See Part III - E - *Notice requirements*; and Part V - B - *Required contents*.

The open meeting law also contains some specific notice and record-keeping requirements, which are discussed in detail in later sections of this document.

A. Groups to which the law applies

Minn. Stat. § 13D.01, subd. 1.

The open meeting law applies to all governing bodies of any school district, unorganized territory, county, city, town or other public body, and to any committee, sub-committee, board, department or commission of a public body.

Thus, the law applies to meetings of all city councils, planning commissions, advisory boards, firefighter relief associations, economic development authorities, and housing redevelopment authorities, among others.

Southern Minnesota Municipal Power Agency v. Boyne, 578 N.W.2d 362 (Minn. 1998).

The Minnesota Supreme Court has held, however, that the governing body of a municipal power agency, created under Minn. Stat. §§ 453.51-453.62, is not subject to the open meeting law because the Minnesota Legislature granted these agencies authority to conduct their affairs as private corporations.

B. What is a meeting?

There is no statutory definition of the term "meeting" for the purpose of the open meeting law. Minnesota courts have generally ruled that a meeting is a gathering of a quorum of public officials to discuss, decide or receive information on matters over which they have authority.

See Part III - I - *Common problems in applying the law*.

Because the term "meeting" has not been clearly defined, the issue of whether or not a meeting has been held must be decided on a case-by-case basis. Some examples of cases are discussed in further detail in a later section of this memo.

C. Gatherings to which the law applies

Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983).

The open meeting law applies to any gathering of a quorum or more of public officials where the members discuss, decide or receive information as a group on issues relating to the official business of the public body.

Minn. Stat. §§ 412.191, subd. 1; 645.08 (5).

A “quorum” is a majority of the members of a statutory city council. A majority of the qualified members of any board or commission also constitutes a quorum. Home rule charter cities may have different quorum requirements in their charters.

Thus, the open meeting law would apply to any of the following types of gatherings:

- Regular and special meetings.
- Public hearings.
- Executive sessions.
- Work sessions.
- Retreats.

A.G. Op. 63-A-5 (June 13, 1957); Minn. Stat. § 13D.01, subd. 1.

See Part III - I - Common problems in applying the law.

D. Exceptions and the procedures to use them

Minn. Stat. § 13D.01, subd. 3.

There are some exceptions to the open meeting law. Under certain circumstances, some meetings may be closed. There are also some meetings that must be closed. Before a meeting can be closed under any of the exceptions, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.

Minn. Stat. § 13D.05, subd. 1(d).

1. Meetings that may be closed

The public body may choose to close certain meetings. The following types of meetings may be closed:

- **Meetings to consider strategies for labor negotiations under PELRA.** Although a meeting to consider strategies for labor negotiations may be closed, the actual negotiations must be done at an open meeting if a quorum of the council is present.

Minn. Stat. §§ 13D.03; 13D.01, subd. 3.

Procedure. The following must be done to use this exception:

- i. Before closing the meeting, the council must decide to close the meeting by a majority vote at a public meeting.
- ii. Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.
- iii. A written roll of all people present at the closed meeting must be available to the public after the closed meeting.
- iv. The meeting must be tape-recorded.
- v. The recording must be kept for two years after the contract is signed.
- vi. The recording becomes public after all labor agreements are signed by the city council for the current budget period.

If an action claiming that other public business was transacted at the closed meeting is brought during the time the tape is not public, the court will review the recording privately. If it finds no violation of the open meeting law, the action will be dismissed and the recording will be preserved in court records until it becomes available to the public. If the court determines there may have been a violation, the entire recording may be introduced at the trial. However, the court may issue appropriate protective orders requested by either party.

- **Meetings to evaluate the performance of an individual subject to the public body's authority.**

*Minn. Stat. §§ 13D.05, subds. 3(a),
: 13D.01, subd. 3.*

Procedure. The following must be done to use this exception:

- i. The public body must identify the individual to be evaluated prior to closing the meeting.
- ii. The meeting must be open at the request of the individual who is the subject of the meeting, so some advance notice to the individual is needed in order to allow the individual to make an informed decision.
- iii. Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.
- iv. The meeting must be electronically recorded, and the recording must be preserved for at least three years after the meeting.
- v. At the next open meeting, the public body must summarize its conclusions regarding the evaluation. The council should be careful not to release private or confidential data in its summary.

Minn. Stat. § 13D.05, subd. 3(b).

*Prior Lake American v. Mader,
642 N.W.2d 729 (Minn. 2002).*

*Northwest Publications, Inc. v.
City of St. Paul, 435 N.W.2d 64
(Minn. Ct. App. 1989).*

- **Attorney-client privilege.** Meetings between the governing body and its attorney to discuss active, threatened, or pending litigation may be closed when the balancing of the purposes served by the attorney-client privilege against those served by the open meeting law dictates the need for absolute confidentiality. The need for absolute confidentiality should relate to litigation strategy, and will usually arise only after a substantive decision on the underlying matter has been made. This privilege may not be abused to suppress public observations of the decision-making process, and does not include situations where the council will be receiving general legal opinions and advice on the strengths and weaknesses of a proposed underlying action that may give rise to future litigation.

Procedure. The following must be done to use this exception:

- i. Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. The council should also describe how a balancing of the purposes of the attorney-client privilege against the purposes of the open meeting law demonstrates the need for absolute confidentiality.
- ii. The council must actually communicate with its attorney at the meeting.

*Minn. Stat. § 13D.01, subd. 3, See
The Free Press v. County of Blue
Earth, 677 N.W.2d 471 (Minn. Ct.
App. 2004) (holding that a
statement that a meeting was being
closed under the attorney-client
privilege to discuss "pending
litigation" did not satisfy the
requirement to "describe the
subject to be discussed" at the
closed meeting).*

Minn. Stat. § 13D.05, subd. 3(c).

- **Purchase or sale of property.** A public body may close a meeting to: determine the asking price for real or personal property to be sold by the public body; review confidential or nonpublic appraisal data; develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Minn. Stat. § 13D.05, subd. 3(c).

Procedure. The following must be done to use this exception:

- i. Before closing the meeting, the public body must state on the record the specific grounds for closing the meeting, describe the subject to be discussed, and identify the particular property that is the subject of the meeting.
- ii. The meeting must be tape-recorded and the property must be identified on the tape. The recording must be preserved for eight years, and must be made available to the public after all property discussed at the meeting has been purchased or sold or after the public body has abandoned the purchase or sale.
- iii. A list of council members and all other persons present at the closed meeting must be made available to the public after the closed meeting.
- iv. The actual purchase or sale of the property must be approved at an open meeting, and the purchase or sale price is public data.

Minn. Stat. § 13D.05, subd. 3(d).

- **Security Briefings.** A meeting may be closed to receive security briefing and reports, to discuss issues related to security systems, to discuss emergency-response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities— if disclosure of the information would pose a danger to public safety or compromise security procedures or responses. Financial issues related to security matters must be discussed, and all related financial decisions must be made at an open meeting.

Minn. Stat. § 13D.05, subd. 3(d).

Procedure. The following must be done to use this exception:

- i. Before closing the meeting, the public body must state on the record the specific grounds for closing the meeting and describe the subject to be discussed. When describing the subject to be discussed, the public body must refer to the facilities, systems, procedures, services or infrastructure to be considered during the closed meeting.
- ii. The closed meeting must be tape-recorded, and the recording must be preserved for at least four years.

2. Meetings that must be closed

There are some meetings that the law requires to be closed. The following meetings must be closed:

*Minn. Stat. §§ 13D.05, subd. 2(b);
13.43, subd. 2(4).*

- ***Meetings for preliminary consideration of allegations or charges against an individual subject to the public body's authority.*** While the law permits the council to announce that it is closing a meeting to consider charges against an individual, it is still the best practice not to refer to that individual by name. The council should state only that it is closing the meeting to give preliminary consideration to allegations against someone subject to its authority. However, if someone requests the name of the employee who is the subject of the closed meeting, the name will probably have to be furnished since the existence and status of any complaints against an employee are public data.

*Minn. Stat. §§ 13D.01, subd. 3;
13D.05, subds. 1.*

Procedure. The following must be done to use this exception:

- i. Before closing the meeting, the council must state on the record the specific grounds for closing the meeting and describe the subject to be discussed.
- ii. The meeting must be open at the request of the individual who is the subject of the meeting. Thus, the individual should be given advance notice of the existence and nature of the charges against him or her, so that the individual can make an informed decision.
- iii. The meeting must be electronically recorded and the recording must be preserved for at least three years after the meeting.
- iv. If the public body decides that discipline of any nature may be warranted regarding the specific charges, further meetings must be open.

(Note: There is a special provision dealing with allegations of law enforcement personnel misconduct; see next discussion under ii.)

Minn. Stat. § 13D.05, subd. 2(a).

- **Portions of meetings at which any of the following data is discussed:**
 - i. Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
 - ii. Internal affairs data relating to allegations of law enforcement personnel misconduct or active law enforcement investigative data.
 - iii. Educational data, health data, medical data, welfare data or mental health data that are not-public data.
 - iv. An individual's medical records governed by sections §§ 144.291 to 144.298.

Minn. Stat. §§ 144.291-144.298,

Minn. Stat. §§ 13D.01, subd. 3, 13D.05, subd. 1.

Procedure. Before closing the meeting, the council must state on the record the specific grounds for closing the meeting and describe the subject to be discussed. The meeting must be electronically recorded, and the recording must be preserved for at least three years after the meeting.

E. Notice requirements

Minn. Stat. § 13D.04.

Public notice must be given of all meetings of a public body. The notice requirements differ depending on the type of meeting.

Minn. Stat. § 13D.04, subd. 7.

However, if a person receives actual notice of a meeting at least 24 hours before the meeting, all notice requirements under the open meeting law are satisfied, regardless of the method of receipt.

Minn. Stat. § 412.191, subd. 2.

It should also be noted that statutory cities have some additional requirements for mailing notice to their council members regarding special meetings. There may also be additional notice requirements for home rule charter cities to consider. These cities should consult their charters for more information.

1. Regular meetings

Minn. Stat. § 13D.04, subd. 1.

A schedule of the regular meetings must be kept on file in the city office. If the city decides to hold a meeting at a different time or place, it must give the notice required for a special meeting.

Minn. Stat. §§ 13D.04; 412.191, subd. 2.

Cities must keep a schedule of the regular meetings of the council on file at the primary office of the council. This requirement can be complied with by posting the regular meeting schedule in a convenient public location.

2. Special meetings

Minn. Stat. § 13D.04, subd. 2.

A special meeting is a meeting that is held at a time or location different from that of a regular meeting.

Minn. Stat. § 13D.04, subd. 2; Rupp v. Mayasich, 533 N.W.2d 893 (Minn. Ct. App. 1995).

A city must post written notice of a special meeting on its principal bulletin board or on the door of its meeting room if it does not have a bulletin board. If notice is posted on a bulletin board, the bulletin board must be located in a place that is reasonably accessible to the public. The notice must give the date, time, place, and purpose of the meeting. It must also be mailed to each individual who has filed a written request for notice of special meetings. As an alternative to posting the notice, the city can publish notice in the official newspaper at least three days before the meeting.

Minn. Stat. § 412.191, subd. 2.

In statutory cities, the clerk must mail notice of special meetings to all council members at least one day before the meeting.

Minn. Stat. §§ 645.15; 331A.08.

In calculating the number of days for providing notice, do not count the first day that the notice is given, but do count the last day. If the last day is a Saturday, Sunday or a legal holiday, that day is omitted from the calculation and the following day is considered the last day (unless, of course, it happens to be a Saturday, Sunday or legal holiday).

3. Emergency meetings

Minn. Stat. § 13D.04, subd. 3; IPAD 06-027 (advising that the city council of Breezy Point had improperly held an emergency meeting to consider complaints against the city's building inspector); Slipy v. Rach, No. C5-06-3574 (9th Jud. Dist. June 8, 2007) (after the advisory opinion from the Dept. of Admin. was issued, the trial court held that the city council's decision to hold the emergency meeting complied with the open meeting law).

An "emergency meeting" is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body. Posted or published notice of an emergency meeting is not required. However, the city must make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or any other method to notify members of the public body. The notice must include the subject of the meeting.

4. Recessed or continued meetings

Minn. Stat. § 13D.04, subd. 4.

No additional notice is needed for a recessed or continued meeting if all of the following criteria are met:

- The meeting is a recessed or continued session of a previous meeting.
- The time and place of the meeting was established during the previous meeting.
- The time and place of the meeting was recorded in the minutes of the previous meeting.

Minn. Stat. § 13D.04, subd. 5.
See Part III - D- Exceptions and the procedures to use them.

5. Closed meetings

The same notice requirements apply to closed meetings as to open meetings. Additionally, advance notice to an individual who will be the subject of such a meeting is needed under certain circumstances (such as to employees who are the subject of performance evaluations or disciplinary proceedings).

F. Written materials

Minn. Stat. § 13D.01, subd. 6.

At least one copy of the materials made available to the council at or before the meeting must also be made available for inspection by the public. However, this does not apply to not-public data or materials relating to the agenda items of a closed meeting.

G. Interactive television meetings

Minn. Stat. § 13D.02.

Meetings may be conducted using interactive television under certain circumstances. When a council meeting is conducted through interactive television, each council member participating in the meeting, wherever he or she is located, is considered present at the meeting for purposes of determining quorum and participation. A meeting may be conducted through interactive television if the following conditions are met:

- All members of the council participating in the meeting, wherever their physical location, can hear and see one another and also hear and see all discussion and testimony presented at any location at which at least one council member is present.
- Members of the public present at the council's regular meeting location can hear and see all discussion, testimony, and council votes.
- At least one member of the council is physically present at the regular meeting location.
- Each location at which a council member is present is open and accessible to the public.
- In addition to the notice required for the meeting, if it was not held through interactive television, the city must also post notice at the regular meeting site and at each of the sites from which a council member will be participating in the meeting.
- If interactive television is used to conduct a meeting, the council must allow a person, to the extent practical, to monitor the meeting electronically from a remote location. The council may require the person to pay for the documented marginal costs that the city incurs as a result of the additional connection.

H. Telephone or electronic meetings

Minn. Stat. § 13D.021, subd. 1.

Meetings may be conducted by telephone or other electronic means as long as the following conditions are met:

See Minn. Stat. ch. 12.

- The presiding officer, chief legal counsel or chief administrative officer for the affected governing body determines that an in-person meeting or a meeting conducted through interactive television is not practical or prudent because of a health pandemic or an emergency declared under chapter 12 of the Minnesota Statutes.
- All members of the body participating in the meeting can hear one another and can hear all discussion and testimony.
- Members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration.
- At least one member of the governing body, chief legal counsel or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the health pandemic or emergency declaration.
- All votes are conducted by roll call so that each member's vote on each issue can be identified and recorded.

Minn. Stat. § 13D.021, subd. 2.

Each member of the body participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Minn. Stat. § 13D.021, subd. 3.

If telephone or another electronic means is used to conduct a meeting, to the extent practical, the body shall allow a person to monitor the meeting electronically from a remote location. The body may require the person making a connection to pay for the documented additional cost the body incurs as a result of the additional connection

*Minn. Stat. § 13D.021, subd. 4;
Minn. Stat. § 13D.04.*

If telephone or another electronic means is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and, if practical, of the option of connecting to the meeting remotely. The timing and method of providing notice is the same as other regular, special or emergency meetings held under the open meeting law.

I. Common problems in applying the law

There are many situations for which the open meeting law is unclear. This section provides an overview of some of the more common situations and how the law may be applied.

1. Data practices

Minn. Stat. § 13D.05, subds. 1(a), 2(a).

Generally, meetings may not be closed to discuss data that is not public. However, the public body must close any part of a meeting at which certain types of not-public data are discussed (such as active law enforcement investigative data, police internal affairs data, medical records data, and certain victim, health, medical or welfare data).

Minn. Stat. §§ 13D.05, subd. 2(a); 13.03, subd. 11.

If not-public data is discussed at an open meeting when the meeting is required to be closed, it is a violation of the open meeting law. Discussions of some types of not-public data may also be a violation of the Minnesota Government Data Practices Act (MGDPA). However, not-public data may generally be discussed at an open meeting without liability or penalty if both of the following criteria are met:

Minn. Stat. § 13D.05, subd. 1(b).

- The disclosure relates to a matter within the scope of the council's authority.
- The disclosure is necessary to conduct the business or agenda item before the public body.

Minn. Stat. § 13D.05, subd. 1(c).

Data that is discussed at an open meeting retains its original classification under the MGDPA. However, a record of the meeting is public, regardless of the form. It is suggested that not-public data that is discussed at an open meeting not be specifically detailed in the minutes.

2. Interviews

Channel 10, Inc. v. Indep. Sch. Dist. No. 709, 298 Minn. 306, 215 N.W.2d 814 (Minn. 1974).

See Part III - I - *Serial gatherings.*

The Minnesota Supreme Court has held that a school board must interview prospective employees for administrative positions in open sessions. The court said that the absence of a statutory exception indicated that the Legislature had decided that such sessions should not be closed. The reasoning would seem to apply to city council interviews of prospective officers and employees as well, if a quorum is present.

Mankato Free Press v. City of North Mankato, No. C1-96-100036 (Fifth Jud. Dist. 1996).

In 1996, a district court found that it was not a violation of the open meeting law for candidates to be serially interviewed by members of a city council in one-on-one closed interviews. In this case, five city council members were present in the same building but each was conducting separate interviews in five different rooms. Because there was no quorum present in any of the rooms, the court found there was no meeting. The decision, however, was appealed.

Mankato Free Press v. City of North Mankato, 563 N.W.2d 291 (Minn. Ct. App. 1997).

Mankato Free Press v. City of North Mankato, No. C9-98-677 (Minn. Ct. App. Dec. 15, 1998) (unpublished decision).

In 1997, the Minnesota Court of Appeals reversed the district court's decision and remanded the case back to it for a factual determination on whether the city used the one-on-one interview process in order to avoid the requirements of the open meeting law. On remand, the district court found that the private interviews were not conducted for the purpose of avoiding public hearings. The case was again appealed. In an unpublished decision, the court of appeals agreed.

The implication of this decision appears to be that if serial meetings are held for the purpose of avoiding the requirements of the open meeting law, it will constitute a violation of the law. Cities that are considering holding private interviews with job applicants should first consult their city attorney.

3. Executive sessions

A.G. Op. 63-A-5 (June 13, 1957); See also *Minn. Stat. §13D.01, subd. 1(b)(4)*

The attorney general has advised that executive sessions of a city council must be open to the public.

4. Committees and liaisons

A.G. Op. 10-b (July 3, 1975).

The attorney general has advised that citizen advisory panels that are appointed by a governing body are also subject to the open meeting law.

Many city councils create committees to make recommendations to the council. Commonly, such committees will be responsible for researching a particular area and submitting a recommendation to the council for its approval. Such committees are usually advisory, and the council is still responsible for making the final decision.

A.G. Op. 63a-5 (Aug. 28, 1996).

Sovereign v. Dunn, 498 N.W.2d 62 (Minn. Ct. App. 1993); *IPAD 07-025*

City councils routinely appoint individual council members to act as liaisons between the council and particular committees. These types of meetings may also be subject to the open meeting law if the committee contains a quorum or more of the council or has decision-making authority. In addition, notice for a special council meeting may be needed if a quorum of the council will be present at the meeting and participating in the discussion.

Thuma v. Kroschel, 506 N.W.2d 14 (Minn. Ct. App. 1993); *A.G. Op. 63a-5* (Aug. 28, 1996).

For example, when a quorum of a city council attended a meeting of the city's planning commission, the Minnesota Court of Appeals ruled that there was a violation of the open meeting law, not because of the council members' attendance at the meeting, but because the council members conducted public business in conjunction with that meeting. Based on that decision, the attorney general has advised that mere attendance by additional council members at a meeting of a council committee held in compliance with the open meeting law would not constitute a special council meeting requiring separate notice. The attorney general warned, however, that the additional council members should not participate in committee discussions or deliberations absent a separate notice of a special city council meeting.

5. Chance or social gatherings

St. Cloud Newspapers, Inc. v. District 742 Cmty. Sch., 332 N.W.2d 1 (Minn. 1983).

Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983).

Chance or social gatherings of a quorum are not considered meetings under the open meeting law and are therefore exempt from it. However, a quorum may not, as a group, discuss or receive information on official business in any setting under the guise of a social gathering.

Hubbard Broadcasting, Inc. v. City of Afton, 323 N.W.2d 757 (Minn. 1982).

In 1982, the Minnesota Supreme Court held that a conversation between two council members over lunch regarding an application for a special-use permit did not violate the open meeting law because a quorum was not present.

6. Serial gatherings

Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983).

Also see Part III - I - *Interviews and Technology trouble*.

The Minnesota Supreme Court has noted that meetings of less than a quorum of the public body held serially to avoid public hearings or to fashion agreement on an issue may violate the open meeting law. In short, this type of situation is a circumvention of the statute. As such, council members should avoid this type of practice.

Mankato Free Press v. City of North Mankato, 563 N.W.2d 291 (Minn. Ct. App. 1997).

A 1997 Minnesota Court of Appeals' decision also indicates that serial meetings could violate the open meeting law. In this decision, the court looked at a situation where the members of a city council conducted individual interviews of candidates for a city position in separate rooms. Although the district court found that no meetings had occurred because there was never a quorum of the council present, the court of appeals remanded the decision back to the district court for a determination of whether the council members had used this interview process for the purpose of avoiding the requirements of the open meeting law.

Mankato Free Press v. City of North Mankato, No. C9-98-677 (Minn. Ct. App. Dec. 15, 1998) (unpublished decision).

On remand, the district court found that the private interviews were not conducted for the purpose of avoiding the requirements of the open meeting law. This decision was also appealed, and the court of appeals, in a 1998 unpublished decision, agreed. A city that wants to hold private interviews with applicants for city employment should first consult with its city attorney.

7. Training sessions

A.G. Op. 63a-5 (Feb. 5, 1975).

The attorney general has advised that a city council's participation in a non-public training program devoted to developing skills is not covered by the open meeting law. However, the opinion also stated that if there were to be any discussions of city business by the attending members, either outside or during the training session, it could be seen as a violation of the open meeting law.

8. Technology trouble

Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983).

See Part III - I - *Serial gatherings*.

The open meeting law does not address situations that may occur as a result of communication through telephone calls, letters, e-mail or similar technology. The Minnesota Supreme Court found that the open meeting law did not apply to letters or to telephone conversations between less than a quorum. While it is possible that a similar decision might be reached concerning the use of e-mail and other forms of technology, it should be stressed that if a quorum of members are involved in the communication, it would likely be considered to be a violation of the open meeting law.

Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983).

See Electronic Communications Between Council Members, LMCIT Information Memo.

In addition, serial discussions between less than a quorum of the council that are used to deliberate matters that should be dealt with at an open meeting would likely violate the open meeting law. Therefore, city councils and other groups to which the open meeting law applies should not use letters, telephone conversations, e-mail, and other such technology if the following circumstances exist:

- A quorum of the council is involved.
- Information relating to official city business is being discussed.

J. Intentional violations of the open meeting law

Minn. Stat. § 13D.06, subd. 1.4.

A public officer who intentionally violates the open meeting law can be fined up to \$300. This fine may not be paid by the public body. In addition, a court may also award reasonable costs, disbursements, and attorney fees up to \$13,000 to the person who brought the violation to court.

Minn. Stat. 13D.06, subd. 4.

If a plaintiff prevails in a lawsuit under the open meeting law, a court shall award reasonable attorney fees if the court determines the public body was the subject of a prior written advisory opinion from the commissioner of the Department of Administration, and the court finds that the opinion is directly related to the lawsuit and that the public body did not act in conformity with the opinion. A court is also required to give deference to the advisory opinion in a lawsuit brought to determine whether the open meeting law was violated.

Minn. Stat. § 13D.06, subd. 3.

Claude v. Collins, 518 N.W.2d 836 (Minn. 1994); *Brown v. Cannon Falls Township*, 723 N.W.2d 31 (Minn. Ct. App. 2006).

If a public official is found to have intentionally violated this chapter in three or more separate actions, the public official must be removed from office and may not serve in any other capacity with that public body for a period of time equal to the term of office the person was serving. However, removal is only required if the conduct constitutes malfeasance or nonfeasance.

Quast v. Knutson, 276 Minn. 340, 150 N.W.2d 199 (Minn. 1967).

The statute does not address whether actions taken at an improper meeting would be invalid. The Minnesota Supreme Court once held that an attempted school district consolidation was fatally defective when the initiating resolution was adopted at a meeting that was not open to the public.

Sullivan v. Credit River Township, 217 N.W.2d 502 (Minn. 1974); *In re D & A Truck Line, Inc.*, 524 N.W.2d 1 (Minn. Ct. App. 1994); *Lac Qui Parle-Yellow Bank Watershed Dist. v. Wollschlager*, No. C6-96-1023 (Minn. Ct. App. Nov. 12, 1996) (unpublished decision).

However, in more recent decisions, Minnesota courts have refused to invalidate actions taken at improperly closed meetings. In an unpublished decision, the court stated that “even a violation of the open meeting law will not invalidate actions taken at that meeting.”

Minn. Stat. § 13D.06, subd. 4(c).

A public body may pay any costs, disbursements or attorney fees incurred by or awarded against any of its members for an action under the open meeting law.

Part IV. Scheduling meetings

A. Who may call a council meeting?

Minn. Stat. § 412.191, subd. 2.

A special meeting may be called by the mayor of a statutory city. Additionally, a special meeting may be called by any two members of a five-member council or three members of a seven-member council. The special-meeting request should be in writing and be filed with the clerk.

Home rule charter city councils may have additional limitations and powers regarding special meetings in their charters.

B. When meetings may not be scheduled

City council meetings may not be held at any of the following times:

Minn. Stat. § 202A.19, subd. 1.

- After 6 p.m. on the evening of a major political party precinct caucus.

Minn. Stat. § 204C.03, subd. 1.

- Between 6 p.m. and 8 p.m. on a day when there is an election being held within the city’s boundaries.

City of Birchwood Village Rules of Procedure
Ordinance No. 2011-01

CITY OF BIRCHWOOD VILLAGE
COUNTY OF WASHINGTON
STATE OF MINNESOTA

To be adopted as Birchwood Code Chapter 104

THE COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE ORDAINS:

The Code of Ordinances of the City of Birchwood Village is hereby amended to add Chapter 104 as follows:

CHAPTER 104: RULES OF PROCEDURE

ARTICLE 1 GENERAL REQUIREMENTS

104.100. AUTHORITY. The City of Birchwood is authorized to adopt rules of procedure and provide for order at city council meetings pursuant to Minn. Stat. § 412.191.

104.020. PURPOSE. The purpose of chapter 104 is to establish procedures for the conduct of the city council and to provide for orderly and respectful communications between and among council members, city staff, and citizens to promote the efficient working of the public's business at city council meetings.

104.030. STATE LAW. All meetings of the city council shall be conducted in accordance with requirements of state law. The requirements of chapter 104 shall be interpreted and applied consistent with other applicable requirements of state law. In the event state law shall impose requirements that are in addition to the requirements of chapter 104 or inconsistent with chapter 104, the state law shall prevail.

ARTICLE 2 COUNCIL MEETINGS

104.200. COUNCIL MEETINGS. Sections 104.201 to 104.209 establish requirements for scheduling and noticing city council meetings.

104.201. LOCATION. All meetings, including regular, special, recessed, and continued meetings, shall be held at the city hall, unless otherwise designated pursuant to Minn. Stat. § 13D.04.

104.202. REGULAR MEETINGS. A schedule of regular meetings shall be kept on file with the city clerk.

104.203. SPECIAL MEETINGS. A special meeting is a meeting that is held at a time or location different from that of a regular meeting. A special meeting may be called by the mayor or any two city council members by filing a request for the meeting with the city clerk at least three days before the meeting. The mayor or council members calling for a special meeting shall designate the purpose of the meeting. No special meeting shall be scheduled without first confirming that a quorum will be able to attend.

104.204. EMERGENCY MEETINGS. An emergency meeting is a special meeting called because of circumstances that, in the judgment of the city council, require immediate consideration by the council. An emergency meeting may be called by the mayor or any two city council members. No emergency meeting shall be scheduled without first confirming that a quorum will be able to attend.

104.205. CLOSED MEETINGS; OPEN MEETING LAW. The Minnesota Open Meeting Law, Minnesota Statutes chapter 13D, allows some meetings to be closed to the public for defined purposes. No meeting of the city council shall be closed to the public except in conformance with the requirements of the Open Meeting Law. When a meeting is to be closed, the presiding officer shall state in public on the record before closing the meeting, the reason for closing the meeting and the state statute that permits closure. The presiding officer shall give a summary of the discussion at the closed meeting at the first open meeting following the closed meeting.

104.206. RECESSED OR CONTINUED MEETINGS. When a meeting is recessed or continued, the presiding officer shall state, pursuant to Minn. Stat. § 13D.04, subd. 4, the time and place for the next meeting to occur. The time and place shall be noted in the Minutes.

104.207. ORGANIZATIONAL MEETING. The council shall conduct its organizational meeting concurrent with the first regular council meeting in January of each year to:

- (a) Appoint an acting mayor pursuant to Minn. Stat. § 412.121.
- (b) Select an official newspaper pursuant to Minn. Stat. § 412.831.
- (c) Select an official depository for city funds.
- (d) Establish the schedule for regular city council meetings.

104.208. WORKSHOPS. The mayor or two council members may call for a workshop. A workshop is a meeting of the council with other governmental bodies or organizations or persons for the purpose of advising the council about matters of interest to the city and the council. A quorum need not be present to hold a workshop. The council shall not take any formal action at a workshop unless proper notice is given in advance that such action may be taken and a quorum is present.

104.209. NOTICE OF MEETINGS.

(a) *Notice Generally.* The council shall give such notice of all meetings of any kind as shall be required by state law.

(b) *Posted Notice.* The city shall post a notice and an agenda of each meeting on the bulletin board outside city hall at least three days in advance of the meeting, except for emergency meetings.

(c) *Emergency Meetings.* Posted or published notice of an emergency meeting is not required. However, the city will make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or any other method to notify members of the public body. The notice must include the subject of the meeting.]

(d) *Recessed or Continued Meetings.* If the time and place of a recessed or continued meeting are stated at the meeting that is recessed or continued, no additional notice of the meeting is required. However, if the time and place are not stated, the notice procedures for special meeting shall be required. Additional notice may be given if time and circumstances permit.

(e) *Workshops.* The council shall give at least three days notice of a workshop by posting notice on the bulletin board outside city hall and by whatever other means the council determines are appropriate.

(f) *Days.* In calculating the number of days for providing notice, the first day that the notice is given is not counted, but the day of the meeting is counted. If the meeting day is a Saturday, Sunday, or legal holiday, that day is omitted from the calculation.

(g) *Webpage.* The city shall to the extent reasonable post notice of all meetings and workshops on the city webpage.

(h) *E-mail.* The city shall provide notice via e-mail of all meetings and workshops to individuals who have requested such notice and provided an e-mail address to the city.

ARTICLE 3 AGENDAS

104.300. AGENDA. The city clerk shall prepare an agenda for all city council meetings and workshops in accordance with the requirements of sections 104.301 to 104.309.

104.301. COUNCIL MEMBER ITEMS. The mayor and any city council member may request that an item be placed on a meeting agenda. The clerk shall determine whether to place the matter on the agenda, considering the number of items already on the agenda and whether supporting materials are available and the urgency of the matter.

The clerk shall advise the council at the next meeting of all requested items that were not placed on the agenda. The council may direct the clerk to include the item or items on a future meeting agenda.

104.302. PUBLIC ITEMS. Any person may request that an item be placed on a council agenda. All requests to place an item on an agenda shall describe the subject matter to be considered by the council and any action requested. The clerk may require the person to submit the request in writing. The clerk shall determine whether or not to place the item on the agenda. The clerk shall advise the council at the next meeting of all items that were requested to be placed on the agenda that were not included. The council may direct the clerk to include the item or items on a future meeting agenda or may take such other action as the council deems appropriate.

104.303. CONSENT AGENDA. The clerk may include a consent agenda for items that can be approved by the council without discussion and with only one motion and vote. Any item on the consent agenda may be removed from consideration by the request of any one council member. Any item removed from the consent agenda shall be placed on the regular agenda for discussion and consideration at a time determined by the presiding officer.

104.304. MINUTES. The agenda shall include an item for consideration of the Minutes from the previous meeting or meetings if such Minutes are available.

104.305. PUBLIC FORUM. Each regular meeting shall include a time for the public to address the council on any matter. In the interests of time, the presiding officer may limit the amount of time for an individual to speak or to allot for the entire item. The public forum item may be used to announce upcoming community events.

104.306. ACTION ITEMS. Other than for routine matters like approval of Minutes and adoption of the agenda, the clerk shall include with each item on the agenda a description of the action the council will consider taking.

104.307. DOCKET NUMBERS. The clerk shall assign a docket number to each major item on a meeting agenda. The docket number, once assigned, shall continue with the matter for future reference and action.

104.308. AVAILABILITY OF AGENDA. The agenda for any meeting, except an emergency meeting, shall be prepared at least three days in advance of the meeting. The agenda shall be posted on the city bulletin board at city hall and posted on the city webpage.

104.309. DELIVERY TO COUNCIL. For all regular meeting the agenda for each meeting, along with any supporting materials for the various items on the agenda, shall be delivered to each council member at least five days in advance of the meeting. For emergency meetings and special meetings, the clerk shall deliver the required materials as far in advance of the meeting as time permits. Delivery may be by mail or e-mail or

by actual delivery to the council member. The council may allow additional written materials to be submitted after this date or at the meeting but the council can also determine to postpone consideration of the matter to allow additional time to consider late-filed information.

ARTICLE 4 CONDUCT OF MEETINGS

104.400. CONDUCT OF MEETINGS. All meetings of the council shall be conducted in accordance with the requirements and procedures set forth in sections 104.401 to 104.406.

104.401. QUORUM. No meeting of the city council shall occur without the presence of a quorum. A simple majority of the council – three members – shall constitute a quorum for the valid transaction of any scheduled business to come before the council.

104.402. MEETING CANCELLATION. The clerk shall cancel any scheduled meeting of the city council when it is determined that a quorum will not be present for the meeting. In such event, the clerk shall post notice of the cancellation on the bulletin board outside city hall and provide notice to all council members by e-mail or telephone and to all individuals who have requested to be notified by e-mail of all council meetings. Any subsequent meeting scheduled after cancellation of a meeting shall occur only after compliance with applicable notice requirements.

104.402. PRESIDING OFFICER. The mayor shall preside at all meetings of the city council, unless the mayor is absent, in which case the deputy mayor shall preside. In the absence of both the mayor and the deputy mayor, the city clerk shall call the meeting to order and the remaining three council members shall decide who shall preside. The presiding officer shall have the following duties and authority:

(a) *Preserve Order.* The presiding officer shall preserve order and decorum, enforce the requirements of chapter 104, and determine all questions of procedure and order, subject to the final decision of the council on appeal as provided in paragraph (e).

(b) *Council Discussion.* The presiding officer shall determine which member has the right to speak and may move matters to a vote once the officer has determined that all members have had an opportunity to speak.

(c) *Motions and Voting.* The presiding officer may determine whether a motion or proposed amendment is in order and may call members to order. The presiding officer may make motions, second motions, speak on any question, and vote on any matter properly before the council.

(d) *Adjourn Meetings.* If considered necessary to preserve order, the presiding officer may adjourn or continue a meeting to another time or suspend a meeting for a specified time.

(e) Appeal of Ruling. In the event a council member disagrees with the ruling of the presiding officer on a procedural matter, the council member may make a motion to appeal the decision to the full council. The member making the motion may speak once on the motion and the presiding officer may explain the ruling, and other council members may speak once on the motion. Once both the maker of the motion and the presiding officer have been heard, the matter shall be voted on by the council.

104.403. ADOPTION OF AGENDA. The council shall follow the agenda that has been prepared for the meeting, but the council may re-order the agenda at the start of the meeting prior to adopting the agenda. Items requiring action by the council may be added to the agenda only if a determination is made by the council that the matter cannot wait until it is properly on a meeting agenda. The presiding officer may switch the order of items on the agenda in order to accommodate schedules or other requests.

104.404. DECORUM OF COUNCIL MEMBERS. The following rules of decorum shall apply to all council meetings.

(a) All council members shall assist the presiding officer in preserving order and decorum and in providing for the efficient operation of the meeting.

(b) No councilmember shall engage in conduct that delays or interrupts the proceedings or which hinders honest, respectful discussion and debate.

(c) All council members shall conduct themselves in a courteous manner that recognizes the validity of differing points of view and promotes the ideal of democratic discussion and debate free of insult, slander, and personal attacks and threats.

104.405. PUBLIC PARTICIPATION. Members of the public are generally not allowed to participate in council discussion and deliberation. The presiding officer may recognize a member of the public and allow the person to speak under terms established by the presiding officer. A member of the public who is permitted to speak may be asked questions by the council members. Speakers shall comply with the requirements of section 104.406(b). Members of the public shall not engage in conversation or other behavior that may disrupt proceedings of the council. Members of the public shall refrain from applauding unless invited to do so by the presiding officer.

104.406. PUBLIC COMMENT PERIOD. A limited forum for members of the public to speak with the council will be provided on the agenda for regular meetings. Public comments during the public comment period are subject to these limitations:

(a) Speakers must sign up prior to speaking and provide a name, address, and brief summary of the subject matter they wish to address. The sign-up sheet will be available at the start of the city council meeting.

(b) Speakers must be recognized by the presiding officer before speaking and may be limited to three minutes for comment. Speakers must direct their remarks toward

the presiding officer. Speakers shall not use obscene, profane or threatening language, nor conduct themselves in a threatening, loud, or boisterous manner that disrupts the conduct of the meeting or the security of the public. When multiple speakers appear to speak on the same topic, comments should not be repetitive. The presiding officer may request speakers to appoint a spokesperson.

(c) The presiding officer may place a time limit on the public comment period if necessary to allow for the conduct of city business. If there is not sufficient time at the meeting to hear all public comments, the comment period may be deferred to another meeting.

(d) Council will generally not respond at the same meeting to an issue initially raised by a member of the public. The council may request that additional information be gathered and identify persons who will be asked to undertake that task.

ARTICLE 5 COUNCIL ACTION

104.500. COUNCIL ACTION. The city council shall take action on items in accordance with the provisions of sections 104.500 to 104.506.

104.501. PROPER MEETING. The council shall not take any official action as a council except at a properly called and noticed meeting of the council.

104.502. DELIBERATION. Each council member shall be permitted to participate in council deliberation of an item on the agenda. Deliberation may occur before and after a motion has been made. No council member shall speak until recognized by the presiding officer.

104.503. MOTIONS. A motion is a request by a council member for formal action by the city council. Motions shall be made and considered in accordance with the following provisions:

(a) *Making Motions.* Any city council member including the presiding officer shall be entitled to make and second motions. All motions must be seconded before being discussed. Only one motion at a time shall be considered and debated by the city council.

(b) *Objections.* Any member of the council may object to a motion if the member believes the motion is not in order. A motion is in order if:

(i) it is germane to the item under consideration, and

(ii) made at a proper time in the proper format, and

(iii) does not violate any rule of law, and

(iv) is not made for the purpose of delaying the proceedings.

An objection must be made immediately following the motion before debate begins and at no other time. Before ruling, the presiding officer shall allow the objector and then the mover to explain their positions on why the motion is or is not in order. The presiding officer shall determine whether the motion is in order, subject to appeal of the ruling. If the presiding officer rules that the motion is out of order, the motion shall not be considered.

(c) *Debate on a Motion.* Only one motion may be considered at a time in debate. A council member must be recognized by the presiding officer before speaking to the motion. The presiding officer may limit the amount of time any one council member may speak to the motion.

(d) *Amendment of Motion.* Any council member may move to amend a motion at any time before a vote is taken. The amendment requires a second. If the amendment is acceptable to the mover and seconder of the original motion, the amendment shall be considered a friendly amendment and no vote of the council is required to replace the original motion with the amended motion. Only two amendments may be made to an original motion, in order to avoid confusion.

(e) *Motion to Withdraw a Motion.* A motion to withdraw a motion can be made by the maker of the motion before it is seconded and the motion will be withdrawn. After a second is received, the seconder must agree to the withdrawal.

(f) *Motion to Limit Debate.* Any council member may move to limit debate on a motion under consideration. The motion must be seconded. The mover shall identify the length of time debate should occur. The motion itself is not subject to debate.

(g) *Motion to Table.* Any council member may move to table a motion at any time. The motion must be seconded. The motion is not subject to debate. The motion need not identify a length of time to table the motion but a date or time may be specified. A motion that has been tabled may be taken off the table by action of the council but the matter must be properly on the agenda in order to be taken off the table and acted upon.

(h) *Motion to Call the Question.* Any council member may move to call the question. The motion must be seconded. The motion is not subject to debate. If the motion passes, debate shall cease and the council shall vote on the motion before it.

104.504. RESOLUTIONS. The council shall determine those matters that are of such significance that action on the matter shall be taken by resolution rather than by motion. Such action shall include, at a minimum, approval of contracts, licenses, and permits, the adoption or amendment of city policies, rules, and ordinances, receipt of grants, donations, and other funds, and adoption of budgets. All resolutions shall be written and numbered in a manner consistent with the city's record keeping practices. All resolutions shall be acted upon in accordance with the provisions of this chapter.

104.505. VOTING. All votes of the city council shall be conducted in accordance with the following:

(a) No action shall be taken by the city council except upon a majority vote of the council, unless state law requires more than a majority on a particular matter. If only three members of the council are present and constitute the quorum, a matter may pass on a vote of two to one, unless state law provides otherwise or unless the matter is the adoption or amendment of an ordinance, which shall require three votes regardless of the size of the quorum. If a matter shall end in a two to two tie vote, no action shall be taken but the matter may be placed on the agenda for a future agenda, unless state law provides otherwise. In the event a matter incurring a tie vote is placed on a future meeting agenda, any member may change his or her vote from one meeting to the next.

(b) Any council member or the clerk may ask the presiding officer to restate the motion that is being voted upon prior to the actual vote.

(c) The votes of the city council shall be taken by voice vote. Any member may call for a roll call vote on any motion or resolution. All resolutions shall be voted upon by roll call vote. On a roll call vote, the clerk shall call on council members in random order so the same council member is not called upon first with every roll call vote.

(d) At the conclusion of every vote the presiding officer shall announce the results of the vote.

(e) Any member who abstains from voting because of a conflict of interest or other reason shall state on the record the reason for abstaining.

(f) A clear statement of the action voted upon and the votes of each member shall be stated in the Minutes of the meeting.

104.506. RECONSIDERATION. Any matter acted upon by the council may be reconsidered at a subsequent meeting or at any time until the deadline for an appeal has expired or as otherwise provided by state law. Only a council member who voted in the majority on the original action can make a motion for reconsideration. The matter must be on the agenda for the meeting and can be acted upon according to the provisions of this chapter.

ARTICLE 6 RECORDKEEPING

104.600. MINUTES. The clerk shall prepare and maintain Minutes of each council meeting. Minutes of workshops shall not be required. The Minutes of each meeting shall be posted on the city webpage after approval by the council.

104.601. CONTENT OF MINUTES. The Minutes shall contain at a minimum the following:

- (a) The city council members who are present at the meeting.
- (b) The type of meeting (regular, special, continued, emergency).
- (c) Date and place the meeting was held.
- (d) Time the meeting was called to order.
- (e) Approval of Minutes approved at the meeting.

(f) A description of all action of the council, including the name of the member making any motion and the member seconding the motion and the vote of each council member on the motion.

(g) Ordinances, contracts, and other documents approved by the council shall not be included in the Minutes but shall be maintained on file in the city hall by the clerk. Resolutions shall be included in the Minutes, although the documents that are the subject of the resolution shall not be included.

(h) The Minutes shall not constitute a transcript of the proceedings and shall not contain lengthy descriptions of council discussion of agenda items.

104.602. CODE BOOK. The Clerk shall maintain a Code Book containing the city ordinances that are in effect.

104.603. VIDEO RECORDING OF MEETINGS. The clerk shall maintain a video or audio recording of each city council meeting for which such a recording is available.

104.604. WEBPAGE. The city clerk shall post on the city webpage such information as the clerk deems appropriate or as is required by chapter 104 or the city council. The city clerk shall maintain an up-to-date code book on the city webpage.

104.605. DATA RETENTION. The council hereby adopts the Minnesota City General Records Retention Schedule (revised 2008) on file with the Minnesota Historical Society, State Archives Department. The city shall not destroy or discard any information required to be maintained by chapter 104 or state law except in conformance with this Schedule.

ARTICLE 7 ORDINANCES

104.700. PROPOSED ORDINANCE. Any council member may bring to the attention of the council a proposed ordinance or a proposed amendment to an existing ordinance if the matter is properly on the agenda. The proposed ordinance or amendment shall be presented to the council in writing.

104.701. PROCEDURE FOR ADOPTION. No new ordinance or amendment to an existing ordinance shall be adopted except in accordance with the following procedures:

(a) Proposal. The council shall first pass a motion to propose the adoption of a new ordinance or ordinance amendment. The language of the ordinance or ordinance amendment shall be in writing at the time of the action. No ordinance or amendment may be passed by the council at the meeting at which it is introduced.

(b) Notice. The council shall give twenty days notice of the proposed adoption of the ordinance or amendment in the official newspaper of the city and announce the holding of a public hearing at an upcoming council meeting. The notice shall include a summary of the ordinance language and indicate where a complete copy of the proposed ordinance may be reviewed. The notice shall inform the public that they will be permitted to submit oral comments at the public hearing and advise the public of how and when it may submit written comments on the proposed ordinance.

(c) Public Hearing. The council shall hold a public hearing as part of a council meeting on the proposed ordinance or amendment. The hearing shall be held in accordance with the requirements of section 140.800 to 140.804.

(d) Adoption. The city council may take action on the ordinance or amendment any time after completion of the public hearing.

(e) Majority Decision. No ordinance or ordinance amendment shall be adopted by the council except upon the vote of a majority of the council members, regardless of how many constitute a quorum at the meeting at which the matter is decided.

104.702. Publication. After adoption of a new ordinance or ordinance amendment, the city shall publish notice of the adoption and the ordinance itself in the official newspaper of the city. The city may elect to publish a summary of the ordinance if the ordinance is lengthy provided four council members vote to do so and approve the summary.

104.703. EFFECTIVE DATE. Unless the city council provides differently in the adoption of the ordinance or amendment, the new language shall be effective after publication in the official newspaper. The clerk shall record the new ordinance in the code book within twenty days after publication.

104.704. CODE BOOK. Upon completion of the procedures to adopt an ordinance or an amendment, the clerk shall record the new ordinance in the code book.

ARTICLE 8 PUBLIC HEARINGS

104.800. HEARING REQUIRED. A public hearing shall be held whenever required by city ordinance, state law, or order of the city council.

104.801. PUBLIC NOTICE. Whenever a public hearing will be held, the city shall give notice of the hearing in the same manner as for the council meeting at which the hearing will be held. The city shall give such other notice as may be required by city ordinance or state law. The matter that is the subject of the hearing shall be included on the agenda for the meeting.

104.801. CONDUCT OF HEARINGS. Each public hearing shall be conducted in accordance with the following:

(a) The presiding officer shall open the hearing and announce the purpose of the public hearing.

(b) The presiding officer may call upon staff or other council members to make any opening statements if appropriate.

(c) The presiding officer shall recognize members of the public who would like to address the council and enter comments into the record. Persons making oral statements may be asked questions by members of the council. The presiding officer may ask commenters to limit the amount of time they speak or to select a spokesperson to represent a group of people if time becomes an issue.

(d) The presiding officer shall accept written comments into the record.

(e) The presiding officer shall identify any written comments that were received from persons not wishing to speak at the hearing and enter those into the record. The presiding officer may elect to have the written comments read into the record if appropriate. The presiding officer may refuse to accept unsigned, anonymous written comments.

(f) After every person who wishes to speak has had an opportunity to do so, the presiding officer shall close the public meeting.

(g) The presiding officer shall announce whether a period of time for the public to submit written comments will be established. No comment period shall be longer than twenty days from the close of the hearing. If a comment period is established, the council shall not take final action on the matter that is the subject of the hearing until after close of the comment period.

104.802. CONTINUATION OF HEARING. The presiding officer may elect to continue a public hearing if necessary to accommodate all members of the public who wish to speak.

104.803. COUNCIL ACTION. Any time after completion of the public hearing, including the day of the hearing, or any time after the close of a public comment period if one is established, the council may take action on the matter.

ARTICLE 9 COMMITTEES AND POLICIES

104.900. COMMITTEES. The city council may establish a committee to assist the council in carrying out its duties. Whenever the council creates a committee, it shall give the committee a name, establish its purpose, determine the number of members and their terms, and determine whether any compensation will be provided to members who serve on the committee. The council shall also determine whether the committee shall expire on a date certain or continue until further action of the council. The council's action in creating a committee shall be reduced to writing and placed on the city webpage by the clerk.

104.901. POLICIES. The council may adopt policies regulating matters within the jurisdiction of the council. All policies shall be in writing. The council may adopt a new policy or amend an existing policy at any time, provided the matter is properly on a council meeting agenda. The clerk shall maintain a handbook containing all policies adopted by the council and place all policies adopted by the council on the city webpage.

City of Birchwood Village

Human Resource Principles

City employees and contractors are a valuable resource. They are the primary means by which city services are provided. The Birchwood City Council, therefore, believes that it is essential to provide an organizational structure and a work climate which:


Respects the dignity and worth of individuals, by encouraging their highest level of performance in a fair, challenging, objective and cooperative work environment. Individual rights are respected. Timely and open communication to and from employees and contractors is encouraged. The City Council is ultimately accountable for the performance and development of city employees and for the prompt and thorough completion of tasks the city has contracted.

Encourages the initiative of each employee by providing both direction and the freedom to work creatively. Employees are to be encouraged and supported in an atmosphere of integrity and mutual respect.

Challenges individual capabilities through proper placement, orientation and development. Responsibility for employee development is shared by the employee and by the City Council member assigned as Personnel Director.

Provides equal opportunity for development and equitably rewards good performance. Performance is evaluated against objective, job-related criteria and is rewarded with appropriate recognition and compensation.

Passed this 14th day of September, 1999 as Council Resolution No. 1999-11.



mayor



clerk

City of Birchwood Village Harassment Policy

Scope of Policy

This policy applies to all city employees, contract workers, consultants, interns, distributors, customers, vendors, guests or any other people doing business with the city. The workplace covered by this policy includes all locations where city business is conducted, including city-sponsored social events.

Harassment

Harassment is a violation of law. Harassment is unwelcome and hostile verbal, physical or visual conduct toward an individual because of age, disability, marital status, national origin, race or color, religion, sex or sexual orientation, when the conduct:

- Creates an intimidating, hostile or offensive work environment;
- Causes work performance to suffer; or
- Negatively affects job opportunities.

Specific actions that can be considered harassment include, but are not limited to:

- Verbal conduct, such as offensive name-calling, jokes, slurs, negative stereotyping, or threatening, intimidating or hostile acts.
- Nonverbal conduct such as leering and giving inappropriate gifts.
- Physical conduct, such as assault, unwanted touching, intentionally blocking normal movement or interfering with work.
- Visual conduct, such as derogatory posters or offensive photography, cartoons, drawings or gestures.

Constructive criticism and supervisory actions regarding performance deficiencies or other workplace issues is not harassment.

Sexual Harassment

Sexual harassment is unwelcome sexual or sex-based behavior. Specific actions that can be considered sexual harassment include, but are not limited to:

- Demanding sexual favors with an implied or overt threat concerning hiring, promotion, termination or awards of contract work for the city.
- Conduct of a sexual nature that unreasonably interferes with an employee's job performance and creates an intimidating, hostile or offensive work environment.

Inappropriate Behavior

Even though behavior may not fall into the harassment definitions discussed above, it may be unprofessional or inconsistent with maintaining a respectful work environment. The city reserves the right to address inappropriate behavior that comes to the attention of the City Council, even in cases where nobody steps forward to complain or when nobody present claims to have been offended by the inappropriate behavior.

Dealing With Violations

The City of Birchwood Village will take action to address fairly and objectively any behavior that the City Council, acting collectively, finds inappropriate for our work environment. If harassing or inappropriate behavior is not corrected, or if a specific situation warrants, disciplinary action will be taken, up to and including termination for employees, and contract termination for service providers.

If you experience or witness any type of harassment or inappropriate behavior, exercise these options to deal with the situation immediately:

- Politely but firmly advise the person that you believe the behavior is inappropriate and that you want it to stop. Sometimes, an individual does not realize his or her behavior bothers or offends others. In many cases, individuals successfully resolve concerns through such discussions.
- If you choose not to address the issue directly with the person, or if the person fails to respect your request, report the situation to the City Official responsible for personnel issues. If you prefer, speak to the mayor.
- If the situation involves sexual harassment and you are more comfortable discussing the concern with a person of the same sex, you may contact any other member of the City Council.

A complaint of harassment or inappropriate behavior will be investigated and dealt with in a manner that respects the confidentiality of the individuals involved whenever reasonably possible.

City Council Responsibilities

The Birchwood City Council is committed to insuring that the city provides a workplace free of harassment and inappropriate behavior, and that complaints are handled promptly and effectively.

The City will endeavor to:

- Inform people with whom they transact city business about this policy.
- Make sure allegations of harassment and inappropriate behavior are promptly and fairly investigated. An independent investigation into alleged violations will be conducted by a city appointed neutral fact finder. That neutral fact finder will investigate the allegation and prepare a written Findings of Fact which will be submitted to the City Council. The Findings of Fact is advisory to the City Council which reserves the right to make all final determinations.
- Ensure that retaliation is not tolerated against anyone who in good faith reports a suspected violation of this policy or who cooperates in the investigation of an alleged violation.
- When this policy has been violated, take appropriate disciplinary action, up to and including termination of city employees, or, in the case of contract service providers, termination of the business relationship with the City.
- Take action to ensure that any violations of this policy are not repeated.

Retaliation Is Prohibited

Retaliation is strictly prohibited by this policy and by law against anyone who in good faith reports a suspected violation of this policy. Retaliation means taking any adverse action in response to the complaint having been made.

Constructive criticism and supervisory actions regarding performance or other workplace issues are not retaliation.

If you believe you have been subjected to retaliation in violation of this policy, you should inform the City Official responsible for personnel issues immediately. The allegation will be promptly investigated. If retaliation is found, the person retaliating will be subject to disciplinary action up to and including termination or, in the case of contract service providers, termination of the business relationship with the city.

Passed this 9th day of November, 1999 as City Council Resolution No. 13.

D. J. Eriksson, mayor Katherine M. Weber clerk

**CITY OF BIRCHWOOD VILLAGE
TREASURER EMPLOYMENT AGREEMENT**

AGREEMENT made this ____ day of _____, 2010, by and between the City of Birchwood Village, Minnesota (“Employer”), and Cindie Reiter (“Employee”).

The parties agree as follows:

1. **POSITION.** Employer agrees to employ Employee to perform the functions and duties of the City Treasurer and to perform other legally permissible and proper duties and functions as the City shall from time to time assign. A description of the enumerated job duties of the City Treasurer is attached hereto as “Exhibit 1.”
2. **COMMENCEMENT OF EMPLOYMENT.** Employee’s start date shall be the first day of February 2011. Employee shall be an employee “at will,” and such employment may be ended by either Employer or Employee at any time and for any reason.
3. **COMPENSATION.** Employer shall pay Employee semimonthly on the first and the 15th day of each month. Employee shall be paid at a rate of \$19 per hour, and the position is part-time and expected to average approximately 12 hours per week. Any hours worked in excess of an average of 12 hours per week within a pay period shall have prior approval by the Mayor, Personnel Director, or the City Council as a whole. The Employee shall complete timesheets for all hours worked and provide the same to the City Council in the Council packets for the first meeting in the month following the performance of the work for review.
4. **PENSION PLAN AND OTHER BENEFITS.** Employer shall contribute to the Public Employees Retirement Association (PERA) for Employee as required by State law, or an alternate pension plan, if selected by Employee, authorized by State law. Employer shall pay for Employee’s FICA and Worker’s Compensation contributions. Employee shall not be entitled to paid time off, holiday pay, health insurance, life insurance, or any other benefits not enumerated herein.
5. **HOURS OF WORK & OFFICE HOURS.** Generally, the employee is expected to perform the work at city hall or within the jurisdiction of the City of Birchwood Village. Occasionally, the employee will perform the work at other locations when required to conduct the work of the city. From time-to-time the Employee shall be requested to attend regular and special city council meetings or any other meeting directed by the City Council, necessary to complete the basic functions of the job. Employee may perform work normally done at City Hall outside of City Hall if pre-approved by the Mayor or Personnel Director, or during emergency situations.
6. **ATTENDANCE AT COUNCIL MEETINGS.** The employee may, on occasion, be requested by the mayor or city council to attend a regular or special city council meeting. Employee shall be compensated at the hourly rate set forth above for such work.

7. **GENERAL EXPENSES.** Employer recognizes that certain expenses of a non-personal and generally job-affiliated nature will be incurred by Employee, and hereby agrees to reimburse Employee for such expenses. All such expenses shall be consistent with the annual budget approved by the City Council, and such reimbursement shall be subject to review and approval by the City Council. Employee shall keep receipts or other proof of payment and submit them, along with an itemized ledger, to the City Council for review prior to reimbursement. The Employee shall be compensated for mileage at the rate established by the Internal Revenue Service.
8. **GENERAL CONDITIONS OF EMPLOYMENT.** The parties expressly agree that Employee's employment is "at-will." Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employer to terminate Employee's employment at any time, and for any reason. Furthermore, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from his position with Employee; the Employer requests a courtesy notice of a minimum of two weeks.
9. **APPLICABILITY OF PERSONNEL POLICIES AND RESOLUTIONS.** Except where specifically abridged or modified by this Agreement, personnel policies as defined and set forth for employees of Employer, whether previously enacted or to be enacted in the future, shall apply to this Employee.
10. **OTHER TERMS AND CONDITIONS OF EMPLOYMENT.** The City Council and Employee may mutually agree to any other terms and conditions of employment of Employee as they may mutually deem appropriate from time-to-time, provided such terms and conditions are not inconsistent with the provisions of this Agreement, the laws of the State of Minnesota, the ordinances of Employer, or any other applicable laws. Subject to the provisions of this Agreement, Employee is not prohibited from securing additional employment elsewhere so long as the additional employment does not conflict with performing the basic functions of the city treasurer job. Said additional employment shall not be with an employer in which the appearance or fact of a conflict of interest with the Employer is apparent.
11. **DECORUM.** Without the express written consent of the City Council, the Employee, acting within the scope of employment, shall not engage in activities, actions, public displays, or behavior that are directly contrary to the established policies, goals, programs or positions of Employer. The Employee shall not publicly offer opinions representing same to be the official position of Employer on any matter that has not been approved by the City Council for release. The Employee shall not use or disclose any information or data not otherwise already in the public domain for personal or financial gain. The Employee shall disclose to the City Council any direct, indirect or perceived conflicts of interest that the Employee may have relative to matters appearing before the City Council or as may be transacted by Employer in its routine operations.
12. **INDEMNIFICATION.** Employer shall defend and indemnify Employee pursuant to Minnesota Statutes § 466.07. In addition, Employer shall defend, hold harmless, and indemnify Employee from all torts; civil damages and penalties, and fines; and violation of

statutes, laws, rules and ordinances, provided the Employee was lawfully acting in the performance of the duties of the position.

13. **ASSIGNMENTS AND SUBCONTRACTS.** None of the sums due, or about to become due, nor any of the work to be performed under this Employment Agreement by Employee shall be assigned to any third party without the prior written consent of Employer.
14. **APPLICABLE LAW.** This Employment Agreement shall be deemed to have been entered into and shall be construed and governed in accordance with the laws of the State of Minnesota.
15. **WAIVERS.** Failure of either party to insist, in any one (1) or more instances, upon the performance of any of the terms, covenants, or conditions of this Employment Agreement, or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future exercise of such right, but the obligation of the other party with respect to such future performance shall continue in full force and effect.
16. **SEVERABILITY.** The invalidity or unenforceability of any particular provision of this Employment Agreement shall not affect the other provisions, and this Employment Agreement shall be construed in all respects as if such invalid or unenforceable provision or provisions were omitted.
17. **AMENDMENTS.** The terms of this Employment Agreement may not be amended, modified, released, interpreted or changed in any manner, except by written instrument signed by duly authorized representatives of both parties.
18. **HEADINGS.** The headings utilized herein are provided as aids in referencing provisions of this Employment Agreement, but shall not be utilized in interpretation or construction of the terms and conditions herein.
19. **MERGER.** This Employment Agreement and any attachment (when signed by both parties) contain the entire and only understanding or agreement between the parties in relation to the subject matter hereof. Any representations, provision, undertakings or conditions not contained herein shall be of no effect and nonbinding. This Agreement shall constitute the entire agreement between the parties and shall be binding upon and inure to the benefits of the heirs, executors, administrators and successors in interest of the parties.
20. **FORCE MAJEURE.** Neither party shall be liable or deemed to be in default for any delay or failure to perform under this Employment Agreement resulting, directly or indirectly, from any cause beyond reasonable control, including, but not limited to, war, fire, riot, insurrection and acts of God.

IN WITNESS WHEREOF, Employer has caused this Agreement to be signed and executed on behalf of its Mayor and Council, and Employee has signed this Agreement, in duplicate, the day and year first written above.

EMPLOYER:

By: _____

Date: _____

Its: _____

EMPLOYEE:

Date: _____

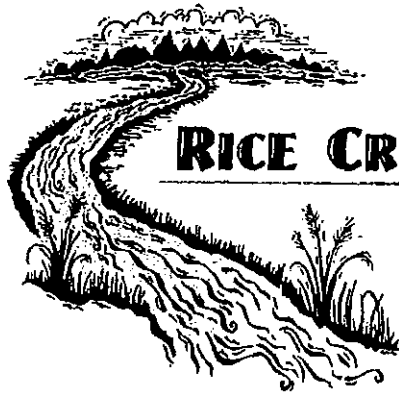
CITY OF BIRCHWOOD
TITLE OF CLASS: TREASURER
March 2010

Purpose of Position

Perform general accounting functions, financial record keeping and other duties as required under M.S. 412.141 prescribed by law; directly reporting to the City Council or their designee.

Duties

- preparation of monthly reports of fund balances and year-to-date comparisons to budget;
- preparation of periodic reports and forecasts of cash flow and cash position, including year end filings and budget reporting
- track due dates of investments, provide recommendations and then implementation of investments per council approval
- evaluation of project costs and vendor fees
- preparation of annual budget worksheets, assist in developing annual budget process
- maintenance of the accounting system, including prompt entry of all receipts and disbursements, and reconciling accounts monthly
- deposit and transfer moneys between accounts and prepare bank reconciliations monthly
- attendance at meetings as directed by council
- assist in completing grant and loan applications; administer grant money that is received
- provide access to financial books and records as required by law
- any other statutory duties under M.S. 412.141 prescribed by law
- other duties as assigned or requested by the City Council
- complete and file all financial information as required by the various regulatory agencies



RICE CREEK WATERSHED DISTRICT

4325 Pheasant Ridge Dr. NE #611 • Blaine, MN 55449-4539
Phone: 763-398-3070 • Fax: 763-398-3088
www.ricecreek.org

December 14, 2010

Request for Proposals: Rice Creek Watershed District 2011 Urban Stormwater Remediation Cost-Share Program

In keeping with the goals and objectives outlined in our current Watershed Management Plan and as part of our continued efforts to protect and enhance those water resources, the Rice Creek Watershed District (RCWD) is making available approximately \$175,000 in cost-share funding to assist counties, cities, townships, school districts, libraries and other public and private entities located within the RCWD to incorporate water quality improvement practices into redevelopment, roadway and storm sewer improvement projects in 2011. Funding will only be available for the water quality improvement portions of a project that are not part of a permit requirement. Cost-sharing will be based on 50% of estimated project costs or bid cost, whichever is lower, not to exceed \$50,000 per project. Please review our Program Guidelines and Application Form for more information regarding eligibility, acceptable types of projects and the process for participating in the program.

DOES YOUR PROJECT PROPOSAL FIT THIS DESCRIPTION?

- The proposed project must be located in a sub-watershed containing one of the following waterbodies:
Lakes: Bald Eagle, Centerville, Clear, Golden, Hart, Island, Johanna, Jones, Josephine, Karth, Langton, Little Johanna, Little Josephine, Locke, Long, Marsden, Martha, Moore, Pike, Pine Tree, Poplar, Round, Rush, Silver, Spring, Sunfish, Sunset, Turtle, Walsh, White Bear, Zimmerman
Streams: Hardwood Creek
 Contact the RCWD if you need assistance determining sub-watershed boundaries for these waterbodies.
- Your project uses Best Management Practices (BMPs) designed to enhance water quality treatment from redevelopment, roadway, trail, and storm sewer improvement projects. RCWD will not provide funding for new development projects or portions of projects necessary to meet RCWD permit requirements.
- The project demonstrates a measurable reduction of runoff volume, nutrients, sediments, chlorides, and/or oxygen-demanding substances to a qualified waterbody.

If your project proposal is consistent with the above criteria, please review the attached program guidelines. An application form is available for download at www.ricecreek.org/grants. To submit a proposal complete the application form and return it, along with all required components, to the RCWD office no later than 4:30 p.m. on Wednesday, March 16, 2011. If you have any questions, please contact Kyle Axtell, Water Resource Specialist, at 763-398-3072 or kaxtell@ricecreek.org.

Sincerely,

Phil Belfiori
RCWD Administrator

BOARD OF
MANAGERS

Barbara A. Haake
Ramsey County

Rick A. Mastell
Anoka County

Harley M. Ogata
Ramsey County

Patricia L. Preiner
Anoka County

John J. Waller
Washington County



Rice Creek Watershed District 2011
Urban Stormwater Remediation Cost-Share Program
Program Guidelines

1. APPLICATION

The application form for RCWD's Urban Stormwater Remediation Cost-Share Program can be downloaded from the District's website at <http://www.ricecreek.org/grants>. A complete application, including a preliminary conceptual design, must be submitted for District review to ensure consistency of the project with RCWD water quality goals and objectives.

All sections (I through XIII) on the application form are required.

2. TIMETABLE & PRIORITIZATION

Applications must be received by March 16, 2011. If available funds will not accommodate cost-sharing for all acceptable applications, projects will be prioritized based on priority of the waterbody and effectiveness of the project in reducing pollutant loads. Unfunded applications may be resubmitted for consideration in a future funding year. The goal of the District will be to notify applicants of Board action by May 18, 2011. If available funds exceed the cost-share obligations of approved requests received by the application deadline, the District reserves the right to consider applications received after the deadline on a first-come, first-served basis. Submittal of an application for funding, regardless of availability, does not in any way guarantee acceptance into the program.

3. FUNDING AVAILABILITY

For 2011, the District anticipates making approximately \$175,000 available to fund the implementation of projects approved through this program. For approved projects, the District may fund up to 50% of eligible project costs, not to exceed \$50,000 per project. The District reserves the right to offer cost-share funding to a selected project for less than the requested amount and/or offer cost-share funding for a specific portion(s) of a selected project.

4. COST-SHARE AGREEMENT

Upon formal acceptance into the program by the RCWD Board, a written cost-share agreement will be executed between the District and the cost-share recipient.

5. DESIGN & MAINTENANCE PLAN

After acceptance into the program and before execution of the cost-share agreement, final design specifications and calculations and an operation and maintenance plan must be submitted for District review and approval. Project maintenance is the sole responsibility of the applicant. RCWD will not accept any maintenance responsibility.

6. BIDS & PERMITS

Successful applicants must provide the District with information on bid tabulation, the applicant's notice to the contractor to proceed, and certification by the applicant that all necessary permits and approvals have been obtained. Acquisition of required permits and approvals will be the sole responsibility of the applicant.

7. PROJECT PAYMENT

50% of District cost-share funding can be disbursed upon RCWD approval of final project design and maintenance plans. Final payment will only be made upon project completion. Applicants must provide paid invoices and documentation that the project was completed according to the approved design standards, specifications and pollution reduction values.

8. SCHEDULE

Projects must be completed within two years of the execution of the cost-share agreement by the recipient and the RCWD.

9. CONFORMANCE TO GUIDELINES

The District reserves the right to withdraw funding for any project not completed in accordance with these guidelines.

10. SUBMITTED INFORMATION

Any submitted information, including applications, conceptual designs, cost estimates, bid tabulations, final designs and specifications, copies of permits and proof of expenditures becomes part of the public record.



Rice Creek Watershed District 2011
Urban Stormwater Remediation Cost-Share Program
Application Form

Incomplete applications will be returned to the applicant.

I. APPLICANT INFORMATION

Organization (to be named as Grantee): _____

Street Address: _____

City, State, Zip: _____

Email: _____ Website: _____

II. PROJECT CONTACTS

Project Officer: _____ Financial Officer: _____

Telephone: _____ Telephone: _____

Fax: _____ Fax: _____

Email: _____ Email: _____

Tax Status: _____ Tax ID#: _____

(e.g., local government, non-profit 501(c)(3), private business, etc.)

III. PROJECT INFORMATION

Project Name: _____

Location(s) of Project: _____

City: _____ State: _____ County: _____

Project Start Date: _____ Project Completion Date: _____

Project Type (check only those that directly apply):

Redevelopment Project

Storm Sewer / Stormwater Treatment Project

Roadway / Street Project

Other _____

IV. COST-SHARE REQUEST

Cost-Share Funds Requested: \$ _____

Local Matching Contributions: \$ _____ (cash)

\$ _____ (in-kind)

Total Estimated Project Cost: \$ _____

Would you be willing to accept cost-share funding in an amount less than requested? YES NO

V. SIGNATURE OF APPLICANT (An original signature page must be received with this application)

I certify that the information contained within this application is true and accurate.

Signature of Executive Director or Project Officer

Date

Name, Title

VI. EXECUTIVE SUMMARY

Include a brief Executive Summary (50 words or less) that summarizes the main goals and activities of the project and the expected environmental outcomes that will be achieved. Identification of the total amount of funds being requested along with the required match must be included in the Executive Summary. The summaries will be used in the grant review process and on the RCWD website, for projects that are funded.

VII. PROJECT DESCRIPTION & JUSTIFICATION

The project must be located in a subwatershed containing a RCWD Tier 1 or Tier 2 lake, a waterbody with an approved Total Maximum Daily Load (TMDL) study, or a waterbody with a Management Action Plan from RCWD's Southwest Urban Lakes Study. Describe the specific watershed management, water quality or water quantity need(s) that the project will address and its impact on the target water resource within the District.

- Name the target waterbody to be improved by this project: _____
- List and describe the Best Management Practices (BMPs) that will be incorporated into the project:

- Describe how long-term operation and maintenance of the project will be accomplished.

- If applicable, describe how the project minimizes impervious surface and/or maximizes infiltration.

- ☐ Address how the project relates to and supports existing regional, watershed district or local water resource management plans.

- ☐ List all project partners and their respective roles in implementing and/or supporting the project.

VIII. CONCEPTUAL DESIGN

Provide drawings, maps and/or schematics which graphically illustrate the location and conceptual design of the project. **(Attach separate sheets.)**

IX. POLLUTANT REDUCTION ESTIMATES & OTHER BENEFITS

Provide a detailed estimate and description of the anticipated pollutant reduction, stormwater volume reduction, and/or other environmental or natural resource benefits associated with the project. Describe the methods and cite the sources (i.e. P8 model, MN Stormwater Manual, other literature citation, etc.) used to calculate or estimate the pollutant reductions. **(NOTE: Mandatory for RCWD to consider your proposal!)**

X. DETAILED COST ESTIMATE

Provide a detailed and reasonable budget that lists each item for which funding is being requested. You must also list the required local matching contributions and their sources. **(Attach separate sheets.)**

XI. EVALUATION

Describe the strategy for monitoring and/or evaluating the results or effectiveness of the project, including how success will be defined and measured.

XII. EDUCATION & DEMONSTRATION

Demonstrate any potential for education and demonstration and describe what methods will be used to ensure that the purpose and success of the project are made known to the public.

XIII. KEY PERSONNEL

List the lead personnel on the project including any known sub-contractors that will be working on the project. Please include contact information.



Minnesota Association of Small Cities
332 Minnesota St. Suite 1450W – St. Paul, MN 55101
Phone 651-602-6262 Fax 651-602-9976
WWW.MAOSC.ORG

December 9, 2010

Mayor and City Council
City Administrator/Clerk/Treasurer
City of Birchwood
207 Birchwood Avenue
St. Paul MN 55110-1610

You've heard from us once before this year, but we want to make sure you have every opportunity to join the *Minnesota Association of Small Cities (MAOSC)*.

I know that like most cities, you have to watch your budget, but sometimes by spending a little, you can save a lot. Unlike every other organization MAOSC is founded solely on the true needs of cities with populations less than 5,000 and lobbies the Legislature on many issues that affect these small cities. Our primary concerns are property taxes and government aids (LGA), wastewater and environmental issues, land use and annexation issues, and economic development. We also work closely with state agencies and the League of Minnesota Cities, helping them to understand the special concerns of small cities.

With the recent change in leadership at the State House and Senate we are expecting major changes in the State's primary property tax sharing program we refer to as LGA. When the new legislature gathers in January we know there will be adjustments to formulas and programs to help the state with an expected 6.2 billion dollar deficit. Minnesota's Small Cities need experienced advocates at the table to make sure our voice is heard. Although we represent small cities our organization represents a total population of over 650,000 citizens. That is more than the population of any city in the State.

As a former small city mayor (Afton, population 2,937) I know the needs of small cities. Over the last few years our organization has grown in its credibility and effectiveness with the legislators. It is our organization that has been at the table to explain the needs of small cities and helped to limit LGA cuts that could have been more severe. In two rounds of un-allotments we were able to see that the smallest of Minnesota cities with populations under 1000 were held harmless and they did not receive a cut to their LGA payment.

As an incentive to join the MAOSC Board has recently approved an opportunity to pay one half of the regular amount of dues to be members of the organization through the 2011 legislative session (or May 31, 2011). During the legislative session you will receive weekly updates via email on news from the Capitol specific to the City of Birchwood and all of Minnesota's small cities. We can email the Mayor, all the Council members and staff directly so you have the latest information in real time. If your city has a specific concern on pending legislation or an issue

affecting the city you can talk to our staff and get an answer to your question. If you visit the Capitol our staff will be happy to make arrangements for office visits the house or senate.

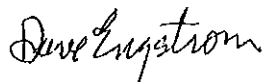
This year joining our team of MAOSC lobbyists is former State Representative Peg Larsen. When Peg was at the Capitol she chaired the Local Government Committee. She has a wealth of local government experience and like myself has been a small city mayor and currently serves on her hometown city council in Lakeland (population 1,905).

For a small investment your city can join and assist in the efforts of promoting the agenda of small cities at our State Legislature to help our small cities with our special needs. You will be joining over 300 of Minnesota's small cities in the effort to move our agenda forward. We will continue to work diligently on behalf of small cities throughout this fiscal year, but we can only remain effective by maintaining a strong membership base. **Numbers count, and legislators are always interested in which of their cities are members of our association.**

We need your help and support and hope you will provide it by joining MAOSC for the 2011 legislative session.

If you have questions, you can contact me Dave Engstrom, MAOSC Executive Director at 651-214-5263 (that's a direct dial cell phone). During session if you have questions on pending legislation you can call me then too. We hope to hear from you soon and to receive your membership. Thank you!

Sincerely,



Dave Engstrom
MAOSC Executive Director

Minnesota Association of Small Cities

2010-2011 Membership Dues

The Minnesota Association of Small Cities looks forward to working with you and your city. The following is information relating to the dues structure of MAOSC. Check it over to make sure it is correct and please fill out the necessary information for our records. We also encourage you to add comments so that we can continue to improve the way we communicate and provide information to our small city members. If you have any questions about the membership dues or other MAOSC concerns, please contact Dave Engstrom, MAOSC Director at 651.214.5263 or daveengstrom@pacemn.com. Thank you for your membership and we look forward to having you participate in this organization. Please enclose this form along with your check and mail to MAOSC | 332 Minnesota Street | Suite W1450 | St. Paul, MN | 55101-1314 | attn: Kara Brenhoffer

<u>DUES STRUCTURE</u>		
Population	Base	Per Capita
0 – 1,000	\$120.00	\$0.45
1,001 – 2,000	\$150.00	\$0.45
2,001 - 5,000	\$200.00	\$0.45

2010-2011 Annual Dues Statement for the City of Birchwood

Membership Base	\$ 120.00
Population 971 multiplied by 0.45 per capita	\$ 436.95
Total Dues	\$ 556.95

Discount 50% Membership for 2011 State Legislative Session \$ 278.48

Mayor Name and email address _____

City Clerk and/or City Administrator Name and email address _____

Council Members email addresses _____

Comments:

278



July 6, 2005
File: 310019E-0325

Honorable Mayor and City Council
City of Birchwood Village
207 Birchwood Avenue
Birchwood, MN 55110

RE: No-Fault Sewer Back-up Coverage
Quote and Resolution

Dear Mayor and Council Members:

As you are aware, the City submitted an application in 2002 for No-Fault Sewer Back-up Insurance and was not able to obtain the coverage. After that date, improvements were made as part of the Sanitary Sewer Rehabilitation Project and Dellwood Lift Station Project that updated the cities system. After completion of the improvements the City submitted a new application. The League has completed a review of the application, City maintenance policy, and history of claims. Based on the new review, the City has been deemed eligible for the coverage.

In order to bind the coverage the City Council must formally pass the attached resolution and send a signed copy to the League of Minnesota Cities Insurance Trust. The coverage would start on the date that the City Council passes the resolution. The premium is 8.5% of the Annual Municipal Liability Premium, which to add the coverage would be \$185 per year.

I will be in attendance at the City Council meeting on July 12, 2005. If you have any questions regarding this issue prior to then please contact me at (763) 780-0450.

Sincerely,

Elfering & Associates

Kristie Thompson, P.E.
City Engineer

cc: Kathy Weber, City Clerk

**City of Birchwood Village, MN
Sanitary Sewer Collection System
Maintenance Policy**

Summary of Policy

This Maintenance Policy has been developed by the City of Birchwood Village to keep the sanitary sewer collection system operating efficiently. The second goal of the policy is to minimize the number of blockages and back-ups into residential properties. Procedures for maintaining the sanitary collection system will be based upon a priority-based system. The City has entered into an Agreement with White Bear Lakes Public Works to provide maintenance and inspection of the cities system.

Rating of Sanitary Sewer Mains

The maintenance program will be flexible and adapt as sections of sanitary sewer are identified that require additional attention. Sections of sanitary sewer will be moved into a higher or lower ranking depending on the number of blockages experienced and if improvements are made. A sanitary sewer map is attached that will be updated on a yearly basis to reflect changes in the rating of the sanitary sewer mains.

The sanitary sewer system was installed in Birchwood Village in the 1960's. However, the City has determined that capital improvement projects should be undertaken when infiltration, blockages, or cracks dictate the replacement of a main. Any rehabilitated line will be placed within the routine category for a period of five years unless documented blockages or back-ups are identified.

Routine: These sewers are cleaned every two years and have been rehabilitated within the past five years.

Low: These sewers are cleaned on an annual basis and inspected on an annual basis.

Medium: These sewers are cleaned on an annual basis and inspected on a semi-annual basis.

High: These sewers are cleaned on an annual basis and inspected quarterly.

Inspection

Inspection of the lines is completed by inserting an 8-inch proof basket into the line. If difficulty is encountered pulling the basket through the line then a root saw will be used to clean the line in order to provide an 8-inch opening the length of the main.

Record Keeping

All physical maps and field notes will be kept and filed for a period of five (5) years.

Lift Stations

There are three lift stations in the City of Birchwood Village:

- Dellwood Lift Station – Rehabilitated in 2004
- Wildwood Lift Station – Rehabilitated in 2001
- Birch Street – Rehabilitated in 1997

The lift stations shall be inspected three times a week by White Bear Public Works Staff. Pump run hours are noted.

Emergency Response System

The City of Birchwood Village has an agreement with White Bear Lake to provide 24 hour response to emergency situations. If a resident experiences a back up the voice mail message for City Hall directs them to call White Bear Lake. The City of Birchwood Village will provide White Bear Lake Public Works with forms to complete for each response to an emergency situation. These records will be filed for a period of five (5) years. The system will be reviewed to determine if any areas are experiencing an unusual number of back-ups.

Documentation

The City of Birchwood Village will provide White Bear Public Works with forms that will be completed when maintenance or inspection activities occur. A hard copy will be kept for a period of five (5) years.

Memo

ELFERING & ASSOCIATES



TO: Honorable Mayor and City Council Members

FROM: Kristie Elfering, City Engineer

DATE: January 4, 2011

RE: 2009 Catchbasin Improvement Project

The City was successful in obtaining a cost share grant from the Rice Creek Watershed District for a catchbasin replacement project back in May 2009. The grant was for 50% of the project cost, up to \$12,500. The project included removing three catchbasins and replacing them with structures that contain sumps. I have attached the information that was sent out in a City Newsletter that shows the locations of the structures to be replaced and a detail of a basic sump structure. The newsletter information was sent out to comply with the education component of the grant.

The cost share agreement is valid through June 19, 2011. At this time we are requesting direction from Council on if they would like to proceed with the project. Several outside studies were completed to determine if the project would provide benefit to White Bear Lake. The Watershed had Houston Engineering, Inc. complete a study and based on the results determined that they would still like to move forward with the project. The City of Birchwood Village had Thatcher Engineering also complete a study. The result of their study was that they believed that two of the three catchbasins were beneficial, but they advocated waiting to replace them until the street was reconstructed.

If Council wanted to move forward the next step is to prepare plans and specifications for bidding by Contractors. In 2009, the City at one point wanted to add a fourth catchbasin into the project due to competitive bidding seen from Contractors. In discussions with the Watershed they have stated that the City could bid a fourth structure as an alternate. The fourth structure that would be included in the project is at the intersection of Cedar Street and Hall Avenue. If the total bid for the four structures is under the total project cost the structure could be added into the project for inclusion in costs to be shared with the Watershed. If the project cost with the fourth structure is slightly over the total anticipated project cost, staff at the watershed has expressed the ability to increase the provided grant amount as there are additional grant dollars available.

If the bid process produces a satisfactory bid the next step would be to pass a resolution that includes a Notice to Proceed to a Contractor. Once the Notice to Proceed has been provided and the grant documents signed by the City, the City can request 50% of the grant dollars in advance of construction. The remaining 50% would be provided after the project is complete and a Certificate of Completion is signed.

If there are any questions regarding this issue or if someone would like additional information please call me at (763) 780-0450 ext. 2. I will be in attendance at the January 11th, 2011 City Council meeting.

Upcoming Lake Quality and Storm Sewer Improvement Project:

White Bear Lake is an important resource for the community. The City of Birchwood Village is taking measures to proactively protect that resource by removing pollutants from the storm water before they reach the lake. The City will be undertaking a construction project this summer that involves work on the storm sewer system, with the goal to reduce the pollutant levels that reach the lake. Birchwood's storm sewer system is made up of intakes (or structures) that collect water during storm events and pipes that convey the water to the lake. The project includes replacing three intakes with a storm sewer structure that contains a sump (a detail is shown). A sump allows for sediment and other pollutants that are contained in the water runoff during a storm event to settle out in a four foot deep basin below the pipe that carries the runoff to the lake. The City also has a maintenance program in place to clean these sumps so they can continue to operate effectively.

It is estimated that the three new structures will reduce the volume of sediment entering White Bear Lake by 300 cubic feet a year. In addition, phosphorus will be reduced by 10 pounds per year. Phosphorus is found in the natural environment, but it is also a common component in fertilizers. Excessive phosphorus in lakes can speed up eutrophication, which is a reduction in dissolved oxygen in water bodies to the point where it is too low to support aquatic life.

Efforts can be undertaken by all residents to help protect White Bear Lake from excess phosphorus. These efforts are important for all residents. Although a resident may live blocks from the lake, the runoff from their yard and street is carried downhill. Residents can aid the City efforts to protect White Bear Lake by utilizing phosphorus-free fertilizers and raking leaves and grass clippings out of the street and away from storm drains.

The City was successful this year in obtaining a grant for this project from the Rice Creek Watershed District that will provide a 50% match to any dollars that are spent by the City.

